

## Comparison of the Concept of Unlawful Acts in the Indonesian and Chinese Civil Law Systems

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### ABSTRACT:

The concept of Unlawful Acts (IAC), as a foundation of civil law that maintains the balance of rights and obligations, has different historical roots in Indonesia and China. Indonesia relies on Article 1365 of the fragmentary Dutch Civil Code (KUHP<sub>perdata</sub>), while China, through its modern and integrated Civil Code of the People's Republic of China (2021), encourages this comparison in the context of the two countries' intensive economic relations. This study aims to describe the normative construction of IAC, analyze the differences in the application of elements of responsibility (fault vs. strict liability), evaluate the role of judicial practice, and provide recommendations for reforming Indonesian civil law to be more adaptive to challenges such as defective products and environmental pollution. The analysis shows similarities in the basic elements of IAC (illegible act, damage, causal relationship), but significant differences in codification and principles of responsibility, where China applies strict liability and a reversal of the burden of proof for more effective victim protection. In conclusion, reforming the Indonesian Civil Code through the adoption of strict liability, diversification of compensation, and strengthening the role of judges can increase legal certainty and justice, enrich comparative literature, and support legal harmonization in cross-border economic cooperation.

**Keywords:** Unlawful Acts; Indonesian Civil Law; Chinese Civil Code; Criminal Liability.

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### INTRODUCTION

*Unlawful Acts* (PMH) is a fundamental concept in civil law that plays a crucial role in maintaining the balance of rights and obligations between individuals in society (Juang et al., 2025; Yanuarto et al., 2025). This concept serves as the basis for individuals to seek compensation if harmed by the actions of another party deemed unlawful (Sari, 2020). In the Indonesian context, the legal basis for PMH is found in Article 1365 of the Civil Code, which states that any unlawful act that causes harm to another person requires the person whose fault caused the loss to compensate for it. This article's formulation serves as the foundation for the four essential elements of PMH: the existence of an unlawful act, fault, the occurrence of the loss, and a causal relationship between the act and the loss (Rohim & Romadhoni, 2021).

In China, a concept equivalent to PMH is known as liability for violations or tort liability. Provisions regarding this are comprehensively regulated in the Civil Code of the People's Republic

of China, which came into effect in 2021 (Chen & Wang, 2025; Liu & Liebman, 2025). Chinese civil law places liability for *unlawful acts* as a crucial component of the national legal system. Book VII of the Chinese Civil Code specifically regulates Liability for Tort and covers various forms of conduct that can give rise to legal liability, such as violations of personal rights, environmental damage, defective products, and medical errors (Rodl & Partner, 2020). This codification is the result of a long process of Chinese legal reform since the 1980s aimed at unifying various civil provisions to make them more consistent and in line with the needs of modern society.

Comparatively, the two countries have different legal histories. Indonesia's legal system is heavily influenced by the Dutch civil law system implemented during the colonial period, while China developed its legal system through a process of national legal modernization influenced by continental legal traditions but adapted to domestic social and political characteristics (Ramadhan, 2018). Indonesia tends to maintain a classical civil law system with the principle of fault as the primary basis for liability, while China has developed a more flexible system with the application of strict liability principles in certain cases. These differences in background and direction of legal development make a comparison of the PMH concept between Indonesia and China interesting to study in depth (Rahmadani et al., 2025; Richter et al., 2025).

The urgency of this research can be explained from several aspects. From a normative perspective, the Indonesian Civil Code, a legacy of Dutch law, has been in use for over a century and has not undergone fundamental changes (Marnija & Hoesein, 2025; Turisno et al., 2025). Yet, many modern issues, such as product liability, personal data breaches, and environmental pollution, are not clearly regulated in existing articles. Meanwhile, China has codified a more comprehensive and modern civil law through its 2021 Civil Code. Comparing the two systems provides valuable insights into reforming Indonesian civil law to make it more relevant to current developments (Bone & Yassine, 2025; Maskanah, 2025).

