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Transformation of Corporate Crime Regulations in the New Criminal Code Compared to the Old Criminal Code

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ABSTRACT; *The colonial legacy of the legal fiction doctrine of societas delinquere non potest has been proven to create systemic weaknesses that isolate corporate entities from the jurisdiction of criminal liability. This study aims to analyze the comparative construction of corporate criminal liability between the old Criminal Code (WvS Stb. 1915 No. 732) and the national criminalization regime based on Law Number 1 of 2023. The methodological search relies purely on normative legal research that applies legislative, conceptual, and comparative approaches through literature studies. The results of the analysis demonstrate a radical paradigm leap that definitively abandons the outdated individual liability orientation, moving to adopt direct corporate liability based on corporate fault theory. This latest codification is capable of destroying the immunity of white-collar criminal actors through instruments of proportional fines, asset confiscation, and even permanent dissolution of legal entities. The recognition of corporate compliance as a criterion for institutional forgiveness also marks a crucial transition towards business governance with integrity. This article recommends that law enforcement officials immediately modernize forensic accounting-based investigative tactics to tackle complex economic crimes without disrupting the stability of the business climate.*

Keywords: *Corporate Criminal Liability, New Criminal Code, Old Criminal Code, Corporate Fault Theory, Corporate Compliance*

INTRODUCTION

The existence of corporations influences the dynamics of contemporary economic and business crime in a structured, massive, and systemic way that undermines the foundations of the national economy. Business entities are no longer limited to driving the national economy solely focused on creating jobs and distributing wealth, but have mutated into primary instruments or hiding places for perpetrators of transnational white-collar crime. These white-collar crime schemes have become increasingly sophisticated with advances in financial technology, often exploiting highly complex multinational corporate structures, the establishment of fictitious subsidiaries in tax haven jurisdictions, and the use of multiple nominees to conceal the identities of perpetrators and the true flow of illicit funds. The destructive impact of corporate crime on state financial losses, massive and irreversible environmental damage, and capital market manipulation that undermines global investor confidence, has been empirically proven to far exceed the material losses caused by conventional crimes committed by single individuals.[1]

Indonesia's substantive criminal law is required to respond to this highly complex criminological phenomenon by fully recognizing corporations as independent criminal entities separate from their management. The ancient legal fiction, a legacy of past judicial civilizations, societas delinquere non potest, which traditionally denied the existence of corporate criminal liability, must slowly but surely be radically reconstructed by lawmakers. This recognition demonstrates the urgency of adapting criminal law to modern sociological realities that demand proportionality and equality of responsibility between natural persons (natuurlijk persoon) and artificial persons (rechtspersoon). The rapid growth of institutional crimes demands law enforcement instruments capable of reaching the intellectual brains behind legitimate legal organizational structures. The absence of corporate legal subjects in the general criminal law architecture clearly violates the sense of justice of the wider community, which often becomes the direct victim of negligence or deliberate corporate operations. Criminalizing management alone often fails to provide an adequate deterrent effect or redress the systemic losses resulting from these illegal business operations.

The Dutch colonial legacy of the Criminal Code, or Wetboek van Strafrecht, which for over a century served as the basis for positive law in Indonesia, has proven to have fundamental conceptual weaknesses in effectively and fairly prosecuting corporate crimes. Article 59 of the old Criminal Code explicitly limits the concept of the subject of a criminal act to only natural human entities, asserting that corporate administrators (such as the board of directors or board of commissioners) are the only parties who can be subject to criminal penalties when a crime is committed in the name of or for the benefit of that legal entity. This rigid limitation of legal subjects practically isolates corporate entities from the reach of criminal law, even though these entities are the beneficiaries and primary beneficiaries of the proceeds of the crime carried out by their employees. This legal obstacle becomes particularly significant when law enforcement officers are faced with well-organized and institutionalized crimes, where the financial profits of the crime are exclusively accumulated in the corporation's coffers, blurring the lines of objective responsibility between strategic corporate decisions and individual operational actions.[2]

Various sector-specific criminal laws outside the codification of the Criminal Code, such as the Corruption Eradication Law, the Environmental Protection and Management Law, and the Prevention and Eradication of Money Laundering Law, ultimately resorted to pragmatic shortcuts by creating partial breakthroughs that

[1] Radhali dan M. Iqbal Asnawi, "Implikasi Pengakuan Korporasi Sebagai Subjek Hukum Pidana Dalam KUHP Nasional: Kajian Aspek Konseptual Dan Normatif," *International Journal of Demos* 7, no. 4 (2025): 226–37, https://doi.org/10.37950/ijd.v7i4.581.

