

## Fault-Based Liability Vs. Strict Liability: Comparative Study of the Concept of Unlawful Acts Indonesia – Japan

Wilhemina Setia Admadja\*, Gavra Datadavie Ginting, Maheswari Queena Dewani,  
Jason Marvin Wijaya, Rastra Judea Satyawada Pattiwael, Yudhiran R. V. M.  
Demonggeng

Universitas Pelita Harapan, Indonesia

Email: wilhelsaa@gmail.com\*, gavraginting@gmail.com, queenadewani@gmail.com,  
jason.marvin.wijaya@gmail.com, rastrajudeaspattiwael@gmail.com,  
yudhiranmandef@gmail.com

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### ABSTRACT

This research analyzes the comparative concepts of fault-based liability and strict liability in torts under Indonesian and Japanese civil law. This study addresses the limited comparative analysis of liability principles in Asian civil law systems amid global shifts toward environmental accountability. Although both jurisdictions adopt the European-Continental legal system, the approaches to liability reflect different historical, political, and social contexts. The research employs a normative (doctrinal) juridical approach, supported by secondary legal materials. Findings show that fault-based liability, as codified under Article 1365 of the Civil Code and Article 700 of the Civil Code of Japan, remains the general principle in determining liability, placing the burden of proof on plaintiffs. However, strict liability has emerged in special laws, particularly in consumer protection and environmental law. Landmark cases such as PT Newmont Minahasa Raya in Indonesia and the Minamata case in Japan illustrate the challenges and transitions between these two liability regimes. The study concludes that a balanced dual approach is necessary. Fault-based liability ensures legal certainty and fairness for defendants, while strict liability strengthens victim protection and deterrence. Ultimately, harmonizing both principles enhances access to justice, accommodates social needs, and aligns with global legal trends.

**Keywords:** Tort Law; Fault-Based Liability; Strict Liabilities; Consumer Protection; Environmental Law

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## INTRODUCTION

Unlawful acts, often referred to as *PMH* in Indonesian law, are a concept in the branch of law that serves as the primary mechanism (aside from contractual obligations) in providing a clear legal basis for civil obligations (Juang et al., 2025; Millenia Hussy, 2024). Universally, each country in the world has its own concept regarding *PMH*, due to the sovereignty of each nation to determine its own laws. However, the universal similarity regarding *PMH* is that the concept not only reflects the embodiment of legal doctrines but also the implementation of values embraced by society regarding justice, responsibility, and the protection of rights and obligations in the context of civil relations (Bussani et al., 2022).

For example, although Indonesia and Japan share the same legal system—namely the Continental European civil law tradition—the two countries have different concepts regarding *PMH*, both in terms of interpretation, scope, and application. This is due to their respective sovereignty, which also leads to differences in general civil law concepts. Furthermore, these differences, particularly concerning *PMH*, are influenced by historical and political backgrounds. In Indonesia, the concept of *PMH* refers to the Civil Code (*KUHPer*), which was historically influenced by the Dutch occupation of Indonesia (Wijaya et al., 2021). Meanwhile, the concept of *PMH* in Japan refers to the Civil Code of Japan, which was shaped by French and German socio-political elements (Hatoyama & Storrs, 1902).

Although each country has a distinct scope and application of the *PMH* concept, the concept universally emphasizes *responsibility (liability)* as a crucial element in determining

which party is accountable for a loss. In general, liability is divided into *fault-based liability* and *strict liability*. *Fault-based liability* arises when a party is responsible for failure or error in carrying out its legal obligations. Meanwhile, *strict liability* occurs when a party is responsible for its actions that cause losses, regardless of whether the party was at fault or negligent (Goldberg & Zipursky, 2016).