From a practical perspective, the increasingly strong economic relationship between Indonesia and China has created a need for a deeper understanding of the law. According to data from the Investment Coordinating Board, China is one of the largest investors in Indonesia, investing billions of dollars annually. This growing trade and investment relationship undoubtedly opens up the opportunity for cross-border civil disputes, for example, regarding liability for defective products, workplace accidents, or environmental damage (Putri & Ma'arif, 2019). By understanding the differences in civil liability principles between the two countries, legal practitioners and business actors can be better prepared to address cross-jurisdictional legal issues and draft clearer contracts regarding the division of responsibility.

From an academic perspective, comparative studies on PMH between Indonesia and China are still very limited. Most legal research in Indonesia focuses on comparing the national legal system with Dutch or Japanese legal systems. However, China has now emerged as a new legal power in Asia, attracting considerable study due to its successful integration of continental legal principles with unique social and economic needs (DeLisle, 2024). This comparative study can

enrich Indonesian legal literature, particularly in terms of developing a more progressive civil liability doctrine.

Furthermore, it is important to highlight aspects of victim protection and legal certainty. In practice in Indonesia, the implementation of PMH often encounters obstacles, particularly in proving fault and causality. Many victims struggle to prove that their losses were directly caused by the actions of another party. As a result, the legal process is lengthy, and the costs of settlement are high. In China, the civil liability system has been developed in greater detail, including the application of no-fault liability in certain cases, allowing victims to obtain more effective legal protection. This demonstrates that legal reforms that adapt to developments in modern society can improve substantive justice for all parties.

From these various aspects, research on the comparison of the PMH concept in the Indonesian and Chinese civil legal systems holds significant value not only for the development of legal theory but also for legal practice and national policy. This study is expected to provide insight into how the two countries understand and enforce the principle of civil liability and how these differences affect legal certainty and victim protection. Furthermore, the results of this study are expected to provide recommendations for reforming Indonesian civil law to make it more modern, responsive to societal needs, and in line with developments in international law.

Thus, this research not only serves to enrich academic insight but also has strategic value in the context of legal and economic cooperation between Indonesia and China. Through a comprehensive comparative analysis, new directions for civil law reform in Indonesia can be identified that are not solely oriented toward the legacy of colonial law but also open to learning from other countries that have successfully implemented effective legal modernization.

From this background, several research questions emerged that became the focus of this research. First, how are the construction and definition of the elements of PMH regulated in Indonesian and Chinese civil law? Second, how are the principles of fault-based and no-fault liability applied in these two legal systems? Third, to what extent do judicial practices in both countries play a role in shaping and developing the concept of PMH through court decisions? Fourth, what are the implications of the differences in PMH concepts in Indonesia and China for victim protection and legal certainty, particularly in the context of cross-border legal and economic relations?

Based on these research questions, the purpose of this research is to describe and compare the normative construction of PMH in the Indonesian and Chinese civil legal systems, analyze the differences in the application of the elements of civil liability in the two countries, and evaluate how legal practices and policies in each country influence the effectiveness of legal protection for injured parties. This research also aims to identify lessons and inspiration that can be drawn from the Chinese legal system in efforts to reform civil law in Indonesia to be more adaptive to social and economic developments.

## METHOD

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The research method applied in this study was normative legal research. The study focused on reviewing written legal norms found in relevant laws, doctrines, and court decisions. It employed statutory and comparative approaches. The statutory approach examined the provisions governing unlawful acts in the Indonesian Civil Code (KUH Perdata), specifically Articles 1365 to 1380, and compared them with corresponding provisions in the Civil Code of the People's Republic of China, effective since 2021. The comparative approach explored the similarities, differences, and developments in the concept of civil liability for unlawful acts in both countries.

The data used consisted of secondary legal materials, including primary sources such as legislation and jurisprudence, and secondary sources like textbooks, legal journals, and prior research. Data collection involved a literature review of national and international legal sources related to civil legal liability. Data analysis was conducted qualitatively and descriptively to compare and interpret prevailing legal provisions in Indonesia and China, identifying conceptual similarities and differences.

This method aimed to provide a comprehensive understanding of how the two legal systems regard the elements of fault, loss, and causality in unlawful acts, as well as to suggest recommendations for potential harmonization of the PMH concept between Indonesia and China in the context of modern civil law development.

