Enigma in Law
https://enigma.or.id/index.php/law

e-ISSN 3026-6068
Vol. 4, No. 1 (2026) · pp. 30–39

ORIGINAL RESEARCH ARTICLE

A Liability That Does Not Bite: Corporate Criminal Responsibility, Asset Recovery, and Sentencing Disparity in Indonesian Money-Laundering Adjudication

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ARTICLE INFO

Received: March 8, 2026
Revised: April 25, 2026
Accepted: May 22, 2026
Available online: June 19, 2026
Published: June 30, 2026
Keywords Asset recovery; Corporate criminal liability; Money laundering; Perma 13/2016; Sentencing disparity
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ORCID 0009-0005-7284-6720
DOI
https://doi.org/10.61996/law.v4i1.151

ABSTRACT

Background. Indonesia's Anti-Money-Laundering Law (Law No. 8 of 2010) extends criminal liability to corporations and gives courts confiscation powers, and Supreme Court Regulation No. 13 of 2016 (Perma 13/2016) sets the procedure for prosecuting them. Whether these instruments deliver corporate accountability and asset recovery in practice remains largely unmeasured.

Objective. This study examines how corporate liability, sanctioning and asset recovery appear in the judgments themselves.

Methods. A structured content analysis covered thirty-five first-instance money-laundering (TPPU) decisions from the Supreme Court Decision Directory (2013–2024): eight corporate and twenty-seven individual defendants across corruption, narcotics, fraud and banking predicates. Each decision was coded for attribution doctrine, reference to Perma 13/2016, sanction, forfeiture, and quantification of the laundered and recovered value.

Results. In the eight corporate decisions the laundering count failed in three despite predicate conviction, corporate fault was not articulated in six, and Perma 13/2016 was cited in none; fines clustered near IDR 1 billion (mean 1.01 billion; coefficient of variation 0.15). Custodial terms of the 25 convicted individuals varied about 28-fold (8–228 months; coefficient of variation 0.79), whereas fines behaved as a near-fixed tariff; the predicate comparison was not significant (Kruskal–Wallis $p = 0.42$). Assets were forfeited in 43% of decisions, but the laundered value was quantified in only one (2.9%) and a recovery ratio was computable in none.

Conclusion. In this corpus the recovery deficit begins at judicial quantification rather than at enforcement. Three reforms are proposed, two of which can start with Supreme Court instruments and need no new legislation.

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1. Introduction

Money laundering gives the proceeds of predicate crime an appearance of legitimacy. Suppression of the offense is therefore judged less by how many offenders are imprisoned than by how much of the criminal wealth is recovered.[1,2] Indonesia's legal architecture follows that logic. The Anti-Money-Laundering Law (*Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*, LN 2010/122; the offense, *tindak pidana pencucian uang*, is abbreviated TPPU below)[3] criminalizes the placement, layering and integration of criminal proceeds, extends criminal liability to corporations, and gives the courts confiscation powers, while *Peraturan Mahkamah Agung Nomor 13 Tahun 2016* (Perma 13/2016)[4] supplies the procedural framework for trying corporate defendants that the statute had left underdeveloped.[5–7] On paper, the regime is modern. It is aimed at corporate accountability and at asset recovery alike.

Does it operate that way in practice? Doctrinal commentary has largely left that empirical question unanswered. Three features of practice are widely suspected but rarely measured. The first is that corporate criminal liability for money laundering is announced more often than it is applied: corporations are seldom the defendant, and where they are, the attribution of fault to the legal person is thin.[8] The second is that

asset recovery, the animating purpose of the regime, is weak in the quantum recovered and, more fundamentally, in whether courts even establish what the recoverable proceeds are.[9,10] The third is disparity. Comparable offenders are said to receive sharply different sentences, a familiar pathology of Indonesian criminal justice that the specialized money-laundering docket has no obvious reason to escape.[11,12]

The three features are connected. Corporate liability, asset recovery and disparity express a single underlying question: how disciplined is the judicial treatment of the money-laundering offense at the point of decision? A liability that does not articulate its own basis, a confiscation order that does not rest on a quantified sum, and a sentence bearing no stable relationship to the conduct are three faces of an under-institutionalized adjudicative practice. Prior scholarship has examined each in isolation: corporate attribution doctrine,[13,14] recovery effectiveness,[1,9] and sentencing disparity.[11] To our knowledge, none has measured the three jointly from the same corpus of judgments, and that is precisely where their common root becomes visible. Indonesia already documents that the money-laundering count is frequently lost even where the predicate is proven. Laundering convictions have persistently fallen below half of prosecutions.[15]

The Indonesian legal-policy context sharpens the inquiry. The 1945 Constitution guarantees legal certainty and equality before the law (*Undang-Undang Dasar* [UUD] 1945, Art. 28D(1)) and vests judicial power in an independent judiciary (Art. 24).[16] The levy of criminal fines, for its part, engages the legality principle in Article 28I(1). Law No. 8 of 2010 operationalizes corporate liability in Article 6. Perma 13/2016 elaborates the procedure and the operative test of corporate fault, namely benefit obtained, offense permitted, or preventive measures neglected.[5,6] The recodified Penal Code (UU 1/2023) and the corruption statute (UU 31/1999 jo. 20/2001) frame the sanctions and the predicate offenses that dominate the corporate docket.[14,17,18] Whether courts actually deploy this architecture is the object of study.

