



## Corporate Criminal Liability in the National Criminal Code: Challenges and Implications for Law Enforcement

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### Abstract

**Background:** Criminal liability for corporations has undergone significant developments in the Indonesian criminal law system, especially with the enactment of the National Criminal Code (KUHP) through Law Number 1 of 2023. This regulation explicitly recognizes corporations as subjects of criminal law and regulates their accountability mechanisms in various forms of criminal acts.

**Objectives:** Analyze the provisions regarding corporate criminal liability in the National Criminal Code, with a focus on normative aspects, implementation challenges, and implications for law enforcement in Indonesia

**Method:** Normative legal approach with a study of relevant articles, court decisions, and legal literature.

**Results:** It was found that although the National Criminal Code has provided legal certainty regarding the position of corporations as perpetrators of criminal acts. Challenges in practice, such as proving corporate guilt, the structure of company organs, and the adequacy of criminal sanctions.

**Conclusion:** There are still serious challenges in practice. Further harmonization with sector regulations and increased capacity of law enforcement officers are needed to effectively handle corporate crimes.

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**Keywords:** Criminal Liability, Corporate Crime, National Criminal Code

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### Introduction

The development of the business world and the dynamics of the global economy have placed corporations as one of the main actors in social, economic, and even political activities in various countries, including Indonesia <sup>[1, 2, 3]</sup>. Corporations are not only economic entities, but also play a role in forming power structures and legal relations in society <sup>[4, 5]</sup>. However, it cannot be denied that behind the benefits offered, not a few corporations are involved in various forms of criminal acts. Cases of corruption by companies, environmental pollution by industry, consumer fraud, and violations of business competition are increasingly complex forms of corporate crime <sup>[6, 7, 8, 9]</sup>.

In the context of Indonesian criminal law, regulations on corporate criminal liability were previously spread across various sector laws, such as the Corruption Crime Law, the Environmental Protection and Management Law, and the Law on Information and Electronic Transactions <sup>[10, 11, 12]</sup>. However, these regulations still raise various debates, both in terms of theory and practice, especially related to how the concept of fault (*mens rea*) is applied to legal entities that do not have a will in the narrow sense <sup>[13, 14]</sup>. The ratification of the National Criminal Code (KUHP) through Law Number 1 of 2023 is an important milestone in the Indonesian criminal law system. One of the major breakthroughs in this new Criminal Code is the explicit recognition of corporations as subjects of criminal law.

Articles 45 to 51 of the National Criminal Code systematically regulate the form of corporate criminal liability, including the types of criminal sanctions that can be imposed, such as fines, freezing of business, revocation of permits, confiscation of assets, and announcement of verdicts.

This normative recognition is a step forward in the reform of Indonesian criminal law. However, regulation alone is not enough. In law enforcement practice, many challenges still have to be faced. Some of these include the complexity of the corporate organizational structure, the difficulty in proving the relationship between the actions of individual perpetrators and corporate interests, and the unpreparedness of law enforcement officers in understanding and handling corporate criminal cases. In addition, overlapping with sector regulations and the lack of technical guidelines are also serious obstacles to implementing corporate criminal liability effectively [15, 16].

Therefore, this study aims to examine in depth the provisions on corporate criminal liability in the National Criminal Code, examine the challenges in its implementation, and analyze the implications for the law enforcement system in Indonesia. With a normative legal approach and a literature review of laws and legal literature, this study is expected to provide theoretical and practical contributions in building a criminal law system that is more responsive to the development of corporate crime in the modern era.