Based on Article 1365 of the Indonesian Civil Code and Article 709 of the Civil Code of Japan, the concept of *PMH* traditionally tends to adopt a *fault-based liability* approach. This can be seen from the burden of proof, where the *fault-based* approach places the burden on the plaintiff to prove that the defendant committed *PMH*. This means proving the *PMH* element begins with determining whether an error was committed by the defendant (Alfianto et al., 2024). Meanwhile, in the context of modern *PMH*, Indonesia and Japan also apply *strict liability*, as regulated in Article 19 paragraph (1) of the Republic of Indonesia Law Number 8 of 1999 concerning Consumer Protection (*PK Law*), Article 88 of the Republic of Indonesia Law Number 32 of 2009 concerning Environmental Protection and Management (*PPLH Law*), as well as Article 3 of the Product Liability Act of Japan (*PL Act*) and Article 1 of the Compensation for Pollution-related Health Damage Act of Japan (*CPHD Act*). Under the *strict liability* approach, the burden of proof lies with the defendant to demonstrate that they did not commit *PMH* (Zhang, 2021).

On one hand, the *fault-based liability* approach provides justice for all parties because responsibility arises only if the plaintiff successfully proves that the defendant committed *PMH*. However, on the other hand, this approach is traditional and less adaptable to industrial, technological, environmental, and consumer protection developments. Likewise, *strict liability* has its own advantages and disadvantages. On one hand, the *strict liability* approach is victim-friendly because the burden of proof lies with the defendant. On the other hand, it can be perceived as less fair since responsibility may arise even when no fault exists.

Despite the significance of liability principles in tort law, a critical research gap remains in the comparative analysis of *fault-based* and *strict liability* regimes within Asian civil law jurisdictions. While extensive scholarship exists on Western tort systems, limited attention has been given to how Asian countries—particularly those sharing civil law traditions—balance these principles in response to challenges such as environmental degradation and consumer protection. This study addresses this gap by examining how Indonesia and Japan, despite sharing Continental European legal heritage, have developed divergent approaches to tort liability shaped by distinct historical trajectories, political contexts, and judicial practices.

Different concepts of responsibility are crucial for courts worldwide to strike a balance between civil rights, public interest, and community needs. Therefore, comparative studies significantly contribute to legal development, helping researchers identify similarities and differences between jurisdictions and understand the factors influencing them (Rahardjo, 1986).

To provide analytical understanding, this study utilizes relevant literature. The most important theory used is the *PMH* theory. Essentially, the *PMH* concept is recognized in civil law (*onrechtmatige daad*) and criminal law (*wederrechtelijk*). The main difference between *onrechtmatige daad* and *wederrechtelijk* lies in the element of “the interests of many people as citizens” in the context of criminal *PMH* (Yufilikhati et al., 2025). For the purposes of this study, the theory is applied in the context of civil law. For an action to be considered *PMH* in civil law (*onrechtmatige daad*), it must fulfill five elements: (1) the existence of an act; (2) the act is against the law; (3) the existence of an error; (4) the existence of a loss; and (5) the existence of a causal relationship between the act and the loss (Agustina, 2003). The element “the act is against the law” has an expanded meaning, where “legal” is not limited to statutory regulations but also includes the subjective rights of others, morality, propriety, accuracy, and

caution (Chandera, 2023). The relevance of *PMH* theory in this study is to identify the role of fault in *PMH*.

Furthermore, this study discusses comparative legal theory. Initially, comparative law aimed to create uniformity and eliminate differences. However, modern comparative legal studies aim to promote diversity (*plurality*), driven by the avoidance of universalism, which diminishes diversity (Husa, 2021). Comparative legal studies begin by understanding legal rules or societal order, evaluating similarities and differences between countries' laws, reviewing internal legislation, and compiling evaluated legal materials. By taking these steps, comparative legal studies are expected to improve human welfare through a legal order that accommodates globalization (Eberle, 2009). The relevance of comparative legal theory in this study is to identify and evaluate similarities and differences in the *PMH* concept in Indonesia and Japan.

This study also applies the theory of the functional role of tort law, which essentially posits that the purpose of tort law is to encourage compensation (*compensatory justice*) and deterrence. Law enforcement against tort should aim to provide victims with opportunities for compensation while preventing others from committing torts by imposing liability on those who cause harm (Nolan, 2009). The relevance of the theory in this study is to identify how the legal function of tort law benefits victims by balancing civil rights, public interests, and community needs.

