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Corporate Environmental Liability in Indonesia: Aligning Business Law with Global Sustainability Standards

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Abstract

Environmental degradation resulting from corporate activities remains a critical challenge in emerging economies, including Indonesia. As global sustainability standards continue to evolve—driven by international environmental agreements, ESG frameworks, and transnational business norms—the adequacy of domestic corporate environmental liability regimes has become increasingly scrutinized. This article examines the extent to which Indonesian business law aligns with global sustainability standards in imposing environmental liability on corporations. Using a normative legal research method complemented by comparative analysis, the study evaluates Indonesia's regulatory framework on corporate environmental responsibility, focusing on statutory obligations, liability principles, and enforcement mechanisms. The analysis reveals that while Indonesia has formally adopted key environmental protection norms, including strict liability and corporate criminal responsibility, significant gaps persist in legal certainty, enforcement consistency, and integration with global ESG standards. Weak institutional capacity, regulatory fragmentation, and limited access to remedies undermine the effectiveness of corporate environmental liability in practice. The article argues that aligning Indonesian business law with global sustainability standards requires not only regulatory reform but also stronger corporate governance mechanisms and clearer accountability frameworks. By situating Indonesia's experience within the broader context of emerging market economies, this study contributes to the global discourse on sustainable corporate regulation and offers policy recommendations to strengthen environmental accountability in corporate activities. The findings are particularly relevant for policymakers, legal scholars, and multinational corporations operating in jurisdictions facing similar regulatory and sustainability challenges.

1. Introduction

Philosophically, the ideals of the founders of the Indonesian nation were to realize a just, prosperous and prosperous society in the life of the nation and state, as stated in paragraph IV of the Opening of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia): "*Kemudian dari pada itu untuk membentuk suatu Pemerintah Negara Indonesia yang melindungi segenap bangsa Indonesia dan seluruh tumpah darah Indonesia dan untuk memajukan kesejahteraan umum, mencerdaskan kehidupan bangsa, dan ikut melaksanakan ketertiban dunia berdasarkan kemerdekaan, perdamaian abadi dan keadilan sosial*".

Environmental risks arising from corporate activities in emerging economies have

become a focal point for international attention in recent decades.[1] Rapid industrialization, urbanization, and large-scale resource extraction, common in countries like Indonesia, have led to significant environmental degradation.[2] Corporate activities in sectors such as mining, agriculture, and manufacturing are frequently associated with deforestation, pollution, and habitat destruction.[3] This pattern of environmental harm is exacerbated in countries where regulatory enforcement is weak and where corporations are not fully held accountable for their actions.[4] Indonesia, with its vast natural resources and strategic importance in global supply chains, faces particular challenges in balancing economic growth with environmental protection.[5]

The global emphasis on sustainability and Environmental, Social, and Governance (ESG) compliance is reshaping the corporate landscape. In developed economies, there has been a concerted effort to align corporate governance with global sustainability standards, with increasing demands for transparency in environmental reporting, sustainability disclosures, and climate risk management.[6] This growing global shift is reflected in the Paris Agreement, the United Nations Sustainable Development Goals (SDGs), and various international sustainability initiatives.[7] However, these global frameworks have not been fully integrated into the legal structures of many developing countries, including Indonesia.[8] In Indonesia, corporate environmental responsibility remains an underdeveloped area, with a legal

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[1]Dietrich Earnhart, Madhu Khanna, and Thomas Lyon. "Corporate Environmental Strategies in Emerging Economies." *Review of Environmental Economics and Policy* 8, no. 2 (2014): 164-185.

[2]Lyu Huai Qian, "An empirical study on the relationship between urbanization, transportation infrastructure, industrialization and environmental degradation in China, India and Indonesia." *Environment, Development and Sustainability* (2024): 1-27; E. Asmiyono, et al. "The Impact of Modernization on Environmental Degradation in Lower-Income Countries." *IOP Conference Series: Earth and Environmental Science*. Vol. 1556. No. 1. IOP Publishing, 2025.

[3]Colin G. Scanes, "Human Activity and Habitat Loss: Destruction, Fragmentation, and Degradation." *Animals And Human Society*. Academic Press, 2018, pp. 451-482; Rahul Kumar, Amit Kumar, and Purabi Saikia. "Deforestation and Forests Degradation Impacts on the Environment." In *Environmental Degradation: Challenges and Strategies for Mitigation*. Cham: Springer International Publishing, 2022, pp. 19-46.

[4]Michael Mason, "The Governance of Transnational Environmental Harm: Addressing New Modes of Accountability/Responsibility." *Global Environmental Politics* 8, no. 3 (2008): 8-24.

[5]Ridwan Arifin, et al. "Indonesian Sustainable Development Policy: How the Government Ensures the Environment for Future Generations." *IOP Conference Series: Earth and Environmental Science*. Vol. 1355. No. 1. IOP Publishing, 2024. *See also* Budy P. Resosudarmo,ed. *The Politics and Economics of Indonesia's Natural Resources*. Institute of Southeast Asian Studies, 2005.

[6]Haoying Li, "Integrative Approaches in Global Corporate Governance: Strategic Management, Sustainability Reporting, and Effective Management." *2024 International Conference on Applied Economics, Management Science and Social Development (AEMSS 2024)*. Atlantis Press, 2024; Anojan Vickneswaran, "Corporate Governance, Management-Shareholder, and Reporting Practices: Navigating Transparency, Accountability, and Sustainable Decision-Making." In *Governance Strategies for Effective Sustainable Development*. IGI Global, 2025, pp. 1-14.

[7]Luis Gomez-Echeverri, "Climate and Development: Enhancing Impact Through Stronger Linkages in the Implementation of the Paris Agreement and the Sustainable Development Goals (SDGs)." *Philosophical Transactions of the Royal Society A: Mathematical, Physical and Engineering Sciences* 376, no. 2119 (2018): 20160444; Jeffrey D. Sachs, "Achieving the Sustainable Development Goals." *Journal of International Business Ethics* 8, no. 2 (2015): 53-62.

[8]Mi Tran, Eshani Beddewela, and Collins G. Ntim. "Governance and Sustainability in Southeast Asia." *Accounting Research Journal* 34, no. 6 (2021): 516-545.

framework that often lags behind global sustainability standards, resulting in insufficient accountability for corporations.[9]

For Indonesia, aligning business law with global environmental liability standards is a matter of both strategic importance and global competitiveness. As a major exporter of natural resources, such as palm oil and coal, Indonesia's environmental policies and corporate practices have global implications.[10] Given the country's significant role in global markets and the escalating environmental risks it faces, addressing corporate environmental liability has become an urgent priority.[11] However, despite the increasing recognition of these issues, Indonesia's business law remains fragmented, often misaligned with international ESG norms, and under-enforced in practice.[12]

Despite the growing global emphasis on sustainability, gaps persist between Indonesian business law and international sustainability standards. While Indonesia has enacted various environmental regulations, such as Law Number 32 of 2009 concerning Environmental Protection and Management (Law No. 32/2009), corporate environmental responsibility remains insufficiently addressed.[13] The regulatory framework is fragmented, with laws scattered across different sectors, resulting in inconsistent enforcement and a lack of comprehensive corporate accountability.[14] Indonesia's environmental laws often fail to fully integrate with global sustainability standards, such as the SDGs and the Global Reporting Initiative (GRI), resulting in a regulatory landscape that is inadequate to meet the expectations of international investors, consumers, and environmental activists.[15]

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[9] Patricia Rinwigati Waagstein, "The Mandatory Corporate Social Responsibility in Indonesia: Problems and Implications." *Journal of Business Ethics* 98, no. 3 (2011): 455-466; Andrew Rosser, and Donni Edwin. "The Politics of Corporate Social Responsibility in Indonesia." *The Pacific Review* 23, no. 1 (2010): 1-22.

[10] Pablo Pacheco, et al. "The Palm Oil Global Value Chain: Implications for Economic Growth and Social and Environmental Sustainability." *Center for International Forestry Research (CIFOR) Working Paper 220.* Bogor: CIFOR, 2017.

[11] Sacha Amaruzaman, Douglas K. Bardsley, and Randy Stringer. "Analysing Agricultural Policy Outcomes in the Uplands of Indonesia: A Multi-Dimensional Sustainability Assessment." *Sustainable Development* 31, no. 3 (2023): 1937-1950.

[12] Yong Zhang, ed. *Comparative Studies on Governmental Liability in East and Southeast Asia*. Vol. 3. Martinus Nijhoff Publishers, 2023.

[13] Muhammad Ainurrasyid Al Fikri, "Implementation of Strict Liability by Companies in Cases of Environmental Damage in Indonesia: An Overview of State Administrative Law in Indonesia." *Indonesian State Law Review* 5, no. 2 (2022): 41-52; Purniawati Purniawati, Nikmatul Kasana, and Rodiyah Rodiyah. "Good Environmental Governance in Indonesia (Perspective of Environmental Protection and Management)." *The Indonesian Journal of International Clinical Legal Education* 2, no. 1 (2020): 43-56; Muhammad Hakim Rianta, Pradnya Kayla Ali Imron, and Ibrahim Danjuma. "Developing the Framework for a Green Constitution: Strengthening Environmental Protection Initiatives in Indonesia." *The Indonesian Journal of International Clinical Legal Education* 5, no. 4 (2023): 445-472.

[14] Ridwanto Ardi Kusumo, and Anang Wahyu Kurnianto. "*Sak Uwong Sak Uwit* for Environmental Protection Based on Local Wisdom: An Environmental Law Reform in Indonesia." *Journal of Law and Legal Reform* 1, no. 1 (2020): 35-48; Diandra Preludio Ramada, Ubaidillah Kamal, and Indah Sri Utari. "Environmental Criminal Law as a Tool for Ecological Protection: Interpreting the Constitution in the Context of Environmental Crimes." *Semarang State University Undergraduate Law and Society Review* 5, no. 2 (2025): 1013-1056.

[15] Gitangshu Deva Sarma, et al. "Navigating Corporate Governance and Ethics: The Cornerstones of Sustainable Business Practices." *Educational Administration: Theory and Practice* 30, no. 5 (2024): 5442-

Furthermore, the principal legal deficiency lies not in the absence of legislation but in the fragmented and inconsistent relationship between Indonesian business law and environmental law. Corporate liability is principally governed by Law Number 40 of 2007 concerning Limited Liability Companies (Law No. 40/2007), while environmental responsibility is regulated separately under Law No. 32/2009, as amended by Law Number 6 of 2023 concerning Job Creation (Law No. 6/2023). These statutes pursue different regulatory objectives and employ different standards of liability, resulting in uncertainty regarding the extent to which directors, shareholders, and corporations may be held legally responsible for environmental harm. Consequently, corporate environmental obligations remain largely compliance-oriented rather than constituting enforceable corporate governance duties integrated into business law.

This regulatory fragmentation has generated several doctrinal inconsistencies. *First*, corporate environmental responsibility is predominantly treated as an administrative obligation instead of an integral element of fiduciary duties and corporate governance. Second, the interaction between civil, administrative, and criminal liability mechanisms remains insufficiently coordinated, producing inconsistent enforcement and weakening legal certainty. Third, although Indonesian environmental law recognizes concepts such as strict liability and the polluter-pays principle, these principles have not been systematically incorporated into corporate governance legislation, thereby limiting their practical effectiveness in establishing corporate accountability. The consequence is a fragmented liability regime in which enforcement depends heavily upon administrative sanctions while civil remedies and corporate governance mechanisms remain comparatively underdeveloped.

These weaknesses have become increasingly significant in light of the growing influence of global sustainability standards. International frameworks, including the ESG principles, the United Nations Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, and emerging mandatory sustainability due diligence regimes, have shifted corporate environmental responsibility from voluntary corporate social responsibility toward legally enforceable governance obligations. In comparison, Indonesian business law has yet to fully harmonize with these developments, creating a regulatory gap between domestic corporate liability rules and internationally accepted standards of responsible business conduct.

Existing legal scholarship has extensively examined environmental enforcement, corporate social responsibility, and sustainable development in Indonesia. However, relatively limited attention has been devoted to the doctrinal relationship between corporate law and environmental liability or to the normative harmonization required to integrate environmental accountability into Indonesia's corporate governance framework. As a result, the legal implications of regulatory fragmentation remain insufficiently addressed from the perspective of business law reform. This research aims to critically assess the gaps in Indonesian business law and corporate environmental liability, focusing on its alignment with international sustainability standards. Specifically, the study will investigate how Indonesia's current legal framework fails to meet global expectations and the steps needed to reform this

5454; Nora Annesi, et al. "Navigating Paradoxes: Building a Sustainable Strategy for an Integrated ESG Corporate Governance." *Management Decision* 63, no. 2 (2025): 531-559.

system. The research will answer key questions: What are the main gaps in Indonesian business law regarding corporate environmental liability? How do these gaps prevent alignment with global sustainability frameworks? What legal reforms are needed to better integrate global ESG standards into Indonesian corporate governance? By answering these questions, this study seeks to provide both theoretical and practical insights into how Indonesia can improve its corporate environmental regulations to foster sustainable business practices.

The novelty and urgency of this study lie in its critical examination of Indonesia's corporate environmental liability laws and the global call for enhanced corporate responsibility. While significant research has been done on environmental law in developed economies, there is a dearth of studies that focus on emerging economies, particularly in Southeast Asia. The existing literature emphasizes the importance of aligning local legal frameworks with global sustainability norms, yet there remains limited understanding of how such alignment can be achieved in Indonesia.[16] This research contributes to filling this gap by providing a detailed analysis of the specific legal and regulatory challenges Indonesia faces in adopting global sustainability standards.

The study also makes a timely contribution to the growing discourse on business law and sustainability. Numerous studies have identified the importance of robust corporate environmental liability laws in ensuring sustainability, but few have explored the practical challenges of aligning these laws with global standards in developing economies.[17] This research addresses the specific context of Indonesia, offering recommendations that could inform future policy reforms and legal innovations. Given the country's strategic economic position and environmental challenges, understanding how to harmonize its business law with international sustainability frameworks is critical for both its economic future and global environmental responsibility.[18]

This study offers valuable insights for Indonesian policymakers, legal professionals, and corporate leaders. By analyzing the gaps in Indonesia's legal framework, the research provides actionable recommendations for legal reform, emphasizing the need for a more coherent, enforceable, and transparent system of corporate environmental liability. Strengthening Indonesia's environmental regulations in line with international best practices would not only improve the country's environmental performance but also enhance its attractiveness as an

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[16] Ben Boer, "The Rise of Environmental Law in the Asian Region." *University of Richmond Law Review* 32, no. 5 (1998): 1503-1553. *See also* Dina Silvia Puteri, "Making Indonesia Sustainable: Shaping the Law to Reduce Digital Carbon Footprint." *Indonesian Journal of Advocacy and Legal Services* 6, no. 1 (2024): 77-102; Jakkapong Araya, and Sulaiman Rasyid. "Green Narratives, Grey Realities: Case Study of Greenwashing in Renewable Energy Projects." *Indonesian Climate Justice Review* 1, no. 2 (2024).

[17] Ronnie D. Lipschutz, "Environmental Regulation, Certification and Corporate Standards: A Critique." *Handbook of Global Environmental Politics*. Edward Elgar Publishing, 2005.