## RESULTS AND DISCUSSION

### Basic Concepts of Unlawful Acts in Indonesian Civil Law

In Indonesia's civil law system, *Perbuatan Melawan Hukum* (PMH), or Unlawful Act, serves as one of the primary instruments for protecting civil rights and resolving disputes beyond contractual relationships. PMH is explicitly regulated under Article 1365 of the Indonesian Civil Code (*KUHPerdata*), which stipulates that "Every unlawful act that causes damage to another person obliges the person who, due to his fault, has caused the loss to compensate for it." This provision serves as the legal foundation for individuals who suffer losses to claim compensation from parties whose actions are deemed unlawful (Windani et al., 2025). In practice, PMH encompasses violations of written legal norms, infringements upon the subjective rights of others, and acts that contravene morality or decency prevailing in society. Thus, the scope of PMH is not confined merely to breaches of statutory law but extends to the violation of social norms and ethical principles recognized by the community.

The concept of PMH in Indonesian law is structured around several cumulative elements that must be satisfied for an act to be categorized as unlawful. First, there must be an act that violates the law, either through an active deed or negligence. Such an act may include breaches of statutory provisions, violations of another person's rights, or conduct contrary to morality and propriety (Cevitra & Djajaputra, 2023). Second, the perpetrator must be held accountable for the act, whether it arises from intent (*dolus*) or negligence (*culpa*). In civil law, this distinction is less rigid, as long as it can be demonstrated that the individual bears responsibility for the consequences of their behavior. Third, there must be demonstrable and measurable losses, whether material, such

as property damage or loss of income, or immaterial, such as emotional distress or defamation. Fourth, there must exist a causal relationship between the unlawful act and the harm sustained (Oktavira, 2022). In other words, the loss suffered by the victim must be the direct and logical result of the defendant's actions.

In judicial practice, PMH frequently forms the legal basis for civil lawsuits in various cases ranging from environmental pollution, consumer rights violations, to defamation on social media (Hutapea et al., 2025). One concrete example reflecting the application of PMH involves a resident suffering damage due to the construction of a tall building adjacent to their home. The building was erected without observing a safe distance, resulting in cracks on the residents' walls and obstruction of natural sunlight. In such circumstances, the homeowner may file a PMH lawsuit against the developer, arguing that the construction was carried out unlawfully by neglecting zoning and environmental safety principles. The homeowner's losses comprising physical damage and diminished living comfort constitute valid grounds for compensation claims.

Another relevant example involves defamation on social media. Suppose a user spreads false information damaging another person's reputation, such as unsubstantiated allegations of fraud or criminal conduct. If proven false and disseminated in bad faith, the victim may file a PMH lawsuit based on defamation. In such cases, immaterial damages including stress, public distrust, and psychological suffering serve as grounds for moral compensation. Lawsuits of this kind not only aim to obtain restitution but also to restore the victim's reputation and deter future misconduct.

PMH also arises in the business and consumer protection context. For instance, a company may market food products containing hazardous substances without properly labeling them. Should a consumer suffering poisoning as a result, they can bring a PMH claim against the company for violating its legal obligation to provide accurate and complete information. Here, losses such as medical expenses, lost wages, and physical suffering serve as legitimate bases for compensation. The concept of PMH in consumer protection has become increasingly vital in the era of digital commerce and globalization, where product information and advertising transparency are essential to safeguard consumer rights.

In all such examples, evidence plays a crucial role in PMH litigation. Plaintiffs must establish that all legal elements of PMH are fulfilled, including demonstrable harm and a clear causal connection between the defendant's act and the resulting loss. Documentary evidence, witness testimony, and expert opinions are indispensable tools in the evidentiary process. Moreover, judges play an active role in assessing the social and ethical dimensions of the alleged unlawful act, ensuring that judicial decisions are not limited to positive law but also reflect justice values upheld within society.

The development of PMH jurisprudence in Indonesia demonstrates the adaptability of this legal doctrine to evolving societal and technological contexts. For example, with the rise of digital platforms, PMH has extended to include cyber-related offenses such as online fraud, data breaches, and misinformation. Courts have increasingly interpreted PMH flexibly, aligning it with contemporary social realities while maintaining the core principles of accountability and fairness.