This article makes three contributions. First, it supplies a systematic empirical analysis of corporate money-laundering liability as adjudicated under Law No. 8 of 2010 and Perma 13/2016: how often it is imposed, on what doctrinal basis, and with what sanction. Second, it identifies what appears to be an undocumented failure in the asset-recovery chain, the near-total absence of judicial quantification of laundered proceeds, without which recovery cannot be measured at all.[2,9] Third, it advances three judicially available *de lege ferenda* reform proposals. Each specifies what should change, who should act, and its constitutional and international-law basis.

The stakes go beyond the academic. Under the methodology of the Financial Action Task Force (FATF), Indonesia is assessed on the technical existence of its rules and also on their effectiveness in outcome, including whether criminal proceeds are actually identified and confiscated.[19–21] A regime in which courts do not, as a rule, state how much was laundered cannot demonstrate the recovery outcomes that the mutual-evaluation process examines. It also disables the recovery ratio that would be the natural key performance indicator of the whole system. The judicial documentation gap identified here bears directly on how Indonesia is judged internationally. It bears, above all, on whether the state recovers criminal wealth at all.

The remainder of the article proceeds as follows. Sections 1.1 to 1.3 set out the legal framework: corporate liability, asset recovery, disparity, and the comparative and international standards. Section 2 describes the methods. Section 3 reports the results across the three diagnostic axes. Section 4 discusses their joint significance, develops the reform proposals and states the limitations. Section 5 concludes.

1.1 Corporate criminal liability under the money-laundering regime

Law No. 8 of 2010 makes the corporation a subject of the money-laundering offense. Article 6 provides that where the offense is committed by or for a corporation, the sanction may be imposed on the corporation and on those who control it. The principal penalty for a convicted corporation is a fine, accompanied by additional sanctions that may include the freezing and confiscation of assets and the dissolution of the entity. The statute, however, does not specify how the fault of a legal person is to be established. Perma 13/2016 filled that gap institutionally. It sets out the procedure for summoning, examining and sentencing corporate defendants, and it directs the judge to ask whether the corporation gained benefit, permitted the offense, or failed to take necessary preventive measures (a formulation that blends the identification, vicarious and corporate-culture models of attribution familiar from comparative law).[5,13]

The regime leaves open a doctrinal question: which model governs? Indonesian courts have oscillated between an identification approach, which attributes to the corporation the acts and mental states of its directing minds, and broader vicarious or failure-to-prevent approaches.[622] The choice matters. Where responsibility is diffused through an organization, an identification requirement is difficult to satisfy, and its unreflective use can produce acquittals of the corporation even where the predicate offense is proven.[13,22] Whether courts articulate any model at all is itself a measure of the doctrine's maturity. This study operationalizes that measure directly.

1.2 Asset recovery and sentencing disparity

Asset recovery is the regime's *raison d'être*. The Law empowers the court to order the confiscation of assets derived from or used in the offense. The effectiveness of that power turns on a prior judicial step that is easy to overlook, namely the identification and quantification of the proceeds.[2] A confiscation order untethered from a finding of how much was laundered cannot be assessed for adequacy, and it cannot support any measure of a recovery ratio.[1,9] Sentencing disparity is a long-standing concern of Indonesian criminal-justice scholarship. The observation is that sanctions for comparable conduct vary widely because of wide statutory ranges, unstructured judicial discretion and the absence of sentencing guidelines.[11,12,2324] Because the money-laundering offense carries both imprisonment and heavy fines, it is a natural site for testing whether that disparity persists and where it concentrates.

1.3 Comparative and international standards

At the international level, the FATF Recommendations (2012, updated 2023) govern the regime. They require effective corporate liability (Rec. 3), confiscation and provisional measures (Rec. 4), and the powers of law-enforcement authorities to identify proceeds (Rec. 30) and mutual legal assistance (Rec. 37). The United Nations Convention against Transnational Organized Crime (UNTOC, 2000, Art. 5, 10, 12)[25] and the United Nations Convention against Corruption (UNCAC, 2003, Art. 26, 31, 51)[26] bind Indonesia to impose corporate liability, confiscate proceeds, and treat asset recovery as a fundamental principle. Comparative practice offers two influential alternatives to the identification doctrine. One is the United Kingdom's failure-to-prevent model (Bribery Act 2010, s.7; extended by the Economic Crime and Corporate Transparency Act [ECCTA] 2023),[27,28] which reverses the onus onto the company to show adequate procedures. The other is Australia's corporate-culture doctrine (Criminal Code Act 1995, Div 12.3),[29] which attributes fault to a culture that directed or tolerated the offense.[1330] Table 1 compares these models. Table 2 maps the primary domestic and international instruments that structure the analysis.

Table 1. Comparative corporate criminal-liability models and their fit with Indonesian TPPU practice.

Dimension	Indonesia (identification, implicit)	United Kingdom (failure-to-prevent)	Australia (corporate culture)
Basis of fault	Acts/mens rea of directing minds; Perma 13/2016 benefit/permission/failure test unused	Corporate offense unless 'adequate procedures' proven (Bribery Act 2010 s.7; ECCTA 2023)	Attribution via a corporate culture that directed or tolerated the offense (Criminal Code Div 12.3)
Onus	Prosecution identifies a directing mind	Reverse onus on the company	Prosecution proves culpable culture
Enforcement effect	Corporation frequently escapes the laundering count (3 of 8)	Strong conviction leverage; incentivises compliance	Captures diffuse organisational fault
Recovery linkage	Confiscation ordered without proceeds valuation	Confiscation (POCA 2002) tied to a benefit figure	Proceeds valuation integral to sanctioning
Transplantability to Indonesia	—	High: operationalizes Perma 13/2016's 'failure' limb	Moderate: culture test needs evidentiary capacity

Note. ECCTA = Economic Crime and Corporate Transparency Act; POCA = Proceeds of Crime Act; TPPU = *tindak pidana pencucian uang* (money laundering).