## Method

This study uses a normative legal method, namely an approach that relies on an analysis of legal norms contained in laws and regulations and relevant legal doctrines. This research was conducted through a literature review (library research) of primary legal sources, such as Law Number 1 of 2023 concerning the Criminal Code (KUHP), as well as sector laws that regulate corporate criminal liability, such as the Law on the Eradication of Criminal Acts of Corruption and the Law on Environmental Protection and Management. In addition, this study also analyzes secondary legal materials in the form of criminal law literature, scientific journals, and relevant court decisions in order to understand the practice and application of criminal liability for corporations in Indonesia. This normative legal method was chosen because it is appropriate to answer conceptual and normative problem formulations, as well as to examine the suitability and completeness of applicable legal regulations with the principles of modern criminal law enforcement. This approach is expected to provide a comprehensive picture of the challenges and legal implications in the implementation of corporate criminal liability based on the provisions of the National Criminal Code.

## Results and Discussion

Corporate criminal liability is a legal concept that provides the basis for law enforcement against legal entities as perpetrators of criminal acts. This concept developed because reality shows that many modern crimes are no longer committed by individual individuals, but by corporations that utilize their organizational structures to carry out criminal acts for business gain. In this context, criminal law is not enough to only ensnare individual perpetrators, but must also touch on corporations as legal entities that benefit from the criminal act [17, 18].

The National Criminal Code enacted through Law Number 1 of 2023 is a new in the regulation of corporate criminal liability. Articles 45 to 51 of the Criminal Code explicitly stipulate that corporations can be punished if a crime is committed by an organ or representative of the corporation in the context of carrying out business activities, using corporate facilities, or for the benefit of the corporation. Criminal sanctions that can be imposed include fines, confiscation of profits, revocation of permits, and even dissolution of the corporation [19].

However, the implementation of these provisions still faces serious challenges. The first challenge lies in the evidentiary aspect, especially in proving a direct relationship between individual actions and corporate interests. The second challenge is the complexity of the corporate organizational structure which often makes it difficult to trace responsibility vertically. Other challenges include the limited understanding of law enforcement officers, as well as the absence of comprehensive technical guidelines as a reference in handling corporate cases.

This is reflected in various case studies. One important case involving corporations in corruption is the case of PT X. This company was proven to have committed corrupt practices in the construction project of the University X Teaching Hospital. Through the company's management, the corporation arranged tenders and inflated budgets, which was later proven by the Corruption Eradication Commission (KPK). In decision No. 94/Pid.Sus-TPK/2018/PN.Jkt.Pst, the court ruled that corporations can be held criminally responsible and sentenced to fines and confiscation of the proceeds of corruption [20].

Another relevant case in the context of environmental crimes is the case of PT X in Riau. This company was accused of encroaching on forests and illegal logging in forest areas without valid permits, resulting in large-scale environmental damage. In case No. 358/Pid.B/LH/2013/PN.Pbr, PT MPL was sentenced to a criminal fine and required to pay compensation for ecological losses of Rp 16 trillion. This case confirms that corporations can be held accountable for environmental crimes and sets an important precedent for legal protection of ecosystems [21].

These two case studies show that even though legal instruments are available, enforcement of corporate criminal liability still depends on the initiative of law enforcement agencies and progressive interpretations from judges. Therefore, the success of the National Criminal Code in realizing effective enforcement of corporate criminal law is highly dependent on the readiness of legal institutions, harmonization of sector regulations, and increasing the capacity of human resources in understanding corporate crimes as a whole.

## Conclusion

Corporate criminal liability is an important instrument in the modern criminal law system to deal with crimes committed through a legal entity structure. Various challenges, especially in terms of proving the relationship between individual actions and corporate profits, the complexity of the organizational structure of legal entities, and the limited understanding of law enforcement officers regarding the concept of corporate criminal liability. The success of the National Criminal Code in encouraging law enforcement is largely determined by the readiness of the criminal justice system, harmonization with sectoral regulations, and the need

for adequate technical guidelines. Recommendations. The need to increase the capacity of human resources and strengthen the integrated legal framework is the key so that corporate criminal liability is not only a written norm, but can be applied effectively and fairly in practice.

### Conflict of Interest

There is no conflict of interest in this study.

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