Consequently, the fundamental concept of PMH in Indonesia's civil law serves as a cornerstone for the protection of civil rights and justice. By providing a clear yet adaptable framework, PMH empowers victims to seek redress for unlawful actions, whether committed by individuals, corporations, or public institutions. This adaptability ensures that PMH remains relevant as an instrument of justice that evolves with society's moral and technological development.

Furthermore, the philosophical underpinnings of PMH are rooted in the principle of *neminem laedere* that no one should cause harm to another. This principle embodies the moral responsibility embedded in civil interactions, emphasizing that freedom of action is always bound by respect for others' rights. In Indonesia's pluralistic legal culture, PMH thus functions not merely as a legal doctrine but also as a moral compass guiding social conduct and reinforcing collective accountability.

Through continuous application in diverse cases, PMH contributes to strengthening civil legal protection mechanisms and fostering a culture of legal awareness among citizens. As noted by Yeni et al. (2025), the dynamic interpretation of PMH ensures that justice remains responsive to modern societal challenges ranging from environmental sustainability to digital ethics. Hence, a profound understanding of PMH is essential for legal practitioners, scholars, and the public, not only to enforce civil rights but also to promote ethical responsibility in social life. Ultimately, PMH reflects Indonesia's commitment to justice and accountability, bridging written law and moral norms to achieve social harmony. As society continues to evolve, the doctrine of *Perbuatan Melawan Hukum* will remain a vital pillar of civil law, ensuring that every act causing harm finds its rightful remedy through the principles of fairness, reasonableness, and moral integrity.

### **The Concept of Tort in the Chinese Civil Law System**

In the Chinese civil law system, the concept equivalent to *Perbuatan Melawan Hukum* (PMH) is known as tort liability, which serves as an essential component in the protection of citizens' civil rights. Tort liability is comprehensively regulated under Book VII of the Civil Code of the People's Republic of China, which came into effect on January 1, 2021. This codification replaced several previous sectoral laws, including the 2009 Tort Liability Law, marking a significant milestone in China's civil law reform (Janssen & Wang, 2021). The primary goal of this regulation is to provide a fair and efficient legal mechanism for resolving civil disputes arising from violations of personal rights, property rights, or other legally protected interests.

Article 1165 of the Chinese Civil Code states that "A person who infringes upon the civil rights and interests of another and causes harm shall bear tort liability." This formulation embodies the fundamental principle that any individual or entity that violates another's rights and causes damage must compensate for the harm. The civil rights protected under this provision include the right to life, health, reputation, privacy, property, and a sound environment. Hence, the scope of tort liability in Chinese law is remarkably broad, covering diverse social and economic aspects of life.

Unlike Indonesia's civil law system, which still relies on the colonial-era KUHPerdata inherited from Dutch law, the Chinese Civil Code represents a modern, systematic, and integrated codification. Book VII of the Civil Code consists of twelve chapters governing various forms of tort liability, including liability for environmental damage, defective products, infringement of reputation and personal name, and medical malpractice (Janssen & Wang, 2021). Each chapter elaborates in detail the elements of liability, rules of evidence, and types of compensation available to victims. This structured approach reflects principles of prudence, social justice, and public interest protection, ensuring that civil rights are protected through both substantive and procedural justice.

Under Chinese law, the essential elements of tort liability include an unlawful act, actual harm, a causal link between the act and the harm, and the fault or responsibility of the actor. However, not all forms of tort liability require proof of fault. In certain cases, such as environmental pollution or defective product liability, Chinese law applies the principle of strict liability, meaning that the perpetrator remains responsible even if no negligence or intent is proven (Wang & Mendelson, 1996). This rule is designed to protect victims' interests and to encourage potential tortfeasors to act cautiously in conducting their activities.

A concrete illustration of tort liability in Chinese law can be seen in a case of air pollution involving an industrial factory in Hebei Province. In this case, a steel manufacturer emitted hazardous substances into the air without adequate filtration systems, causing respiratory illnesses and skin diseases among nearby residents. The residents subsequently filed a lawsuit against the company, arguing that the industrial activity violated their right to a clean and healthy environment and caused physical harm. Pursuant to Articles 1234 and 1235 of the Civil Code, the company was held liable for environmental damage and required to provide compensation to the victims. The court ordered the company to pay medical expenses, rehabilitation costs, and compensation for psychological suffering, emphasizing corporate responsibility toward environmental protection.