[2] Mochammad Rafi Pravifjayanto, "Rekontruksi Sistem Pertanggungjawaban Pidana Korporasi Atas Kejahatan Terhadap Lingkungan Hidup Perspektif Hukum Progresif," *Jurnal Hukum & Pembangunan* 55, no. 1 (2025): 89–102, https://doi.org/10.21143/jhp.vol55.no.1.1738.

established corporations as separate legal subjects. This highly reactive sectoral approach, while once a transitional solution relied upon by the judicial system, has instead given rise to new systemic problems in the form of a lack of synchronization of fundamental principles, widely varying sentencing criteria, and overlapping standards for corporate criminal liability across specific laws. This fragmentation of sectoral regulations has created a high degree of legal uncertainty, severely detrimental to both consistent law enforcement by state officials and the stability and protection of a healthy investment climate. The old legal regime essentially allowed corporate entities to enjoy near-absolute impunity while individual intellectual actors were sacrificed as scapegoats in the judicial process. This general legal vacuum has repeatedly forced judicial institutions to create a patchwork of jurisprudence that is prone to sparking doctrinal debates among legal scholars.[3]

The enactment of Law Number 1 of 2023 concerning the Criminal Code marks a monumental legal paradigm shift and opens a revolutionary new era in the architecture of Indonesia's national criminal law system. Book One of the new Criminal Code definitively, systematically, and comprehensively integrates corporations as integral subjects of criminal law, while simultaneously affirming that these general provisions apply absolutely to all types of crimes, whether specifically regulated within the Criminal Code codification or those spread outside the codification. This historic integration ends a long period of general regulatory vacuum and eliminates the dualism of the criminal liability system that for decades had been a source of theoretical and pragmatic confusion for academics and judicial practitioners in the country.

This paradigm shift demonstrates the progressive courage of national lawmakers to firmly adopt modern theories of corporate law enforcement, such as the identification theory, vicarious liability, and strict liability, structurally within the general principles of criminal law. The lawmakers have not merely made superficial revisions to the text, but have completely overhauled the judicial system's perspective in assessing the qualifications of corporate guilt, or mens rea, itself. This new construction accommodates the expansion of corporate malice, which is now not only focused on formal de jure management but also radically expanded to include controlling personnel, beneficial owners, and other actors who de facto act for and on behalf of the corporation. This expanded scope of liability has successfully broken down the formal boundaries of business organizational structures that have long served as a hiding place for white-collar criminals. Beneficial owners can no longer hide behind the corporate veil, often used to limit their personal responsibility for institutionally orchestrated crimes. This transformation demonstrates that national substantive criminal law is now firmly established and aligned with the development of global legal conventions.[4]

The differences in the construction of corporate criminal liability between the regulatory regimes of the old and new Criminal Codes constitute a central issue and

[3] Andrew Wijaya and Widyawati Boediningsih, "Pertanggungjawaban Pidana Korporasi Atas Kejahatan Ekonomi Yang Merugikan Keuangan Negara," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 5, no. 3 (2025): 2246–56, https://doi.org/10.38035/jihhp.v5i3.4088.

[4] Januar Agung Saputera Et.al, "Rekonstruksi Pertanggungjawaban Pidana Korporasi Dalam KUHP Nasional: Telaah Kritis Atas UU No. 1 Tahun 2023 Dalam Perspektif Hukum Pidana Modern," *The Juris* 9, no. 2 (2025): 388–94, https://doi.org/10.56301/juris.v9i2.1750.

urgently require in-depth, critical, and systematic analysis. The absence of precise and rigid general guidelines under the old Criminal Code forced criminal justice judges to often fumble in formulating decisions, relying on limited jurisprudential precedents and extensively interpreting sectoral regulations. This interpretative practice has proven highly susceptible to disparities in sentencing decisions between courts in various regions. Judges often encounter fatal legal impasses in determining the appropriate mechanism for attributing culpability from an individual perpetrator to an abstract corporate entity, purely due to the lack of uniform, clear, and binding general normative parameters across all law enforcement agencies.[5]