Based on the previous discussion, this research focuses on legal issues regarding (1) the role of fault in establishing civil liability in Indonesia and Japan, and (2) how Indonesian and Japanese courts balance *fault-based liability* with *strict liability* in modern civil law. The primary objective is to conduct a comparative analysis of *fault-based* and *strict liability* in tort law between Indonesia and Japan, examining their legal foundations, judicial applications, and contemporary challenges.

The benefit of this study lies in its contribution to academic discourse on Asian tort law harmonization and its practical implications for legal reform in both jurisdictions. By identifying best practices and lessons learned from landmark cases, this research provides insights for policymakers, legal practitioners, and scholars seeking to strengthen victim protection while maintaining legal certainty. The theoretical implication extends to enriching comparative legal scholarship by demonstrating how civil law systems can adapt traditional liability principles to address modern societal needs, particularly in environmental and consumer protection law—thus contributing to global legal convergence and the evolution of tort liability regimes in the 21st century.

## METHOD

This study employed a juridical-normative (doctrinal) legal research method, which relied on legal rules, principles, and doctrine to address the research problem (Nurhayati et al., 2021). It examined laws and regulations concerning *PMH* in Indonesia and Japan. These two jurisdictions were selected due to their shared civil law heritage rooted in the Continental European legal tradition, yet divergent applications of liability principles in environmental and consumer protection law. This comparative framework enabled an examination of how similar legal foundations produced different outcomes shaped by historical, political, and judicial contexts.

The study utilized secondary data obtained from pre-existing sources. The data were drawn from primary legal materials (such as the Civil Code (*KUHPer*), Law No. 8 of 1999 on Consumer Protection, Law No. 32 of 2009 on Environmental Protection and Management, the Japanese Civil Code, the Product Liability Act, and the Compensation for Pollution-related Health Damage Act), as well as secondary and tertiary legal materials, including books, journals, and legal dictionaries (Budianto, 2020).

The comparative analysis was conducted through several stages: first, by examining statutory provisions governing *fault-based* and *strict liability* in both jurisdictions; second, by analyzing case law to understand judicial interpretation and application of these principles in key decisions such as PT Newmont Minahasa Raya and the Minamata case; and third, by applying jurisprudential interpretation to assess the philosophical and policy rationales underpinning liability regimes in Indonesia and Japan. The qualitative data analysis described and interpreted these materials to provide a deeper understanding of the research topic (Saleh, 2017).

This study applied a normative approach comprising the statute, conceptual, and comparative methods. However, as doctrinal research relying exclusively on secondary data, it did not incorporate empirical evidence such as victim testimonies, quantitative litigation analysis, or socio-economic assessments. The analysis was limited to written legal sources and reported judicial decisions, which may not fully capture informal legal practices. These limitations indicate the need for future research employing mixed-method approaches to achieve a more comprehensive understanding of tort liability in practice.

## **RESULTS AND DISCUSSION**

### **The Role of Fault in Forming Civil Liability in Indonesia and Japan**

Provisions regarding *fault-based liability* in the context of PMH in Indonesia and Japan are regulated in general legislation (*lex generalis*). In Indonesian civil law, the basis for establishing the element of fault as the main element of PMH is regulated in Article 1365 of the Civil Code, which states:

*" Every act that violates the law and causes loss to another person requires the person who caused the loss due to his mistake to compensate for the loss."*

Meanwhile, in Japanese civil law, the basis for establishing the element of fault as the main element of PMH is regulated in Article 709 of *the Civil Code of Japan* which states:

*" A person who intentionally or through negligence violates the rights or interests of another person protected by law is responsible for compensating for the losses caused ."*

The significant difference between the provisions regarding fault as the main element of PMH between Article 1365 of the Indonesian Civil Code and Article 709 of the Civil Code of Japan lies in its clarity. Based on Article 1365 of the Indonesian Civil Code, the element of fault is mentioned explicitly, but very generally. Meanwhile, in Article 709 of the Civil Code of Japan, the element of fault is categorized into 2 (two) forms, namely intentional and negligent. This division is in line with the opinion of Rosa Agustina and MA Moegni Djodirdjo who stated that the definition of fault must be viewed broadly, so that its meaning does not only include intentional actions, but also includes negligence (Rosa, 2003) (Djojodirdjo, 1982). However, the similarity in the formulation of the element of fault as the main element of PMH in Indonesia and Japan lies in the function of the element of fault itself which is the foundation of civil liability.