Another relevant example involves privacy infringement through facial recognition technology. A shopping mall in Hangzhou was found to be using facial recognition systems to track consumer behavior without obtaining consent. One consumer filed a lawsuit, claiming that the unauthorized use of biometric data violated his right to privacy and posed risks of data misuse. Under Articles 1032 to 1039 of the Civil Code, the right to privacy is a protected personal right, and violations thereof give rise to tort liability. The court ruled that the mall must delete the collected data and compensate the consumer for the privacy breach. This case illustrates how Chinese courts actively uphold personal rights in the context of emerging technologies and data governance.

In addition, product liability is governed by Articles 1206 to 1217 of the Civil Code. For instance, when a child suffers burns from an electronic toy that explodes during use, the parents may file a lawsuit against the manufacturer on the grounds that the product was defective and failed to meet safety standards. In such cases, the manufacturer bears liability for damages, including medical treatment, rehabilitation, and compensation for emotional distress. Notably, proof of fault is not required in defective product cases, which strengthens consumers' position in

seeking justice. This reflects China's effort to align its civil law with global consumer protection standards.

When it comes to burden of proof, Chinese law adopts the principle of reversed burden of proof in specific contexts such as medical malpractice and environmental damage cases. This principle places the obligation on the defendant to prove that they were not at fault or that they acted according to the required standards. The rationale behind this approach is to protect victims who often lack access to technical information or resources necessary to establish causation (Huang & Choi, 2025). Moreover, Chinese law recognizes diverse forms of remedies, including material compensation, moral damages, restitution, public apology, and corrective measures. Such flexibility allows courts to deliver judgments that reflect both justice and social responsibility.

From a normative perspective, the concept of tort liability in Chinese civil law reflects the philosophy of socialism with Chinese characteristics, emphasizing a balance between individual interests and collective welfare. Law is viewed not merely as a mechanism for dispute resolution but also as an instrument for social and economic development. Consequently, the Civil Code's provisions on tort liability are designed to promote social responsibility, prevent violations, and enhance civil rights protection. In judicial practice, Chinese courts are encouraged to consider principles of fairness, reasonableness, and propriety in assessing tort cases, ensuring that the law remains responsive to social values and public morality.

Furthermore, the Chinese approach to tort law is characterized by its adaptability to modern challenges. As issues such as digital privacy, environmental sustainability, and product safety become increasingly significant, Chinese civil law has evolved to address them effectively. The codified framework provides legal predictability while maintaining enough flexibility to respond to technological and societal change. For example, recent cases involving online defamation and unauthorized data collection demonstrate how courts apply traditional tort principles to cyberspace disputes, reinforcing citizens' digital rights under the Civil Code.

In a broader context, China's tort law system contributes to the harmonization of international civil law standards. The integration of strict liability and reversed burden of proof mechanisms aligns China with modern legal systems such as those of the European Union, facilitating cross-border cooperation in areas like environmental protection and consumer safety. Moreover, the Civil Code's emphasis on moral damage and public apology highlights the integration of Confucian ethical values such as social harmony and responsibility into modern legal governance.

In conclusion, the fundamental concept of tort liability in Chinese civil law constitutes a comprehensive, adaptive, and rights-oriented system. Through systematic codification and practical application in real cases, Chinese law provides an effective mechanism for victims to claim justice and compensation. The Civil Code not only strengthens legal protection for citizens but also embodies China's broader goal of fostering social stability and ethical governance. Understanding this concept is crucial in the context of international legal cooperation, regional harmonization, and the ongoing development of responsive national legal systems capable of addressing global challenges.

Therefore, tort liability in China represents a dynamic intersection between law, morality, and social responsibility. It ensures that unlawful acts, whether in the physical world or the digital sphere, are met with appropriate accountability and compensation. As China continues to modernize its legal system, the doctrine of tort liability will remain a vital pillar of civil justice, ensuring that rights are protected, responsibilities are upheld, and harmony between individuals and society is continually reinforced.