Table 2. Primary legal sources and their operative function.

Instrument	Provision	Function
UUD 1945	Art. 24; 28D(1); 28I(1)	Judicial power; legal certainty and equality; legality of criminal sanctions
UU No. 8/2010 (TPPU)	Art. 3–5; 6–7	Offenses; corporate liability, fines, confiscation, dissolution
Perma No. 13/2016	Corporate procedure; benefit/permission/failure test	Operative corporate-fault standard — cited in none of the 8 cases
UU No. 1/2023 (KUHP)	Corporate-sanction & sentencing provisions	Recodified frame for fine-calibration reform
UU No. 31/1999 jo. 20/2001	Corruption offense; *uang pengganti*	Predicate framework for the *Tipikor*-docketed corporate cases
FATF Recommendations	Rec. 3, 4, 30, 37	Effective corporate liability; confiscation; proceeds identification
UNTOC (2000)	Art. 5, 10, 12	Corporate liability and confiscation of proceeds
UNCAC (2003)	Art. 26, 31, 51	Corporate liability; confiscation; asset recovery as principle

Note. UUD = *Undang-Undang Dasar*; UU = Undang-Undang; KUHP = Kitab Undang-Undang Hukum Pidana; FATF = Financial Action Task Force; UNTOC = United Nations Convention against Transnational Organized Crime; UNCAC = United Nations Convention against Corruption.

2. Methods

2.1 Research type

This is empirical legal research employing a structured content analysis of judicial decisions. The method suits the study's questions: how often corporate liability is imposed and on what basis, whether courts quantify laundered proceeds, and how dispersed sanctions are. All three concern what judgments actually contain and do. Only systematic examination of the decisions themselves can answer them.[15] The design combines quantitative coding of objective sanction and forfeiture variables with qualitative doctrinal reading of the attribution reasoning.

2.2 Analytical approach and statutory interpretation

The doctrinal component interprets Law No. 8 of 2010 and Perma 13/2016 in four layers, following the established Indonesian methodology. The layers are (1) grammatical, meaning the literal text of Article 6 and the Perma's fault test; (2) systematic, reading the statute together with the regulation, the Penal Code (UU 1/2023) and the corruption statute; (3) teleological, construing the provisions in light of the legislative purpose, namely corporate accountability and asset recovery; and (4) historical, situating the 2010 Law and the 2016 regulation within the staged development of Indonesian anti-money-laundering law.[5] The empirical results are then read against this interpretive baseline. Divergence between statutory design and adjudicative practice thereby becomes visible.

2.3 Sources

The primary sources are Indonesian legislation (UUD 1945; UU 8/2010; UU 1/2023; UU 31/1999 jo. 20/2001), the Supreme Court regulation (Perma 13/2016), and the operative texts of the sampled first-instance judgments. International instruments (FATF Recommendations; UNTOC; UNCAC) provide the compliance benchmark. Doctrinal and empirical scholarship on corporate liability, asset recovery and disparity forms the secondary material, and it is cited throughout.[2,11]

2.4 Data and sample

Decisions came from the Supreme Court Decision Directory (*Direktori Putusan Mahkamah Agung*), the authoritative public repository of Indonesian judgments. The sample holds thirty-five first-instance TPPU decisions handed down between 2013 and 2024. It contains every corporate-defendant decision that could be located (eight) and twenty-seven individual-defendant decisions, selected purposively to span the principal predicate offenses (corruption, narcotics, fraud and embezzlement, and banking and finance) as a comparison

group. Corporate defendants are scarce, and that scarcity is itself a finding. An exhaustive search surfaced only these eight, and none was filed under the money-laundering classification. All sat within the corruption (*Tipikor*) docket, chiefly the Jiwasraya investment-manager prosecutions and a 2023 group of contractor-graft cases. The coded dataset records each decision's case number and directory URL.

Replication requires a clear account of how the individual comparison group was chosen, so the procedure is set out here. The directory was searched using the classification "*Tindak Pidana Pencucian Uang*" together with the predicate descriptors (*korupsi*, *narkotika*, *penipuan/penggelapan*, *perbankan*) for 2013–2024. Results were restricted to first-instance (*Pengadilan Negeri*) decisions with a readable operative verdict. Decisions were excluded if they were privacy-restricted, duplicated on appeal, or lacking a legible *amar*. From the readable candidates, the four predicate strata were balanced to approximately equal size (six to seven per stratum), and decisions with complete sanction information were preferred. The procedure is purposive, not random. For that reason the dispersion statistics describe the published set within stated bounds, and the Limitations discuss the likely direction of any selection bias.

2.5 Coding

Each decision was coded from its metadata and operative verdict (*Catatan Amar*). The variables were defendant type and predicate offense. For corporations, they included the articulated basis of attribution (identification, vicarious, corporate-culture, or not articulated) and whether Perma 13/2016 was referenced. They also covered the custodial term in months, the fine in rupiah, whether assets were forfeited to the State, and whether a *uang pengganti* (compensatory payment) was ordered. The last variable was whether the verdict quantified the laundered value and the recovered amount. Sanction variables are transcribed verbatim and are objective. Standalone TPPU verdicts often leave the predicate unnamed. Their predicate labels were corroborated against external sources and flagged in the dataset, since this is the coding element that depends most on judgment.[10]

A single coder coded the decisions from a fixed codebook. No independent second coder was used. The two interpretive variables (attribution model and inferred predicate label) were cross-checked in a second pass, and the predicate was also corroborated externally. The objective sanction, fine, forfeiture and quantification variables carry the study's headline findings. They are transcribed verbatim from the *amar*, so interpretive disagreement cannot affect them. One variable rests on absence: "laundered value quantified." For it, the coder searched both the operative verdict and the surrounding dispositive findings. A value stated only in the body and not carried into the *amar* was recorded as present-in-body/absent-in-*amar*. This did not alter the reported 2.9%.