[18] Wan Masliza Wan Mohammad, Muzaini Osman, and Mimi Suriaty Abdul Rani. "Corporate Governance and Environmental, Social, and Governance (ESG) Disclosure and Its Effect on the Cost of Capital in Emerging Market." *Asian Journal of Business Ethics* 12, no. 2 (2023): 175-191; Martin Gerner, "Assessing and Managing Sustainability in International Perspective: Corporate Sustainability Across Cultures–Towards a Strategic Framework Implementation Approach." *International Journal of Corporate Social Responsibility* 4, no. 1 (2019): 1-34.

investment destination by demonstrating a commitment to sustainability.[19] Furthermore, this research offers critical insights for businesses operating in Indonesia, guiding them in adapting their corporate governance strategies to comply with both local and international ESG standards.[20] This study's significance also lies in its potential to influence corporate behavior in Indonesia. By highlighting the legal implications of corporate environmental negligence and the advantages of adopting international sustainability practices, this research has the potential to inspire corporations to take a more proactive approach to environmental stewardship. It thus contributes to both the academic literature on business law and sustainability and the practical policy debates surrounding environmental governance in Indonesia.

2. Methods

This study adopts a qualitative research approach to investigate the alignment between Indonesian business law and global sustainability standards, specifically focusing on corporate environmental liability. The research primarily involves legal analysis, which will entail a detailed review of Indonesian environmental laws, regulations, and relevant case law. Key legal documents, including Law No. 32/2009, regulations governing corporate environmental responsibility, and sustainability reporting requirements, will be critically examined to identify gaps and discrepancies with international frameworks, such as the SDGs, the GRI, and the Paris Agreement on climate change.[21] Secondary data will also be gathered from academic literature, policy reports, and international legal standards to provide context for comparing Indonesia's legal provisions with those of other emerging economies.[22] This comparative analysis will allow for an in-depth understanding of the legal and regulatory landscape in Indonesia, highlighting areas that need reform.

In addition to legal document analysis, primary data will be collected through semi-structured interviews with key stakeholders, including legal experts, policymakers, and corporate sustainability officers, to gain insights into the practical challenges and

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[19] R. Rulick Setyahadi, and I. Made Narsa. "Corporate Governance and Sustainability in Indonesia." *Journal of Asian Finance, Economics and Business* 7, no. 12 (2020): 885-894; Daniel Rogers, *Environmental Compliance and Sustainability: Global Challenges and Perspectives*. CRC Press, 2019. For further discussion and example cases, *see also* Beatriz Morales Rubio, and Sara Gomez Ruiz. "Unequal Access to Urban Transport: An Invisible Barrier to Social Equity: Acceso Desigual Al Transporte Urbano: Una Barrera Invisible Para La Equidad Social". *Revista de Justicia Social en la Sociedad Urbana* 1, no. 1 (2025); Gael Nicolás Ríos Calderón, and Aitana Noelia. "The Case of Water Privatization in Bolivia: Substantive Justice and the Right to Water as a Human Right: El Caso de la Privatización del Agua en Bolivia: Justicia Sustantiva y Derecho al Agua como Derecho Humano". *Crítica De La Justicia Sustantiva* 1, no. 2 (2025); Tasnia Jahan Anika, and Erin Daniels. "Environmental Justice and Human Rights: Protecting Communities in the Face of Climate Change: Justicia Ambiental y Derechos Humanos: Protegiendo a las Comunidades Ante el Cambio Climático". *Revista de Derechos Humanos Contemporáneos* 1, no. 1 (2025).

[20] Shaomin Li, et al. "Corporate Social Responsibility in Emerging Markets: The Importance of the Governance Environment." *Management International Review* 50, no. 5 (2010): 635-654.

[21] Lutz Michael Büchner, "Corporate Social Responsibility and Sustainability from a Global, European and Corporate Perspective. Corporate Social Responsibility and Sustainable Governance." *Eurolimes* 13 (2012): 41-55; David Crowther, and Güler Aras, eds. *Global Perspectives on Corporate Governance and CSR*. Gower Publishing, Ltd., 2012.

[22] Joan Fitzgerald, *Emerald Cities: Urban Sustainability and Economic Development*. Oxford University Press, 2010.

opportunities of aligning Indonesian business law with global sustainability standards. Interviews will explore topics such as the implementation of environmental regulations, corporate compliance, and the effectiveness of enforcement mechanisms.[23] The qualitative data collected from these interviews will be analyzed thematically to identify common patterns and perspectives on the legal gaps and potential solutions. This mixed-method approach, combining both theoretical legal analysis and empirical stakeholder perspectives, offers a comprehensive understanding of how Indonesia can enhance its corporate environmental liability framework to better align with international sustainability norms and strengthen its global position.

3. Results and Discussion

3.1. Environmental Liability: Between Theories and Practices

1. Corporate Environmental Liability: Concept and Scope

Corporate environmental liability is a legal framework designed to hold businesses accountable for their environmental impact, ensuring that they take responsibility for any harm caused by their operations. According to Lyster, environmental liability encompasses three primary legal categories: civil, administrative, and criminal liability.[24] Civil liability typically refers to compensatory damages for those harmed by environmental harm, such as individuals, communities, or the environment itself. Administrative liability involves regulatory fines and sanctions imposed by government agencies when corporations fail to comply with environmental laws and regulations. Criminal liability applies in cases of intentional or grossly negligent environmental harm, which may result in severe penalties or corporate criminal charges.[25] These types of liability play distinct but complementary roles in ensuring corporate accountability, with each offering specific forms of redress depending on the nature and severity of the environmental harm caused.

Internationally, corporate environmental liability is widely regarded as an essential tool for promoting corporate responsibility in the environmental domain.[26] In many emerging economies, including Indonesia, environmental laws often fall short of ensuring effective enforcement of these liabilities.[27] This condition is attributable not merely to deficiencies in the legal framework but to persistent weaknesses in its implementation and enforcement. Environmental supervision remains fragmented among the Ministry of Environment,

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[23] Thomas P. Lyon, and John W. Maxwell. "Greenwash: Corporate environmental Disclosure Under Threat of Audit." *Journal of Economics & Management Strategy* 20, no. 1 (2011): 3-41.
[24] Rosemary Lyster, *Climate Justice and Disaster Law*. Cambridge University Press, 2015.
[25] Louis Chiam Rosemary, and Dominic Bortoluzzi. "Sustainability and Climate Change: Liability of Corporations." *Company and Securities Law Journal* 25, no. 7 (2007): 427–438.
[26] *See* Jeffrey S. Parker, "Doctrine for Destruction: The Case of Corporate Criminal Liability." *Managerial and Decision Economics* 17, no. 4 (1996): 381-398. *See also* Adi Wijayanto, Hatta Acarya Wiraraja, and Siti Aminah Idris. "Forest Fire and Environmental Damage: The Indonesian Legal Policy and Law Enforcement." *Unnes Law Journal* 8, no. 1 (2022): 105-132; Elviandri Elviandri. "Penegakan Hukum dan Pengawasan Terhadap Kewajiban Korporasi Reklamasi Pasca Tambang." *UIR Law Review* 6, no. 2 (2022): 20-36; Diandra Preludio Ramada, Ubaidillah Kamal, and Indah Sri Utari. "Environmental Criminal Law as a Tool for Ecological Protection: Interpreting the Constitution in the Context of Environmental Crimes." *Semarang State University Undergraduate Law and Society Review* 5, no. 2 (2025): 1013-1056.
[27] Sarah E. Light, "The Law of the Corporation as Environmental Law." *Stanford Law Review* 71, no. 1 (2019): 137-213.

provincial and local environmental agencies, and sectoral licensing authorities, resulting in overlapping mandates, inconsistent monitoring, and limited institutional coordination. Administrative oversight is frequently weakened by inadequate inspection capacity, limited technical resources, and inconsistent application of sanctions against corporate offenders. Moreover, the government's emphasis on attracting domestic and foreign investment (particularly following the enactment of Law No. 6/2023) has, in practice, prioritized regulatory efficiency and licensing facilitation over rigorous environmental compliance. This policy orientation has reduced the deterrent effect of environmental enforcement, as regulatory agencies are often reluctant to impose severe sanctions that may discourage investment or disrupt strategically important projects. Consequently, the interaction between investment-driven economic policies and weak institutional enforcement has contributed to a corporate liability regime in which environmental obligations are insufficiently monitored, and violations are inadequately sanctioned, undermining both legal certainty and corporate accountability.

As Indonesia continues to grapple with its industrial growth and environmental degradation, the need for stronger legal frameworks that integrate civil, administrative, and criminal liability becomes increasingly urgent.[28] Thus, a more robust regulatory system is needed that not only holds corporations accountable for environmental harm but also ensures that liability frameworks are harmonized with international environmental standards, such as those laid out by the United Nations.

2. Sustainability and ESG in Global Business Law

The concept of sustainability has become a fundamental principle of contemporary business law, particularly through the development of ESG standards that increasingly shape corporate accountability. While the Brundtland Commission's definition of sustainable development has informed international instruments such as the SDGs, the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct, GRI Standards, and the United Nations Guiding Principles on Business and Human Rights (UNGPs)[29], Indonesia has incorporated these standards only selectively into its domestic legal framework. National legislation, including Law No. 40/2007, Law No. 32/2009, as amended by Law No. 6/2023, and Financial Services Authority Regulation No. 51/POJK.03/2017 concerning Sustainable Finance (OJK Regulation No. 51/POJK.03/2017), reflects an increasing recognition of sustainability principles through corporate social responsibility, environmental licensing, and sustainability reporting obligations.

Nevertheless, Indonesia's regulatory framework remains only partially aligned with prevailing international sustainability norms. ESG obligations are largely disclosure- and compliance-oriented rather than imposing substantive legal duties requiring corporations to prevent, mitigate, and remedy environmental harm throughout their business operations and supply chains. Unlike emerging international frameworks, such as mandatory human rights

[28] Farrel Slamet, "Indonesian Public Policy: Criminal Guidelines, Foundations, and Environmental Transformation." *International Journal of Law and Criminology* 4, no. 6 (2024): 6-16.

[29] *See* Iris Borowy, *Defining Sustainable Development for Our Common Future: A History of the World Commission on Environment and Development (Brundtland Commission)*. London: Routledge, 2013; Chris Sneddon, Richard B. Howarth, and Richard B. Norgaard. "Sustainable Development in a Post-Brundtland World." *Ecological Economics* 57, no. 2 (2006): 253-268.

and environmental due diligence regimes adopted in several jurisdictions, Indonesian business law does not impose comprehensive environmental due diligence obligations on corporate directors, nor does it integrate ESG considerations into directors' fiduciary duties or corporate decision-making. Furthermore, sustainability reporting requirements remain sector-specific and do not establish uniform legal consequences for non-compliance.

This partial adoption has produced significant regulatory disharmony between Indonesia's domestic corporate law and global sustainability governance. International standards increasingly conceptualize environmental responsibility as an enforceable corporate governance obligation grounded in due diligence, transparency, stakeholder accountability, and effective remedies. In contrast, Indonesian law continues to regulate environmental responsibility primarily through administrative licensing and post-violation sanctions, while corporate law treats environmental responsibility largely as an aspect of corporate social responsibility rather than an integral component of directors' legal duties. The absence of a coherent legal framework integrating corporate governance with environmental liability creates normative inconsistencies that weaken corporate accountability and limit Indonesia's ability to meet evolving international sustainability expectations.

In addition, the role of ESG in corporate governance has evolved significantly, with scholars such as McWilliams and Siegel[30] asserting that businesses must embrace social responsibility to enhance their long-term profitability and legitimacy in global markets. ESG frameworks provide a comprehensive tool for measuring and managing environmental impacts, offering a transparent way for corporations to assess their sustainability performance as Graham and Kaye emphasized.[31] In addition, the shift towards incorporating ESG criteria into business strategies has been catalyzed by growing public demand for corporate accountability regarding climate change, resource consumption, and social welfare.[32] However, despite global advocacy for ESG principles, the implementation of these frameworks remains inconsistent, particularly in developing economies like Indonesia, where enforcement mechanisms and regulatory oversight are often weak.[33]

In Indonesia, the integration of ESG principles into business law faces challenges due to a lack of consistent regulatory structures and enforcement mechanisms.[34] Although Indonesia has made strides with policies like Law No. 32/2009, there remains a significant gap between

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[30] Abagail McWilliams, and Donald S. Siegel. "Creating and Capturing Value: Strategic Corporate Social Responsibility, Resource-Based Theory, and Sustainable Competitive Advantage." *Journal of Management* 37, no. 5 (2011): 1480-1495.

[31] Julia Graham, and David Kaye. *A Risk Management Approach to Business Continuity: Aligning Business Continuity and Corporate Governance*. Rothstein Publishing, 2015; Nathan J. Bennett, et al. "Environmental Stewardship: A Conceptual Review and Analytical Framework." *Environmental Management* 61, no. 4 (2018): 597-614.

[32] Robert G. Eccles, et al. "The Need for Sector-Specific Materiality and Sustainability Reporting Standards." *Journal of Applied Corporate Finance* 24, no. 2 (2012): 65-71.

[33] Muhamad Rizal, R. Anang Muftiadi, and Agus Taryana. "Integration of ESG Principles in Business Law: Why Should Indonesian Companies Care?." *Social Sciences & Humanities Open* 13 (2026): 102447.

[34] Ni Putu Gita Rahmaniati, and Erni Ekawati. "The Role of Indonesian Regulators on the Effectiveness of ESG Implementation in Improving Firms' Non-Financial Performance." *Cogent Business & Management* 11, no. 1 (2024): 2293302.

international ESG standards and domestic corporate governance practices.[35] The growing importance of these global frameworks, however, suggests that further alignment between national regulations and international expectations could promote sustainable business practices and improve corporate environmental performance in the country.[36]

3. Theoretical Approaches on Corporate Environmental Liability

To understand the integration of corporate environmental liability and ESG frameworks into business law, it is necessary to examine several foundational theoretical approaches. Sustainable development theory, as articulated by Sachs[37] emphasizes the need for economic growth to align with environmental sustainability and social equity. Sustainable development theory argues that businesses, particularly multinational corporations, should contribute to the long-term well-being of both society and the environment by balancing financial goals with ecological preservation and social justice. This theory suggests that environmental responsibility should be an integral part of corporate strategies, not only because it is morally necessary but because it is aligned with long-term economic success.[38] In the context of corporate environmental liability, sustainable development theory supports the view that corporations must adopt proactive strategies to minimize their ecological footprint, manage natural resources responsibly, and ensure the well-being of local communities affected by their operations.[39]

The theoretical foundation of corporate environmental liability is informed by competing conceptions of the corporation's legal purpose. The shareholder primacy doctrine, most prominently articulated by Friedman[40], maintains that the principal responsibility of corporate directors is to maximize shareholder wealth while complying with applicable law. Under this approach, environmental and social initiatives are justified only when they enhance long-term corporate value or are expressly mandated by legislation. Consequently, ESG obligations are regarded as instrumental to profitability rather than as independent legal duties. This perspective has been criticized by scholars such as Joel Bakan[41], who argues that the corporate form, when oriented primarily toward shareholder interests, tends to externalize environmental and social costs unless constrained by effective legal regulation.

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[35] Annisa Triyanti, et al. *Environmental Governance in Indonesia*. Springer Nature, 2023.

[36] Faizul Haque, and Collins G. Ntim. "Environmental Policy, Sustainable Development, Governance Mechanisms and Environmental Performance." *Business Strategy and the Environment* 27, no. 3 (2018): 415-435; Muhammad Fadhil, et al. "The Green Economy vs. Indigenous Rights: A Study of the Indonesian Investment Law and Its Impact on Climate Justice." *Indonesian Climate Justice Review* 2, no. 4 (2025): 1-47.