The new Criminal Code, on the other hand, offers a highly detailed and holistic corporate regulatory architecture to address all legal gaps inherited from the past. The new legal design includes an expanded definition of a corporate entity, which now explicitly and definitively encompasses both conventional legal entities and non-legal entities (such as firms, limited partnerships, and cooperatives). Specific criteria regarding the parameters of legitimate actions considered as corporate crimes are also measurably outlined, alongside a revolutionary recognition of specific excusable grounds for corporations. These excusable grounds provide room for objective defenses, such as the absolute inability of an entity to prevent a crime despite adequate preventive measures through a rigorous internal compliance system. The sanctions system has also undergone significant evolution, with the imposition of a primary penalty, specifically classified and layered fines, for non-human entities, coupled with additional penalties ranging from dissolution of the entity to the complete confiscation of corporate assets. The fundamental paradigm clash between the lack of general regulations in the past and the strict and comprehensive codification system of the present demands a systematic, dogmatic comparative analysis. An in-depth study of the anatomy of these two legal regimes is absolutely necessary to dissect the construction of criminal liability offered by the new national criminal law, ensuring a comprehensive interpretative understanding ahead of the transition period to its effective implementation in the future.[6]

This scientific research was specifically designed to provide a comparative analysis of the conceptualization of corporate criminal liability in an argumentative and comprehensive manner, addressing all these dogmatic issues. The primary focus of the analysis will be on identifying fundamental differences regarding the criteria for corporate criminal acts, the evolution of institutional fault attribution mechanisms, and the shift in philosophical orientation regarding types of criminal sanctions and actions between the old and new Criminal Codes. The subsequent analytical discussion will critically examine the normative, dogmatic, and practical implications of law enforcement that inevitably arise from these fundamental changes for the effectiveness of the national criminal justice system. This comprehensive review strategically aims to formulate recommendations for mitigating the potential risk of disparities in prosecution and sentencing when the new Criminal Code

[5] Josmangasi Simbolon Et.al, "Rekonstruksi Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Korupsi Dana Publik Pasca UU 19/2009 KUHP Baru," *CENDEKIA: Jurnal Ilmu Pengetahuan* 6, no. 3 (2026): 1252–60.

[6] Dewi Nawang Bulan dan Nandang Sambas, "Kebijakan Pemidanaan Korporasi Dalam RUU KUHP: Analisis Normatif Dan Kesiapan Praktis Aparat Penegak Hukum," *Collegium Studiosum Journal* 8, no. 1 (2025): 25–30, https://doi.org/10.56301/csj.v8i1.1654.

instruments begin to be fully implemented by the prosecutor's office and the courts. The central focus of this paper is not merely a rigid and static theoretical mapping but also a proactive effort to identify potential legal loopholes, normative inconsistencies, or interpretative weaknesses that may remain in the formulation of corporate offenses under the new Criminal Code.[7]

The elaboration of the new sentencing criteria is designed to serve as a pragmatic guideline that can be relied upon by police investigators, public prosecutors, and even Supreme Court justices in handling organized crime cases. This in-depth academic research is expected to enrich the dogmatic discourse on Indonesian substantive criminal law, provide solid conceptual guidance for the legal epistemic community, and offer concrete, highly applicable legal recommendations for law enforcement officials in the field. This revolutionary transformation of substantive criminal law demands the institutional capacity of all law enforcement elements to move beyond partial thinking in prosecuting business entities. The systematic evaluation contained in this article is expected to underpin the building of legal certainty for the realization of proportional substantive justice, humanize the accountability of artificial entities, and optimally protect the wider community from the destructive excesses of increasingly complex corporate crimes in the modern era.

PROBLEM

How do the provisions on corporate criminal liability compare between the old Criminal Code and Law No. 1 of 2023 concerning the Criminal Code, particularly regarding the criteria for corporate crimes, the mechanism for attribution of fault, and the orientation of criminal sanctions toward corporations?

What are the normative and practical implications of the implementation of corporate criminal liability in the new Criminal Code for the effectiveness of law enforcement and efforts to achieve legal certainty and substantive justice in the Indonesian criminal justice system?

RESEARCH METHODS

This research is normative legal research focused on a comprehensive examination of the principles, doctrines, and positive legal norms related to corporate criminal liability. The main objective of the study is specifically to examine the comparative provisions on criminalization of business entities between the colonial Criminal Code (WvS Stb. 1915 No. 732) and the national Criminal Code (Law No. 1 of 2023). The methodological analysis relies on the use of three primary approaches: the statute approach, the conceptual approach, and the comparative approach. This comparative approach is applied rigorously to uncover the philosophical and juridical discrepancies between the two legal regimes in positioning corporations as independent legal subjects.[8]

The specification of the primary legal material relies on the use of primary legal materials in the form of authentic texts of WvS Stb. 1915 No. 732, Law No. 1 of 2023,

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[7] Januar Agung Saputera et al., "Rekonstruksi Pertanggungjawaban Pidana Korporasi Dalam KUHP Nasional: Telaah Kritis Atas UU No. 1 Tahun 2023 Dalam Perspektif Hukum Pidana Modern." 13.

