

Criminalization of Fraud Victims in Gold Trading Disputes: An Analysis of Conflicting Criminal and Civil Court Decisions in Indonesia

Yuli Maria Lyanawati¹✉, M.Syahrul Borman², Vieta Imelda Cornelis³

Faculty of Law, Universitas Dr. Soetomo, Surabaya, Indonesia^{1,2,3}

e-mail*: yuli.harnugama1809@gmail.com

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ABSTRACT

The expansion of criminal law into private commercial disputes has raised serious concerns regarding over-criminalization and legal certainty. This article examines the phenomenon of fraud victim criminalization in gold trading disputes through an analysis of conflicting civil and criminal court decisions in Indonesia. Using a qualitative doctrinal and socio-legal case study approach, the study analyzes judicial reasoning in parallel proceedings arising from identical transactional facts. The findings reveal that a purchaser legally recognized as a fraud victim in binding civil judgments was subsequently prosecuted and convicted under corruption and money laundering statutes. This outcome resulted from the disregard of prior civil findings, expansive interpretations of state loss, and a narrow application of the *ne bis in idem* principle. The study argues that such judicial fragmentation undermines legal certainty and distorts the function of criminal law as *ultima ratio*. By situating the case within theories of over-criminalization and miscarriage of justice, this article contributes to the literature on economic crime enforcement and judicial coherence. It concludes by emphasizing the need for stronger doctrinal coordination between civil and criminal adjudication to prevent victim criminalization and ensure fair and consistent application of the law in Indonesia.

Keywords : Over-criminalization; Legal Certainty; *Ne Bis in Idem*; Fraud Victim Criminalization; Economic Crime Enforcement.

INTRODUCTION

Economic crime enforcement increasingly intersects with private commercial disputes, raising complex questions about the boundaries between criminal law and civil liability. In theory, criminal law is designed to sanction culpable conduct, while civil law functions to restore private losses and uphold contractual certainty.¹ However, contemporary scholarship highlights a growing trend of *over-criminalization*, where

¹ Muhadi, H. (2025). Dualism Of Sanctions In Unlawful Acts: Between Civil Damages And Criminal Punishment Citation: Article History. *Research Horizon*, 5(4), 1177–1186.



criminal justice mechanisms are deployed to resolve economic disputes that are fundamentally civil in nature. This phenomenon poses serious risks to the principles of legal certainty, proportionality, and fairness. In developing legal systems, such risks are amplified by institutional fragmentation and inconsistent judicial reasoning.² Consequently, examining the criminalization of fraud victims in commercial transactions is theoretically significant for advancing debates on the proper limits of penal intervention and the coherence of multi-track legal systems.

In Indonesia, gold trading disputes have increasingly escalated from contractual disagreements into criminal prosecutions, often involving allegations of corruption and money laundering. The core problem arises when individuals who have been judicially recognized as victims of fraud in civil proceedings are later prosecuted as criminal offenders for the same factual circumstances. This contradiction reflects a structural tension between criminal and civil adjudication, where courts issue mutually inconsistent findings of fact and legal responsibility. Such practices undermine the doctrines of *ne bis in idem*, presumption of innocence, and the principle of *geen straf zonder schuld* (no punishment without fault).³ Moreover, the instrumentalization of criminal law to address unresolved civil enforcement failures creates a pathway for miscarriages of justice. This problem is particularly acute in cases involving state-owned enterprises and large-scale economic transactions, where public interest narratives may overshadow individual legal protections.⁴

Despite growing attention to economic crime and judicial accountability, existing literature reveals significant theoretical and empirical gaps. First, most studies examine wrongful conviction and criminalization in isolation, without systematically analyzing their interaction with prior civil judgments⁵. Second, Indonesian legal scholarship tends to focus on doctrinal analysis of corruption law, while underexploring the socio-legal consequences of conflicting court decisions across jurisdictions.⁶ Practically, there is limited empirical work demonstrating how inconsistent rulings erode legal certainty and distort the purpose of criminal law enforcement in commercial disputes. Furthermore, the absence of clear judicial guidelines on the relationship between civil liability and criminal culpability perpetuates discretionary enforcement and selective prosecution. These gaps necessitate a focused case-based inquiry that bridges doctrinal theory and judicial practice.