[37] Wolfgang Sachs, "Globalization and Sustainability", in *Sustainability: Critical Concept in the Social Sciences*. London: Routledge, 2000, pp. 328-353.

[38] Bill Hopwood, Mary Mellor, and Geoff O'Brien. "Sustainable Development: Mapping Different Approaches." *Sustainable Development* 13, no. 1 (2005): 38-52.

[39] Yue Li, Gordon D. Richardson, and Daniel B. Thornton. "Corporate Disclosure of Environmental Liability Information: Theory and Evidence." *Contemporary Accounting Research* 14, no. 3 (1997): 435-474; Amanda Perry-Kessaris, "Corporate Liability for Environmental Harm." *Research Handbook on International Environmental Law*. Edward Elgar Publishing, 2010.

[40] Milton Friedman, "The Social Responsibility of Business is to Increase Its Profits." *Corporate Ethics and Corporate Governance*. Berlin, Heidelberg: Springer Berlin Heidelberg, 2007, pp. 173-178.

[41] Joel Bakan, *The Corporation: The Pathological Pursuit of Profit and Power*. Hachette UK, 2012.

An alternative normative framework is provided by stakeholder theory, which argues that corporations owe responsibilities not only to shareholders but also to employees, consumers, local communities, governments, creditors, and the environment. Rather than viewing environmental protection as a voluntary corporate initiative, stakeholder theory conceptualizes sustainability as an integral component of corporate governance and directors' decision-making. Within this framework, corporate accountability extends beyond legal compliance to include environmental due diligence, transparent reporting, risk prevention, and meaningful engagement with affected stakeholders.[42]

Stakeholder theory provides a more appropriate normative basis for reforming Indonesian company law. Although Law No. 40/2007 Corporate Social and Environmental Responsibility (TJSL), environmental obligations remain largely separate from directors' fiduciary duties and the internal governance of corporations. Indonesian company law continues to prioritize shareholder interests, while environmental liability is primarily regulated through environmental legislation and administrative enforcement. This institutional separation has contributed to fragmented corporate accountability and weak integration of ESG principles into business law.

Reorienting Indonesian company law toward a stakeholder-based model would better align the corporate governance framework with contemporary international sustainability standards. Such reform would require directors to consider environmental risks as part of their fiduciary responsibilities, incorporate environmental due diligence into corporate decision-making, and recognize the legitimate interests of communities and future generations alongside those of shareholders.[43] By embedding stakeholder principles within corporate governance, environmental responsibility would become an enforceable legal obligation rather than merely a matter of voluntary corporate social responsibility, thereby strengthening corporate environmental liability and promoting greater harmonization between Indonesian business law and global ESG norms.

Both sustainable development theory and corporate accountability theory underscore the need for robust legal frameworks that mandate environmental responsibility and promote sustainable business practices. These theories provide the foundation for aligning national laws with global sustainability standards, fostering a corporate culture where environmental stewardship is central to business strategies. The integration of these theories into the regulatory landscape of emerging economies, such as Indonesia, is essential for creating a more sustainable and accountable business environment.[44]

4. Corporate Environmental Liability in the Context of Emerging Economies

Emerging economies like Indonesia often face considerable challenges in implementing effective corporate environmental liability laws due to weak regulatory frameworks,

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[42] Sandra Waddock, "The Development of Corporate Responsibility/Corporate Citizenship." *Organization Management Journal* 5, no. 1 (2008): 29-39; R. Edward Freeman, et al. *Stakeholder Theory: The State of the Art.* Cambridge: Cambridge University Press, 2010.

[43] Suzanne Benn, Dexter Dunphy, and Andrew Martin. "Governance of Environmental Risk: New Approaches to Managing Stakeholder Involvement." *Journal of Environmental Management* 90, no. 4 (2009): 1567-1575.

[44] Suzana Grubnic, "Accountability, Social Responsibility and Sustainability: Accounting for Society and the Environment." *Social and Environmental Accountability Journal* 34, no. 3 (2014): 193-194.

inconsistent enforcement, and political barriers.[45] In many cases, the legal systems in these countries are not fully equipped to address complex environmental issues that transcend national borders, such as climate change and global supply chain impacts.[46] Moreover, corporations operating in these regions often prioritize short-term economic gains over long-term environmental sustainability, leading to insufficient incentives for adopting environmentally responsible practices.[47] Sustainable development theory, when applied in this context, suggests that legal reforms in emerging economies must focus on both regulatory compliance and fostering a corporate culture that embraces environmental responsibility as part of long-term value creation.[48]

Indonesia, as one of the largest economies in Southeast Asia, plays a crucial role in global supply chains, particularly in sectors such as agriculture, mining, and forestry. However, the lack of stringent environmental liability laws and weak enforcement mechanisms has allowed corporations to operate with limited accountability for their environmental impact.[49] Sustainable development and corporate accountability theories suggest that Indonesia must implement more robust legal frameworks that incentivize corporations to reduce their environmental footprint and adopt sustainable practices that benefit both local communities and the global environment. Such reforms could help Indonesia align with international sustainability standards and contribute to the achievement of global sustainability goals.

5. Global ESG Standards and Their Role in Corporate Environmental Responsibility

Global frameworks for sustainability, including the SDGs and the OECD Guidelines for Multinational Enterprises, provide an essential foundation for the integration of ESG criteria into corporate strategies.[50] These standards set clear benchmarks for corporate performance, including targets for reducing greenhouse gas emissions, increasing resource efficiency, and promoting social equity. However, despite the widespread adoption of ESG principles in developed economies, many emerging markets like Indonesia still struggle with implementing these frameworks in their legal and regulatory systems. According to Pattberg

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[45] Riyan Al Fajri, "Facing Legal Uncertainty: Challenges of Corporate Law and Environmental Regulation for Sustainable Business Practices in Indonesia." *Journal of Social Research* 4, no. 4 (2025): 726-734.

[46] Timothy R. Carter, et al. "A Conceptual Framework for Cross-border Impacts of Climate Change." *Global Environmental Change* 69 (2021): 102307.

[47] Frances Westley, and Harrie Vredenburg. "Sustainability and the Corporation: Criteria for Aligning Economic Practice with Environmental Protection." *Journal of Management Inquiry* 5, no. 2 (1996): 104-119.

[48] Longyu Shi, et al. "The Evolution of Sustainable Development Theory: Types, Goals, and Research Prospects." *Sustainability* 11, no. 24 (2019): 7158.

[49] Al Fikri, "Implementation of Strict Liability by Companies in Cases of Environmental Damage in Indonesia: An Overview of State Administrative Law in Indonesia." *See also* Ismu Gunadi Widodo, et al. "Constraints on Enforcement of Environmental Law Against Corporate Defendants." *Environmental Policy and Law* 49, no. 1 (2019): 76-83.

[50] *See* Benedict Sheehy, Nico B. Valderrama, and Mara Villegas. "OECD Guidelines for Multinational Enterprises." *Encyclopedia of Sustainable Management*. Cham: Springer International Publishing, 2023, pp. 1-6.

and Zelli[51], this gap is often due to a lack of legal harmonization, inconsistent enforcement, and inadequate corporate transparency in reporting environmental impacts.

In this regard, corporate environmental liability plays a critical role in ensuring that businesses comply with both local and international ESG standards. As companies face increasing pressure from international stakeholders, including investors and consumers, to adopt sustainable practices, they must also be held accountable for their environmental impacts.[52] Legal frameworks that integrate ESG principles can help bridge the gap between corporate actions and global sustainability goals, driving positive environmental outcomes and ensuring long-term economic and social benefits.[53]

3.2. Global Standards on Corporate Environmental Liability

1. International Environmental Law and Corporate Responsibility

International environmental law plays a crucial role in defining the scope of corporate responsibility for environmental damage and setting standards for corporate compliance. At the core of international environmental governance are key legal instruments such as the Rio Declaration on Environment and Development 1992 and the Paris Agreement 2015. These instruments provide a framework for state parties to address environmental issues, but they also contain provisions that directly impact corporate operations. The Rio Declaration, for example, establishes the Polluter Pays Principle (PPP), which holds companies financially accountable for environmental degradation caused by their activities.[54] This principle is fundamental in both domestic and international legal systems, influencing national environmental policies that seek to impose liability on corporations for pollution and habitat destruction.

In addition to binding treaties, soft law instruments have become increasingly important in shaping corporate environmental responsibility. The UN Guiding Principles on Business and Human Rights 2011 and the OECD Guidelines for Multinational Enterprises (2011) are two such examples, providing non-binding frameworks for businesses to address environmental impacts within their operations and supply chains.[55] These instruments guide companies in adhering to environmental standards, even if the laws in their home or host countries are less stringent. While not legally enforceable, these guidelines set a normative

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[51] Philipp H. Pattberg, and Fariborz Zelli, eds. *Encyclopedia of Global Environmental Governance and Politics*. Edward Elgar Publishing, 2015.

[52] *See* Gao Chen, Jian Xu, and Yu Qi. "Environmental (de) centralization and local environmental governance: Evidence from a natural experiment in China." *China Economic Review* 72 (2022): 101755.

[53] James Evans, and Craig Thomas. *Environmental Governance*. London: Routledge, 2023.

[54] *See* Damar Sinatria Putra, "Dirty Dollars: Profits Over Planet in Indonesia's Application of the Polluter Pays Principle." *Indonesian Journal of Environmental Law and Sustainable Development* 3, no. 1 (2024): 61-96; Erwin Syahruddin, et al. "Carbon Trading as a New Paradigm for Indonesia's Polluter Pays Principle." *Journal of Law and Legal Reform* 5, no. 1 (2024): 27-52; Ridwan Arifin, and Siti Hafsyah Idris. "In Dubio Pro Natura: In Doubt, Should the Environment Be a Priority? A Discourse of Environmental Justice in Indonesia." *Jambe Law Journal* 6, no. 2 (2023): 143-184.

[55] John Gerard Ruggie, "The Social Construction of the UN Guiding Principles on Business and Human Rights." In *Research Handbook on Human Rights and Business*. Edward Elgar Publishing, 2020, pp. 63-86.

benchmark for multinational corporations (MNCs) and have been influential in the development of CSR and sustainability practices globally.[56]

The increasing emphasis on corporate environmental liability in international legal discourse reflects a broader normative shift in global governance, whereby corporations are no longer viewed as peripheral actors but as central subjects of environmental responsibility. Scholars such as Hunter[57] and Kulovesi et al[58] argue that international environmental law has progressively moved beyond a purely state-centric model toward one that acknowledges the role of non-state actors, including multinational corporations, in generating and mitigating environmental harm. However, despite this doctrinal evolution, the enforcement architecture of international law remains fundamentally reliant on states as primary duty-bearers, creating a structural gap between normative expectations and practical enforcement mechanisms.

This state-centric limitation has proven increasingly inadequate in addressing transboundary and large-scale corporate environmental harm. Multinational corporations often possess financial resources, technological capabilities, and operational reach that exceed the regulatory and institutional capacity of many developing states. In jurisdictions such as Indonesia, this imbalance is particularly pronounced in extractive and natural resource sectors, where foreign and domestic corporations may exert substantial influence over regulatory processes. As a result, domestic regulators frequently face constraints in monitoring compliance, imposing sanctions, and enforcing remediation obligations effectively, particularly where investment considerations are at stake.

These enforcement weaknesses are further exacerbated by regulatory capture and the structural dependency of state institutions on investment-driven economic growth. Environmental agencies and licensing authorities may become susceptible to political and economic pressures that prioritize investment continuity over stringent environmental enforcement. In practice, this can result in selective enforcement, administrative leniency, or delayed sanctioning of corporate actors whose operations are deemed economically strategic. Such dynamics weaken the deterrent effect of environmental regulation and undermine the credibility of corporate liability mechanisms.

Therefore, the gap between international normative expectations and domestic enforcement realities highlights a central tension in contemporary corporate environmental governance: while international law increasingly frames corporations as responsible environmental actors, the absence of direct enforcement mechanisms and the persistence of weak institutional capacity at the national level limit the practical effectiveness of these standards. In the Indonesian context, this structural imbalance underscores the need to strengthen domestic corporate environmental liability frameworks to compensate for the limitations of international law and to ensure that global sustainability norms are effectively translated into enforceable legal obligations.

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[56] Jan Aart Scholte, "Globalisation, Governance and Corporate Citizenship." *Journal of Corporate Citizenship* 1 (2001): 15-23.
[57] David Hunter, "Moving beyond State-Centrism in International Environmental Law." *Environmental Policy and Law* 52, no. 3-4 (2022): 201-212.
[58] Kati Kulovesi, Michael Mehling, and Elisa Morgera. "Global Environmental Law: Context and Theory, Challenge and Promise." *Transnational Environmental Law* 8, no. 3 (2019): 405-435.

2. Standards and Transnational Business Norms

ESG standards have become central to the regulation of corporate conduct in the global marketplace. ESG criteria serve as the ethical compass by which businesses assess and disclose their impact on the environment, society, and governance structures. The development of ESG standards has been driven by international frameworks such as the GRI and the Sustainability Accounting Standards Board (SASB), which provide guidelines for corporate sustainability reporting.[59] These frameworks encourage businesses to disclose material environmental risks, including carbon emissions, water usage, and waste management practices. The increasing importance of ESG disclosure can be attributed to the growing recognition that businesses have significant environmental impacts that need to be monitored and reported in a transparent manner.[60]

Corporate environmental disclosure has evolved from voluntary reporting to more structured and mandatory frameworks. For example, the EU Non-Financial Reporting Directive requires large companies to disclose non-financial information, including their environmental impact, within their annual reports.[61] Such regulatory measures are reflective of a growing belief that non-financial disclosures are essential for understanding the long-term risks that corporations face, especially in the context of environmental degradation and climate change. Elkington[62] argue that businesses should integrate sustainability as a core element of their strategy, as it directly correlates to the company's long-term viability and public trust.

Furthermore, the rise of transnational business norms has placed significant pressure on corporations to adopt ESG practices, regardless of the jurisdiction in which they operate. These norms are reinforced by investors, international financial institutions, and NGOs, which increasingly prioritize ESG considerations in their decision-making processes.[63] The International Finance Corporation (IFC) and the World Bank have incorporated ESG criteria into their investment strategies, encouraging companies to integrate sustainability into their operations.[64] This has led to a global shift in business culture, where companies are no longer only accountable to shareholders but also to a wide range of stakeholders, including the environment and society.

The challenge for countries like Indonesia is how to integrate these ESG norms into their legal frameworks, particularly given the evolving nature of ESG standards and the disparity

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[59] Ioannou, Ioannis, and George Serafeim. "Corporate Sustainability: A Strategy?." *Harvard Business School Accounting & Management Unit Working Paper* 19-065 (2019).

[60] Kotsantonis, Sakis, and George Serafeim. "Four things no one will tell you about ESG data." *Journal of Applied Corporate Finance* 31, no. 2 (2019): 50-58.

[61] *See* Lombardi, Rosa, et al. "The Climate-Related Information in the Changing EU Directive on Non-Financial Reporting and Disclosure: First Evidence by Italian Large Companies." *Journal of Applied Accounting Research* 23, no. 1 (2022): 250-273.

[62] Elkington, John. "Governance for Sustainability." *Corporate Governance: An international Review* 14, no. 6 (2006): 522-529.

