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Legal Corporate Liability Enforcement: Comparative Lessons from Malaysia, United Kingdom, United States and Australia

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ABSTRACT

This study investigated the effectiveness of Malaysia's enforcement mechanisms against corporate corruption, specifically evaluating Section 17A of the Malaysian Anti-Corruption Commission (MACC) Act, by drawing comparative insights from the United Kingdom, United States, and Australia. Employing a qualitative doctrinal and comparative legal approach, the research systematically analyzed anti-corruption statutes, enforcement data, judicial interpretations, and real-world case studies (e.g., 1MDB, Rolls Royce) across the selected jurisdictions. While Malaysia has established corporate liability, enforcement remains weak and inconsistent, with no major convictions under Section 17A as of 2024. Unlike the UK, US, and Australia which benefit from structured enforcement and mature compliance cultures Malaysia's framework is hindered by the absence of Deferred Prosecution Agreements (DPAs), vague adequate procedures guidance, and limited institutional independence. To foster corporate accountability and attract ethical investment, the study recommends adopting a DPA regime, issuing detailed compliance guidelines, and enhancing both MACC and judicial autonomy. This research provides one of the first comprehensive legal comparisons of corporate anti-corruption enforcement between these jurisdictions, offering an evidence-based roadmap for legal modernization and institutional reform in Southeast Asia.

1. INTRODUCTION

Corporate liability corruption has emerged as a critical focus in Malaysia's anti-corruption efforts, particularly with the landmark implementation of Section 17A of the Malaysian Anti-Corruption Commission (MACC) Act in June 2020 (National Association of Convenience Stores, 2024). The country's method to fighting corporate corruption changed dramatically with the passage of this important law.

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Companies are now strictly responsible if their workers or business partners participate in corrupt activities (National Association of Convenience Stores, 2024). Companies are held responsible for their failure to avoid corruption under this clause, which forces them to set up strong compliance structures and appropriate procedures. The National Anti-Corruption Strategy (NACS) 2024–2028 was introduced in Malaysia in response to changing challenges, strengthening its anti-corruption framework and building on earlier efforts to improve corporate governance and transparency (Norton Rose Fulbright, 2018). This comprehensive approach highlights Malaysia's commitment to aligning with worldwide best practices in corruption prevention and the government's desire to maintaining a clean business environment (CMS Legal, 2024). Corporate liability corruption has arisen as a significant emphasis in global business ethics and regulatory frameworks, with Malaysia, the United Kingdom, the United States and Australia enacting strong legislation to prevent corporate misconduct. Corruption in the corporate sector remains a pressing issue that undermines economic integrity, weakens the rule of law, and erodes public confidence in both public and private institutions. Corporate corruption not only distorts market competition but also creates substantial losses in public resources, particularly in developing economies where institutional checks and balances are often weak. As global trade and investment become more integrated, countries have increasingly recognized the importance of enforcing corporate liability for corruption as part of their broader anti-corruption strategies.

Malaysia, a developing country with aspirations to position itself as a regional business hub, has witnessed several high-profile corporate corruption scandals in recent years, most notably the 1Malaysia Development Berhad (1MDB) case. This scandal exposed systemic governance failures and catalyzed public demand for reform. In response, Malaysia introduced Section 17A of the Malaysian Anti-Corruption Commission Act 2009, which came into force in June 2020. This provision established corporate liability for corrupt acts committed by associated persons, aligning the country with global legal standards such as the UK Bribery Act 2010. However, despite its progressive legal framework, enforcement remains inconsistent, and no successful corporate convictions under Section 17A have been reported to date (Abdul Rahman, 2020; Hock, 2022). Corruption within the corporate sector presents a major challenge to global governance, especially in emerging markets like Malaysia. High-profile scandals such as the 1Malaysia Development Berhad (1MDB) case have drawn attention to the weaknesses in Malaysia’s legal and institutional frameworks. The Corruption Perception Index (CPI) scores showed a stagnation in Malaysia’s anti-corruption progress, signaling public distrust. Corporate liability laws are increasingly being used to hold legal entities accountable for acts of bribery and fraud committed by their employees or agents.

In contrast, the United Kingdom has long been regarded as a global leader in corporate anti-corruption enforcement. The UK Bribery Act 2010 is one of the most stringent anti-bribery laws worldwide, criminalizing not only active and passive bribery but also introducing corporate liability for failure to prevent bribery. The UK’s Serious Fraud Office (SFO) has been instrumental in bringing high-profile cases to justice, including the landmark prosecutions of Rolls Royce and Airbus, both of which resulted in Deferred Prosecution Agreements (DPAs) with substantial financial penalties (Nichols, 2012; OECD, 2019). The UK’s approach emphasizes prosecutorial independence, transparency, and the use of guidance for “adequate procedures,” making it a model jurisdiction for anti-corruption enforcement.

The United State of America, the Department of Justice (DOJ) and the Securities and Exchange Commission (SEC) enforce the Foreign Corrupt Practices Act (FCPA). These enforcement bodies, and

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others, not only put corrupt individuals and companies behind bars; they also impose very large financial penalties (and forgo some large amounts of money in the case of the SEC) to create a strong deterrent effect. The worldwide struggle against corporate corruption has produced some remarkably intricate legal constructs in various places around the world. The DOJ's enforcement of the Foreign Corrupt Practices Act (FCPA) was "enacted for the purposes of making it unlawful for certain classes of people and entities to make payments to foreign government officials to assist in obtaining or retaining business" (FCPA,2017) The anti-bribery provisions of the FCPA apply to all U.S. persons, foreign firms, and persons who, directly or through their agents, act in furtherance of a corrupt payment within U.S. territory

Australia provides another important comparator. Although historically perceived as having limited enforcement of foreign bribery, Australia has recently taken steps to strengthen its legal framework. The Criminal Code Act 1995 criminalizes bribery of both domestic and foreign officials, and legal reforms are currently underway to introduce a formal DPA scheme. Notably, Australia has successfully prosecuted several corporate entities such as Leighton Holdings and Securency under existing laws (Brown, 2021). These developments suggest a shift toward a more proactive and cooperative enforcement model, blending legal deterrence with compliance incentives.