This study aims to analyze how and why fraud victims in gold trading disputes can become criminal defendants despite favorable civil judgments. It addresses three

² Nurmalah, Issa, H. A., Widodo, H., Djunaedi, H. D., & Rimbawan, A. Y. (2025). The Criminalization Of Civil Disputes: A Legal Analysis Of The Application Of Criminal Charges In Cases Involving State Finances. *Jurnal Hukum Unissula*, 41(4), 861–879. [Https://Doi.Org/10.30659/Jh.V41i4.48749](https://Doi.Org/10.30659/Jh.V41i4.48749)

³ Sirait, T. M. (2017). The Debate On The Implementation Of Ne Bis In Idem Principle In Handling The Corporate Crime In Indonesia. *Mimbar Hukum*, 29(2), 346–362. <Http://Www.Kpk.Go.Id>

⁴ Mayson, S. G. (2020). The Concept Of Criminal Law. *Criminal Law And Philosophy*, 14(3), 447–464. <Https://Doi.Org/10.1007/S11572-020-09530-Z>

⁵ Rochman, M. H. (2023). Juridical Analysis Of Unlawful Acts In A Land Grabbing Case Without Ownership Rights. *Tarunatalaw : Journal Of Law And Syariah*, 1(02), 166–174. <Https://Doi.Org/10.54298/Tarunatalaw.V1i02.157>

⁶ Juliet Nyambura Gachanja, R., Williams, P., & Gachanja Williams, J. (2023). The Justice Policy Guide – Exploring What Works To End Modern Slavery: A Survivor-Centric Approach To Justice. *Journal Of Modern Slavery A Multidisciplinary Exploration Of Human Trafficking Solutions*, 8(2), 14–22. <Http://Collections.Unu.Edu/Eserv/>

research questions: (1) how do Indonesian courts construct conflicting legal narratives in criminal and civil proceedings arising from the same transaction; (2) what doctrinal principles are compromised by such contradictions; and (3) what institutional factors enable the criminalization of civil dispute victims. The study contributes theoretically by refining the concept of victim criminalization within economic crime enforcement and practically by offering normative guidance for harmonizing criminal and civil adjudication. It also contributes to policy debates on judicial consistency, prosecutorial discretion, and legal certainty in Indonesia's mixed legal system.⁷

This article is structured as follows. Section 1 introduces the research context, theoretical background, and research questions. Section 2 reviews the literature on criminalization, economic crime enforcement, and conflicts between criminal and civil judgments. Section 3 outlines the research methodology and case selection. Section 4 presents an in-depth analysis of the selected gold trading dispute and the contradictory court decisions. Section 5 discusses the findings in light of criminal law theory and principles of legal certainty. Finally, Section 6 concludes the article by summarizing key insights and proposing recommendations for judicial and prosecutorial reform.

METHOD

Research Design and Approach

This study adopts a qualitative legal research design combining doctrinal legal analysis and a socio-legal case study approach. The doctrinal component examines statutory provisions, legal principles, and judicial reasoning governing fraud, corruption, and money laundering, with particular attention to the relationship between criminal and civil adjudication. The socio-legal component situates these doctrines within their institutional and practical contexts, analyzing how legal norms are applied, interpreted, and occasionally distorted in practice.⁸ This mixed qualitative approach is appropriate for exploring victim criminalization, as it enables the study to capture both normative inconsistencies and systemic enforcement dynamics that cannot be identified through purely quantitative methods.

Case Study Selection and Justification

The research employs a single in-depth case study of a gold trading dispute in Indonesia that generated parallel civil and criminal proceedings with contradictory outcomes. The case was selected using critical case sampling, as it exemplifies the phenomenon of fraud victims being prosecuted as criminal offenders despite prior civil judgments recognizing their victim status. This case is particularly suitable because it involves high-value commercial transactions, multiple judicial forums, and the application of corruption and money laundering statutes in a private commercial dispute.

⁷ Zaid, M., Musa, M., & Asmarasari, B. (2025). "Novum" In Indonesian Criminal Justice: Problems And Legal Reform. *Indonesian Journal Of Crime And Criminal Justice*, 1(1), 54–88. <Https://Doi.Org/10.62264/Ijccj.V1i1.121>

⁸ Bedner, A. (2017). Autonomy Of Law in Indonesia. *Recht Der Werkelijkheid*, 37(3), 10–36. <Https://Doi.Org/10.5553/Rdw/138064242016037003002>

As suggested in socio-legal scholarship, critical cases provide analytical leverage by exposing structural weaknesses in legal institutions and doctrinal coherence.⁹

Data Sources and Materials

The primary data consist of judicial documents, including final and intermediate decisions from civil courts, criminal courts, appellate courts, and review proceedings. These materials are supplemented by indictments, prosecutorial submissions, and official legal correspondence related to enforcement actions. Secondary data include academic journal articles, legal commentaries, and policy reports on criminalization, economic crime enforcement, and judicial consistency. Media reports are used selectively to contextualize institutional responses, while avoiding reliance on speculative or non-verifiable sources. The use of triangulated legal materials enhances analytical rigor and mitigates interpretive bias.