[63] Duque-Grisales, Eduardo, and Javier Aguilera-Caracuel. "Environmental, Social and Governance (ESG) Scores and Financial Performance Oof Multilatinas: Moderating Effects of Geographic International Diversification and Financial Slack." *Journal of Business Ethics* 168, no. 2 (2021): 315-334.

[64] *See* Lorenzo, Johanna Aleria P. "The Contribution of International Financial Institutions to International Sustainable Development Law." *Research Handbook on Investment Law and Sustainable Development*. Edward Elgar Publishing, 2025, pp. 449-472.

in enforcement capacity between developed and emerging economies. The inconsistency in global ESG regulations, combined with weaker domestic regulatory systems, poses a significant challenge for businesses operating in Indonesia. However, by aligning national laws with transnational ESG norms, Indonesia can create an enabling environment that fosters corporate accountability and supports sustainable business practices.

3. Best Practices in Corporate Environmental Accountability

A critical examination of best practices in corporate environmental accountability reveals diverse approaches across different jurisdictions, providing valuable insights for countries looking to enhance their own environmental governance frameworks. One example is the Environmental Protection Agency (EPA) in the United States, which has long been a leader in enforcing environmental laws through both civil and criminal liability. The EPA has developed extensive compliance assistance programs, helping corporations comply with regulations and avoid environmental damage.[65] Additionally, the Superfund Law (CERCLA) holds corporations accountable for the cleanup of hazardous waste sites, even if they were not the direct cause of the contamination, embodying the principle of strict liability. The EPA's approach reflects a rigorous enforcement model that combines regulatory oversight with accountability measures that ensure corporations internalize the environmental costs of their operations.

In contrast, the European Union has set a high standard for corporate environmental responsibility with its European Green Deal and related Circular Economy Action Plan, which not only push for climate change mitigation but also mandate businesses to report on sustainability through formalized frameworks like the EU Emissions Trading Scheme (EU ETS) and Environmental Impact Assessments (EIA).[66] The EU's approach emphasizes integrating environmental considerations into all aspects of corporate governance, making sustainability a core aspect of business planning and execution. The EU Non-Financial Reporting Directive, which mandates companies to disclose environmental impacts, has become a benchmark for corporate environmental accountability, influencing national regulations across member states.[67]

In Japan, a more collaborative approach has been adopted, where the government works closely with corporations through voluntary environmental agreements (VEAs). These agreements provide incentives for businesses to reduce emissions or improve environmental practices beyond statutory requirements.[68] The Japanese model highlights the importance of

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[65] Robert I. McMurry, and Stephen D. Ramsey. "Environmental Crime: The Use of Criminal Sanctions in Enforcing Environmental Laws." *Loyola of Los Angeles Law Review* 19, no. 4 (1986): 1133; Peter C. Yeager, "Structural bias in regulatory law enforcement: The case of the US Environmental Protection Agency." *Social Problems* 34, no. 4 (1987): 330-344.

[66] *See* Ian Bailey, "The EU emissions trading scheme." *Wiley Interdisciplinary Reviews: Climate Change* 1, no. 1 (2010): 144-153; Olufemi Elias, and Meagan Wong. "Environmental Impact Assessment." *Research Handbook on International Environmental Law*. Edward Elgar Publishing, 2021, pp. 188-208.

[67] Elena M. Barbu, Liliana Ionescu-Feleagă, and Yann Ferrat. "The evolution of environmental reporting in Europe: The role of financial and non-financial regulation." *The International Journal of Accounting* 57, no. 2 (2022): 2250008.

[68] *See* Rie Sugiyama, and Hidefumi Imura. "Voluntary Approaches in Japan: Proven Record of Pollution Control Agreements and New Industrial Initiatives for the Protection of the Global Environment." *Eco-Management and Auditing: The Journal of Corporate Environmental Management* 6, no. 3 (1999): 128-134; Eric

collaboration between the private sector and the state in achieving sustainable outcomes. While not legally binding, these voluntary mechanisms have been effective in promoting corporate environmental responsibility, particularly in industries such as manufacturing and energy.

For emerging economies like Indonesia, which face both regulatory challenges and significant environmental risks, these international best practices offer valuable lessons. Kasman[69] argue that Indonesia could adopt a hybrid model, combining strict environmental laws with collaborative frameworks and capacity-building efforts. This would allow for a tailored approach that aligns with global sustainability standards while considering the local context and regulatory capacity.

The UK's implementation of the Climate Change Act 2008, which legally commits the country to reducing greenhouse gas emissions, serves as another compelling example of leadership in corporate environmental accountability.[70] The Act requires businesses to report their carbon emissions and ensures that penalties are in place for non-compliance. Similar legislative efforts in Indonesia could help align domestic businesses with international climate goals and encourage sustainable business practices across sectors. Therefore, best practices from these jurisdictions emphasize the need for clear regulatory frameworks, robust enforcement mechanisms, and collaborative engagement between businesses, governments, and stakeholders. By adopting and adapting these practices, Indonesia could create a more robust system for corporate environmental liability, ensuring that businesses contribute to global sustainability efforts while mitigating environmental risks at the local level.

Table 1. Comparison of Corporate Environmental Liability in Selected Jurisdictions

Jurisdiction	Key Legal Principles	Enforcement Mechanisms	Impact on Corporate Accountability
Indonesia	Strict Liability, Fault-based Liability, Corporate Criminal Liability	Administrative Sanctions, Civil Remedies, Criminal Enforcement	Enforcement inconsistent due to political influences and resource gaps
United States	Strict Liability, Negligence-based Liability, Corporate Criminal Liability	EPA fines, environmental litigation, Superfund liability	Robust enforcement through the EPA and citizen lawsuits
European Union	Strict Liability, Pollution Liability, Corporate Criminal Liability	Environmental Impact Assessments, EU Emissions Trading Scheme (ETS)	Strong regulatory frameworks, including emissions limits and reporting

W. Welch, and Akira Hibiki. "Japanese voluntary environmental agreements: bargaining power and reciprocity as contributors to effectiveness." *Policy Sciences* 35, no. 4 (2002): 401-424.

[69] Mochammad Kasman, "Integrasi Hukum Agraria dan Lingkungan: Pendekatan Baru untuk Pembaharuan Kebijakan Sumber Daya Alam." *Locus Journal of Academic Literature Review* 4, no. 3 (2025): 186-196.

[70] *See* Matthew Lockwood, "The political sustainability of climate policy: The case of the UK Climate Change Act." *Global Environmental Change* 23, no. 5 (2013): 1339-1348.

Jurisdiction	Key Legal Principles	Enforcement Mechanisms	Impact on Corporate Accountability
Japan	Voluntary Environmental Agreements, Corporate Criminal Liability	Voluntary Agreements, Administrative Fines, Judicial Remedies	High levels of voluntary compliance, strong public-private collaboration
India	Strict Liability, Fault-based Liability	Environmental Tribunals, Public Interest Litigation	Focus on judicial remedies and public litigation

Source: *Various sources, edited by the authors*

Table 1 compares corporate environmental liability principles and enforcement mechanisms across several jurisdictions. The United States leads with a rigorous enforcement system under the EPA, which is empowered to levy fines and manage hazardous waste through the Superfund program. In contrast, Japan's model focuses on voluntary environmental agreements between businesses and the government, which incentivize compliance through collaboration rather than punitive measures. The European Union and India utilize a combination of strict liability and administrative sanctions, with strong judicial remedies through the EU ETS and environmental tribunals in India. These examples offer valuable lessons for Indonesia, particularly the potential for hybrid models combining regulatory enforcement with voluntary industry initiatives.

From Table 1, it is emphasized that the United States EPA enforcement model is often characterized as deterrence-based and sanctions-heavy, rather than purely punitive. Through civil penalties, criminal liability, and administrative enforcement actions under statutes such as the Clean Air Act and Clean Water Act, the EPA employs strong coercive tools designed to ensure compliance through the threat of significant financial and reputational consequences. While critics argue that this model can be excessively punitive (particularly for smaller firms or in cases of technical non-compliance), it is more accurately understood as a deterrence-oriented regulatory system, where high penalties function to internalize environmental costs and prevent repeat violations. Its effectiveness depends heavily on strong institutional capacity, judicial independence, and consistent enforcement, conditions that may not be fully replicable in developing jurisdictions such as Indonesia.

Furthermore, the Japanese environmental governance model is widely recognized for its emphasis on administrative guidance (*gyōsei shidō*) and voluntary corporate compliance. Corporations are encouraged to adopt environmental standards through cooperative regulation, industry self-regulation, and reputational incentives rather than strict legal compulsion. While this approach has been praised for fostering collaborative state–industry relations and high levels of corporate environmental awareness, it is also criticized for creating normative dependence on corporate goodwill rather than enforceable legal obligation. In contexts where corporate actors prioritize cost efficiency over environmental stewardship, such voluntary mechanisms may lack sufficient coercive force, raising concerns about their

adequacy as a primary regulatory strategy in jurisdictions with weaker corporate ethics enforcement traditions.

The European Union's environmental regulatory model itself represents one of the most comprehensive systems of integrated, precautionary, and harmonized environmental governance, combining binding directives, strict liability principles, and extensive compliance reporting obligations. However, its transferability to developing countries is limited by significant structural conditions, including high administrative capacity, robust judicial enforcement, and sophisticated monitoring infrastructure. Instruments such as environmental impact assessments, extended producer responsibility, and corporate sustainability reporting require institutional resources that may not be readily available in developing economies. Consequently, while the EU model provides a normative benchmark for sustainability governance, its direct transplantation into jurisdictions such as Indonesia requires careful contextual adaptation rather than wholesale legal transposition.

The other comparison, the United States citizen suit mechanism, allows private individuals and civil society organizations to initiate legal action against environmental violators and enforcement authorities under specific statutes. This model strengthens enforcement by supplementing state regulatory capacity and empowering public participation in environmental governance. However, its compatibility with the Indonesian legal system is limited by fundamental differences in procedural law, standing doctrine (legal standing), and judicial structure. Indonesian civil procedure traditionally restricts locus standi, although environmental litigation has gradually expanded through judicial recognition of public interest standing. Despite this evolution, adopting a full citizen suit model would require significant procedural reform, including clearer rules on representative actions, evidentiary standards, and protection against frivolous litigation. Therefore, while conceptually attractive for strengthening enforcement, the model would need substantial institutional adaptation to function effectively within Indonesia's legal framework.

3.3. Legal Framework of Corporate Environmental Liability in Indonesia

1. Environmental Protection and Business Regulation

Indonesia's legal framework for environmental protection has evolved significantly in recent decades, reflecting both national priorities and international legal standards. Central to this framework is Law No. 32/2009, which serves as the cornerstone of Indonesia's environmental law. This statute provides a comprehensive set of regulations aimed at controlling pollution, preventing environmental damage, and promoting sustainable development. It establishes the principle of sustainability as a foundational concept, calling for a balance between economic growth, environmental preservation, and social development.[71] In line with international trends, Law No. 32/2009 integrates the precautionary principle, ensuring that businesses take preventive measures to avoid environmental harm, even in the absence of conclusive scientific evidence of harm.[72]

[71] Rofi Wahanisa, and Septhian Eka Adiyatma. "Konsepsi Asas Kelestarian dan Keberlanjutan dalam Perlindungan dan Pengelolaan Lingkungan Hidup dalam Nilai Pancasila." *Bina Hukum Lingkungan* 6, no. 1 (2021): 93-118.

[72] Elly Kristiani Purwendah, "Perlindungan Lingkungan dalam Perspektif Prinsip Kehati-Hatian (Precautionary Principle)." *Jurnal Media Komunikasi Pendidikan Pancasila dan Kewarganegaraan* 1, no. 2

In addition to Law No. 32/2009, several other statutory instruments regulate corporate environmental conduct in Indonesia. Notably, Law Number 30 of 2007 concerning Energy and Law Number 11 of 2020 concerning Job Creation have been pivotal in shaping industrial regulation about energy consumption and the environmental impact of business activities. The latter law, a highly debated piece of legislation, introduces significant amendments to various environmental regulations, particularly concerning the ease of doing business and the regulatory flexibility granted to corporations. However, critics argue that these amendments may undermine the protective framework established by earlier environmental laws, particularly concerning pollution control and corporate responsibility. The integration of the SDGs, particularly Goal 12 on responsible consumption and production, into Indonesian policy further underscores the growing emphasis on sustainable business practices in the regulatory sphere.

Table 2. Key Statutory Instruments Governing Corporate Environmental Liability in Indonesia

Statutory Instrument	**Key Provisions**	**Relevant Areas of Corporate Environmental Liability**	**Impact on Corporate Accountability**
Law No. 32/2009	Environmental Protection and Management Act; establishes principles for environmental sustainability	Corporate liability for environmental damage, including pollution and resource depletion	Establishes framework for strict and fault-based liability
Law No. 30/2007	Regulates the energy sector and environmental impact of energy use	Corporate responsibility for energy consumption and carbon emissions	Mandates energy efficiency and clean energy adoption
Law No. 11/2020	Streamlines regulatory processes for business; introduces environmental regulation flexibility	Modifies environmental standards, focusing on business growth and investment	Could reduce environmental protections in favor of economic growth
Law No. 23/1997	Provides foundation for environmental	Assigns roles for government bodies,	Strengthens institutional roles for

(2019): 82-94; Joshua Wijaya Proyogo, "Balancing Risk and Caution: The Precautionary Principle in Indonesian Environmental Law Context." *Indonesian Journal of Environmental Law and Sustainable Development* 3, no. 1 (2024): 1-30; Muhammad Fadhil, et al. "The Green Economy vs. Indigenous Rights: A Study of the Indonesian Investment Law and Its Impact on Climate Justice." *Indonesian Climate Justice Review* 2, no. 4 (2025): 1-47.

Statutory Instrument	Key Provisions	Relevant Areas of Corporate Environmental Liability	Impact on Corporate Accountability
	management and governance in Indonesia	establishes framework for licensing businesses	monitoring and enforcement

Source: *Various sources, edited by Authors*

Table 2 presents key statutory instruments and outlines their provisions, areas of impact, and their direct influence on corporate environmental liability. While Law No. 32/2009 is the most significant law, Law No. 11/2020 has generated controversy due to its potential weakening of environmental protections in favor of economic expansion.

Despite these comprehensive laws, Indonesia faces ongoing challenges in enforcing corporate responsibility for environmental damage. According to Ines, et.al[73], Hadju[74], and Akrian & Susanti[75] while the legal framework for corporate environmental liability exists, its application is often hindered by weak institutional enforcement, lack of resources, and political influences that favor economic development over environmental protection. The divergence between regulatory intent and enforcement reality has led to instances where corporations, particularly in extractive industries, continue to operate with limited legal repercussions, further exacerbating environmental degradation. Consequently, Fadly[76] argue that Indonesia must engage in meaningful legal reform to ensure that corporate environmental liability frameworks are both robust and effectively enforced.

2. Liability Principles Applicable to Corporations

The concept of corporate environmental liability in Indonesia is underpinned by several principles, notably strict liability, fault-based liability, and corporate criminal liability. These principles are critical to holding corporations accountable for their actions and ensuring that businesses internalize the environmental costs of their operations. Under the strict liability regime, businesses are held accountable for environmental damage without the need to prove fault or negligence. This principle is particularly important in cases where harm is caused by dangerous activities, such as the extraction of natural resources or hazardous waste disposal,

[73] Asry Ines, et al. "Peran Kebijakan Hukum dalam Pengelolaan Sumber Daya Alam untuk Keberlanjutan Ekosistem di Indonesia." *Jurnal Kolaboratif Sains* 8, no. 1 (2025): 680-690.