### **Conceptual Similarities and Differences between Indonesia and China**

The concept of *Perbuatan Melawan Hukum* (PMH) or Tort in Indonesian and Chinese civil law systems shares a similar purpose as a legal basis for civil liability arising from the violation of others' rights, yet they differ fundamentally in their legal structure, sources, and normative approaches. Both countries recognize that any individual or legal entity causing harm to another through an unlawful act must provide compensation. In Indonesia, PMH is governed by Article 1365 of the Civil Code (KUHPerdara), inherited from the Dutch legal tradition and part of the Continental European system (Suryoutomo & Lindgren, 2025). In contrast, China regulates tort liability in Book VII of the Civil Code of the People's Republic of China (2020), a modern and systematic codification unifying multiple prior laws into a single framework.

A key similarity between the two systems lies in the essential elements of tort liability, which include an unlawful act, fault or responsibility of the actor, actual damages, and a causal relationship between the act and the harm suffered. Both jurisdictions recognize material and immaterial losses and allow victims to seek compensation through judicial mechanisms. Moreover, both Indonesia and China broaden the interpretation of "unlawful act" beyond statutory violations to encompass infringements of subjective rights, moral norms, and societal propriety (Witt, 2016).

Despite these similarities, there are notable conceptual differences in systematic approach and liability principles. Indonesia continues to rely on the Civil Code, which remains fragmentary and has not undergone comprehensive modernization, making judicial interpretation and scholarly doctrine central to legal development. Meanwhile, China has consolidated all tort-related norms within a single code that explicitly regulates various types of civil wrongs, such as environmental pollution, defective products, privacy violations, and medical malpractice. Additionally, China applies the principle of strict liability in specific contexts particularly in defective product and environmental damage cases, where proof of fault is unnecessary. Indonesia, however, still emphasizes the element of fault as a prerequisite for liability, reflecting a more traditional civil law orientation.

Philosophically, Indonesia's PMH doctrine is grounded in individualism and the principle of legality, focusing on personal responsibility and private rights. China's tort law, in contrast, embodies a collectivist legal philosophy that balances individual and societal interests, aiming to preserve social harmony and stability. These distinctions illustrate the differing legal cultures: Indonesia's system prioritizes corrective justice through judicial discretion, while China's approach integrates preventive and restorative justice within a structured codification. Ultimately,

both legal systems seek to uphold fairness and accountability, yet their methods reflect distinct historical, cultural, and institutional foundations in achieving civil justice.

### **Implications and Lessons Learned for Legal Development in Indonesia**

A comparison of the concept of Unlawful Acts (IAC) between the Indonesian and Chinese civil law systems provides several important implications and lessons for legal development in Indonesia, both in terms of substance, structure, and normative approach. One key implication is the need to update and re-codify the Indonesian Civil Code, which still uses a system inherited from the Dutch colonial era. The current IAC is fragmentary and unresponsive to developments in modern society, technology, and the complexity of contemporary legal relations. In contrast, China has successfully integrated various civil law norms into a single codification through the Civil Code of the People's Republic of China (2020), which systematically covers criminal liability in Book VII. This approach provides legal certainty, consistency of interpretation, and efficiency in dispute resolution.

Another important lesson is the application of the principle of objective responsibility (strict liability) in Chinese law, particularly in cases of defective products, environmental pollution, and public services. Indonesia still emphasizes proof of fault as the primary requirement in IAC lawsuits, which often makes it difficult for victims to prove the elements of culpa or dolus. By adopting the principle of objective responsibility in certain areas, Indonesia can strengthen protection for consumers, environmentally impacted communities, and other vulnerable groups. This also aligns with the precautionary and preventive principles, which are increasingly relevant in the industrial and digital era.

Furthermore, the Chinese legal system offers lessons in diversifying forms of compensation. This includes not only financial compensation but also restoration of the original state, public apologies, and other corrective measures. This approach is more oriented towards restorative justice and the comprehensive restoration of victims' rights. Indonesia can develop more varied and contextual forms of compensation, particularly in cases involving immaterial losses and violations of personal rights.