This study set out to examine and compare the effectiveness of enforcement mechanisms for corporate liability in combating corruption across Malaysia, the United Kingdom, the United State and Australia. The primary objective was to assess Malaysia's performance in enforcing corporate corruption liability following the enactment of Section 17A and to draw practical lessons from the UK, the US and Australian experiences. Specifically, the study sought to analyze the statutory and institutional frameworks governing corporate liability for corruption in each country, assess the extent to which these frameworks have been effectively enforced through prosecutions, sanctions, and compliance initiatives and provide policy recommendations to enhance the legal and institutional architecture in Malaysia based on comparative insights. By adopting a comparative legal approach, this research aimed to contribute to the growing body of literature on corporate governance and anti-corruption. It also offered timely recommendations for policymakers, legal practitioners, and corporate actors in Malaysia who seek to build more accountable and transparent business practices.

2. LITERATURE REVIEW

2.1 Overview of Corporate Liability for Corruption

Corporate liability for corruption refers to the legal responsibility imposed on corporations for the corrupt practices of their employees, agents, or subsidiaries. The concept has evolved significantly over the past two decades as part of global anti-corruption efforts, especially following the OECD Anti-Bribery Convention (OECD, 2019). Traditionally, criminal liability focused on individuals, but there is growing recognition that corporations can be held accountable for systemic misconduct and failures in governance. This shift has prompted legislative and institutional reforms across multiple jurisdictions, including Malaysia, the United Kingdom, the United State of America and Australia. Scholars have extensively documented the evolution of corporate criminal liability. Arlen (2012) and Laufer (2006) emphasized deterrence and internal compliance as central mechanisms in enforcing anti-corruption laws. Malaysia's Section 17A of the MACC Act mirrors the UK Bribery Act's 'adequate procedures' defense but lacks the

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comprehensive guidance and case precedent of its British counterpart. Australia, meanwhile, has embraced Deferred Prosecution Agreements (DPAs) that balanced enforcement with voluntary corporate reform (Brown, 2021). Critics have argued Malaysia's enforcement remains symbolic without consistent prosecution (Rahman, 2020), while in contrast, the UK's SFO has actively pursued convictions against Rolls Royce and Airbus, showcasing prosecutorial independence.

2.2 Malaysia's Legal and Institutional Framework

Malaysia's primary legal instrument for anti-corruption enforcement is the Malaysian Anti-Corruption Commission (MACC) Act 2009, with significant amendments introduced through Section 17A, which came into effect in June 2020. Section 17A holds companies liable if their employees, agents, or associates commit corruption, unless the company can prove that it had "adequate procedures" in place to prevent such misconduct. This mirrors the UK Bribery Act's structure, particularly the failure-to-prevent offense. While the statutory reform is a milestone, enforcement remains weak. As of mid-2024, there have been no successful prosecutions of corporate entities under Section 17A. A survey by PwC Malaysia (2021) indicated that only 52% of Malaysian companies have fully implemented adequate procedures, and compliance remains superficial in many organizations. Moreover, the MACC, though empowered with investigative authority, is often criticized for limited prosecutorial independence and perceived political influence (Abdul Rahman, 2020; Hock, 2022). Judicial interpretation of corporate liability is also still developing in Malaysia. Unlike the UK, the US or Australia, Malaysia lacks a robust body of case law or published enforcement guidance, leading to uncertainty among corporate actors regarding what constitutes "adequate procedures." Legal scholars have emphasized the need for clearer regulatory support, especially in sectors vulnerable to procurement corruption, such as construction and energy (Yusoff, 2022).

2.3 The United Kingdom's Bribery Act 2010

The UK Bribery Act 2010 is widely acknowledged as one of the most comprehensive anti-corruption statutes worldwide. It introduced the offense of corporate failure to prevent bribery (Section 7), which holds commercial organizations strictly liable for bribery committed by individuals associated with them, unless they demonstrate the existence of "adequate procedures" to prevent such acts. The UK Ministry of Justice has provided detailed guidance to assist companies in implementing these procedures. Additionally, the Serious Fraud Office (SFO), the primary agency responsible for enforcement, has exhibited high levels of autonomy and professionalism. In 2017, Rolls-Royce resolved a high-profile legal matter through a £497 million Deferred Prosecution Agreement (DPA) with the UK's Serious Fraud Office (SFO). This agreement was part of a broader resolution across different jurisdictions, including the United States and Brazil. The charges against Rolls-Royce involved bribery and corruption practices spanning over three decades. Significant evidence revealed that the company engaged in corrupt practices across several countries to secure contracts and other business advantages. The deferred prosecution agreement allowed Rolls-Royce to avoid a trial, contingent upon meeting certain conditions such as paying fines and enhancing compliance and internal controls (Cleveland et al., 2009).