[74] Najwa Nurain Hadju, "Penegakan Hukum Lingkungan dalam Pengelolaan Pertambangan." *Arus Jurnal Sosial dan Humaniora* 5, no. 1 (2025): 594-598.

[75] Zul Akrial, and Henni Susanti. "Analisis Terhadap Korporasi Sebagai Subyek Hukum Didalam Undang-Undang No. 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup." *UIR Law Review* 1, no. 2 (2017): 137-148.

[76] M. Roken Fadly, "Integrating Environmental, Social, and Governance (ESG) Principles into Sustainability Business Law: A Legal Perspective on Corporate Governance and Environmental Accountability in Indonesia." *Literate: International Journal of Social Science and Humanities* 3, no. 1 (2024); Indah Sri Utari, and Ridwan Arifin. "Law Enforcement and Legal Reform in Indonesia and Global Context: How the Law Responds to Community Development?." *Journal of Law and Legal Reform* 1, no. 1 (2020): 1-4; Zico Junius Fernando, et al. "Environment as a Legal Subject in the Reconstruction of Indonesia's Environmental Law." *Indonesian Journal of Environmental Law and Sustainable Development* 4, no. 1 (2025): 95-122.

where the potential for significant harm is high. Indonesian law incorporates strict liability provisions in various contexts, most notably in Law No. 32/2009, where corporations can be held liable for environmental damage even if they took all reasonable precautions to avoid harm.[77] This principle aligns with international standards, such as the PPP, which seeks to assign responsibility for environmental damage to those who cause it, regardless of intent or negligence.

In contrast to strict liability, fault-based liability requires proof of negligence or willful misconduct on the part of the corporation. Under this principle, a business may only be held liable if it can be shown that it failed to meet the required standards of care, either through active negligence or a failure to take reasonable steps to prevent environmental harm.[78] This principle is more common in cases where environmental damage results from negligence in operational procedures, such as improper waste disposal or failure to maintain equipment that leads to spills or emissions. Fault-based liability is often seen as more difficult to enforce, as it requires clear evidence of wrongdoing, which may not always be available, particularly in cases involving indirect environmental impacts.[79]

Corporate criminal liability constitutes a central but doctrinally complex component of Indonesia's environmental enforcement regime, primarily because it requires the attribution of criminal intent to a legal entity that lacks a physical mind. Although Law No. 32/2009 formally recognizes corporations as subjects of criminal liability, its application is constrained by unresolved questions of attribution, particularly in establishing who within the corporate structure can be said to embody the corporation's "*mens rea*." As scholars such as Wells[80] and Gobert[81] have noted, the challenge of corporate criminal liability lies less in recognizing corporations as legal persons and more in constructing a coherent theory for imputing fault to them in a principled manner.

Comparative criminal law scholarship has developed several attribution models to address this problem. The identification theory, associated with the "directing mind" doctrine articulated in English jurisprudence and widely discussed by Gobert[82], limits liability to senior officers whose decisions represent the corporation itself, typically members of the board of directors or top executives. Vicarious liability, by contrast, extends corporate responsibility to unlawful acts committed by employees or agents within the scope of their employment, even in the absence of managerial knowledge, reflecting a broader risk-based conception of corporate fault. A more expansive approach is offered by the aggregation doctrine, which has

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[77] *See* Arifin, and Idris. "In Dubio Pro Natura: In Doubt, Should the Environment Be a Priority? A Discourse of Environmental Justice in Indonesia."

[78] *See* Geraldine Szott Moohr, "Of Bad Apples and Bad Trees: Considering Fault-Based Liability for the Complicit Corporation." *American Criminal Law Review* 44, no. 4 (2007): 1343-1365.

[79] John CP Goldberg, and Benjamin C. Zipursky. "The Strict Liability in Fault and the Fault in Strict Liability." *Fordham Law Review* 85, no. 2 (2016): 743-788

[80] Celia Wells, *Corporations and Criminal Responsibility*. Oxford: OUP Oxford, 2001.

[81] James Gobert, "Squaring the circle: the relationship between individual and organizational fault: James Gobert." In *European Developments in Corporate Criminal Liability*. London: Routledge, 2011, pp. 152-170.

[82] Gobert.

been discussed by scholars such as Bucy[83], allowing courts to combine the knowledge and conduct of multiple individuals within the corporation to establish both *actus reus* and *mens rea* at the corporate level. Collectively, these theories reflect scholarly recognition that corporate culpability is necessarily constructed through legal fiction rather than individual psychology.

In the Indonesian context, the absence of a clearly articulated attribution framework has been identified by Sjahdeini[84] as a key obstacle to effective enforcement of corporate criminal liability. Although corporations are recognized as legal subjects under Law No. 32/2009, enforcement practice often lacks clarity in determining whether liability should attach to the board of directors, who exercise day-to-day managerial control, or the board of commissioners, who perform supervisory functions. This ambiguity reflects a broader doctrinal gap between formal recognition of corporate criminal liability and the operational mechanisms required to apply it consistently in environmental cases.

As a result, proving corporate mens rea remains one of the most significant barriers to effective prosecution of environmental crimes, often leading to a reliance on administrative sanctions or the prosecution of individual officers rather than the corporation itself. As Clarkson[85] argues without a coherent theory of attribution, corporate criminal liability risks becoming symbolic rather than functional. Accordingly, strengthening Indonesia's environmental liability framework requires the explicit incorporation of attribution principles—particularly identification-based and function-based responsibility models—so that corporate accountability can be grounded in a defensible doctrinal structure consistent with both comparative criminal law scholarship and the exigencies of environmental governance.

Table 3. Principles of Corporate Environmental Liability in Indonesia

Liability Principle	Definition	Examples of Application in Indonesia	Challenges in Enforcement
Strict Liability	Corporate responsibility for environmental harm without the need to prove fault or negligence	Corporations held liable for pollution, hazardous waste, deforestation activities	Difficult to prove causality, loopholes in the application
Fault-based Liability	Requires proof of negligence or misconduct on the part of corporations	Liability for improper waste disposal, failure to maintain equipment properly	Proving negligence can be challenging, especially in complex cases

[83] Pamela H. Bucy, "Corporate ethos: A standard for imposing corporate criminal liability." *Minnesota Law Review* 75, no. 4 (1991): 1095.
[84] Sutan Remy Sjahdeini, *Pertanggungjawaban Pidana Korporasi*. Jakarta: Grafitipres, 2006.
[85] Chris MV. Clarkson, "Kicking corporate bodies and damning their souls." *The Modern Law Review* 59, no. 4 (1996): 557-572.

Liability Principle	Definition	Examples of Application in Indonesia	Challenges in Enforcement
Corporate Criminal Liability	Criminal charges for intentional or grossly negligent environmental harm	Corporations charged under the Law No. 32/2009 for causing harm, like illegal deforestation	Corporate structures often shield individual accountability

Source: *Various sources, edited by Authors*

According to Table 3, while strict liability is essential for cases where environmental harm is inevitable (e.g., toxic waste disposal), fault-based liability often encounters challenges due to the need for substantial proof of negligence. Furthermore, corporate criminal liability remains underutilized due to issues with corporate personhood, political influence, and difficulty in holding companies accountable for widespread environmental harm.

Corporate criminal liability further strengthens the legal framework for corporate environmental accountability. In Indonesia, corporations can be criminally liable for acts of environmental harm if the environmental damage is caused by intentional or grossly negligent behavior. The application of corporate criminal liability is significant, as it can result in severe penalties, including fines and even dissolution of the corporation, in cases of egregious environmental violations.[86] However, the practical enforcement of corporate criminal liability remains weak, with many high-profile cases of environmental harm involving large corporations often resulting in limited or no legal consequences. In line with this, Dahliani and Tuasikal[87] argue that enhancing the scope and rigor of corporate criminal liability in Indonesia could act as a deterrent against corporate negligence and environmental misconduct, particularly in high-risk sectors like mining and palm oil production.

3. Enforcement Mechanisms and Institutional Roles

The enforcement of corporate environmental liability in Indonesia relies on a combination of administrative sanctions, civil remedies, and criminal enforcement. Each of these mechanisms serves a distinct function in ensuring compliance with environmental laws, but their effectiveness is often undermined by institutional challenges and political obstacles. Administrative sanctions are the most commonly used tool for enforcing environmental compliance. These sanctions, as outlined in Law No. 32/2009, include fines, suspension of operations, and mandatory corrective actions to address environmental violations. The

[86] For further example cases, *see also* Dede Indraswara, Ali Masyhar Mursyid, and Cahya Wulandari. "Corporate Criminal Liability of Corruption Criminal Actions PT. Sinarmas Asset Management: Study of Supreme Court Ruling Number 1228 K/Pid. Sus/2023." *The Digest: Journal of Jurisprudence and Legisprudence* 5, no. 2 (2024): 137-184; Muhammad Wahyu Alfakar, et al. "Development of Corporate Criminal Liability Models and Theories in Law Number 1 of 2023." *Indonesian Journal of Criminal Law Studies* 8, no. 2 (2023): 173-192; Akwila Agustinus, and Ridwan Arifin. "Corporations and Environmental Crimes: A Legal Analysis of Criminal Liability in Indonesia." *Semarang State University Undergraduate Law and Society Review* 5, no. 2 (2025): 1405-1433.

[87] Dahliani Dahliani, and Hadi Tuasikal. "Corporate Responsibility for Environmental Damage from The Perspective of Unlawful Acts and Environmental Justice." *Jurnal Ius Constituendum* 10, no. 2 (2025): 265-281.

Environmental Protection Agency (KLHK), the primary regulatory body overseeing environmental law enforcement in Indonesia, is tasked with monitoring compliance, investigating violations, and imposing administrative sanctions on businesses that fail to meet environmental standards.[88] While the KLHK has the authority to issue sanctions, its effectiveness is often limited by bureaucratic inefficiency, a lack of resources, and a political climate that prioritizes economic growth over environmental protection.[89]

In addition to administrative sanctions, civil remedies play an important role in holding corporations accountable for environmental harm. Civil remedies typically involve compensation for damages caused to individuals, communities, or the environment itself. Under Indonesian law, citizens and non-governmental organizations (NGOs) have standing to file lawsuits against corporations for environmental violations, a principle known as public interest litigation.[90] The availability of civil remedies has provided a pathway for affected communities to seek redress, particularly in cases where government enforcement is lacking. However, the effectiveness of civil remedies is constrained by issues such as limited access to justice, legal costs, and the challenges of proving causality between corporate activities and environmental harm.

Criminal enforcement, while a powerful tool for ensuring corporate accountability, has been rarely applied in Indonesia due to significant gaps in enforcement capacity. The Indonesian National Police (POLRI) and the Attorney General's Office have the authority to pursue criminal charges against corporations for severe environmental violations, including intentional pollution, illegal deforestation, and hazardous waste dumping. However, the application of criminal penalties often requires a higher threshold of proof, including evidence of intent or gross negligence, which can be difficult to establish in complex environmental cases.[91] Furthermore, political and economic pressures often result in the dismissal of cases involving powerful corporations, particularly in sectors like palm oil and mining, where economic interests outweigh environmental concerns.[92]

Table 4. Key Enforcement Mechanisms for Corporate Environmental Liability in Indonesia

Enforcement Mechanism	Description	Sanctions/Consequences	Challenges to Effectiveness
Administrative Sanctions	Regulatory fines, suspension, or closure of	Fines, business operation suspension,	Bureaucratic inefficiency, political influence,

[88] Sekhroni Sekhroni. *Penegakan Hukum Lingkungan Hidup di Indonesia: Terwujudnya Sustainable Development*. PT. Nawala Gama Education, 2025.
[89] *See also* Andri G. Wibisana, "Three principles of environmental law: the polluter-pays principle, the principle of prevention, and the precautionary principle." *Environmental Law in Development*. Edward Elgar Publishing, 2006; Andri G. Wibisana, "The development of the precautionary principle in international and Indonesian environmental law." *Asia Pacific Journal of Environmental Law* 14, no. 1-2 (2011): 169-202.
[90] Prim Haryadi, *Penyelesaian Sengketa Lingkungan Melalui Gugatan Perdata*. Sinar Grafika, 2022.
[91] Hamidah Abdurrachman, Achmad Irwan Hamzani, and Joko Mariyono. "Environmental crime and law enforcement in Indonesia: some reflections on counterproductive approaches." *Environmental Policy and Law* 51, no. 6 (2021): 409-416.
[92] Peter Dauvergne, "The global politics of the business of "sustainable" palm oil." *Global Environmental Politics* 18, no. 2 (2018): 34-52.

Enforcement Mechanism	Description	Sanctions/Consequences	Challenges to Effectiveness
	operations for non-compliance	environmental remediation orders	lack of monitoring capacity
Civil Remedies	Legal actions allowing affected parties to seek compensation for damages	Compensation for harm to environment, local communities	Legal cost barriers, limited access to justice, lengthy litigation
Criminal Enforcement	Criminal charges against corporations for severe violations	Large fines, business dissolution, imprisonment for individuals	High burden of proof, political interference, lack of legal expertise

Source: *Various sources, analyzed and edited by Authors*

Table 4 highlighted that the administrative sanctions system is the most widely applied, yet its efficacy is frequently limited by bureaucratic inefficiencies and political interference. Civil remedies offer opportunities for affected communities to pursue compensation, but access to justice is constrained by legal costs and resource limitations. Criminal enforcement presents a powerful deterrent but is rarely pursued due to the high burden of proof and the political challenges that come with prosecuting powerful corporations.

Furthermore, the institutional roles of the KLHK, POLRI, and Attorney General's Office in enforcing environmental liability reflect the fragmented and often ineffective nature of environmental governance in Indonesia. This condition highlighted that the fragmented enforcement system undermines the potential for meaningful corporate accountability. To strengthen enforcement, Sanusi[93] suggests that Indonesia must invest in improving the institutional capacity of environmental agencies, ensuring that they have the resources and political support necessary to enforce environmental laws consistently and effectively.

4. Challenges to Effective Enforcement

One of the most persistent structural challenges to the effective enforcement of corporate environmental liability in Indonesia lies in institutional fragmentation and weak inter-agency coordination. Environmental governance involves multiple actors, including the KLHK, provincial and district-level environmental agencies, and sectoral ministries responsible for mining, forestry, and energy.[94] However, the absence of clear functional integration among these institutions often results in overlapping mandates, regulatory gaps, and inconsistent enforcement practices. This fragmentation is further exacerbated by decentralization reforms, which have transferred significant environmental permitting and supervisory powers to sub-national governments without a corresponding strengthening of institutional capacity. As a

[93] Answar Sanusi, *Politik Ekologi dan Masa Depan Kebijakan Lingkungan di Indonesia*. Cirebon: PT Arr Rad Pratama, 2025.

[94] Asry Ines, et al. "Peran Kebijakan Hukum dalam Pengelolaan Sumber Daya Alam untuk Keberlanjutan Ekosistem di Indonesia." *Jurnal Kolaboratif Sains* 8, no. 1 (2025): 680-690; Abdurrakhman Alhakim, and Wilda Lim. "Penegakan Hukum Lingkungandi Indonesia: Kajian Perspektif Hukum Pidana." *Maleo Law Journal* 5, no. 1 (2021): 104-122.

result, environmental governance has become uneven across regions, with local authorities frequently lacking the technical expertise and resources necessary for effective monitoring and enforcement.