The consequence of the requirement to fulfill the element of fault as a determinant of PMH causes the burden of proof to be placed on the plaintiff. This means that the victim who sues must be able to prove that the perpetrator or defendant committed PMH. This is in line with the principle of *actori incumbit probatio* as contained in Article 1865 of the Indonesian Civil Code and Article 179 of the Japan Code of Civil Procedure, which essentially emphasizes that the party who recognizes a right and/or points to an event to confirm that right (or in other words, sues for the fulfillment of that right) is obliged to prove the existence of the right or event that is stated or sued (Amara et al., 2025). In other words, the concept of liability based on fault or fault -based liability places the burden of proof on the plaintiff. As a result, the

concept of fault-based liability protects the perpetrator of PMH and burdens the victim, because this concept makes it difficult for the victim to prove PMH committed by the perpetrator.

The application of fault-based liability has become commonplace in determining the occurrence of PMH. There are case examples in Indonesia that demonstrate the dominance of fault-based liability in determining the occurrence of PMH. In the Manado District Court Decision Number 284/Pid.B/2005/PN.Mdo dated April 24, 2007, PT Newmont Minahasa Raya and President Director Richard Bruce Ness were charged with violating Article 41 paragraph (1) and Article 43 paragraph (1) of the Republic of Indonesia Law Number 23 of 1997 concerning Environmental Management (UU PLH), on the basis of alleged environmental pollution due to the disposal of arsenic and mercury waste in Buyat Bay, resulting in public health problems and ecosystem damage. The formulation of Article 41 paragraph (1) and Article 43 paragraph (1) of the PLH Law requires an element of intent in causing pollution and/or environmental damage or danger to public health or the lives of others, by releasing or disposing of hazardous or toxic substances into the water. However, due to the lack of sufficient evidence of a causal relationship between the health problems of the surrounding community and the waste disposal, the Panel of Judges issued an acquittal (*vrijspraak*). This case demonstrates the failure of fault-based liability to accommodate compensation for victims of PMH committed by the perpetrator.

Meanwhile, Japan also has a similar case, where the court in Japan determined the emergence of PMH based on fault-based liability. There is an example of a case in Japan, where Chisso Corporation carried out the activity of dumping mercury liquid waste into Minamata Bay, which caused health problems for at least 10,000 (ten thousand) people, ranging from nervous disorders, paralysis, birth defects, and even death. Initially, the victims had difficulty proving the company's fault, due to the complexity and cost of the evidentiary process. However, based on the Decision of the Supreme Court of Japan dated October 16, 1979 which upheld the Decision of the Kumamoto District Court dated March 20, 1973, Chisso Corporation was proven negligent in preventing the discharge of toxic waste into Minamata Bay, so that the company was liable not only based on the fault it committed (in this case, due to negligence), but also because there was a direct causal relationship between industrial activities and the losses suffered by the victims. This decision became a landmark case for Japanese courts in strengthening protection for PMH victims, by developing strict liability. Ultimately, this case became the basis for the birth of the CPHD Act, which establishes a strict liability regime for companies whose industrial activities cause harm to public health.

Based on these case examples, it is very clear that fault is truly a determining element for courts, both in Indonesia and Japan, in assessing whether an event can be categorized as PMH or not. On the one hand, by providing the requirement that responsibility arises based on fault, the court can create legal certainty. Legal certainty is the ability of the law, so that the law can be implemented and obeyed, without considering subjective speculations (Rahardjo, 2007). By upholding the principle of fault-based liability, legal provisions regarding PMH can be truly obeyed, without considering other subjective factors, such as justice, economic, sociological, and so on. However, fault-based liability creates difficulties for victims, because the victim must prove the fault committed by the perpetrator of PMH. Therefore, although fault-based liability clearly shows the role of fault in forming responsibility (liability) in an act of PMH and proves the fulfillment of legal certainty, this concept cannot be relied upon as the only civil law mechanism that can provide justice and benefits for victims, in the context of the legal function of PMH which can encourage compensation and create deterrence .