[8] Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2010): 96.

and related sectoral laws and regulations. The completeness of the argument is supported by the use of secondary legal materials, comprising various reputable scientific journals, the latest criminal law literature, the doctrines of leading experts, and the findings of relevant empirical research. The technique for collecting all these normative instruments was executed through a planned, systematic, and structured library research. The analysis process was conducted purely qualitatively, using deductive and prescriptive methods to precisely identify differences in the construction of corporate criminal liability and to formulate recommendations for ideal law enforcement for the Indonesian criminal justice system.[9]

DISCUSSION

The Concept of Criminal Responsibility and Corporate Criminal Liability

Criminal liability is a concept used to determine whether a person can be held responsible for a crime they have committed. This concept relates not only to legal norms but also to moral values and a sense of justice in society.[10] Roeslan Saleh explained that criminal responsibility is a continuation of objective condemnation of an unlawful act and subjective condemnation of the perpetrator.[11] Therefore, criminal responsibility can only be imposed on the person who committed the crime and was at fault. Chairul Huda emphasized that the basis for a crime is the principle of legality, while the basis for punishment rests on the principle of fault.[12]

The theory of criminal responsibility essentially explains the legal basis for when a person can be punished for a crime they have committed. In criminal law, punishment is not solely based on the existence of an unlawful act, but must also consider the elements of culpability and the perpetrator's capacity to take responsibility. Thus, criminal responsibility assesses not only the objective aspect of the criminal act but also the subjective aspects inherent in the perpetrator as a legal subject.

One of the main foundations of criminal responsibility is the principle of legality, known through the adage nullum delictum nulla poena sine praevia lege poenali, which means that no act can be punished without a pre-existing legal regulation. This principle is fundamental in modern criminal law because it guarantees legal certainty and protects against arbitrary state action in imposing punishment. With the principle of legality, a person can only be punished if the act has been determined as a crime by statute before the act was committed.[13]

In addition to the principle of legality, the element of fault is also a primary basis for criminal liability. In criminal law doctrine, a person cannot be punished simply for committing an unlawful act if there is no element of fault on their part. Fault indicates an emotional connection between the perpetrator and the act, whether intentional or negligent. According to Frans Maramis, fault is divided into two forms: intentional

[9] Muammar dan Iqbal Taufik, "Quo Vadis Penelitian Hukum: Sebuah Jalan Meluruskan Miskonsepsi Kecenderungan Arah Penelitian Hukum," *Jurnal USM Law Review* 7, no. 2 (2024): 634–57, https://doi.org/10.26623/julr.v7i2.7917.

[10] Mahrus Hanafi, *Sistem Pertanggung Jawaban Pidana* (Jakarta: Rajawali Pers, 2015): 16.

[11] Roeslan Saleh, *Pikiran-Pikiran Tentang Pertanggung Jawaban Pidana*, Cetakan Pe (Jakarta: Ghalia Indonesia, n.d.): 33.

[12]

[13] Moeljatno, *Asas-Asas Hukum Pidana*, Cet. IX (Jakarta: Rineka Cipta, 2015): 25.

(dolus) and negligent (culpa). Intentional intent indicates that the perpetrator intended or knew the consequences of their actions, while negligence occurs when the perpetrator did not intend the consequences, but due to carelessness or negligence, the prohibited consequences still occurred.

In addition to the element of fault, criminal liability also requires the perpetrator's capacity for responsibility. This capacity relates to a person's psychological and intellectual capacity to understand the nature of their actions and determine their will in accordance with the law. Therefore, a person who is unable to understand the consequences of their actions or is unable to control their will due to a mental disorder cannot be held criminally responsible. This is emphasized in the Criminal Code, especially Article 44, which states that people who commit criminal acts due to mental disorders or mental developmental disabilities cannot be punished.[14]

In this context, criminal liability requires several essential elements for a person to be punished. First, there must be a criminal act, namely an act that fulfills the elements of a crime and is contrary to the law. Second, there must be an element of fault in the form of intent or negligence on the part of the perpetrator. Third, the perpetrator must have the psychological and legal capacity to take responsibility. Fourth, there are no excusing reasons that can eliminate criminal liability, such as force majeure or excessive defense. Thus, punishment in modern criminal law is not only based on the existence of a criminal act alone, but also considers aspects of justice through an assessment of the perpetrator's culpability and subjective condition.[15]