2.6 Analysis

Corporate liability was analyzed descriptively, covering attribution doctrine, TPPU-count outcome and fine dispersion. Sentencing disparity was measured by the coefficient of variation (CV = SD/mean) and the range ratio of custodial terms and fines. Predicates were compared with the Kruskal–Wallis and Mann–Whitney tests, implemented from analytically defined distribution functions with $\alpha = 0.05$. The sample is small and access-constrained. The inferential comparisons are therefore treated as descriptive, and the direction of an effect, not its significance, carries the interpretive weight. Asset recovery was assessed by the prevalence of forfeiture and by the share of decisions quantifying the laundered value and the recovered amount.

An honest account of the inference requires effect sizes beside each test and an explicit statement of statistical power. For the predicate comparison of custodial terms, the effect size is epsilon-squared $\varepsilon \approx 0.12$ (Kruskal–Wallis). For the narcotics-versus-non-narcotics contrast, the rank-biserial correlation is $r \approx 0.25$ (Mann–Whitney). Both point to a small-to-moderate effect in the expected direction. Twenty-five convicted individuals are spread across four strata. The design is not powered to detect an effect of this magnitude at $\alpha = 0.05$. The non-significant p-values thus show only that a moderate predicate effect cannot be distinguished from no effect. They are not evidence that no effect exists.

2.7 Ethics

This study analyzes publicly available court decisions and involved no human subjects, so no institutional ethics-committee approval was required.

3. Results

3.1 Corporate liability in the eight corporate decisions

Table 3 summarizes the results. In these eight decisions, corporate criminal liability for money laundering was more form than substance. Eight decisions. That is all the directory yielded for corporate defendants charged with TPPU, set against a docket dominated by natural persons. A recent doctrinal study likewise counts only five final rulings since Law No. 8 of 2010 in which a corporation was a money-laundering perpetrator, a figure of the same order as the eight first-instance decisions found here.[31] In three of those eight the money-laundering count itself failed: the corporations in the Jiwasraya investment-manager prosecutions were convicted of the corruption predicate but acquitted of laundering, a 37.5% failure rate on the very count that defines the offense. Six of the eight decisions (75%) never articulated the basis on which corporate fault was attributed, only two rested on a discernible identification rationale, and none referenced Perma 13/2016, the instrument designed precisely to structure corporate adjudication.[5,6] Sanctions are muted accordingly. Corporations cannot be imprisoned, and their fines clustered near IDR 1 billion, with a mean of IDR 1.01 billion and a coefficient of variation of only 0.15 (range 0.75–1.30 billion). Law No. 8 of 2010 sets only a ceiling on corporate fines, up to IDR 100 billion under Article 7(1), so the mean corporate fine is about one per cent of that ceiling.[3] What the corporate penalty for laundering amounts to, then, is a near-fixed and modest fine, imposed without any stated theory of corporate fault and, in the three decisions in which the laundering count failed, not tied to a laundering conviction.

Table 3. Empirical results across the three diagnostic axes.

Axis	Metric	Value	Reading
Corporate	Corporate TPPU decisions located	8 (located in the Directory)	Corporate prosecution is rare
	Laundering count failed despite predicate conviction	3 of 8 (37.5%)	Liability dissolves where most needed
	Corporate fault not articulated	6 of 8 (75%)	No stated attribution theory
	Perma 13/2016 referenced	0 of 8	Procedural instrument unused
	Mean corporate fine / CV	IDR 1.01 bn / 0.15	Near-fixed tariff near IDR 1 bn
Disparity	Custodial range / ratio (individuals)	8–228 months / 28×	Large dispersion in imprisonment
	Custodial CV / median / mean	0.79 / 60 / 77 mo	Unstructured-discretion signature
	Predicate test	H(3) = 2.82, p = 0.42 (ns)	Predicate a plausible, unproven driver
	Individuals fined exactly IDR 1 bn	≈ 1 in 3	Fine a fixed anchor, not calibrated
Recovery	Assets forfeited to State	43% (narcotics 77%; fraud 0%)	Forfeiture ≠ measured recovery
	Laundered value quantified	1 of 35 (2.9%)	Denominator almost never stated
	Recovery ratio computable	0 of 35	Recovery unmeasurable from judgments

Note. CV = coefficient of variation; Kruskal–Wallis H(3) with four predicate groups (p recomputed; the submission gave p = 0.24). The narcotics versus non-narcotics Mann–Whitney p = 0.17 is one-sided (two-sided p = 0.35).