Analytical Framework

Data analysis is conducted through qualitative content analysis and doctrinal interpretation. Judicial reasoning is examined to identify how courts construct factual narratives, attribute legal responsibility, and reconcile or fail to reconcile prior civil findings with criminal allegations. The analysis focuses on key doctrinal principles, including *ne bis in idem*, legal certainty, personal criminal responsibility, and proportionality. In addition, the study applies insights from over-criminalization theory and miscarriage of justice scholarship to assess whether the prosecution aligns with the normative purposes of criminal law.¹⁰ This framework enables a systematic comparison between civil and criminal judgments arising from the same transactional facts.

Validity, Reliability, and Ethical Considerations

To ensure analytical validity, the study relies on official court documents and publicly accessible legal sources, allowing findings to be independently verified. Reliability is enhanced through transparent documentation of data sources and consistent application of the analytical framework across all judicial materials. Given the sensitive nature of criminal proceedings, the study adopts an ethical stance that avoids personal attacks and focuses on institutional processes and legal reasoning rather than individual blame. The research complies with academic standards of integrity by presenting evidence-based analysis and acknowledging alternative interpretations where relevant.

Case Background and Judicial Analysis

Gold Trading Transactions and the Emergence of Fraud

⁹ Butt, S. (2017). Corruption And Law In Indonesia. *Corruption And Law In Indonesia*, 1–162. [Https://Doi.Org/10.4324/9780203584729/Corruption-Law-Indonesia-Simon-Butt/Rights-And-Permissions](https://doi.org/10.4324/9780203584729/Corruption-Law-Indonesia-Simon-Butt/Rights-And-Permissions)

¹⁰ Husak, D. (2023). Six Questions About Overcriminalization. *Downloaded From Wwww.Annualreviews.Org. Guest (Guest*, 265–284. [Https://Doi.Org/10.1146/Annurev-Criminol-030421](https://doi.org/10.1146/annurev-criminol-030421)

Data indicate that the dispute arose from a series of gold trading transactions conducted through official bank accounts of a gold retail unit operated by a state-owned enterprise, supported by written confirmations issued by authorized employees (source: transaction records and court documents). Despite full payment, only a limited quantity of gold was delivered, while the remaining amount was never received by the purchaser. Subsequent criminal proceedings against several employees confirmed fraudulent practices, including invoice manipulation and unauthorized distribution of gold, in which the purchaser was formally recognized as a fraud victim (source: final criminal judgments).

From a legal perspective, these facts place the dispute within the framework of private commercial fraud rather than public corruption. Consistent with economic crime theory, losses resulting from internal corporate misconduct should primarily trigger civil liability and restitution mechanisms, not criminal sanctions against good-faith purchasers.¹¹ At this stage, the factual and legal narrative was coherent and aligned with orthodox principles of commercial and criminal law.

Civil Court Findings and Legal Recognition of Victimhood

Data indicate that civil courts at multiple levels consistently acknowledged the purchaser as a bona fide buyer acting in good faith, emphasizing that all payments were made through official corporate channels and supported by valid written confirmations (source: binding civil court decisions). The courts held the corporate entity jointly liable for the fraudulent acts of its employees and ordered restitution either in kind or in monetary value.

These findings reflect established doctrines of vicarious liability and legal certainty, whereby the risk of internal misconduct is allocated to the corporate entity rather than external contracting parties. Such reasoning is consistent with comparative civil law jurisprudence, which seeks to protect legitimate commercial expectations and prevent unjust risk shifting.¹² Importantly, the civil judgments created a legally binding factual baseline that should have guided subsequent judicial assessments.

Criminal Prosecution and Reversal of the Legal Narrative

Data indicate that notwithstanding the final and binding civil judgments, criminal proceedings were later initiated against the purchaser under corruption and money laundering statutes (source: indictments and criminal court decisions). Prosecutors alleged conspiracy and unlawful benefit, asserting that the purchaser participated in transactions conducted below official pricing mechanisms.