The development of modern criminal law demonstrates a paradigm shift in the view of corporations. Corporations are no longer positioned solely as civil legal entities, but also as legal subjects subject to criminal liability. This change is influenced by the increasingly complex nature of corporate activities in modern economic and social life, where various crimes are often committed through company policies, organizational structures, and operational mechanisms that cannot be easily attributed to a single individual. In practice, corporate crimes can arise through collective decisions, corporate culture, or weak oversight systems, creating the need for legal structures capable of imposing criminal liability on legal entities as independent entities. This situation has given rise to various theories of corporate criminal liability as a conceptual basis for determining the form and mechanism for assigning blame to corporations.[16]

One theory developing in corporate criminal law is the vicarious liability theory. This theory holds that corporations can be held responsible for the actions of employees or managers acting within an employment relationship and in the interests of the corporation. In this approach, individual blame is transferred to the legal entity because the perpetrator's actions are considered representative of the corporation's activities. Thus, a corporation is responsible not because of its own will, but because of the legal relationship between the corporation and the perpetrator

[14] Frans Maramis, *Hukum Pidana Umum Dan Tertulis Di Indonesia* (Jakarta: Raja Grafindo Persada, 2013): 114-122.

[15] Andi Zainal Abidin Farid, *Hukum Pidana 1* (Jakarta: Sinar Grafika, 2005): 260.

[16] Sipatuhar, "Eksistensi Korporasi Sebagai Subjek Hukum Dalam Pertanggungjawaban Pidana Dalam Kitab Undang-Undang Hukum Pidana (KUHP) Baru." 133-141.

acting on its behalf. The vicarious liability approach is widely used in classical legal systems and is relevant to the nature of regulations in the old Criminal Code, which did not directly position corporations as criminal subjects.

The main characteristic of vicarious liability theory lies in its orientation, which still centers on the individual as the primary perpetrator of the crime. In this construction, corporate criminal liability is essentially an extension of individual criminal liability. This is evident in the criminal liability mechanism in the old Criminal Code, which still relies on provisions regarding participation as stipulated in Articles 55 and 56 of the Criminal Code. Therefore, the corporation is not positioned as an independent actor, but rather as a party that shares the legal consequences of the actions of individuals acting for and on behalf of the corporation.[17]

Subsequent developments gave rise to identification theory as an attempt to overcome the limitations of the vicarious liability approach. Identification theory focuses on specific individuals considered to be the directing mind and will of the corporation, such as directors or principal company officers. In this theory, the actions and will of officials in controlling positions are considered the actions and will of the corporation itself. Thus, corporations are seen as possessing a will through their primary organs, which determine the direction of corporate policy.

Identification theory demonstrates a significant shift from blame-shifting mechanisms to recognizing the existence of independent corporate will. The relevance of this theory is evident in various criminal acts arising from corporate strategic policies, such as corruption, money laundering, and environmental crimes. In this context, the actions of directors or controlling officials are no longer viewed as merely individual actions, but as a direct representation of the corporation's will.[18]

In addition to these two theories, the development of modern criminal law has also given rise to corporate fault theory or corporate culture theory as a more advanced approach to corporate criminal liability. This theory's primary focus lies in corporate culture, oversight systems, compliance mechanisms, and corporate failure to prevent criminal acts. Corporate culpability is no longer solely measured by the actions of a single individual, but also by systemic negligence, weak internal controls, or an organizational culture that allows criminal acts to recur.

The relevance of corporate fault theory is clearly evident in Law Number 1 of 2023 concerning the Criminal Code, specifically Article 48, which establishes corporate failure to prevent and ensure legal compliance as the basis for criminal liability. This approach demonstrates that Indonesian criminal law has moved toward a direct corporate liability model, which positions corporations as independent criminal subjects with preventive and corrective responsibilities. In this model, corporations can be punished for institutional organizational failures, although a single individual cannot always be identified as the primary perpetrator.[19]

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[17] Kukuh Dwi Kurniawan dan Dwi Ratna Indri Hapsari, "Pertanggungjawaban Pidana Korporasi Menurut Vicarious Liability Theory," *Jurnal Hukum IUS QUIA IUSTUM* 29, no. 2 (2022): 324–46, https://doi.org/10.20885/iustum.vol29.iss2.art5.

[18] dan Alyssa Sabrina Ragil Surya Prakasa, Wahyu Nathasia, Royhan Daffa Isramsir, Muhammad Nur Arifin, "Sistem Pertanggungjawaban Pidana Korporasi Di Indonesia," *Yustisi* 10, no. 3 (2023): 429–37, https://doi.org/10.32832/yustisi.v10i3.18618.

[19] Dino Rizka Afdhali dan Irwan Triadi, "Pertanggungjawaban Pidana Korporasi Terhadap Pencemaran Lingkungan Hidup," *Journal Evidence of Law* 3, no. 2 (2024): 182–91, https://doi.org/10.59066/jel.v3i2.673.