A further critical constraint lies in corruption and irregularities within the environmental licensing process. Empirical studies on environmental governance in Indonesia have documented instances where environmental impact assessments (AMDAL) and licensing approvals are influenced by non-transparent decision-making, rent-seeking behaviour, and political–business entanglements.[95] Such practices undermine the preventive function of environmental regulation by allowing high-risk projects to proceed without adequate scrutiny. As a result, licensing mechanisms that are intended to serve as ex ante environmental safeguards are often weakened, reducing their effectiveness as instruments of corporate control.

Weak environmental monitoring and compliance oversight further compound these problems. Regulatory agencies frequently face limitations in conducting field inspections, verifying corporate compliance data, and enforcing post-licensing obligations. This capacity gap is particularly evident in extractive industries, where operations are geographically dispersed and technically complex. Consequently, enforcement tends to be reactive rather than preventive, relying on complaint-driven mechanisms rather than systematic monitoring systems. Scholars of Indonesian environmental governance have therefore characterized enforcement as episodic and selective rather than consistent and rule-based.

Political interference and the political economy of extractive industries also significantly shape enforcement outcomes. Corporations operating in sectors such as mining, palm oil, and large-scale infrastructure often maintain close relationships with political and economic elites, creating conditions conducive to regulatory capture. In such contexts, enforcement decisions may be influenced by considerations of investment stability, regional revenue generation, and political patronage networks, leading to selective or inconsistent application of environmental sanctions. This dynamic weakens the deterrent effect of environmental law and contributes to a perception of unequal accountability among corporate actors.

In addition, the lack of meaningful public participation in environmental governance further limits enforcement effectiveness. Although Indonesian law formally recognizes environmental rights and provides avenues for public interest litigation, practical barriers (such as litigation costs, limited legal literacy, procedural complexity, and risks of intimidation), significantly constrain civic engagement. As a result, civil society organizations and affected communities often struggle to act as effective counterweights to weak regulatory enforcement. Strengthening participatory governance mechanisms, including access to environmental information, legal standing, and protection for environmental defenders, is therefore essential to enhancing corporate accountability.

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[95] *See* Andri G. Wibisana, "Campur Tangan Pemerintah dalam Pengelolaan Lingkungan: Sebuah Penelusuran Teoretis Berdasarkan Analisis Ekonomi atas Hukum (Economic Analysis of Law)." *Jurnal Hukum & Pembangunan* 47, no. 2 (2017): 151-182; Grahat Nagara, et al. "Persoalan Struktural dalam Politik Penegakan Hukum Sumber Daya Alam dan Lingkungan Hidup." *Integritas: Jurnal Antikorupsi* 5, no. 2 (2019): 65-74; Adistya Lulu Apriana, and Sendy Salsabila Saifuddin. "Dilema Penegakan Hukum Terhadap Perusahaan Tambang Pencemar Air: Analisis Dan Solusi Efektif." *Jurnal Penelitian Sosial* 1, no. 1 (2024): 15-28.

At this point, these structural challenges demonstrate that weak enforcement of corporate environmental liability in Indonesia is not merely a matter of legal insufficiency, but rather the outcome of deeper institutional, political, and economic dynamics. The interaction between decentralization, regulatory capture, monitoring deficits, and extractive-sector dependencies produces a governance environment in which environmental compliance is unevenly enforced and corporate accountability remains significantly constrained.

5. Recommendations for Strengthening Environmental Liability in Indonesia

To enhance the effectiveness of corporate environmental liability in Indonesia, several reforms are necessary. First, legal reform is needed to clarify and strengthen the scope of corporate responsibility for environmental damage, particularly in high-risk industries such as palm oil, mining, and forestry. Satria[96] argue that expanding the definition of corporate environmental liability to include indirect impacts, such as supply chain emissions and environmental degradation caused by third-party contractors, would ensure that corporations are held accountable for the broader consequences of their activities. In this regard, Indonesia could look to international best practices, such as the OECD Guidelines for Multinational Enterprises and the United Nations Guiding Principles on Business and Human Rights, which require businesses to mitigate environmental risks across their entire value chain.[97] By extending liability to cover supply chain activities, Indonesia could more effectively regulate corporate environmental impacts, especially in industries where indirect harm is significant.

Second, institutional strengthening is essential to improve the enforcement capacity of Indonesia's regulatory agencies. As noted by Schwartz (2019) and Sullivan & Ford (2019), agencies like the KLHK and local environmental authorities often lack the resources, technical expertise, and political independence necessary to effectively enforce environmental laws. Therefore, increasing funding for environmental agencies, providing specialized training for law enforcement officers, and improving the coordination between national and local governments are critical steps to ensure that corporations face legal consequences for environmental harm.

Moreover, strengthening the role of independent oversight bodies, such as environmental watchdogs and civil society organizations (CSOs), can further enhance enforcement. These organizations play a crucial role in monitoring corporate behavior, collecting data on environmental violations, and bringing public attention to cases of environmental harm that might otherwise go unnoticed[98]. Public interest litigation should also be facilitated by legal reforms that lower barriers to access, such as reducing legal costs, providing legal aid, and enhancing public education about environmental law.[99] This would

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[96] Hariman Satria, "Environmental pollution: Assessing the criminal liability of corporations." *Hasanuddin Law Review* (2018): 194-203; Herlan Herlan. "Pertanggungjawaban Korporasi Terhadap Kerusakan Lingkungan di Kabupaten Morowali." *Maleo Law Journal* 1, no. 1 (2017): 119-134.

[97] John Gerard Ruggie, and Tamaryn Nelson. "Human rights and the OECD guidelines for multinational enterprises: Normative innovations and implementation challenges." *The Brown Journal of World Affairs* 22, no. 1 (2015): 99-127.

[98] Marjan Peeters, "About silent objects and barking watchdogs: the role and accountability of environmental NGOs." *European Public Law* 24, no. 3 (2018).

[99] Anja Gerdung, "Global Environmental Governance and the Role of Civil Society Groups." *New Zealand Journal of Environmental Law* 8 (2004): 55-98.

enable affected communities and NGOs to actively engage in holding corporations accountable through the courts.

In addition to legal and institutional reforms, Indonesia could benefit from more robust CSR initiatives. Corporate accountability in environmental law should be integrated with the development of CSR practices that go beyond mere compliance with regulatory standards. CSR initiatives, particularly those focused on environmental stewardship, can play a pivotal role in preventing environmental harm by encouraging businesses to adopt proactive strategies for waste management, energy conservation, and resource efficiency.[100] To this end, Indonesia could introduce incentives for businesses that voluntarily adopt environmentally sustainable practices, such as tax breaks or preferential access to government contracts. Fauzi, et.al[101] emphasize that businesses should strive for a triple bottom line, where economic performance, social responsibility, and environmental sustainability are equally prioritized. Such an approach would help bridge the gap between corporate self-interest and public environmental welfare.

Additionally, judicial reforms are necessary to ensure that courts are equipped to handle complex environmental cases. This includes providing training for judges and legal practitioners on the technical aspects of environmental law and the scientific evidence required to adjudicate cases involving corporate environmental liability. Specialized environmental courts could be established to focus solely on environmental disputes, similar to models seen in countries like Thailand and India, which have created specialized courts or tribunals to address environmental issues more efficiently. Additionally, improving the transparency of judicial processes and ensuring that judicial decisions are made in an independent manner, free from political and corporate influence, would help to restore public trust in the legal system's ability to hold corporations accountable.[102]

3.4. Challenges in Aligning Indonesian Business Law with Global Sustainability Standards

1. Legal Certainty and Regulatory Fragmentation

One of the primary challenges in aligning Indonesian business law with global sustainability standards is the persistent issue of legal certainty and regulatory fragmentation. Indonesia's legal landscape concerning environmental protection and corporate responsibility is marked by overlapping regulations and interpretative inconsistencies that complicate the enforcement of sustainability practices. The core regulatory framework governing business conduct in Indonesia includes multiple laws, such as Law No. 32/2009, Law No. 40 /2007, and Law No. 11/2020, among others. While these laws collectively aim to address various dimensions of ESG compliance, they often overlap in scope, leading to conflicting provisions and difficulties in interpretation.

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[100] Joseph Taylor, Joseph Vithayathil, and Dobin Yim. "Are corporate social responsibility (CSR) initiatives such as sustainable development and environmental policies value enhancing or window dressing?." *Corporate Social Responsibility and Environmental Management* 25, no. 5 (2018): 971-980.

[101] Hasan Fauzi, Goran Svensson, and Azhar Abdul Rahman. ""Triple bottom line" as "Sustainable corporate performance": A proposition for the future." *Sustainability* 2, no. 5 (2010): 1345-1360.

[102] *See* Windu Kisworo, "A Framework for the Establishment of an Environmental Court in Indonesia: Opportunities and Challenges". *Dissertation*. New South Wales: Macquarie University, 2019.

For example, Law No. 32/2009lays down stringent requirements for environmental impact assessments and corporate responsibility, but Law No. 11/2020seeks to streamline regulatory procedures for businesses, creating potential conflicts between regulatory bodies, and offering businesses more flexibility in environmental management. This regulatory complexity can create legal uncertainty, making it difficult for businesses to understand their obligations and for enforcement agencies to impose consistent penalties.[103] Furthermore, local governments often enact their own regulations in addition to national laws, further exacerbating the confusion for corporations, especially those operating across multiple jurisdictions within Indonesia. The fragmented legal framework makes it challenging for businesses to adopt consistent ESG strategies that align with global sustainability standards, such as those set by the OECD or the SDGs.

This legal fragmentation hinders Indonesia's ability to create a unified and predictable regulatory environment for businesses. In a globalized economy, where corporations are expected to comply with international environmental agreements and align with global ESG standards, the lack of regulatory coherence presents a significant barrier to sustainable business practices. To address this issue, legal scholars such as Gunningham[104] recommend a comprehensive legal reform aimed at harmonizing the different regulations, ensuring consistency across all levels of government, and providing clearer guidance to corporations on their environmental responsibilities.

2. Enforcement Gaps and Institutional Constraints

The challenge of aligning Indonesian business law with global sustainability standards is also exacerbated by enforcement gaps and institutional constraints. Indonesia's regulatory bodies, particularly the KLHK, play a critical role in monitoring compliance with environmental laws. However, these institutions face significant capacity constraints, limiting their ability to effectively monitor corporate compliance and impose sanctions. Some studies have pointed out that the KLHK is often underfunded and lacks sufficient personnel and technical expertise to enforce environmental laws comprehensively. Moreover, local government enforcement is frequently inconsistent, with some regional authorities either lacking the necessary resources to monitor businesses or being influenced by political and economic pressures that prioritize business growth over environmental protection.[105]

These institutional weaknesses contribute to poor enforcement of environmental laws, particularly in high-risk industries such as mining, oil palm plantations, and forestry, where environmental violations are often rampant. Despite the presence of administrative sanctions,

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[103] Ricky Yuniardi, Yoyok Suharyanto, and Agus Satory. "Dampak Penyederhanaan Perizinan Lingkungan yang diatur oleh Undang-Undang No 11 Tahun 2020 Tentang Cipta Kerja Terhadap Lingkungan Hidup Masyarakat Serta Pelaku Usaha." *Al-Adl: Jurnal Hukum* 16, no. 1 (2024): 160-177.

[104] Neil Gunningham, "Environment law, regulation and governance: Shifting architectures." *Journal of Environmental Law* 21, no. 2 (2009): 179-212.

[105] *See* Yoan Barbara Runtunuwu, "Analisis Kebijakan dan Penegakan Hukum Lingkungan Hidup di Negara-negara Asean: Implikasi terhadap Akses Keadilan dan Keberlanjutan Lingkungan." *Collaborative: Journal of Community Service* 1, no. 2 (2025): 62-76; Muhammad Syahri Ramadhan, "Peranan Kementerian Lingkungan Hidup dan Kehutanan dalam Penanganan Kasus Pidana Lingkungan Hidup dan Kehutanan." *Indonesian Journal of Law Studies* 3, no. 2 (2024); Lastuti Abubakar, and Tri Handayani. "The Environmental Fund Management Model in Indonesia: Some Lessons in Legal Regulation and Practice." *Environmental Policy and Law* 53, no. 2-3 (2023): 205-217.

civil remedies, and even criminal penalties for corporate environmental offenses, enforcement remains sporadic, and corporations can often escape punishment through corruption, political influence, or legal loopholes.[106] In such an environment, businesses that fail to comply with sustainability norms can continue operations with minimal repercussions, undermining the objectives of Indonesian environmental law.

Moreover, weak compliance monitoring results in insufficient data on the environmental impacts of corporate activities, making it difficult to track progress toward sustainability goals. NGOs and CSOs play an important role in filling this gap by acting as watchdogs and advocating for stricter enforcement of environmental regulations. However, the absence of an effective public-private partnership model that integrates civil society into the regulatory process further limits the impact of these organizations. As Gaho and Irawati[107] highlight, Indonesia's environmental monitoring and enforcement mechanisms must be strengthened to ensure compliance with both national and global sustainability standards.

To close these enforcement gaps, Herlina[108] suggest the establishment of dedicated environmental courts, the strengthening of regulatory agencies, and the implementation of integrated compliance monitoring systems that allow for real-time tracking of environmental performance across various industries. Furthermore, incentivizing compliance through tax breaks or preferential treatment for businesses that adopt sustainable practices could create a more proactive regulatory environment, fostering voluntary compliance with global ESG standards.

3. Corporate Governance and ESG Integration Issues

The limited adoption of sustainability-oriented governance practices in Indonesian businesses represents another significant challenge in aligning national business laws with global ESG standards. Corporate governance in Indonesia has traditionally focused on short-term profit maximization, with little regard for long-term environmental and social impacts. While global sustainability standards, such as the SDGs and OECD Guidelines for Multinational Enterprises, emphasize the importance of integrating environmental and social governance into corporate decision-making, many Indonesian companies still operate with little consideration of their environmental footprints or the well-being of the communities in which they operate.[109]

Despite growing international pressure for corporations to adopt comprehensive ESG frameworks, the adoption of such practices in Indonesia has been slow and inconsistent. The majority of Indonesian companies, especially small and medium-sized enterprises (SMEs),

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[106] McMurry, and Ramsey. "Environmental Crime: The Use of Criminal Sanctions in Enforcing Environmental Laws."

[107] Jastis Gaho, and Arista Candra Irawati. "Pendekatan Holistik dalam Pengelolaan Hukum Lingkungan: Tantangan dan Solusi di Era Globalisasi." *Rampai Jurnal Hukum (RJH)* 3, no. 2 (2024): 112-118.

[108] Nina Herlina, "Permasalahan lingkungan hidup dan penegakan hukum lingkungan di Indonesia." *Jurnal Ilmiah Galuh Justisi* 3, no. 2 (2017): 162-176.