Along with the times and globalization, legal developments have given rise to new spectrums or fields of law. This development is a consequence of the law's function, which must accommodate societal needs. This aligns with progressive legal theory, which essentially emphasizes that law must be dynamic and adaptive to accommodate the circumstances or

realities of societal life. Because the realities of societal life tend to change, to continue to accommodate societal needs, the law must adapt to these changes (Buckel et al., 2024).

Likewise with the concept of strict liability, which was only used in Indonesia when the PK Law was issued. This concept is clearly found in Article 19 paragraph (1) of the PK Law which states:

*" Business actors are responsible for providing compensation for damage, pollution and/or consumer losses resulting from consuming goods and/or services produced or traded."*

Through these provisions, strict liability is seen from the requirement for business actors to compensate consumers for damage, pollution, and/or losses resulting from consuming goods and/or services produced or traded, without the need to prove any fault on the part of the business actor. This means that civil liability is deemed to have arisen not because of a fault, but because of a loss (damage).

In addition to the context of consumer protection, strict liability in Indonesia can also be found in environmental law under the Environmental Management and Management Law. The concept of strict liability can be explicitly found in Article 88 of the Environmental Management and Management Law, which states:

*" Any person whose actions, business and/or activities use B3 [hazardous and toxic materials], produce and/or manage B3 waste, and/or which poses a serious threat to the environment is absolutely responsible for any losses that occur without the need to prove the element of fault. "*

In the context of environmental law, Article 88 of the Environmental Management Law is even clearer in formulating civil liability, which is deemed to have arisen when losses occur due to the actions, efforts and/or activities of any person who uses, produces and/or manages B3 waste, and/or poses a serious threat to the environment, without the need for proof of fault.

Likewise, strict liability in Japanese PMH law can be seen through legislation in the areas of consumer protection and the environment. In the context of consumer protection law, strict liability can be seen through Article 3 of the PL Act, which states:

*" Manufacturers, etc., are responsible for compensating for losses or damages, if death or bodily injury to another person or violation of someone's property rights is caused by defects in the product delivered, which is produced, processed, imported, or which is indicated to include the name referred to in point (ii) or point (iii) of paragraph (3) of the previous Article; except if the damage occurs in the product itself."*

The existence of strict liability in Article 3 of the PL Act is further detailed as product liability, where civil liability is deemed to have arisen not due to errors in production, processing, importation, or delivery, but because there is a causality between consumer losses and the product in question. With the implementation of strict liability in consumer protection law, there is ease for consumers to demand the fulfillment of their legal rights due to PMH committed by the perpetrator, because the victim is not required to prove the perpetrator's fault.

In the context of environmental law, the concept of strict liability emerged because of the Minamata case. This concept can be clearly seen in Article 1 of the CPHD Act, which states:

*" The purpose of this Law is to promote prompt and fair protection for victims involved in health damage and to safeguard their health by providing compensation for health damage caused by the effects of air or water pollution (including damage to water sediments, the same applies hereinafter) in a sufficiently wide area, in connection with business activities and other human activities, and to provide services necessary for the welfare of victims and the prevention of health damage due to the effects of air pollution ."*

Under Article 1 of the CPHD Act, strict liability is not listed as a specific category of liability. However, this provision allows victims who suffer health losses due to business

activities and/or other human activities to easily access compensation in the form of damages. This is, of course, in line with the concept of strict liability, which creates liability without the need to prove fault if there is a causal relationship between the business activity and/or human activity and the health loss experienced by the victim.

Thus, liability is indeed a key element in PMH, both in Indonesia and Japan. In general, legal regulations such as the Indonesian Civil Code and the Civil Code of Japan, liability is considered to arise only if the plaintiff or victim successfully proves that the defendant or perpetrator committed a fault. Meanwhile, in special laws and regulations such as the PK Law, the PPLH Law, the PL Act, and the CPHD Act, liability has the potential to arise when there is a loss experienced by the victim.