These three theories demonstrate the evolving paradigm of corporate criminal liability from a personal approach to an institutional one. Vicarious liability theory reflects the character of classical criminal law, which still focuses on the individual as the center of criminal responsibility, while corporate fault theory illustrates the modern criminal law paradigm that recognizes corporations as subjects of criminal law with independent responsibility. This paradigm shift serves as an important basis for analyzing changes in the construction of corporate criminal liability between the old and new Criminal Code regimes in Indonesia.

Corporate Criminal Regulations in Law Number 1 of 1946 concerning Criminal Law Regulations (Old Criminal Code)

The Dutch colonial legacy of the Criminal Code essentially constructs a system of criminal responsibility exclusively oriented toward natural persons. This theoretical construct is deeply rooted in the classical legal fiction doctrine, societas delinquere non potest, which literally asserts that legal entities cannot commit crimes. This dogmatic view has dominated the judicial system since its inception, completely rejecting the capacity of corporations as independent subjects of criminal law. This rejection limits the scope of criminal law protection to the actions of flesh-and-blood individuals, ignoring the empirical reality that business entities possess separate institutional wills. The lack of explicit recognition of corporate entities leaves the traditional criminal justice system stumbling when confronted with economic crimes neatly organized behind the structure of legal entities. Modern criminological realities ultimately clash violently with the wall of dogmatic rigidity inherited from the nineteenth century.[20]

Article 59 of the old Criminal Code provides absolute affirmation regarding the boundaries of these subjects of criminal law. The full wording of the article reads as follows:

"In cases where a violation imposes criminal penalties on the management, members of the management body, or commissioners, the management, members of the management body, or commissioners who are found not to have participated in the violation shall not be punished."

This normative provision systematically places the burden of responsibility solely on the shoulders of corporate management as natural persons, while simultaneously exempting legal entities from any threat of criminal sanctions. This mechanism for shifting the burden of responsibility reflects the simplification of colonial lawmakers who viewed business entities as mere passive instruments. The fundamental weakness of this formulation proved fatal when trillions of rupiah in proceeds of crime were enjoyed exclusively by the corporate vault, while subordinate functional staff were sacrificed as victims.

The analytical blade of identification theory exposes the systemic failure of the normative model of Article 59 of the old Criminal Code. This dogmatic theory requires the search for a primary controlling figure or directing mind and will whose capacity for thought patterns and actions are automatically counted as institutional actions. Law enforcement, using the old Criminal Code, often succeeded in identifying the mastermind behind these business operations through the tracing of internal

[20] Rufinus H. Hutauruk, “Pertanggungjawaban Korporasi Dalam Sistem Hukum Pidana Di Indonesia,” Universitas Internasional Batam, 2025, https://www.uib.ac.id/pertanggungjawaban-pidana-korporasi-di-indonesia/.

company documents. The construction of identification stalled at the mere identification of the highest-ranking manager, without the necessary legal framework to establish the legal entity in question as a defendant in court. This failure to fully attributably demonstrates how backward the previous judicial system was when it came to discerning the causal relationship between the agent representing the perpetrator and the institution protecting him.[21]

During the era of the old Criminal Code, law enforcement officials attempted to overcome the limitations of corporate crime regulations by utilizing provisions regarding participation (deelneming). These provisions are stipulated in Article 55 of the Criminal Code, which regulates the perpetrator, the person who orders the commission, the person who participates in the commission, and the person who encourages the commission of a crime. In practice, public prosecutors often used the concepts of ordering the commission (doen plegen) and participating in the commission (medeplegen) to implicate directors or company leaders deemed involved in crimes committed within corporate activities.

Using these participation provisions required public prosecutors to prove conscious cooperation between the perpetrators in the field and company management. This type of evidence often presented difficulties because public prosecutors had to unravel the relationships of orders, coordination, and intent within the complex organizational structure of the company. As a result, many corporate crime cases encountered evidentiary obstacles due to the difficulty of proving the direct involvement of corporate leaders in the commission of the crime on the ground.