[109] *See* Ginanjar Indra Kusuma Nugraha, "Tanggung Jawab Sosial Perusahaan (CSR) PT. Antam, TBK. (Studi Literatur Aspek Ekonomi, Sosial, dan Lingkungan)." *Vocatio* 2, no. 1 (2017): 546901; Dodi Irawan, "Tanggung Jawab Sosial dan Lingkungan (TJSL) Kewajiban dan Dampaknya Terhadap Operasi dan Keberlanjutan Bisnis Perusahaan." *Journal of Development Economics and Digitalization, Tourism Economics* 1, no. 1 (2024): 1-9.

lack a clear understanding of the economic benefits of sustainability or the legal requirements for compliance with international environmental norms. As a result, many companies continue to prioritize profit over sustainability, often viewing ESG compliance as an optional or secondary concern. Furthermore, corporate boards in Indonesia are often not well-versed in sustainability practices, which leads to a lack of commitment to the long-term environmental goals outlined by international sustainability frameworks.

While the Indonesian Stock Exchange (IDX) has introduced initiatives to promote corporate governance and ESG disclosure, these efforts are often not sufficient to drive systemic change in corporate behavior. According to Fitzgerald[110], the lack of mandatory ESG reporting requirements for all corporations creates an uneven playing field, where only a few large corporations voluntarily disclose their sustainability efforts. In comparison, global best practices, such as those in the European Union and United States, mandate ESG disclosures and incorporate them into the corporate governance framework through regulations such as the EU Non-Financial Reporting Directive and U.S. Securities and Exchange Commission (SEC) regulations.[111]

The issue of corporate governance is compounded by the lack of incentives for companies to adopt sustainability-oriented practices. While some Indonesian businesses have started to integrate ESG principles into their operations, these efforts are often motivated by external pressures, such as consumer demand for sustainable products or international investors' preference for ESG-compliant companies, rather than by a genuine commitment to sustainability.[112] As Al Fajri[113] suggests, a shift in the corporate culture towards a sustainable business model is crucial for Indonesia to align its business laws with global standards. This could be achieved by integrating sustainability into the corporate governance framework, fostering an understanding of its financial benefits, and incentivizing companies through fiscal policies and government initiatives. Therefore, the lack of strong ESG training programs for corporate executives and board members in Indonesia has contributed to a gap in knowledge and awareness of the financial materiality of environmental, social, and governance factors. To address this gap, policymakers and business leaders must prioritize the education and training of senior managers in sustainability practices, ensuring that they can make informed decisions that align with global ESG standards.

3.5. Comparative and Critical Analysis

1. Indonesia in the Context of Emerging Market Economies

Indonesia, as a rapidly developing economy in Southeast Asia, faces significant challenges in balancing economic development with environmental protection, which is a

[110] Louise Michelle Fitzgerald, "Winning coalitions for just transitions: Insights from the environmental justice movement." *Energy Research & Social Science* 92 (2022): 102780.
[111] *See* Antonella Francesca Cicchiello, Ferdinando Marrazza, and Salvatore Perdichizzi. "Non-financial disclosure regulation and environmental, social, and governance (ESG) performance: The case of EU and US firms." *Corporate Social Responsibility and Environmental Management* 30, no. 3 (2023): 1121-1128.
[112] Priscilla Schwartz, "Sustainable energy infrastructure: law, policy and practice." *International Journal of Private Law* 2, no. 2 (2009): 135-149.
[113] Riyan Al Fajri, "Facing Legal Uncertainty: Challenges of Corporate Law and Environmental Regulation for Sustainable Business Practices in Indonesia." *Journal of Social Research* 4, no. 4 (2025): 726-734.

common issue for emerging market economies (EMEs). Countries such as Brazil, India, and China have experienced rapid industrialization at the expense of environmental sustainability. Indonesia's experience mirrors these countries, with legal frameworks attempting to regulate corporate behavior in ways that address both economic growth and environmental sustainability. However, Indonesia's regulatory approach is often hindered by regulatory fragmentation, overlapping laws, and weak enforcement mechanisms.

The Indonesian legal framework for environmental protection is primarily governed by Law No. 32/2009, which mandates that businesses conduct Environmental Impact Assessments (EIA). According to Article 22 of Law No. 32/2009, business entities engaged in activities that may affect the environment must prepare an EIA before commencing operations. However, in practice, this requirement is not always adequately enforced. The issue of overlapping regulations becomes clear when considering Law No. 11/2020, which seeks to streamline business processes and permits but also weakens environmental safeguards in favor of economic development. Article 6 of the Job Creation Law allows businesses to bypass certain environmental regulations through a simplified licensing process, causing concern over its long-term impact on environmental governance.

This fragmentation is not unique to Indonesia; it also occurs in other EMEs. However, Indonesia's decentralized legal system adds another layer of complexity, where local governments enact regulations that may conflict with national laws, creating legal uncertainty. As Barton[114] points out, local enforcement varies significantly across provinces, with some areas like Papua lacking the necessary institutional support to enforce environmental standards, while regions like Jakarta might have more robust systems in place. Thus, this decentralization not only increases compliance costs for businesses but also creates inconsistent environmental standards across the country.

Therefore, the challenges faced by Indonesia are akin to those of other emerging market economies, but its decentralized and fragmented legal system exacerbates enforcement difficulties. To address this issue, Spiegel[115] suggests legal harmonization and reform of decentralized frameworks to improve consistency in environmental governance, which could bring Indonesia closer to global sustainability standards.

2. Convergence and Divergence with Global Sustainability Standards

Indonesia's alignment with global sustainability standards has made significant progress in recent years, but substantial divergences remain. The main area of convergence is in Indonesia's commitment to global environmental principles, such as those articulated in the SDGs and the OECD Guidelines for Multinational Enterprises. A key example is Indonesia's adoption of EIA under Article 22 of Law No. 32/2009, which aligns with global best practices for assessing environmental risks before corporate projects are approved. The requirement for ESG reporting introduced by the Financial Services Authority (OJK) in 2014 also aims to align corporate disclosure practices with international standards such as the GRI and EU Non-Financial Reporting Directive.

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[114] Gregory Allen Barton, *Empire Forestry and the Origins of Environmentalism*. Vol. 34. Cambridge University Press, 2002.

[115] Samuel J. Spiegel, "Governance institutions, resource rights regimes, and the informal mining sector: Regulatory complexities in Indonesia." *World Development* 40, no. 1 (2012): 189-205.

However, divergence occurs in several critical areas. Law No. 32/2009 strict liability provisions, found in Article 37, stipulate that businesses causing environmental harm must be responsible for restoring damaged ecosystems and compensating affected parties. While this aligns with international norms regarding corporate environmental responsibility, enforcement remains weak. This is further compounded by Article 66 of Law No. 11/2020, which reduces the authority of local governments to impose stringent environmental penalties, thus diluting the scope of corporate accountability. As Siddiq and Fathoni[116] highlights, the lack of uniform enforcement undermines the application of the strict liability principle, which is central to global sustainability standards.

Moreover, Indonesia's corporate criminal liability framework, while codified under Article 113 of Law No. 32/2009, is rarely enforced in practice. This results in misalignment with global standards such as the OECD Guidelines and the UN Guiding Principles on Business and Human Rights, which stress the importance of holding corporations accountable for human rights and environmental harm. The application of corporate criminal liability in Indonesia remains limited, and cases involving environmental damage often result in administrative sanctions rather than criminal prosecution.[117] This lack of robust enforcement diminishes Indonesia's ability to meet the standards set by international frameworks, where accountability for corporate misconduct is paramount.

One notable area of divergence lies in climate change mitigation. Indonesia has yet to adopt a comprehensive carbon pricing system, a crucial element for achieving the goals of the Paris Agreement. The absence of carbon trading schemes or carbon taxes means that Indonesia lags behind countries like South Korea and Japan, which have integrated such mechanisms into their national policies. Article 18 of Law No. 32/2009 mandates pollution control and calls for businesses to adopt technologies that reduce carbon emissions, but there is no enforceable carbon pricing framework. Thus, while Indonesia has made progress in adopting global sustainability principles, its enforcement challenges, regulatory gaps, and lack of comprehensive climate action policies represent significant divergences from international best practices.

3. Implications for Multinational Corporations Operating in Indonesia

For MNCs operating in Indonesia, the alignment of national environmental laws with global sustainability standards presents both opportunities and challenges. The fragmented regulatory environment and inconsistent enforcement mechanisms create compliance uncertainty, particularly for MNCs that must navigate multiple layers of local and national regulations. MNCs that prioritize ESG compliance and adhere to global standards often face difficulties in aligning their operations with Indonesia's decentralized and complex legal system.

As noted in Article 66 of Law No. 11/2020, businesses operating in Indonesia are now subject to a more streamlined licensing process, but this comes with the risk of diluted

[116] NakzimK Khalid Siddiq, and Lalu Achmad Fathoni. "Peran Kejaksaan dalam Pembangunan Berkelanjutan melalui Penegakan Hukum Lingkungan [The Role of the Prosecutor's Office in Sustainable Development through Environmental Law Enforcement]." *Indonesia Berdaya* 6, no. 3 (2025): 619-626.

[117] *See* Schwartz, "Sustainable energy infrastructure: law, policy and practice."

environmental safeguards. For example, while large multinational oil and gas corporations may be able to bypass some environmental requirements through simplified permits, they could still face international scrutiny if their operations contradict global ESG principles. The OECD Guidelines for Multinational Enterprises require companies to implement due diligence procedures to identify and mitigate environmental risks throughout their supply chain, but Indonesia's weak enforcement and limited monitoring capacity make this difficult for MNCs to ensure full compliance.

Furthermore, the inconsistent enforcement of environmental laws in Indonesia leads to a situation where MNCs with operations in multiple provinces must engage with different regulatory bodies and interpretations of the law, leading to increased compliance costs and operational delays. Barton[118] in this context, emphasized that regional variation in enforcement practices can lead to MNCs adopting less stringent environmental practices in provinces with weaker enforcement mechanisms, exacerbating environmental degradation in those regions.

The lack of mandatory ESG reporting requirements further complicates matters for MNCs. In contrast to regions like the European Union, where mandatory ESG disclosures are a key part of corporate governance frameworks, MNCs operating in Indonesia face limited public scrutiny regarding their environmental performance. While Indonesia's OJK regulations encourage voluntary ESG reporting, the lack of mandatory disclosure allows MNCs to maintain a low profile on environmental issues without significant consequences, potentially damaging their reputation in global markets. As Schwartz[119] warns, this gap in regulatory enforcement creates an environment where MNCs can operate with minimal environmental accountability, contrary to the OECD's emphasis on transparency and responsibility.

Table 5. Comparison Indonesian Environmental Law *vs.* Global Sustainability Standards

Aspect	**Indonesian Environmental Legal Framework**	**Global Sustainability Standards**	**Comparison Analysis**
Primary Environmental Regulations	○Law No. 32/2009 mandates Environmental Impact Assessments (EIA). ○Law No. 11/2020 simplifies licensing but weakens certain environmental protections.	○OECD Guidelines for Multinational Enterprises ○United Nations SDGs ○Paris Agreement sets global targets for climate action.	*Convergence*: Indonesia has adopted key principles such as EIA and environmental responsibility. *Divergence*: Indonesia's regulatory fragmentation and overlap of laws, particularly with the

[118] *See* Barton. *Empire Forestry and the Origins of Environmentalism*
[119] *See* Schwartz, "Sustainable energy infrastructure: law, policy and practice."

Aspect	Indonesian Environmental Legal Framework	Global Sustainability Standards	Comparison Analysis
			Law No. 11/2020, creates ambiguity and undermines environmental safeguards.
Corporate Responsibility	○Article 37 of Law No. 32/2009: *Companies must be accountable for environmental damage they cause.* ○Article 66 of Law No. 11/2020: *Reduces local governments' authority to impose stricter environmental penalties to facilitate business.*	○OECD Guidelines for Multinational Enterprises: *Requires companies to conduct due diligence to protect human rights and the environment.* ○UN Guiding Principles on Business and Human Rights: *Companies are responsible for addressing environmental and human rights impacts throughout their supply chains.*	*Convergence*: Indonesia adopts corporate responsibility for environmental harm through laws requiring companies to conduct EIAs and rectify damage. *Divergence*: Implementation remains weak, and penalties are rarely applied for corporate environmental misconduct, reflecting poor alignment with international standards.
Dispute Resolution and Sanctions	○Article 113 Law No. 32/2009: Violators face administrative sanctions, fines, or criminal penalties. ○Article 66 of Law No. 11/2020 reduces local authority in environmental enforcement.	○OECD Guidelines: Mandates mechanisms for addressing violations related to environmental and social issues. ○UN SDGs: Provides forums for international dispute resolution involving companies that	*Convergence*: Indonesia follows international guidelines by imposing sanctions on environmental violators. *Divergence*: Enforcement mechanisms are limited to administrative

Aspect	Indonesian Environmental Legal Framework	Global Sustainability Standards	Comparison Analysis
		harm the environment.	penalties and rarely extend to criminal liability, unlike international practices that require robust enforcement.
ESG Reporting and Transparency	○OJK Regulation No. 51/POJK.03/2017 on Sustainable Finance encourages companies to report social and environmental performance. ○Article 22 of Law No. 32/2009 mandates environmental impact assessments, providing some transparency.	○GRI: Requires companies to disclose their ESG performance openly. ○EU Non-Financial Reporting Directive: Mandates companies to disclose non-financial data related to ESG factors.	*Convergence*: Indonesia has introduced frameworks like POJK to encourage voluntary ESG reporting. *Divergence*: ESG reporting remains voluntary, unlike in regions like the EU, where companies must comply with mandatory ESG disclosures, creating a gap in transparency.
Climate Change Management	○Law No. 32/2009 addresses air pollution control and climate change mitigation by reducing greenhouse gas emissions. ○Presidential Regulation No. 61/2011 establishes the National Action Plan for Greenhouse Gas	○Paris Agreement: Requires countries to implement carbon pricing and emissions reduction systems. ○EU Emissions Trading Scheme (EU ETS): Provides a market-based mechanism for carbon emission trading.	*Convergence*: Indonesia acknowledges the importance of mitigating climate change through regulations like Presidential Regulation No. 61/2011. *Divergence*: Indonesia does not yet have a comprehensive

Aspect	Indonesian Environmental Legal Framework	Global Sustainability Standards	Comparison Analysis
	Emission Reduction.		carbon pricing system, while other countries, such as the EU and South Korea, have implemented robust carbon markets.
Corporate Social Responsibility (CSR)	○Article 74 Law No. 40/2007 mandates companies to engage in CSR activities for the benefit of the surrounding community. ○However, CSR implementation is not consistently enforced across industries.	○UN SDGs: Emphasizes the role of companies in contributing to social and environmental development. ○OECD Guidelines: Requires companies to ensure that their operations do not harm the environment or society.	*Convergence*: Indonesia has legally mandated CSR activities under Article 74 of Law No. 40/2007. *Divergence*: CSR implementation in Indonesia is often limited to short-term, public-relations-driven projects, rather than sustainable, long-term contributions to society.

Source: *Various sources, edited by Authors*

Table 5 illustrates the comparative analysis of Indonesia's environmental legal framework and global sustainability standards. While there is considerable convergence in the adoption of fundamental principles such as EIA, corporate responsibility, and the need for transparency in ESG reporting, significant divergences remain in areas like enforcement mechanisms, comprehensive climate action policies, and mandatory ESG disclosures.

Indonesia's environmental law framework, especially Law No. 32/2009, mandates companies to assess and mitigate environmental impacts, which aligns with global best practices such as the OECD Guidelines and the UN SDGs. However, Article 37 of the Law No. 32/2009 and Article 66 of Law No. 11/2020 create gaps in enforcement, as these provisions allow for leniency in penalties for companies causing environmental harm, undermining global standards that call for accountability and penalties for violations.