**Table 1. Comparative Summary of Liability Principles in Indonesia and Japan**

Aspect	Indonesia	Japan
<b>General Principle (Fault-Based)</b>	Article 1365 Civil Code: General fault requirement	Article 709 Civil Code: Fault specified as intent or negligence
<b>Burden of Proof</b>	Plaintiff ( <i>actori incumbit probatio</i> )	Plaintiff (Article 179 Code of Civil Procedure)
<b>Consumer Protection (Strict Liability)</b>	Article 19(1) Law No. 8/1999: Business actor liability without fault	Article 3 Product Liability Act: Manufacturer liability for defective products
<b>Environmental Law (Strict Liability)</b>	Article 88 Law No. 32/2009: Absolute liability for hazardous waste	CPHD Act: Compensation for pollution-related health damage
<b>Landmark Case</b>	PT Newmont Minahasa Raya (acquittal due to insufficient evidence of fault)	Minamata Case (liability established despite initial evidentiary difficulties)
<b>Philosophical Foundation</b>	Transitioning from pure fault-based to hybrid model	Progressive shift toward victim protection and deterrence

### The Role of Indonesian and Japanese Courts in Balancing Fault-Based Liability with Strict Liability in Modern Civil Law

A deeper analysis of the philosophical underpinnings reveals that Indonesia and Japan approach the balance between fault-based and strict liability from different normative starting points. Indonesia's legal system continues to prioritize fairness and proportionality, reflecting a concern that imposing liability without fault may unjustly burden defendants and stifle economic activity. This conservative approach is evident in judicial reluctance to expand strict liability beyond statutorily mandated contexts. Conversely, Japan's legal evolution demonstrates a stronger commitment to deterrence and social welfare maximization. The Minamata case marked a jurisprudential turning point where Japanese courts recognized that traditional fault-based approaches were inadequate for addressing mass environmental disasters. This philosophical shift reflects a utilitarian calculus that prioritizes collective victim protection and corporate accountability over individual defendant fairness, particularly in contexts involving asymmetric power dynamics between corporations and affected communities.

The conceptual differences in determining whether an action can be considered PMH or not are a legal consequence of the dynamic and adaptive nature of law to accommodate the needs of society. On the one hand, fault-based liability provides legal certainty for the enforcement of PMH law, provides justice for perpetrators, provides a deterrent effect, and encourages caution for all. On the other hand, strict liability provides convenience and justice for victims who suffer losses due to the actions of a party committing PMH and strengthens

the prevention of mass losses. Therefore, to create a legal climate that can balance the civil rights of a society, the public interest, and the needs of that society, the judiciary must be able to balance the implementation of fault-based liability with strict liability.

A balance between these two concepts of civil liability can be achieved through a dualistic approach, where fault-based liability and strict liability are used to complement, rather than replace, each other. While fault-based liability is deemed to provide only legal certainty and justice for the perpetrator, the role of the judiciary is to implement strict liability to create legal certainty and justice for the victim. This ensures a balance between the perpetrator and the victim, preventing either party from misusing the PMH mechanism for unjust enrichment.

When reviewing the case of PT Newmont Minahasa Raya, fault-based liability does create legal certainty for the enforcement of PMH law and justice for the perpetrators. This is because the plaintiff must be able to prove all elements of PMH, which are dominated by errors (fault) as regulated in Article 1365 of the Civil Code, so that the defendant cannot be considered legally and convincingly proven to have committed PMH if the plaintiff cannot prove the element of error (fault). However, on the other hand, victims who suffer losses, in this case environmental damage and health problems due to the disposal of B3 waste, cannot claim compensation in any form, due to the difficulty in proving the error (fault) committed by PT Newmont Minahasa Raya.

Meanwhile, in the Minamata case, although initially, the victims had difficulty in proving fault committed by Chisso Corporation, the Kumamoto District Court and the Supreme Court of Japan took bold and reformative steps, so that victims who suffered losses due to the mercury waste disposal activities carried out by Chisso Corporation could be asked for compensation. This step is concrete evidence that the balance between the application of fault-based liability and strict liability has succeeded in creating legal certainty and justice for both parties, both perpetrators and victims.