In addition to using the participation provisions, law enforcement officials also applied Article 56 of the Criminal Code concerning assistance in criminal acts (medeplichtigheid). This provision stipulates that a person can be convicted as an accessory to a crime if they intentionally provide assistance, opportunity, means, or information to commit a crime. In practice, this provision is often used to prosecute company managers or executives who are aware of a crime, such as environmental pollution or tax evasion, but fail to take action to prevent it.[22]

However, the application of the principle of assistance and accomplice in corporate crimes often faces significant evidentiary challenges. The complex organizational structure of modern companies makes it difficult to prove the malicious intent of each individual manager. This situation has led to the development of jurisprudence adopting the functional actor doctrine (functioneel daderschap). This doctrine allows courts to impose criminal liability on company leaders for crimes committed by subordinates, even without a direct written order.[23]

Through the functional actor approach, courts assess whether the crime was

[21] Moch. Bakhrul Ilmi Et.al, "Pemidanaan Dan Pertanggungjawaban Korporasi Pada Buku Joko Sriwidodo Dalam Sistem Hukum Pidana Indonesia," *Indonesia of Journal Business Law* 5, no. 1 (2026): 139–49, https://doi.org/10.47709/ijbl.v5i1.7531.

[22] Destiana Sembiring, "Analisis Kebijakan Penanganan Tindak Pidana Di Bidang Perpajakan Oleh Direktorat Jendral Pajak," *UNES Law Review* 6, no. 3 (2024): 9390–9420, https://doi.org/10.31933/unesrev.v6i3.1895.

[23] Ahmad Fathur Rosiki Et.al, "Reformulasi Paradigma Dan Implementasi Pertanggungjawaban Pidana Korporasi: Sebuah Studi Kritis Terhadap Undang-Undang Nomor 1 Tahun 2023 Dan Realitas Penegak Hukum Di Indonesia," *Indonesia of Journal Business Law* 5, no. 1 (2026): 176–85, https://doi.org/10.47709/ijbl.v5i1.7847.

part of the company's activities and whether the company's leaders actually had the authority to prevent the crime from occurring. This approach is used to overcome the difficulty of proving the element of intent in corporate crimes. However, this jurisprudential approach still has limitations because it has not been able to fully penetrate the corporate veil of corporate legal protection, so that corporate criminal liability under the old Criminal Code has not yet been implemented optimally.

The use of the functional actor doctrine actually demonstrates the panel of judges' tacit incorporation of the concept of vicarious liability into the individualistic regime of the Criminal Code.[24] This vicarious liability theory posits that an employer can be held criminally liable for unlawful acts committed by its employees as long as those acts fall within the scope of their employment. The panel of judges indirectly applied this respondeat superior logic when convicting the director for the fatal negligence of operational staff in disposing of toxic industrial waste. The essential limitation of this jurisprudence stems from a single, egregious error: under civil law, the true employer of the operational staff is the corporate entity itself, not the operational director. This logical attribution error demonstrates the vulnerability of past criminal law structures when forced to adjudicate the multidimensional reality of crime without a solid legal foundation.

The most chronic weaknesses of the old Criminal Code architecture become even more glaring when examined using the knife of corporate fault theory.[25] This cutting-edge theory strongly believes that elements of criminal culpability do not always have to originate from the brains of individual managers but can stem purely from the institutional work culture, poor oversight compliance systems, and unwritten standard operating procedures. The legal regime inherited from the Dutch colonial era was completely blind to the potential for collective crime born of this toxic corporate culture. Law enforcement was forced to search for individual hackers or rogue managers who acted deviantly, even though these deviations were secretly instructed by general shareholder meetings through the setting of unlawful expansion targets. Such high-level structural errors had no scope for criminal prosecution, as conventional norms confined the definition of malicious intent to the human skull.

The legal and practical impact of this denial of corporate existence gave rise to systemic judicial anomalies in various Indonesian courts. Legal certainty was shattered when law enforcement officials across regions applied conflicting standards of proof for the crime of involvement when handling banking crimes. The state suffered constant losses due to the prosecutor's inability to execute seizures of assets to recover state financial losses already controlled by the legal accounts of the companies in question. The intellectual actors of white-collar crime became increasingly adept at orchestrating the establishment of multiple shell companies to shift the entire risk of imprisonment to middle-level managers. Criminal law in that decade was like a sharp sword that could injure lowly pawns without ever succeeding

[24] Vincentius Ake, "Relevansi Konsep Vicarious Liability Dalam Putusan No. 296/Pid.Sus/2021/PN Kdi Tindak Pidana Pertambangan," *Jurnal Hukum Lex Generalis* 6, no. 1 (2025): 1–17, https://doi.org/10.56370/jhlg.v6i11.2088.