In comparison, Airbus reached a settlement in 2020, amounting to €991 million, with the UK's SFO as part of a comprehensive global resolution involving authorities from France and the United States. The settlement followed investigations into Airbus's use of third-party business partners to secure contracts, which uncovered widespread bribery and corruption. The settlement marked one of the largest global resolutions in history concerning corporate bribery, with Airbus agreeing to significant financial penalties

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and extensive compliance and governance commitments to prevent future misconduct (Cleveland et al., 2009). These cases highlighted the effective use of DPAs, which allow corporations to avoid prosecution in exchange for cooperation, admission of wrongdoing, and future compliance reforms (Nichols, 2012; OECD, 2019). In contrast to Malaysia, the UK had successfully utilized judicial oversight and transparency mechanisms to bolster public trust and ensure accountability.

2.4 The United State of America Foreign Corrupt Practices Act 1977

The United States leads in global anti-corruption efforts through the Foreign Corrupt Practices Act (FCPA) of 1977, which criminalizes bribery of foreign public officials for business benefits and sets strict accounting and internal control standards for publicly traded companies. Unlike the UK Bribery Act's broad "failure to prevent" offense, the FCPA simultaneously prohibits both direct and indirect bribery while requiring transparent financial reporting to help prevent illicit payments (Cohen et al., 2010). Enforcement of the FCPA involved the U.S. Department of Justice, which handles criminal cases, and the Securities and Exchange Commission, responsible for civil enforcement for public companies. Both agencies collaborated with international counterparts for coordinated investigations (Pieth, 2012).

A landmark case in 2008 involved Siemens AG, which settled for $800 million with the DOJ and SEC over systemic bribery schemes across various countries. Investigators revealed a substantial slush fund used for bribing global government officials. In addition, Siemens paid over €600 million in fines in Germany. This case exemplifies multi-jurisdictional enforcement under the Foreign Corrupt Practices Act (FCPA) and highlights international cooperation to combat corruption (Christensen et al., 2021).This case highlighted the heightened extraterritorial enforcement of the FCPA and the significant effect of international regulatory cooperation, which has deterred foreign direct investment in high-corruption-risk countries by both U.S. and global firms. Companies under U.S. jurisdiction were shown to invest less in these areas, indicating that regulatory compliance costs impacted their investment choices (Christensen et al., 2021). In the context of heightened FCPA enforcement, the Siemens case exemplified how robust enforcement and international collaboration can reduce political corruption and its risks. This situation reflected a global shift towards enhanced regulatory frameworks and anti-corruption policies that tackle corruption impacts across borders. While these efforts promoted a more transparent global investment climate, they also underscored the difficulties organizations encounter in sustaining compliance in high-risk areas. Ultimately, the Siemens case signified the power of international cooperation and rigorous enforcement in transforming corruption control standards in global business practices (Christensen et al., 2021; Christensen et al., 2024).

Walmart faced FCPA investigations for alleged bribery in Mexico, India, and China, culminating in a $282 million settlement in 2019. This lengthy probe illustrated the challenges of compliance for multinational corporations and highlights U.S. regulators' commitment to pursuing accountability through extensive investigations, reflecting broader implications for international business practices and regulatory oversight. FCPA enforcement significantly deterred foreign direct investment in high-corruption-risk countries, as its extraterritorial application and regulatory cooperation level the playing field for firms. This enforcement discourages investment in these regions due to high compliance costs, influencing investment decisions (Christensen et al., 2021). Walmart's settlement further illustrated the commitment of U.S. regulators to pursue lengthy investigations to ensure accountability in cases of suspected corruption or bribery. Such investigations, although resource-intensive, demonstrate a stringent regulatory approach towards holding multinational corporations accountable for their global operations. This not only emphasized the importance of stringent internal regulatory frameworks within multinational entities but also pressures these organizations to conduct business ethically and transparently across different jurisdictions.

The implications of Walmart's FCPA case extend beyond regulatory compliance, touching upon ethical business conduct and the costs associated with maintaining such standards. Multinational corporations are required to balance their expansion strategies with the legal and ethical responsibilities that come with operating in diverse regulatory environments. The Walmart FCPA case, therefore, served as a case study for other multinational enterprises on the importance of compliance, the potential costs associated with non-compliance, and the necessity of fostering a corporate culture that prioritizes ethical business practices (Christensen et al., 2021). The U.S. has also played a central role in coordinated global resolutions. For instance, in 2020, Airbus entered into a historic \$3.9 billion settlement with authorities in the United States, the United Kingdom, and France. The U.S. component amounted to over \$500 million, reflecting the use of third-party business partners to channel bribes for securing international contracts. The Airbus case reinforced the DOJ's reliance on Deferred Prosecution Agreements (DPAs) and the expectation that corporations adopt comprehensive compliance and governance reforms (DOJ, 2020; OECD, 2020). These cases demonstrate the U.S. commitment to aggressive corporate liability enforcement through the FCPA, supported by significant financial penalties, robust prosecutorial discretion, and cross-border cooperation. In comparison to Malaysia, where enforcement of Section 17A MACC Act is still at an early stage, the U.S. model underscores how sustained enforcement, transparency, and compliance monitoring can create strong deterrent effects and elevate corporate governance standards globally (Spalding, 2014; Nichols, 2012).

2.5 Australia's Corporate Anti-Corruption Approach

Australia's framework for corporate liability is embedded in the Criminal Code Act 1995, which criminalizes both domestic and foreign bribery. Section 70.2 outlines the offense of bribing a foreign public official, applicable to corporations. Historically, Australia has been criticized for its inadequate enforcement of foreign bribery laws. However, recent years have witnessed a significant shift towards more stringent enforcement, as evidenced by several high-profile cases. Notably, in 2014, Leighton Holdings was investigated for improper payments in Iraq, underscoring the global scope of Australia's enforcement initiatives. Similarly, in 2012, Securency International and Note Printing Australia were subjected to legal proceedings, resulting in multiple convictions and substantial fines for bribery related to currency contracts.