Criminal courts accepted this prosecutorial narrative and recharacterized the purchaser as a principal offender, relying primarily on procedural irregularities and internal deviations by corporate employees. This reasoning marked a decisive departure from the civil courts' factual findings. The attribution of criminal intent occurred in the absence of proof that the purchaser obtained excess gold or unlawful enrichment. Such a shift illustrates the expansion of criminal law into areas traditionally governed by private law, a trend widely criticized as over-criminalization (Husak, 2023; Lacey, 2015).

¹¹ *Ibid*

¹² Satzger, H. (2020). Application Problems Relating To “Ne Bis In Idem” As Guaranteed Under Art. 50 Cfr/Art. 54 Cisa And Art. 4 Prot. No. 7 Echr. *Eurcim*, 7, 1–8.

Contradictions Between Civil and Criminal Judgments

Data indicate that identical transactional facts generated conflicting legal conclusions across civil and criminal forums (source: comparative analysis of judgments). While civil courts affirmed the purchaser's victim status and entitlement to restitution, criminal courts reconstructed the same facts to establish culpability. Notably, the criminal judgments failed to meaningfully engage with or reconcile the binding civil findings.

This judicial inconsistency undermines the principle of legal certainty and highlights institutional fragmentation within Indonesia's multi-track adjudication system. Although civil and criminal proceedings are formally distinct, the disregard of established civil findings raises concerns regarding coherence in fact-finding and the practical erosion of *ne bis in idem* protections. In this context, criminal adjudication effectively neutralized the protective function of civil justice.

Criminal Responsibility and the State Loss Doctrine

Data indicate that alleged state losses were calculated based on provisional accounting entries and unexecuted civil obligations rather than actual financial outflows (source: criminal court reasoning). This approach equated potential civil liabilities with criminal harm and served as the basis for imposing severe criminal sanctions on the purchaser.

Such reasoning reflects an expansive interpretation of the state loss doctrine that departs from its doctrinal foundations. As emphasized in corruption law scholarship, criminal liability must rest on demonstrable harm and personal fault, not speculative or contingent losses.¹³ By converting unresolved civil obligations into criminal damage, penal law was effectively employed as a corrective tool for civil enforcement failures, contrary to its function as *ultima ratio*.

DISCUSSION

Over-Criminalization in Economic Disputes

The findings presented in Section 4 confirm the theoretical concerns on over-criminalization discussed in Section 2.1. Criminal law is increasingly employed beyond its traditional role as *ultima ratio*, particularly in complex economic disputes. In the case examined, a commercial fraud dispute that had been resolved through civil litigation and criminal convictions against corporate employees was later transformed into a corruption and money laundering prosecution against the purchaser.

This transformation reflects the phenomenon identified where criminal law is used instrumentally to address institutional or enforcement failures rather than individual culpability. The absence of evidence demonstrating personal enrichment or unlawful benefit supports the conclusion that penal intervention functioned as a substitute for unresolved civil enforcement. Consistent with the literature, this case illustrates how over-criminalization blurs the boundary between private law liability and criminal responsibility, exposing individuals to severe sanctions without adequate normative justification.

¹³ Rochman, M. H. (2023). Juridical Analysis Of Unlawful Acts In A Land Grabbing Case Without Ownership Rights. *Tarunalaw: Journal Of Law And Syariah*, 1(02), 166–174. [Https://Doi.Org/10.54298/Tarunalaw.V1i02.157](https://Doi.Org/10.54298/Tarunalaw.V1i02.157)

Legal Certainty and Judicial Consistency

Legal certainty constitutes a fundamental principle of the rule of law, requiring consistency and predictability in judicial decision-making. As discussed in Section 2.3, conflicting judicial outcomes undermine this principle by generating uncertainty regarding legal status and responsibility. The case analyzed demonstrates a clear breach of legal certainty, as binding civil judgments recognizing the purchaser as a fraud victim were effectively disregarded in subsequent criminal proceedings.

This inconsistency aligns with the institutional fragmentation identified in Indonesian legal scholarship.¹⁴ Although civil and criminal proceedings operate under distinct procedural regimes, the failure of criminal courts to engage with established civil findings resulted in contradictory legal narratives based on identical facts. Such outcomes weaken the stabilizing function of judicial decisions and erode public confidence in the coherence of the legal system, as previously noted in comparative legal studies.