Finally, the development of PMH law in Indonesia needs to strengthen the role of judges in assessing the social context, ethics, and propriety, as is done in the Chinese system, which emphasizes the balance between individual and collective interests. Thus, reform of PMH law in Indonesia should not be merely technical, but also reflect more progressive and adaptive values of social justice and human rights protection.

### **CONCLUSION**

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A comparison of the concept of Unlawful Acts (IAC) in the Indonesian and Chinese civil law systems reveals a shared foundation in establishing civil liability for losses caused by rights violations, but distinct differences in normative approaches and application. Indonesia's system, based on Article 1365 of the Dutch-inherited Civil Code, requires cumulative elements—unlawful act, fault, damage, and causality—and is flexible enough to address social and ethical violations,

though victims often face challenges proving their claims. Conversely, China's 2021 Civil Code offers a more comprehensive and modern framework, integrating various forms of liability including strict liability, with provisions such as reversed burden of proof to better protect victims. While both systems recognize compensation for material and immaterial losses, China's integrated codification and progressive application of strict liability contrast with Indonesia's more fragmented approach. This comparison highlights the need for Indonesian legal reform to address contemporary challenges, adopt strict liability in certain cases, broaden compensation mechanisms, and enhance judicial roles. Future research could explore practical strategies for implementing these reforms in Indonesia and examine the effects of legal harmonization on cross-border civil disputes between the two countries.

## REFERENCES

- Audrey, A., Sosiawan, A., & Oki, A. S. (2020). Peningkatan jumlah fibroblas pada proses penyembuhan luka sayatan tikus wistar (*Rattus norvegicus*) setelah pemberian ekstrak kayu manis (*Cinnamomum burmanii*). *Oral Biology Journal*, 6(1), 25–30.
- Bone, R. A. P., & Yassine, C. (2025). Judicial and administrative approaches to civil service dispute resolution: A comparative study between Indonesia, India, and Egypt. *International Journal of Constitutional and Administrative Law*, 1(1), 21–41.
- Cevitra, M., & Djajaputra, G. (2023). Perbuatan melawan hukum (*onrechtmatige daad*) menurut Pasal 1365 Kitab Undang-Undang Hukum Perdata dan perkembangannya. *Unes Law Review*, 6(1), 2722–2731. <https://review-unes.com/index.php/law/article/view/1074>
- Chen, L., & Wang, J. (2025). The tort law reform under the Chinese Civil Code. *European Review of Private Law*, 33(1).
- Delisle, J. (2024). China's legal system. In *Politics in China*. Oxford Academic. <https://doi.org/10.1093/oso/9780197683200.003.0008>
- Huang, & Choi. (2025). *Burden of proof in China: Legal framework and compliance guide*. China Legal Express. <https://www.chinalegalexperts.com/news/burden-of-proof-china>
- Hutapea, N., Damanik, J., Sitepu, D. K., Purba, V. L., Sibagarian, J. B., & Simanungkalit, L. (2025). Penyuluhan hukum tentang aspek hukum tindakan kekerasan dalam rumah tangga. *Jurnal Pengabdian Masyarakat Sapangambei Manoktok Hitei*, 5(1), 23–29. <https://doi.org/10.36985/42qc4k10>
- Janssen, A., & Wang, J. (2021). Punitive damages under the new Chinese Civil Code: A critical and comparative analysis. *Asia Pacific Law Review*, 29(2), 346–365. <https://doi.org/10.1080/10192557.2022.2033087>
- Juang, N. A., Kaban, M., & Sembiring, R. (2025). Legal certainty regarding the rules for qualifying unlawful acts and defaults in the framework of civil law reform in Indonesia. *Research Horizon*, 5(3), 1019–1028.
- Liu, Z., & Liebman, B. L. (2025). Redefining law in China. *The American Journal of Comparative Law*. <https://doi.org/10.1093/ajcl/avaf025>
- Marnija, M., & Hoesein, Z. A. (2025). The dynamics of criminal law reform in Indonesia: A