3.2 Disparity in imprisonment, uniformity in fines

Sentencing disparity among the twenty-seven individual defendants is pronounced, yet it is lopsided across sanction type (Figure 1). Look at custody first. The twenty-five convicted individuals received terms running from 8 to 228 months, an approximately 28-fold spread (228 ÷ 8 = 28.5), with a mean of 77 months, a median of 60, and a coefficient of variation of 0.79. Fines behave differently. They are comparatively uniform and anchored, about one-third of individual defendants having received exactly IDR 1 billion, a round figure that is also the ceiling Article 5(1) of Law No. 8 of 2010 sets for the least serious laundering offense during the study period,[3] so the fine distribution says far less about the conduct than the custodial term does. Disparity in this offense therefore lives in imprisonment and not in the financial penalty, which acts as a near-fixed tariff for corporate and individual defendants alike, as Figure 2 makes plain.[12]

The disparity does have a partial, intelligible structure in the predicate offense, as Figure 1 shows. Narcotics-predicate launderers received the longest terms (median 72 months), followed by corruption (median 60), fraud and embezzlement (median 58) and banking and finance (median 33). The gaps are sizeable, but at this sample size they are not statistically significant (Kruskal–Wallis H(3) = 2.82, p = 0.42, epsilon-squared ε ≈ 0.12; narcotics versus non-narcotics Mann–Whitney one-sided p = 0.17, two-sided p = 0.35, rank-biserial r ≈ 0.25), which leaves the finding suggestive rather than settled. The effect sizes point to a small-to-moderate association in the expected direction. The study is underpowered to confirm it. Predicate severity may therefore drive part of the variation, though that remains unproven, and a large residual dispersion stays unexplained even after the predicate is taken into account, which is the signature of unstructured discretion rather than of an orderly tariff.[23]

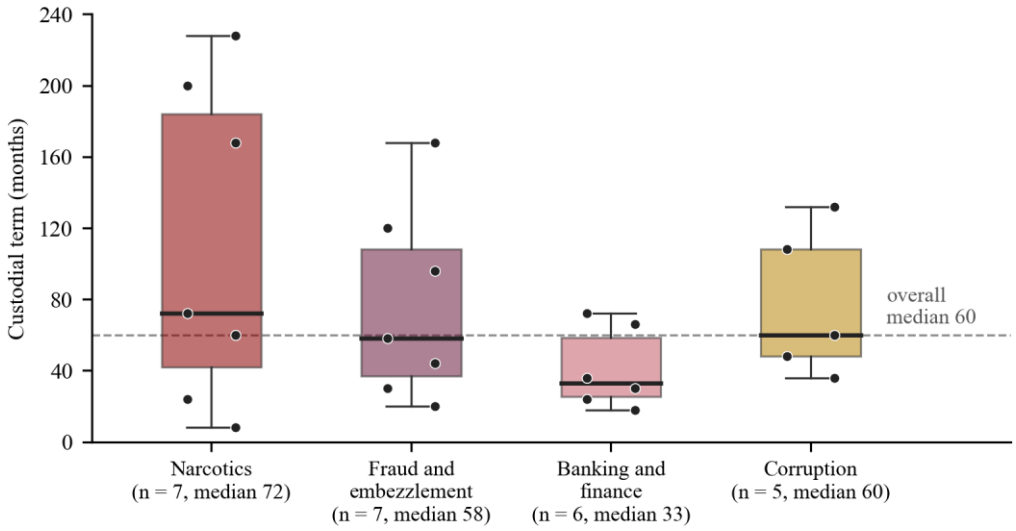

Figure 1. Custodial term by predicate offense among individual defendants (n = 25). Narcotics-predicate launderers receive the longest terms; wide within-group spread yields a non-significant Kruskal–Wallis test (H(3) = 2.82, p = 0.42).

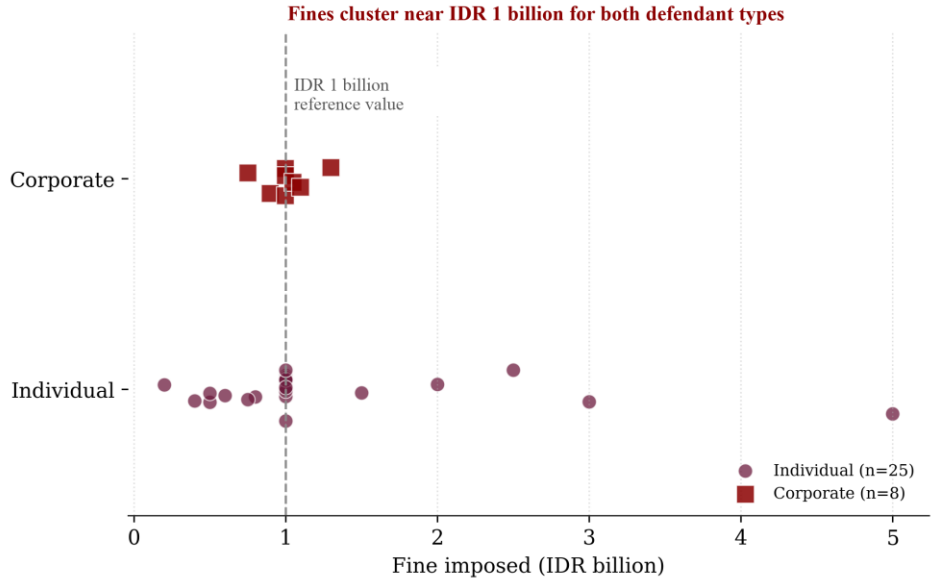

Figure 2. Fines for corporate and individual defendants. Both cluster near IDR 1 billion; the financial penalty behaves as a near-fixed tariff rather than a calibrated measure of the laundering.