Although Indonesia has taken balancing measures by implementing strict liability in sectors related to public welfare on a large scale, this measure is not enough. The effectiveness of the legal system is influenced by the interaction between legal structure, legal substance, and legal culture. Legal structure is the framework of a legal system that ensures the continuity of legal processes. Legal substance is the substantive nature of legal rules. Legal culture is the elements of society (e.g., views, values, general culture, traditional culture, customs, opinions, work methods, mindsets) that can influence the law (Friedman, 1975). Based on this, to maintain a balance between fault-based liability and strict liability, the legal structure (law enforcement agencies), legal substance (statutory regulations), and legal culture (elements of society) must interact effectively.

With regard to the legal structure, all components of the judicial institution, especially judges, must maintain integrity to prevent legal abuse. Judges must ensure that enforcement of the PMH law creates legal certainty and justice for both perpetrators and victims. Regarding legal substance, existing laws and regulations must ensure that there are no ambiguous, difficult to understand, or contradictory regulations. For the public, seminars and outreach can be provided to ensure they understand their legal rights, and to prevent those who already understand their legal rights from abusing available mechanisms to further their personal interests.

The PT Newmont Minahasa Raya case is a stark lesson for the enforcement of hazardous waste management (PMH) laws in Indonesia, especially for the communities affected by the company's hazardous waste disposal activities. Not only did the communities struggle to prove PT Newmont Minahasa Raya's fault, but the failure of PMH law enforcement was also due to the judiciary's failure to take reformative action.

Therefore, Indonesia can learn from its own experience, so that future enforcement of PMH law reflects a balance between the civil rights of Indonesian citizens, the public interest

of Indonesia, and the needs of the Indonesian people. The role of the judiciary in balancing these elements is also inseparable from the task of the judiciary itself to balance the application of the principle of fault-based liability with strict liability in determining whether a party has committed PMH or not. Steps that must be continuously taken to create balance are by respecting jurisprudence (in this case, the Manado District Court Decision Number 284/Pid.B/2005/ PN.Mdo dated April 24, 2007) which highlights the need for strengthening regulations and the importance of balancing legal principles in upholding legal certainty and justice.

Furthermore, Indonesia can also learn from Japan's bold approach to legal reform. Through its judicial system, Japan has successfully expanded corporate liability, thereby minimizing losses suffered by Japanese citizens through the provision of compensation. Concrete preventative measures have also been taken by issuing laws and regulations that are relevant to current developments and balance the principles of fault-based liability with strict liability. Thus, the Japanese judicial system has succeeded in creating legal certainty and balanced justice for both perpetrators and victims.

By learning from the PT Newmont Minahasa Raya case and the role of Japanese judicial institutions, Indonesia can not only maximize its benefits to the Indonesian people but also follow international trends that tend to strengthen the concept of strict liability in enforcing PMH laws in the areas of consumer and environmental protection. Ultimately, Indonesia can also align with other countries in competing globally in the field of law enforcement.

## **CONCLUSION**

This study concluded that the element of fault remained a fundamental determinant in assessing whether an action constituted PMH. However, a rigid application of fault-based liability, as seen in the PT Newmont Minahasa Raya and Minamata cases, often compromised justice by burdening victims and alleviating perpetrators' responsibility. Thus, a balanced approach between fault-based liability and strict liability was necessary, particularly in consumer protection and environmental law, to ensure fairness, legal certainty, and equitable protection of civil rights. Judicial institutions in Indonesia and Japan could enhance this balance to align domestic justice objectives with global legal standards. Further research should examine the practical implementation of PMH law and conduct comparative analyses of jurisprudence between both countries. Legislative efforts should also explore developing a hybrid liability model for high-risk sectors such as energy, chemicals, mining, and the environment to strengthen victim protection while maintaining legal certainty.

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*Wilhemina Setia Admadja\*, Gavra Datadavie Ginting, Maheswari Queena Dewani, Jason Marvin Wijaya, Rastra Judea Satyawada Pattiwael, Yudhiran R. V. M. Demonggreng*