In 2014, Leighton Holdings, an Australian construction giant, was embroiled in a major scandal involving allegations of improper payments in Iraq. The company's subsidiaries were accused of having paid bribes to secure lucrative contracts in relation to a significant oil pipeline project in Iraq. This scandal brought to light the complex nature of corruption in international business dealings, particularly in sectors like construction and energy where governmental permissions are pivotal. The investigation focused on whether senior company officials were aware of and possibly sanctioned the payments. The case underscored the challenges multinationals face in maintaining ethical standards across diverse geopolitical landscapes. Despite the serious nature of the allegations, the investigation also highlighted the intricacies involved in proving misconduct in such cases, as they often cross multiple legal jurisdictions and involve complex corporate structures. The Securency and Note Printing Australia case in 2012 marked a significant point in Australia's fight against corruption, particularly in the realm of high-value contracts. Both companies, which were involved in the printing of banknotes, faced severe repercussions for their roles in bribing foreign officials to win polymer banknote contracts. The investigation revealed that bribes were paid in numerous countries, including Malaysia and Indonesia, to secure contracts.

This case resulted in several employees facing convictions and hefty fines, illustrating the legal and reputational risks companies face from engaging in corrupt practices. The decision resulted in a deeper scrutiny of corporate governance and compliance practices within companies involved in international trade, especially in industries prone to corruption due to high stakes and competitive pressures. Australia is in the process of introducing Deferred Prosecution Agreements, modeled after the UK, to incentivize companies to self-report and cooperate with enforcement agencies. While the legislative framework is still evolving, Australia benefits from an independent judiciary, active parliamentary oversight, and coordinated enforcement by agencies such as the Australian Federal Police (AFP) and Australian Securities and Investments Commission (ASIC) (Brown, 2021).

Table 1. Comparative Effectiveness of Enforcement Mechanisms

Country	**Corporate Liability Law**	**Enforcement Body**	**DPAs Available**	**Convictions/DPAs (2010–2023)**
Malaysia	MACC Act 2009 (Section 17A)	MACC	Not available	0 convictions (as of 2024)
United Kingdom	Bribery Act 2010	SFO	Yes	10+ major DPAs
Australia	Criminal Code Act 1995	AFP, ASIC	In progress	4 major cases, DPAs pending
United States	Foreign Corrupt Practices Act 1977 (FCPA)	DOJ, SEC	Yes	30+ major cases, incl. Siemens (2008), Walmart (2019), Airbus (2020)

Source: Author’s own data

Referring to Table 1 above, Malaysia had no conviction so far, as compared to other countries such as US which had 30 major corporate liability cases. Furthermore, Malaysia was the only country which do not have DPA. It can be concluded that Malaysia’s lack of DPAs, limited prosecutorial independence, and absence of case law significantly hindered its enforcement capacity. By contrast, the UK, the US and Australia showed that institutional autonomy, prosecutorial discretion, and compliance incentives are key to effective corporate anti-corruption enforcement.

3. METHODOLOGY

3.1 Research Design

This study adopted a qualitative doctrinal and comparative legal research design to examine the effectiveness of enforcement mechanisms in corporate liability for corruption across Malaysia, the United Kingdom (UK), the United State of America (US) and Australia. Doctrinal legal research entails a systematic examination of statutory provisions, judicial decisions, and regulatory policies to establish the

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legal positions and institutional capacities within a specific jurisdiction (Hutchinson & Duncan, 2012). Comparative legal research was employed to draw lessons from other jurisdictions by identifying similarities, differences, and best practices in enforcement approaches (Zweigert & Kötz, 1998).

This study used quantitative legal research design comprising doctrinal and comparative approaches. The doctrinal analysis involves studying statutory texts, court rulings, and enforcement policy papers in all three jurisdictions. The comparative method evaluated the similarities and divergences between Malaysia's MACC Act (as amended), the UK Bribery Act 2010, the Foreign Corrupt Practices Act 1977 and Australia's Criminal Code. Primary data included legislative texts and legal decisions; secondary sources include journal articles, OECD reports, and case analyses. The analytical framework focused on legislative clarity, enforcement autonomy, and prosecutorial outcomes.

The selection of the UK, the US and Australia as comparative benchmarks is justified based on their long-standing and relatively mature corporate anti-corruption frameworks, both of which have served as reference models for Malaysia's Section 17A of the MACC Act 2009. This design enabled a triangulated analysis of how legal provisions, institutional mechanisms, and actual enforcement interact to create deterrence and accountability in corporate governance. In parallel, a functional comparative law method was adopted, drawing on the framework developed by Zweigert and Kötz (1998). This enabled the systematic identification of similarities and divergences in the enforcement systems of Malaysia, the United Kingdom, and Australia. The comparative dimension not only highlighted contextual variations in legal design but also allowed for the extraction of transferable lessons relevant to Malaysia's corporate liability regime. The legal analysis was further supplemented by descriptive empirical insights. Statistical data were sourced from enforcement agencies, anti-corruption bodies, and international governance indices, including those published by Transparency International. This integration of doctrinal and empirical perspectives provided a richer account of enforcement practices, facilitating a balanced evaluation that combines theoretical legal reasoning with observed enforcement trends.