3.3 The asset-recovery documentation gap

Asset recovery produces the most consequential finding, and it concerns what the decisions leave out, as quantified in Figure 3. Overall, assets were forfeited to the State in 43% of decisions (15 of 35). Forfeiture was frequent in narcotics cases (77%, 10 of 13) and absent from the fraud-and-embezzlement cases in the sample (0 of 6). Yet forfeiture of specified exhibits is not the same as recovery of laundered proceeds, and the verdicts almost never establish the latter: the laundered value was quantified in the operative verdict of only one of the thirty-five decisions (2.9%), a recovered amount was quantified in three, and no decision permitted a recovery ratio, meaning recovered value against laundered value, to be computed, because the denominator is essentially never stated. The regime's central objective, restoring criminal proceeds, is thus undermined at its root. The cause is not primarily weak enforcement of confiscation orders but the antecedent failure of judgments to determine and record how much was laundered in the first place. Where recovery is quantified the sums are large: IDR 17 billion confiscated from one Jiwasraya investment manager, IDR 20 billion ordered from another, and IDR 44 billion in a narcotics case. Routine silence about proceeds is all the more consequential for that.

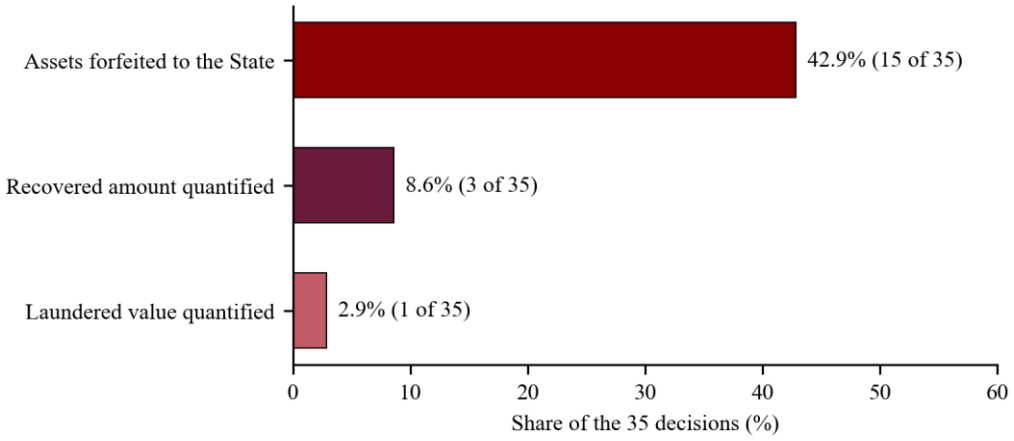

Figure 3. The asset-recovery documentation gap (n = 35). Assets are forfeited in 43% of decisions, yet a recovered amount is quantified in only three and the laundered value in only one, so no recovery ratio can be computed.

4. Discussion

4.1 A single diagnosis: under-institutionalization at the point of decision

Taken together, the three findings give one diagnosis. Indonesian money-laundering adjudication is under-institutionalized at the point of decision, and the cost falls hardest on the two functions for which the modern regime was built: corporate accountability and asset recovery. Corporate liability exists in the statute and in Perma 13/2016.[7,32] In the judgments it barely exists in any developed form. Corporations are rarely the defendant, and when they are, the court usually does not say on what theory the legal person is at fault, never invokes the procedural regulation designed for the task, and in more than a third of cases acquits the corporation of laundering while convicting it of the predicate. That last pattern, visible in the Jiwasraya prosecutions and reflected in Table 3, is consistent with an identification approach that the judgments do not make explicit: once laundering is charged against the entity rather than the individuals whose minds are identified with it, the attribution falters.[13,15] Liability that dissolves when it is most needed does not bite.

The empirical window closes in 2024, before the recodified Penal Code took effect on 2 January 2026. The Code treats corporations as subjects of crime and regulates how corporate offenses are attributed and sanctioned, with a fine as the principal penalty and forfeiture and dissolution among the additional penalties (Articles 45 to 50 and 118 to 121).[17] Scholars read it as adopting a model in which the corporation is both the maker of the offense and the responsible party, which reinforces Perma 13/2016.[22] They also report persistent enforcement difficulties, among them weak corporate awareness and limits on the investigating agencies.[33] The findings above therefore describe practice under Law No. 8 of 2010 and Perma 13/2016. Whether the new attribution rules will change what courts say about corporate fault is a question this corpus cannot answer. It makes an articulated theory of fault more important, not less.

4.2 Reframing asset recovery: the quantification gap

The asset-recovery finding reframes the reform conversation. The standard critique of Indonesian asset recovery holds that too little is confiscated and too little of what is confiscated is realized.[2,9] Those problems are real. Yet the data locate an earlier and more basic one: as a rule, the courts do not determine the quantum of laundered proceeds at all. In thirty-four of thirty-five decisions the verdict is silent on the sum, and no recovery ratio is computable across the sample, as Figure 3 shows. The failure lies not in the confiscation power but in the fact-finding that must precede it, which explains why asset recovery in money-laundering cases is so hard to evaluate. The evidentiary predicate for evaluation is missing from the judgments themselves. Mandating express quantification of proceeds in every money-laundering judgment would do more for measurable recovery than a further expansion of confiscation powers.[1,34]

One objection must be met directly. Courts may be silent about the quantum because valuation is genuinely difficult in layering-heavy cases, and not because they are inattentive. The difficulty is real. It does not justify silence. A reasoned judicial estimate accompanied by a stated methodology, however approximate, is superior to no figure at all, since it renders the recovery ratio computable and lets the adequacy of the confiscation order be assessed. This is exactly the exercise contemplated by UNCAC Article 31 and FATF Recommendation 4, and it is routine in jurisdictions where confiscation is tied to a "benefit figure" (as under the United Kingdom's Proceeds of Crime Act 2002).[35,3636] The reform proposed here therefore asks courts not to achieve impossible precision but to state, and reason to, their best estimate.