- historical and prospective review from the colonial penal code to the 2023. *Fox Justi: Jurnal Ilmu Hukum*, 15(3), 671–678.
- Maskanah, U. (2025). Artificial intelligence in civil justice: Comparative legal analysis and practical frameworks for Indonesia. *Jambura Law Review*, 7(1), 225–242.
- Oktavira, B. A. (2022). Contoh perbuatan melawan hukum dan dasar gugatannya. *Hukum Online*.
- Putri, S. Y., & Ma'arif, D. (2019). Kerja sama ekonomi-politik Indonesia dan Cina pada implementasi program Belt and Road Initiative. *Jurnal Lemhannas RI*, 7(3), 53–66. <https://doi.org/10.55960/jlri.v7i3.78>
- Rahmadani, F., Rakhmawati, F. A., Hidayah, N., Samosir, T., & Suciati, S. M. (2025). Accountability of Land Deed Officials (PPAT) in overcoming duplicate and overlapping certificates in Indonesia. *Pena Justisia: Media Komunikasi dan Kajian Hukum*, 24(1), 718–732.
- Ramadhan, C. R. (2018). Konvergensi civil law dan common law di Indonesia dalam penemuan dan pembentukan hukum. *Mimbar Hukum*, 30(2), 213–229.
- Richter, I., Chang, P., Chiu, P.-G., Danabasoglu, G., Doi, T., Dommenges, D., Gastineau, G., Gillett, Z. E., Hu, A., & Kataoka, T. (2025). The Tropical Basin Interaction Model Intercomparison Project (TBIMIP). *Geoscientific Model Development*, 18(9), 2587–2608.
- Rödl & Partner. (2020). *China's new Civil Code – Part 7: Liability for tort*. Rödl & Partner. <https://www.roedl.com/insights/china-civil-code/part-7-liability-for-tort>
- Rohim, A., & Romadhoni, A. (2021). Tinjauan hukum terhadap perbuatan melawan hukum atas penguasaan sebidang tanah yang telah mencapai daluwarsa menurut KUHPerdara (Studi Putusan Perkara Nomor 19/Pdt.G/2019/PN.Krs). *Justness: Jurnal Hukum Politik dan Agama*, 1(2), 1–28. <https://ejournal.stihzainulhasan.ac.id/index.php/justness/article/view/6>
- Sari, I. (2020). Perbuatan melawan hukum (PMH) dalam hukum pidana dan hukum perdata. *Jurnal Ilmiah Hukum Dirgantara*, 11(1), 53–70. <https://doi.org/10.35968/jh.v11i1.651>
- Suryoutomo, M., & Lindgren, S. (2025). Reconstructing the concept of unlawful acts to address the challenges of modern civil disputes. *Pena Justisia*, 24(3), 8128–8155.
- Turismo, B. E., Natalis, A., Asy'arie, M. A. H. Al, & Anggayasti, U. H. (2025). Beyond textual reform: A semiotic and feminist critique of Indonesian Civil Code. *International Journal for the Semiotics of Law—Revue Internationale de Sémiotique Juridique*, 1–31.
- Wang, K. H., & Mendelson, D. (1996). An overview of liability and compensation for personal injury in China under the General Principles of Civil Law. *Torts LJ*. <https://www.researchgate.net/publication/306226559>
- Windani, S., Sisila, A., Triwani, A. A., & Hesbyana, B. (2025). Analisis perbuatan melawan hukum (PMH) dalam sengketa perdata di Indonesia. *Jurisspectrum: Journal of Law & Society*, 1(3), 82–86.
- Witt, J. F. (2016). *Torts: Cases, principles, and institutions*. CALI eLangdell Press.
- Yanuarto, A., Sunandar, A., & Khair, A. (2025). Legal study of unlawful acts by the opponents in land dispute decision Number 6/Pdt.Bth/2024/PN Bpp. *Jurnal USM Law Review*, 8(2), 797–812.

Yeni, S. B., Nabila, A. M., El Mubarak, F., Abbas, M. S., & Nst, D. R. P. (2025). Pergeseran paradigma perlindungan korban dalam perbuatan melawan hukum: Analisis perbandingan sistem hukum Indonesia dan Prancis. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 3(3), 2567–2576.

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