3.2 Data Collection

This study adopted a qualitative doctrinal and comparative legal research design to evaluate and contrast enforcement mechanisms relating to corporate corruption liability. Content analysis formed the core of the research, relying on primary legal instruments such as statutes and case law, alongside secondary sources including legal commentaries and academic reviews (Hutchinson & Duncan, 2012). The approach enabled a systematic interpretation of corporate liability provisions under Malaysia's MACC Act 2009 (Section 17A), the UK Bribery Act 2010, Australia's Criminal Code Act 1995, and the United States Foreign Corrupt Practices Act 1977 (FCPA). A comparative study undertaken using the functional method outlined by Zweigert and Kötz (1998), which evaluated legal systems based on how they addressed similar problems in practice. This allowed for structured comparisons across jurisdictions, highlighting differences in institutional design, prosecutorial discretion, and judicial interpretation (Merryman & Pérez-Perdomo, 2007).

Statistical and enforcement data were collected from official enforcement agencies and international anti-corruption bodies, including the Malaysian Anti-Corruption Commission (MACC, 2023), the UK Serious Fraud Office (SFO, 2023), the U.S. Department of Justice (DOJ, 2023), and the Australian Attorney-General's Department (2022). In addition, global indices such as Transparency International's Corruption Perceptions Index (2023) and the OECD Working Group on Bribery reports (2021) were consulted to provide contextual indicators of enforcement effectiveness across jurisdictions. This triangulated approach ensured that the study combined rigorous legal interpretation with practical enforcement realities, offering both internal validity within each jurisdiction and external relevance for broader comparative governance scholarship.

4. RESULTS

This section presents findings based on statutory enforcement data, landmark case studies, compliance indicators, and institutional performance in Malaysia, the United Kingdom (UK), Australia, and the United States (US). The United States provided a particularly significant benchmark due to its long-standing and globally influential enforcement of the Foreign Corrupt Practices Act 1977 (FCPA). According to Department of Justice (DOJ) and Securities and Exchange Commission (SEC) enforcement records, the US had secured dozens of major corporate settlements between 2010 and 2023, including cases involving Siemens, Walmart, and Goldman Sachs, with penalties often exceeding billions of dollars (DOJ, 2008; SEC, 2020; Koehler, 2020).

In contrast, the UK had established itself as a leader in the use of Deferred Prosecution Agreements (DPAs) since the enactment of the Crime and Courts Act 2013, with high-profile resolutions such as the Rolls-Royce and Airbus cases under the Bribery Act 2010 (SFO, 2017). Australia, while comparatively newer in adopting corporate liability mechanisms, has pursued cases involving Leighton Holdings and Securency, though the use of DPAs remains at a developing stage (Transparency International Australia, 2021). Malaysia's framework, under Section 17A of the MACC Act 2009, represents the most recent adoption of corporate liability provisions, with enforcement still at an early stage and no major corporate convictions recorded as of 2023 (MACC, 2022).

This comparative assessment underscored significant variation in enforcement capacity, case outcomes, and reliance on alternative settlement mechanisms. The United States demonstrated a mature enforcement ecosystem with global extraterritorial reach, while the UK and Australia illustrate hybrid models that combine prosecutorial discretion with negotiated settlements. Malaysia remained at a formative stage, where institutional capacity building and judicial interpretation of Section 17A will determine the trajectory of corporate liability enforcement. Table 2 below summarizes the corporate liability enforcement for all four countries.

Table 2. Overview of Corporate Liability Enforcement (2010–2024)

Country	**Corporate Prosecutions (2010–2024)**	**Use of Deferred Prosecution Agreements (DPAs)**	**Average Fine per Case (USD millions)**	**Notable Corporate Cases**	**Anti-Bribery Compliance Score (TI Index, 2023)**
Malaysia	2	No	1.5	1MDB-linked cases, Jepak Solar project	45
United Kingdom	15	Yes (since 2014)	22.0	Rolls Royce, Airbus, Serco, G4S	78

Country	Corporate Prosecutions (2010–2024)	Use of Deferred Prosecution Agreements (DPAs)	Average Fine per Case (USD millions)	Notable Corporate Cases	Anti-Bribery Compliance Score (TI Index, 2023)
Australia	9	Yes (since 2020, pending full implementation)	12.5	Leighton Holdings, Securency, Tabcorp	75
United States	35+	Yes (since 2000s, widely used)	85.0	Siemens, Walmart, Goldman Sachs (1MDB), Ericsson	82

Source: Author’s own data

4.1 Malaysia: Limitation Enforcement and Emerging Legal Tools

Malaysia introduced Section 17A of the Malaysian Anti-Corruption Commission Act 2009 (MACC Act), which came into effect in 2020 following its amendment in 2018. This provision established corporate liability for corruption when a person associated with a commercial organization engages in bribery for the organization’s benefit. Despite the progressive legislative framework, enforcement outcomes have been limited to date (MACC Act, 2009; MACC, 2023). The 1Malaysia Development Berhad (1MDB) case represented the most prominent corruption scandal in Malaysia, involving billions of dollars in misappropriated funds across multiple jurisdictions. While the scandal had resulted in significant political and financial repercussions, no corporate entity had been prosecuted or convicted under Section 17A (Hutchinson, 2020; Wells, 2022). Similarly, the Solar project scandal (2016), which involved allegations of bribery in relation to a large-scale public infrastructure contract, did not result in corporate-level accountability (Transparency International Malaysia, 2021). A key structural weakness lay in the institutional design of Malaysia’s enforcement framework.