Indonesia's own evaluation record points the same way. In the 2023 mutual evaluation, the effectiveness of confiscation (Immediate Outcome 8) and of measures on legal persons (Immediate Outcome 5) were both rated moderate, and the plenary asked Indonesia to pursue larger-scale launderers and to strengthen confiscation.[37,38] Evaluations of this kind lean on national risk assessments, which are themselves reported to stumble at the start.[39] Standard-setting can also have unintended effects when compliance is judged by form and not by outcome.[40] A court-level indicator, such as the share of judgments that state the laundered value, would be cheap to collect. It would measure the outcome directly.

A second line of reform concerns forfeiture without conviction. Recent scholarship argues that the offender-oriented system cannot recover losses effectively and that in rem or non-conviction-based forfeiture should enter positive law.[41–43] Such a regime would not remove the need identified here. Any forfeiture order, with or without a conviction, rests on a finding of the value of the tainted property, so judicial quantification remains the first step. The Jiwasraya prosecutions show a related difficulty. The corruption court is reported to have declined to confiscate the corporations linked to the case, on the ground that legal entities cannot be seized, despite the confiscation provisions of the money-laundering and corruption laws.[44]

4.3 Disparity refined: discretion in imprisonment, tariff in fines

The disparity finding completes the picture and refines the familiar critique. Disparity in this offense is real and large, yet confined to imprisonment. Fines behave as a near-fixed tariff clustered at round anchors near IDR 1 billion for corporations and individuals alike, as Figures 1 and 2 jointly show. Their uniformity is a symptom of the same under-institutionalization rather than a virtue: the financial penalty, which ought to track the scale of the laundering, defaults to a reference figure, while the custodial term, which ought to be more constrained, varies about 28-fold.[12] Predicate severity explains part of the custodial dispersion, but cannot be shown to do so at this sample size. A large unexplained residue remains, which points to unstructured discretion.[23] The corrective is structural: sentencing guidance that ties the fine to the laundered amount and narrows the custodial range. It is the same corrective the recovery finding implies, because both depend on the court first quantifying the proceeds.

Structured guidance does exist for the predicate offense. Supreme Court Regulation No. 1 of 2020 sets sentencing guidelines for Articles 2 and 3 of the Corruption Law, with the aim of reducing disparity.[45] No equivalent guideline for money-laundering sentences was found in the checks made for this study. The experience under the corruption guideline tempers expectations, however. An evaluation at the Medan corruption court found that disparity persisted because judges interpret facts and law subjectively, because the guideline is imperfectly known and applied, and because of limited resources and uneven evidence.[46] A guideline that ties fines to the laundered amount would therefore need training and monitoring as well as text.

4.4 Comparative lessons and transplantability

Comparative practice points to a viable path, set out in Table 1. The United Kingdom's failure-to-prevent model (Bribery Act 2010, s.7; ECCTA 2023) turns the very diffuseness that defeats identification into a basis for liability, by placing on the corporation the burden of proving adequate preventive procedures. Australia's corporate-culture doctrine (Criminal Code, Div 12.3) attributes fault to an organisational culture that directed or tolerated the offense.[1330] Assessed by functional equivalence, the failure-to-prevent model is highly transplantable to Indonesia because it operationalizes the "failed to take necessary preventive measures" limb already present in Perma 13/2016. No legislative transplant is required. Only the disciplined judicial use of an existing standard is.[5] Both models accord with Indonesia's international obligations under FATF Recommendation 3 and UNTOC Article 10, which require corporate liability that is effective in practice, not merely available in form.[47] Beneficial-ownership transparency and asset-tracing capacity are further structural tools that support effective recovery.[48,49]

The comparative thesis of this article is therefore narrower and stronger than a call for legal transplantation. Indonesia need not import a foreign offense at all. It should activate the failure-to-prevent logic already embedded in the "failed to take necessary preventive measures" limb of Perma 13/2016. The corporate-culture test, by contrast, is a genuine transplant, and its success depends on an evidentiary practice of proving organisational culture that Indonesian prosecutors may not yet possess.[13] A worked example clarifies the difference that domestic activation would make. In the Jiwasraya prosecutions the investment-manager corporations were convicted of the corruption predicate but acquitted of laundering. One reading, which the verdicts themselves do not state, is that on an implicit identification approach the laundering could not be pinned to the mental state of a directing mind once the responsible

individuals were convicted personally. Under the failure-to-prevent limb the question would instead be whether the corporation had adequate procedures to prevent the placement and layering of illicit investment proceeds. On the facts of a large managed-fund fraud the answer might well be no, in which case the corporate laundering count could stand.

Recent comparative work refines both models. Section 7 of the Bribery Act is read as imposing liability directly on the corporation, with adequate procedures as the defense, and not through vicarious or identification attribution.[50] The Economic Crime and Corporate Transparency Act extends identification to senior managers and adds a failure-to-prevent-fraud offense.[13,51] Work on the Australian model treats corporate culture, and the systems that express it, as part of the regulator's toolkit.[30] Both strands support the narrower point made above. What Indonesian courts lack is a stated standard of corporate fault, and the benefit, permission and failure-to-prevent factors of Perma 13/2016 could supply one.