Ne Bis in Idem and Substantive Protection

The doctrine of *ne bis in idem* seeks to prevent individuals from being subjected to multiple legal consequences for the same conduct. While Indonesian law traditionally applies this principle in a formal sense, the literature reviewed in Section 2.3 emphasizes the need for a substantive approach that considers factual and normative overlap between proceedings.¹⁵

In the present case, although civil and criminal proceedings were formally distinct, both addressed the same transactional facts and alleged harms. The criminal court's reassessment of facts already conclusively determined in civil litigation effectively neutralized the purchaser's legally recognized victim status. This practice reflects the concern that rigid procedural separation may facilitate double exposure to legal risk. The case thus illustrates how a narrow interpretation of *ne bis in idem* can enable victim criminalization in economic disputes.

Victim Criminalization as a Systemic Phenomenon

The empirical pattern identified in this study corresponds closely with the concept of victim criminalization discussed that argues that victim criminalization arises when institutional processes reconstruct victims as offenders through selective fact interpretation and prosecutorial dominance. The present case demonstrates this dynamic, as the purchaser's role shifted from victim to offender despite the absence of new factual developments.

This outcome supports observation that miscarriages of justice often stem from systemic rather than individual errors.¹⁶ By prioritizing narratives of state loss over established findings of fraud victimization, the criminal justice process inverted the victim offender relationship. Such inversion reflects a broader structural vulnerability within economic crime enforcement, where symbolic objectives may override doctrinal safeguards.

¹⁴ Bedner, A. (2017). Autonomy Of Law in Indonesia. *Recht Der Werkelijkheid*, 37(3), 10–36. [Https://Doi.Org/10.5553/Rdw/138064242016037003002](https://Doi.Org/10.5553/Rdw/138064242016037003002)

¹⁵ Langer, M. (2020). Penal abolitionism and criminal law minimalism: here and there, now and then. *Harv. L. rev. f.*, 134, 42.

¹⁶ Ibid

Implications for Economic Crime Enforcement in Indonesia

The discussion reinforces concerns raised in Section 2.4 and Section 2.5 regarding the trajectory of economic crime enforcement in Indonesia. The expansive application of corruption and money laundering statutes to private commercial disputes risks diluting their normative purpose and undermining legal certainty. When criminal law is deployed to compensate for failures in corporate governance or civil enforcement, it departs from its foundational function of addressing moral blameworthiness.

This case illustrates the urgent need for clearer doctrinal guidance and stronger coordination between civil and criminal adjudication. Without such reforms, Indonesia's legal system remains susceptible to over-criminalization and victim criminalization, particularly in high-value economic disputes involving state-affiliated entities. In line with the literature, safeguarding legal certainty and respecting prior judicial determinations are essential to preventing similar miscarriages of justice.

CONCLUSION

This study demonstrates that the criminalization of fraud victims in gold trading disputes is not an isolated judicial anomaly but a systemic consequence of fragmented adjudication within Indonesia's multi-track legal system. By examining conflicting civil and criminal court decisions arising from the same transactional facts, the study reveals how legally recognized victims can be retrospectively repositioned as criminal offenders. Such outcomes reflect a broader trend of over-criminalization, where criminal law is employed beyond its proper function as *ultima ratio*. The findings confirm that the disregard of binding civil judgments in subsequent criminal proceedings fundamentally undermines legal certainty. When courts reconstruct identical facts to produce contradictory legal conclusions, individuals are deprived of predictable legal protection, and the stabilizing function of judicial decisions is weakened. Moreover, the narrow and formalistic application of *ne bis in idem* enables repeated legal exposure based on the same factual matrix, facilitating victim criminalization rather than preventing it. From a doctrinal perspective, the case underscores the need to reassert the principles of personal criminal responsibility and proportionality in economic crime enforcement. Criminal liability should be grounded in demonstrable unlawful benefit and concrete harm, not speculative state losses derived from unresolved civil obligations. The expansive interpretation of corruption and money laundering statutes in private commercial disputes risks diluting their normative purpose and eroding public trust in the justice system. In practical terms, this study highlights the urgency of improving coordination between civil and criminal adjudication in Indonesia. Courts and prosecutors should be required to engage substantively with prior binding judgments to ensure consistency in fact-finding and legal reasoning. Clear doctrinal guidance on the evidentiary weight of civil judgments in subsequent criminal cases is essential to prevent similar miscarriages of justice. Ultimately, safeguarding legal certainty and restraining over-criminalization are indispensable to ensuring that Indonesia's economic crime enforcement remains fair, coherent, and aligned with the rule of law.

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