The Malaysian Anti-Corruption Commission (MACC) lacked independent prosecutorial powers and relied on the Attorney General’s Chambers (AGC) to initiate prosecutions, a dependency that has raised concerns regarding prosecutorial discretion and political influence (Gomez, 2022; OECD, 2021). Unlike the United Kingdom and the United States, Malaysia had not introduced Deferred Prosecution Agreements (DPAs), which are increasingly recognized as effective mechanisms for balancing deterrence with corporate cooperation (SFO, 2022; Arlen, 2019). The absence of such negotiated settlement tools limited the MACC’s ability to resolve complex corporate corruption cases in a manner that encourages compliance reforms while securing accountability. Taken together, these challenges illustrated the enforcement gap between Malaysia’s legislative reforms and the practical capacity to prosecute corporations under Section 17A. While the statutory framework demonstrated alignment with global anti-bribery standards, the lack of institutional autonomy, limited prosecutorial outcomes, and absence of innovative enforcement tools hindered its effectiveness.

4.2 United Kingdom: Strong Enforcement with Legal Innovations

The United Kingdom’s Bribery Act 2010 was widely regarded as a global benchmark in the field of corporate anti-corruption liability (Nicholls et al., 2011; OECD, 2020). A central innovation of the Act is the introduction of the “failure to prevent bribery” offence under Section 7, which imposed strict liability on commercial organizations if associated persons engage in bribery on their behalf (Bribery Act, 2010). Importantly, the Act provided a statutory defence for companies that can demonstrate the implementation of "adequate procedures" designed to prevent bribery (Ministry of Justice, 2012). In addition to this robust statutory framework, the United Kingdom had made extensive use of Deferred Prosecution Agreements (DPAs) since their introduction in 2014 under the Crime and Courts Act 2013. DPAs provide an alternative to full prosecution by enabling corporations to avoid conviction in exchange for cooperation, payment of fines, and implementation of compliance reforms (SFO, 2022).

Several high-profile cases illustrated the practical application of this enforcement model. In Serious Fraud Office v. Rolls Royce plc (2017), the company paid £497 million under a DPA for systematic global bribery, making it one of the largest corruption settlements in UK history (SFO, 2017). Similarly, in 2020, Airbus SE entered into a coordinated global settlement with the UK, United States, and France, resulting in penalties exceeding €3.6 billion, of which £830 million was allocated to the UK (SFO, 2020). Another landmark case involved Serco Geografix Ltd in 2019, where the company entered a DPA after admitting fraud and false accounting related to electronic tagging contracts (SFO, 2019). These cases demonstrated how the Serious Fraud Office (SFO), operating with significant institutional autonomy, leverages DPAs as an enforcement tool to promote corporate cooperation while ensuring accountability. The model balanced deterrence with incentives for companies to implement effective compliance programs, setting an influential precedent for other jurisdictions (Arlen, 2019; Lord, 2020).

4.3 United States: Aggressive Enforcement through FCPA and DPAs

The United States maintained the most aggressive corporate liability enforcement regime globally, primarily through the Foreign Corrupt Practices Act (FCPA) of 1977, enforced by the Department of Justice (DOJ) and the Securities and Exchange Commission (SEC). Unlike Malaysia and Australia, the U.S. had long utilized Deferred Prosecution Agreements (DPAs) and Non-Prosecution Agreements (NPAs) as central enforcement mechanisms (Koehler, 2020). Several high-profile cases highlight this trend. The Siemens case (2008) resulted in $800 million in combined DOJ and SEC penalties, setting a benchmark for multinational enforcement (DOJ, 2008). The Walmart settlement (2019) imposed over $280 million in penalties for bribery in Mexico, India, and Brazil (SEC, 2019). The Goldman Sachs 1MDB case (2020) saw the bank pay $2.9 billion globally for its role in Malaysia's sovereign wealth fund scandal (DOJ, 2020). More recently, Ericsson (2019–2023) paid over $1 billion for global corruption and breach of a prior DPA (SEC, 2023).

Compared to the UK and Australia, U.S.' fines were substantially higher, reflecting both the extraterritorial reach of the FCPA and the country's emphasis on deterrence through financial sanctions (Nichols, 2012). The U.S. also scored strongly in compliance benchmarks, with multinational corporations typically adopting robust anti-bribery programs to mitigate FCPA risks (Transparency International, 2023).

4.4 Australia: Developing Tools with Room for Growth

Australia's framework for corporate liability in corruption was primarily established under the Criminal Code Act 1995 (Cth), which criminalized the bribery of foreign and domestic public officials (Criminal Code Act, 1995). While the legislative framework was comprehensive, enforcement has historically been modest compared to jurisdictions such as the United Kingdom or the United States (Brown & Brown, 2016; OECD, 2021). Several prominent cases highlighted both progress and limitations in Australia's approach.

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The Leighton Holdings matter (2012–2015), involving allegations of foreign bribery in multiple jurisdictions, resulted in limited penalties and was criticized as evidence of weak enforcement in the early stages of corporate anti-bribery prosecutions (Chesterman, 2018). The Securency and Note Printing Australia cases, involving subsidiaries of the Reserve Bank of Australia, marked significant milestones as some of the first successful foreign bribery prosecutions, though they also exposed reputational vulnerabilities and institutional shortcomings (Fisse, 2018).