4.5 De lege lata and de lege ferenda

De lege lata, the current law shows three basic deficiencies. The first concerns corporate fault. Courts decide it without naming an attribution theory and without applying Perma 13/2016, which lets the corporation escape the laundering count in 37.5% of cases even when the predicate offense is proven (Table 3). The second concerns proceeds. Only 1 of 35 operative verdicts quantifies what was laundered (Figure 3), so recovery cannot be measured at all and nobody can judge whether confiscation was adequate. The third concerns sanctions: fines settle near IDR 1 billion while custodial terms vary about 28-fold, so the penalty follows neither the scale of the wrong nor the principle that like cases be treated alike, which sits uneasily with the equality guarantee of Article 28D(1) of the 1945 Constitution.[11,12]

De lege ferenda, three reforms follow, each judicially or institutionally actionable:

(1) Mandatory judicial quantification of laundered proceeds. What changes: every money-laundering judgment should state, in its operative verdict, how much was found to have been laundered and how much is ordered recovered. A recovery ratio can then be computed. Who acts: the Supreme Court, through a *Surat Edaran Mahkamah Agung* (SEMA) or an amendment to Perma 13/2016, and in the end the legislature (*Dewan Perwakilan Rakyat* [DPR RI] and the Government), which would amend Articles 6–7 of UU 8/2010. Legal basis: the asset-recovery purpose of UU 8/2010, Article 28D(1) of the 1945 Constitution, and UNCAC Article 51 read with FATF Recommendation 4.[9,34]

(2) Mandatory articulation of the basis of corporate fault under Perma 13/2016. What changes: in each corporate prosecution the court should name the attribution standard it applies (benefit, permission, or failure to prevent) and reason openly to a finding, instead of settling the corporate count by implication. Who acts: the Supreme Court, which would give its own Perma 13/2016 effect through judicial guidance and cassation review. Legal basis: Perma 13/2016 itself, the judicial-power provision (UUD 1945, Art. 24), FATF Recommendation 3 and UNTOC Article 10.[5]

(3) Statutory sentencing guidance that ties fines to the laundered amount and narrows the custodial range. What changes: a sentencing framework should displace round-figure anchoring and unstructured discretion. It would set a multiplier of the laundered value for the fine and a structured band of imprisonment by predicate and role. Who acts: DPR RI and the Government, placing the guidance inside the recodified Penal Code (UU 1/2023); the Supreme Court may issue interim guidelines. Legal basis: the equality and legal-certainty guarantees of Article 28D(1), the legality principle in Article 28I(1), and the proportionality principle.

All three proposals rest on constitutional ground. They fit within the existing Indonesian legal architecture and match the state's obligations under FATF, UNTOC and UNCAC. The first two can start without new legislation, although the first would ultimately call for amendment of Articles 6–7 of UU 8/2010, as stated above. The Supreme Court can begin to put them into effect by applying instruments that are already in force.

4.6 Limitations

Four limitations bound these claims. The first and gravest is size. The study covers thirty-five decisions and only eight corporate defendants, because corporate TPPU prosecutions are genuinely rare and because many recent first-instance decisions in the directory are privacy-restricted and could not be read. The corporate findings are therefore best seen as a near-census of a very small population rather than a sample of a large one, and the inferential comparisons of custodial terms across predicates are underpowered and are reported as descriptive. Second, coding relied on the operative verdict and not on the full reasoning. A reference to Perma 13/2016, or to an attribution theory buried in the body of a judgment, could therefore be under-counted. The corporate-liability findings describe what the courts made explicit in the dispositive text, which is a suitable object for a study of adjudicative articulation, though a full-text analysis would refine them.[10] Third, predicate labels for standalone TPPU verdicts that do not name the predicate were inferred and corroborated externally. Some risk of misclassification remains. Fourth, the directory does not publish every decision, so entry into the published set is not random, and the purposive choice of the individual comparators probably over-represents fully reasoned decisions that are complete on sanction. The dispersion statistics for individual defendants should be read as bounded descriptions of the published set, while the corporate findings describe the published corporate cases that could be located. The natural next step is a larger full-text study that also draws on prosecution and asset-management records.

5. Conclusion

This empirical study examined corporate criminal liability, asset recovery and sentencing disparity in Indonesian money-laundering adjudication across thirty-five first-instance decisions. It found that the regime's two main aims were weakly realized in these judgments, which points to adjudicative practice more than to statutory design. De lege lata, three deficiencies exist. Corporate fault is decided without a stated theory and without Perma 13/2016. Laundered proceeds are quantified in a single verdict, which leaves recovery unmeasurable. Fines default to a statutory anchor while custodial terms vary about 28-fold. De lege ferenda, three reforms that the judiciary can adopt are proposed: mandatory quantification of laundered proceeds, mandatory articulation of corporate fault under the existing Perma 13/2016, and statutory calibration of fines to the laundered amount. If the Supreme Court and the legislature carry them out, recovery becomes measurable, corporate liability gains force, and the sanction matches the wrong. Future research should extend the analysis to full-text reasoning and to prosecution and asset-management records, and should track whether activating Perma 13/2016 changes corporate outcomes.

Declarations

Ethics Approval and Consent

Not applicable. The study analyzed publicly available court decisions and involved no human participants, so ethics committee approval and informed consent were not required.

Use of Artificial Intelligence

None. No artificial intelligence tools were used to generate, analyze or write any part of this work.

Author Contributions

A.M.: Conceptualization, Methodology, Investigation, Formal analysis, Writing – original draft. C.D.: Data curation, Validation, Writing – review & editing. N.M.N.I.: Supervision, Visualization, Writing – review & editing. All authors reviewed and approved the final version of the manuscript.

Funding

None. This research received no external funding.

Competing Interests

None. The authors declare no competing interests.

Data Availability

The coded dataset for the thirty-five decisions, including the case number and directory URL of each decision, and the analysis script are available from the corresponding author on reasonable request.

Acknowledgments

None. The authors have no individuals or institutions to acknowledge.

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