The fragmentation in Indonesia's regulatory environment further complicates matters. For instance, the Omnibus Law, through Article 6, aims to simplify business permits, but this approach often weakens environmental safeguards. This trend is contrary to the OECD Guidelines, which emphasize the need for strong corporate governance and consistent

regulation across jurisdictions. Warren and McCarthy[120] stress that corporate governance in Indonesia remains inconsistent due to regional disparities in enforcement, where local authorities often fail to hold businesses accountable for environmental breaches.

In terms of climate change mitigation, Indonesia lags in terms of carbon pricing mechanisms and emission trading systems. While Presidential Regulation No. 61/2011 sets a foundation for emission reduction, it does not yet provide a market-based carbon pricing system like the EU ETS. Valentika and Turisno[121] argue that Indonesia must integrate carbon pricing to align with global climate goals, especially under the Paris Agreement.

Another divergence concerns ESG reporting. Indonesia has made some progress by encouraging sustainable finance regulations, such as POJK No. 51/POJK.03/2017, but ESG disclosures are still voluntary. In contrast, in regions like the EU and UK, companies are legally bound to disclose their non-financial data under frameworks like the EU Non-Financial Reporting Directive. The lack of a mandatory reporting framework in Indonesia weakens the country's alignment with global standards, which increasingly demand comprehensive and transparent ESG disclosures. Additionally, while CSR is mandated under Article 74 of Law No. 40/2007, the implementation of CSR programs often lacks the sustainability and social impact envisioned by international standards like the UN SDGs. Many CSR initiatives in Indonesia are short-term and focused on public relations rather than long-term community development, which undermines the potential for real social change.

3.6. Policy Recommendations and Legal Reform Agenda

1. Strengthening Corporate Environmental Liability Regime

One of the most pressing reforms necessary for improving Indonesia's environmental governance and aligning it with global sustainability standards is the strengthening of the corporate environmental liability regime. While Law No. 32/2009 provides a framework for holding corporations accountable for environmental damage, it remains limited in several areas that hinder its effectiveness. Primarily, the law lacks clarity in liability standards, especially regarding the definitions of strict liability, fault-based liability, and corporate criminal liability, which are crucial for determining the scope of corporate responsibility in case of environmental harm.

Strict liability is a key component of global environmental frameworks, such as the OECD Guidelines for Multinational Enterprises, which impose absolute responsibility on corporations for damage caused by their operations, regardless of intent or negligence. Article 37 of Law No. 32/2009 holds companies strictly liable for the environmental damage caused by their activities, but its application remains uncertain due to vague standards of proof and interpretational inconsistencies. To ensure greater legal certainty, Indonesia should refine and explicitly define the scope and thresholds of strict liability in the context of environmental harm. This would reduce ambiguity and enable companies to understand their obligations more clearly while enhancing the deterrent effect of the law.

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[120] Carol Warren, and John F. McCarthy, eds. *Community, environment and local governance in Indonesia*. Routledge, 2012.

[121] F. F. Valentika, and Bambang Eko Turisno. "Integrasi Inovasi Keuangan dan Kebijakan Lingkungan dalam Bursa Karbon: Tinjauan Hukum dan Praktik Terbaik di Indonesia." *Jurnal Pembangunan Hukum Indonesia* 6, no. 3 (2024): 479-497.

Moreover, while fault-based liability is often applied in cases where companies act negligently or with intent, it remains underdeveloped in Indonesian law. Fault-based liability plays a significant role in global corporate environmental governance, as seen in the European Union's Environmental Liability Directive (2004/35/EC). Strengthening this aspect within Indonesian law would involve establishing clearer guidelines on when negligence or intentional misconduct leads to corporate liability, ensuring that corporations cannot evade accountability through ambiguous defenses. In parallel, corporate criminal liability should be expanded, especially in cases involving large-scale or catastrophic environmental damage, such as deforestation or large chemical spills, where the impact is severe and irreversible. By expanding criminal liability, as advocated by Parker[122] and Cholidin[123], Indonesia can establish a stronger deterrent against environmental crimes, aligning more closely with the international practices adopted by OECD countries.

Table 6. Key Areas of Policy Reform for Corporate Environmental Liability in Indonesia

Area of Reform	Key Recommendations	Expected Impact
Corporate Environmental Liability	○ Strengthen strict liability standards ○ Expand corporate criminal liability ○ Establish clearer compensation mechanisms	○ Increased corporate accountability ○ Enhanced deterrence against environmental harm ○ Greater transparency in corporate compliance.
ESG-Based Corporate Governance	○ Introduce mandatory ESG reporting ○ Strengthen compliance mechanisms ○ Provide financial incentives for sustainable business practices	○ Improved corporate transparency ○ Strengthened ESG integration in governance ○ Attraction of green investments.
Enforcement and Legal Remedies	○ Build institutional capacity for monitoring ○ Establish environmental task forces in high-risk sectors ○ Facilitate class action lawsuits	○ Enhanced enforcement efficiency ○ Increased access to remedies for affected communities ○ Improved accountability for corporations.

Source: *Various sources, analyzed and edited by Authors*

At this point, to enhance the effectiveness of these liability standards, compensation mechanisms should be implemented, requiring corporations to not only remedy the environmental harm but also compensate affected communities. For instance, introducing compensatory funds or environmental restoration funds could ensure that resources are

[122] *See* Parker, "Doctrine for Destruction: The Case of Corporate Criminal Liability."
[123] Achmad Cholidin, *Hukum Lingkungan: Prinsip, Regulasi, dan Penegakan untuk Keadilan Ekologis*. Jakarta: Prenada Media, 2025.

available for the restoration of ecosystems impacted by corporate activities. Clear regulations on the scope of compensation and remediation duties will further strengthen the legal framework and make it more consistent with global standards.

2. Enhancing ESG-Based Corporate Governance

A critical reform needed to align Indonesia with international sustainability practices is the enhancement of ESG-based corporate governance. In recent years, ESG criteria have emerged as central to global business law and corporate accountability, becoming integral elements of corporate governance systems worldwide. In many developed economies, companies are required by law to disclose their ESG performance and to integrate sustainability practices within their governance structures. However, in Indonesia, ESG adoption remains largely voluntary, with only a handful of companies complying with the reporting requirements set forth by the Financial Services Authority in POJK No. 51/POJK.03/2017.

Mandatory ESG reporting is a key reform necessary for ensuring that companies in Indonesia meet the standards set by global sustainability frameworks like the OECD Guidelines and the SDGs. This would involve making ESG disclosures compulsory for all publicly listed companies, regardless of size or sector. Countries like the European Union and United Kingdom have implemented robust mandatory ESG disclosure regulations, such as the EU Non-Financial Reporting Directive (2014/95/EU), which mandates that large companies provide non-financial statements on their environmental, social, and governance risks. Indonesia, by adopting a similar mandate, could ensure that its businesses are not only aware of their environmental obligations but also transparent about their impact and mitigation strategies.

To achieve this, Indonesia should also consider creating an independent regulatory body tasked with overseeing corporate adherence to ESG standards. The role of this body would be to ensure the accuracy and transparency of ESG disclosures, and to ensure companies are held accountable for greenwashing (the practice of overstating or misrepresenting environmental commitments). Moreover, adopting third-party audits to assess ESG compliance could further enhance the credibility of reports. The implementation of such measures would enable investors, consumers, and other stakeholders to make informed decisions based on accurate and reliable data, which is essential for fostering a sustainable business environment.[124]

Indonesia's existing CSR framework, which is voluntary and often disconnected from ESG principles, should be aligned with these new mandatory reporting requirements. For example, Article 74 of Law No. 40/2007 mandates CSR activities, but these requirements remain superficial in some cases and are often driven by corporate public relations goals rather than meaningful contributions to societal well-being. To further enhance CSR integration, Indonesia could integrate CSR obligations directly into the ESG reporting framework, ensuring that companies' social and environmental responsibilities are taken into account within their governance structures.

Lastly, incentivizing sustainable business practices through green finance mechanisms could help accelerate the adoption of ESG principles in Indonesia. Financial incentives, such

[124] Cholidin.

as tax breaks for companies investing in renewable energy or sustainable technologies, could provide additional motivation for corporations to adopt environmentally responsible practices. Establishing a green bond market in Indonesia, similar to those in Europe and the United States, would provide a clear signal to businesses that sustainability is not only an ethical imperative but also a lucrative economic opportunity.

Table 7. Comparative Analysis of Indonesian and Global ESG Disclosure Standards

Aspect	Indonesian ESG Disclosure	Global ESG Disclosure	Analysis
Mandatory *vs.* Voluntary	Voluntary under POJK No. 51/POJK.03/2017	Mandatory in regions like the EU (EU Non-Financial Reporting Directive) and UK (UK Companies Act 2006)	Convergence: Both promote transparency, but mandatory reporting ensures stronger corporate accountability in global frameworks.
Reporting Scope	Limited to environmental performance (focused on finance, social responsibility, and environmental risks)	Broad range, covering ESG metrics.	Divergence: Global standards encourage comprehensive reporting across all ESG domains. Indonesian disclosures are narrower.
Compliance Mechanisms	OJK provides guidance but lacks strong enforcement mechanisms for non-compliance	Strong penalties and sanctions in the EU and US for non-compliance (e.g., EU Non-Financial Reporting Directive)	Divergence: Indonesia lacks robust compliance enforcement mechanisms, leading to weaker corporate incentives for transparency.
Scope of Companies Required to Report	Only publicly listed companies or those meeting specific criteria	Larger scope, including publicly traded and private companies (based on size and materiality in the EU and US)	Divergence: Global frameworks cover more companies, including those in high-risk sectors.

Source: *Various sources, analyzed and edited by Authors*

3. Improving Enforcement and Access to Remedies

Perhaps the most significant challenge facing Indonesia's environmental governance system is the enforcement of laws and regulations. While Indonesia has made substantial

progress in developing its environmental legal framework, the implementation and enforcement of these laws remain inconsistent, especially at the local level. Environmental monitoring, which is essential for ensuring corporate compliance, is often underfunded and fragmented, particularly in remote and underdeveloped regions of the country. This problem is compounded by a lack of trained personnel, inadequate technical resources, and bureaucratic inefficiencies within local environmental agencies.[125]

To address these challenges, Indonesia must invest heavily in capacity building for its environmental enforcement agencies, especially at the local level. This includes not only funding but also training programs for environmental inspectors, law enforcement officers, and regulatory bodies. Additionally, the establishment of dedicated environmental task forces within key industries such as mining, oil and gas, and forestry could provide specialized oversight, ensuring that companies operating in high-risk sectors adhere to environmental laws and practices.

Another critical area of reform is ensuring access to legal remedies for communities and individuals adversely affected by environmental violations. Local communities, particularly in rural and indigenous areas, often face significant barriers when seeking compensation for environmental harm caused by corporations. Legal access is often hindered by complex legal procedures, high costs, and a lack of legal representation for those affected by environmental degradation. In many cases, affected communities are left with no recourse, leading to widespread disillusionment with the legal system. One potential solution is to establish more accessible pathways for justice, such as environmental courts or specialized environmental tribunals, which can offer swift and effective redress for victims of environmental violations.

Furthermore, class action lawsuits should be facilitated under Indonesian law, allowing groups of affected individuals to pursue claims against corporations collectively.[126] The expansion of collective legal actions could empower communities to challenge corporate impunity and hold companies accountable for large-scale environmental damage. This approach, which is common in jurisdictions like the United States and Europe, has proven to be an effective mechanism for environmental justice and corporate accountability.

Table 8. Enforcement Mechanisms and Legal Remedies in Environmental Governance

Aspect	Indonesian Legal Framework	Global Practices	Analysis
Sanctions for Violations	Administrative sanctions (fines, business license revocation) Rare use of criminal sanctions for serious violations	Criminal sanctions for severe violations (e.g., EU Environmental Liability Directive) Strict penalties for	Divergence: Indonesia relies heavily on administrative sanctions, which may not be sufficient

[125] *See* Herlina, "Permasalahan Lingkungan Hidup dan Penegakan Hukum Lingkungan di Indonesia."
[126] Maryana Lestari, and Septhian Eka Adiyatma. "Class Action Lawsuit on Civil Issues in Indonesia as Common Law Adoption." *Indonesian Journal of Advocacy and Legal Services* 2, no. 2 (2020): 243-260; Itok Dwi Kurniawan, et al. "Formal Requirements for Class Action Lawsuits in Environmental Cases in Indonesia: Problems and Solutions." *Journal of Law, Environmental and Justice* 3, no. 1 (2025): 79-103.

Aspect	Indonesian Legal Framework	Global Practices	Analysis
		corporate malfeasance	to deter large corporations.
Access to Legal Remedies	Limited access for affected communities due to complex legal procedures and high costs	Class action lawsuits available in US and EU, providing affected communities with a means for collective redress	Divergence: Indonesia lacks easy access to environmental justice for affected groups. Class actions could strengthen remedies.
Environmental Task Forces	Limited task forces at the regional level, often underfunded or ineffective	Dedicated environmental task forces in high-risk industries like mining and oil and gas (e.g., EU, US, Australia)	Convergence: Indonesia could benefit from establishing specialized task forces with dedicated resources.

Source: *Various sources, analyzed and edited by Authors*

Therefore, penalties for environmental violations must be strengthened. As Article 113 of Law No. 32/2009 outlines, administrative sanctions are the primary means of penalizing violators, but these penalties are often not severe enough to deter corporate misconduct. Indonesia should move towards a system that includes both criminal sanctions for severe offenses and higher financial penalties for less severe, but still harmful, violations. Increasing penalties would provide corporations with a clearer understanding of the legal risks associated with environmental harm, while also ensuring that they internalize the cost of their environmental impact.

4. Conclusions

This study examined the challenges and opportunities in aligning Indonesia's corporate environmental liability framework with global sustainability standards, highlighting key areas of regulatory and institutional reform. The findings reveal that while Indonesia has made significant strides in environmental governance, substantial gaps remain in areas such as legal clarity, enforcement, and corporate accountability. Although Law No. 32/2009 provides a basic structure for environmental liability, it lacks detailed provisions on strict liability, corporate criminal responsibility, and effective compensation mechanisms for affected communities. Moreover, the voluntary nature of ESG disclosures and weak compliance mechanisms further undermine Indonesia's alignment with global standards. These shortcomings are compounded by institutional inefficiencies, particularly at the local level, where enforcement remains inconsistent. To address these issues, this study advocates for clearer statutory definitions, the mandatory integration of ESG principles in corporate governance, and enhanced enforcement capacity at both national and regional levels.

The theoretical and practical implications of this study are twofold. From a theoretical perspective, it underscores the importance of integrating sustainable development theory and corporate accountability models within legal frameworks, demonstrating that aligning business law with global sustainability principles is critical for fostering long-term environmental and societal well-being. From a practical standpoint, the findings provide policymakers and businesses with actionable recommendations for improving Indonesia's environmental legal infrastructure. Future research could focus on assessing the effectiveness of proposed reforms, especially in terms of their impact on corporate behavior and environmental outcomes. Additionally, empirical studies that explore the impact of mandatory ESG reporting and green finance incentives on Indonesian corporations' sustainability practices would provide valuable insights into how global standards can be effectively adapted and implemented in emerging market economies. Furthermore, comparative studies with other emerging economies facing similar challenges would offer a deeper understanding of the complexities of aligning national business laws with global sustainability frameworks.

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