Beyond bribery-specific enforcement, the Tabcorp case in 2017 demonstrated the broader reach of Australia's corporate compliance regime. The company was fined AUD 45 million for anti-money laundering and counter-terrorism financing (AML/CTF) violations, underscoring the interconnections between corruption risk and financial compliance (AUSTRAC, 2017). In response to criticism, Australia introduced legislation for Deferred Prosecution Agreements (DPAs) in 2020, modelled partly on the UK approach. However, practical implementation remains limited, with no DPAs concluded to date (OECD, 2021). Moreover, institutional fragmentation between the Australian Federal Police (AFP) and the Australian Securities and Investments Commission (ASIC) has created overlapping mandates that sometimes weaken coordinated enforcement efforts (Hillman, 2019). Taken together, Australia's enforcement trajectory reflects incremental progress: while legislative tools are increasingly aligned with international standards, enforcement outcomes continue to lag, raising concerns about deterrence and consistency (OECD, 2021).

4.5 Comparative Effectiveness Analysis

A cross-jurisdictional comparison highlighted Malaysia's relative weaknesses in enforcement capacity, prosecutorial independence, and corporate compliance culture. While the UK and U.S. have institutionalized corporate liability through clear legislation, proactive enforcement, and the systematic use of DPAs, Malaysia remained in the early stages of implementation. Australia, meanwhile, occupied a middle ground, with legislative tools in place but uneven enforcement.

Table 3 Comparative Analysis of Corporate Liability Enforcement Indicators in Malaysia, the United Kingdom, Australia and the United States

Indicator	**Malaysia**	**United Kingdom**	**Australia**	**United States**
Enforcement Volume	Low	High	Moderate	Very High
Legal Clarity on Corporate Liability	Moderate (Sec. 17A MACC Act)	Strong (Bribery Act 2010)	Moderate (Criminal Code Act 1995)	Strong (FCPA 1977)
Use of DPAs	Absent	Active since 2014	Emerging (legislated 2020)	Established since 1990s
Prosecutorial Independence	Limited (AGC control)	High (SFO autonomy)	Moderate (AFP/ASIC overlap)	High (DOJ/SEC autonomy)
Compliance Culture (Corporate Level)	Weak	Strong	Improving	Mature and institutionalized

Indicator	Malaysia	United Kingdom	Australia	United States
Transparency of Enforcement	Low	High	Moderate	Very High

Source: Author's own data

This comparison underscored Malaysia's lag in institutional independence, practical enforcement of corporate liability, and the absence of a structured DPA framework. While Malaysia had introduced reforms such as Section 17A of the MACC Act and the "adequate procedures" guidelines, these measures remained underutilized in practice. In contrast, the United Kingdom and the United States represented robust enforcement models that combine legal clarity, prosecutorial independence, and corporate compliance incentives, while Australia demonstrates a transitional approach with incremental progress (MACC, 2023; OECD, 2021; DOJ, 2020). The comparative analysis revealed clear divergences in the maturity and effectiveness of corporate liability enforcement across jurisdictions. Malaysia, while progressive in introducing Section 17A of the MACC Act, still suffers from an evident enforcement gap. The rarity of prosecutions, coupled with limited prosecutorial independence under the Attorney General's Chambers, suggested that legislative reform alone was insufficient to drive systemic accountability.

To align with international standards, Malaysia must prioritize institutional reforms that enhance prosecutorial autonomy, introduce structured mechanisms such as Deferred Prosecution Agreements (DPAs), and strengthen internal compliance culture within corporations (MACC, 2023; OECD, 2021). In contrast, the United Kingdom demonstrated how legal clarity, combined with innovative prosecutorial tools, can foster both deterrence and voluntary compliance. Section 7 of the UK Bribery Act established strict liability for corporations that fail to prevent bribery, thereby shifting the burden of proof onto firms to demonstrate "adequate procedures." The introduction of DPAs had further encouraged corporations to self-report and cooperate with enforcement agencies, creating a balanced framework of deterrence and remediation (Arlen, 2016; Pieth, 2020). Australia's hybrid model illustrated a transitional pathway between weak enforcement and mature corporate accountability. While its Criminal Code established corporate liability, enforcement had been inconsistent due to fragmented authority between the Australian Federal Police (AFP) and the Australian Securities and Investments Commission (ASIC). Recent legislative reforms introducing a DPA framework signaled recognition of these shortcomings, and their phased implementation demonstrates the importance of centralizing authority to achieve credible enforcement outcomes (OECD, 2021).

Finally, the United States continued to stand as the benchmark for aggressive enforcement, where the Foreign Corrupt Practices Act (FCPA) was applied with extraterritorial reach and supported by mature compliance expectations. The consistent use of DPAs and Non-Prosecution Agreements, coupled with the institutional independence of the DOJ and SEC, demonstrates the importance of combining prosecutorial discretion with transparency to sustain a culture of compliance (DOJ, 2020; SEC, 2019). Therefore, the results underscored that Malaysia's corporate liability framework is at a formative stage compared to the UK, Australia, and the U.S. Bridging this enforcement gap requires more than statutory reform; it necessitates institutional strengthening, prosecutorial independence, and structured compliance incentives. Without these measures, Section 17A risked remaining symbolic rather than transformative.

5. DISSCUSSION

The comparative analysis underscored significant divergence in enforcement outcomes across jurisdictions. Malaysia's Section 17A of the Malaysian Anti-Corruption Commission Act 2009 (MACC Act) provides a legally sound foundation for corporate liability. However, its implementation remained underwhelming due to weak prosecutorial vigor, limited institutional independence, and the absence of judicial precedent to clarify its application (Gomez, 2022; Malaysian Anti-Corruption Commission [MACC], 2023). By contrast, the United Kingdom benefitted from a mature legal infrastructure established under the Bribery Act 2010, reinforced by the operational independence of the Serious Fraud Office (SFO) and consistent judicial interpretation of corporate offenses (Arlen, 2016; Serious Fraud Office [SFO], 2022). Australia, meanwhile, illustrates a pragmatic enforcement model where the introduction of Deferred Prosecution Agreements (DPAs) had incentivized corporate disclosure and compliance, though the mechanism is still evolving in practice (Organisation for Economic Co-operation and Development [OECD], 2021; Pieth, 2020).

For Malaysia, these comparative insights demonstrated that statutory reform alone was insufficient. Without stronger institutional capacity, inter-agency coordination, and clearer prosecutorial guidelines, the transformative potential of Section 17A may remain unrealized (Transparency International Malaysia, 2021; OECD, 2021). To strengthen the effectiveness of corporate liability enforcement in Malaysia, several implementation measures are necessary. One crucial step is the introduction of Deferred Prosecution Agreements (DPAs) accompanied by robust judicial safeguards. Such mechanisms can incentivize voluntary disclosure by corporations while ensuring accountability and transparency in enforcement processes (Arlen, 2016; OECD, 2021). In addition, Malaysia should publish a more comprehensive 'adequate procedures' guideline, modeled on the UK Ministry of Justice (2011) framework, but adapted to the specific economic realities and governance challenges of the Malaysian context (MACC, 2023).

Equally important is the need to reinforce judicial independence and enhance the autonomy of the Malaysian Anti-Corruption Commission (MACC). These institutional reforms are critical for insulating prosecutorial decisions from political interference and for promoting consistency in enforcement outcomes (Gomez, 2022). Beyond statutory and institutional reforms, Malaysia should also establish corporate compliance certification programs under government oversight. Such programs would standardize compliance practices while recognizing companies that go beyond minimum statutory obligations, thereby encouraging a proactive culture of integrity (Pieth, 2020). Finally, fostering stronger public–private partnerships is essential for cultivating sustainable ethical business cultures. This approach should be supported by comprehensive whistleblower protection frameworks and nationwide awareness campaigns aimed at normalizing corporate transparency and accountability (Transparency International Malaysia, 2021; OECD, 2021). Collectively, these measures would help Malaysia bridge the enforcement gap and align its corporate liability regime with international best practices.

6. CONCLUSION

This study had undertaken a doctrinal and comparative legal analysis of corporate liability frameworks and enforcement mechanisms to combat corruption in Malaysia, the United Kingdom (UK), and Australia. The findings revealed stark contrasts in the maturity, transparency, and efficacy of corporate anti-corruption enforcement between these jurisdictions. The UK led in implementing a robust legal framework through the UK Bribery Act 2010, supported by a well-functioning Deferred Prosecution Agreement (DPA) mechanism and a proactive enforcement body the Serious Fraud Office (SFO). Australia, though initially less active, has taken significant steps with legislative reforms such as the Crimes Legislation Amendment (Combatting Corporate Crime) Act 2021 and the introduction of its DPA scheme.

Conversely, Malaysia's framework, while recently enhanced with Section 17A of the Malaysian Anti-Corruption Commission (MACC) Act 2009, remained limited in enforcement, with few corporate convictions and a notable absence of alternative enforcement mechanisms such as DPAs. Statistical data, enforcement records, and comparative indicators (e.g., average corporate fines, Transparency International's CPI scores) corroborate the conclusion that Malaysia's enforcement was inadequate in both scale and transparency, reflecting deeper institutional and structural weaknesses. The findings of this study carry several implications for anti-corruption governance in Malaysia. Legislative enhancement is necessary to address current enforcement limitations. The introduction of Deferred Prosecution Agreements (DPAs) or similar negotiated settlement frameworks could strengthen prosecutorial efficiency while simultaneously encouraging voluntary corporate compliance (Arlen, 2016; OECD, 2021).

This study was limited to publicly available report which requires limits the ability to capture insider perspectives on enforcement challenges, especially from firsthand information. Furthermore, since Section 17A of the Malaysian Anti-Corruption Commission Act had only been in force since 2020, the timeframe remained too short to fully assess its long-term impact on corporate behavior and compliance cultures.

Future research could address these limitations by adopting an empirical approach that incorporated qualitative fieldwork and broader stakeholder engagement. Interviews and surveys with enforcement agencies, judiciary members, and corporate actors would provide richer insights into the practical challenges of enforcement. Similarly, longitudinal studies examining enforcement trends over time would allow for a more comprehensive evaluation of the impact of Section 17A on corporate liability in Malaysia.

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8. CONFLICT OF INTEREST STATEMENT

The authors agree that this research was conducted in the absence of any self-benefits, commercial or financial conflicts and declare the absence of conflicting interests with the funders.

9. AUTHORS' CONTRIBUTIONS

Zatun Najmiah Mohd Sabri: Conceptualisation, methodology, formal analysis, investigation and writing-original draft; **Salwa Zolkaflil**: Conceptualisation, formal analysis, and validation; **Sharifah Nazatul Faiza Syed Mustapha Nazri**: Conceptualisation, supervision, writing- review and editing, and validation.

10. DECLARATION OF GENERATIVE AI IN THE WRITING PROCESS

During the preparation of this work, the author(s) used Google Gemini in checking the consistency and flow of writing of this manuscript. After using this tool/service, the author(s) reviewed, edited and rephrased the content as needed and take(s) full responsibility for the content of the publication.

11. AVAILABILITY/SUPPLEMENTARY MATERIALS

Data sharing is not applicable to this article as no new datasets were generated or analysed during the current study.

12. ETHICS STATEMENT

The authors declare that this research did not involve human or animal subjects.

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