[25] Josmangasi Simbolon et al., "Rekonstruksi Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Korupsi Dana Publik Pasca UU 19/2009 KUHP Baru." 1258.

in beheading the king of the economic crime syndicate.[26]

The inability to codify general criminal law ultimately sparked a shortcut strategy by national lawmakers after the reforms. Legislators began producing dozens of independent sectoral laws, sporadically inserting the formulation of corporations as suspects into them. The Corruption Eradication Law, the Environmental Protection and Management Law, and derivative regulations on Information and Electronic Transactions progressively broke down the rigidity of the colonial legacy system. These patchwork measures were implemented to provide emergency teeth for law enforcement officials in the face of the wave of natural resource exploitation driven by capitalist entities with large capital. The presence of these sectoral regulations gradually saved the face of Indonesian criminal justice from conceptual bankruptcy in the face of modern threats.[27]

This sectoral approach gradually shifted dogmatic certainty toward a deeply confusing legal paradox. The presence of dozens of non-codified laws gave rise to conflicting standards for attribution of fault, sentencing criteria, and classifications of management phrases that conflicted with each other without a unifying umbrella. This fragmentation of the criminal justice regime has left police officers struggling to formulate multi-layered indictments when a crime directly overlaps between forestry and money laundering. The dogmatic confusion resulting from the lack of general guidelines for corporate liability in the Criminal Code has ultimately emphasized the national urgency of reforming substantive law. The absolute need for a central codification that re-establishes the criminal architecture of artificial entities has become a non-negotiable prerequisite for upholding a modern rule of law.

Corporate Criminal Regulations in Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code)

The enactment of Law Number 1 of 2023 concerning the Criminal Code (hereinafter referred to as the New Criminal Code) represents the most fundamental paradigm shift in the history of post-independence Indonesian criminal legislation. The conceptual framework that had been the foundation of the national criminal system for more than a century, namely the principle of universitas delinquere non potest, rooted in the Dutch colonial legacy of Wetboek van Strafrecht (WvS), was firmly abandoned through the explicit recognition of corporations as independent subjects of criminal law.[28]

This classical principle, which literally means that legal entities cannot commit crimes, actually reflects the socio-economic conditions of the 19th century that were not yet familiar with the structural complexity of modern corporations. The rapid growth of cross-border corporate activity, the widespread systemic impact of crime organized through corporate structures, and increasing international pressure through various anti-corruption and anti-money laundering conventions, have made

[26] Imam Biyoto Et.al, "Pertanggungjawaban Pidana Korporasi: Efektivitas Pengaturan Sanksi Denda Dan Pidana Tambahan Pasca UU Cipta Kerja Dan KUHP Baru," *Lex Journal : Kajian Hukum Dan Keadilan* 10, no. 1 (2026): 1–26, https://doi.org/10.25139/lex.v10i1.11469.

[27] Gilang Wahyu Ramadhan et al., "Pengaturan Dan Pendekatan Pidana Korporasi Dalam Sistem Hukum Pidana Indonesia Pasca KUHP 2023." 155.

[28] Muhammad Arafat, "Paradigma Pemidanaan Baru Dalam KUHP 2023: Alternatif Sanksi Dan Transformasi Sistem Peradilan Pidana Indonesia," *Jurnal Ilmu Hukum* 2, no. 1 (2025): 33–46, https://doi.org/10.58540/jih.v2i1.1047.

this reform not merely a legislative option but an inevitability.[29]

Philosophically, the development of corporate criminal liability indicates a paradigm shift in modern criminal law. The previous classical view rejected corporations as subjects of criminal acts because they were considered to lack mens rea, the elements of will and consciousness traditionally found only in humans as natural subjects. However, the development of corporate crime has given rise to new approaches that allow corporations to be held criminally accountable.

The first approach developed through identification theory, which views the will of the management or the party acting as the directing mind and will as the will of the corporation itself. The second approach developed through corporate fault theory, which attributes corporate fault to organizational culture, company policies, weak oversight, and failures in compliance systems. Both approaches have been incorporated into Law Number 1 of 2023 concerning the Criminal Code, resulting in a more comprehensive corporate criminal liability system than previous sectoral regulations.[30]

Article 45 paragraph (1) of the new Criminal Code explicitly states that corporations are subjects of criminal acts. Furthermore, Article 45 paragraph (2) provides a broad definition of corporations, encompassing limited liability companies, foundations, cooperatives, state-owned enterprises, regional-owned enterprises, firms, limited partnerships, and even associations with legal entities and without legal entities. This expansion demonstrates that criminal law is no longer dependent on the formal status of legal entities under civil law. Thus, entities that do not yet possess legal persons status can still be held criminally liable if used as a means of committing a crime.

Furthermore, the new Criminal Code also more clearly regulates the attribution of corporate criminal liability. Article 46 states that corporate crimes can be committed by managers or parties acting for and on behalf of the corporation within the scope of corporate business activities. This provision is expanded through Article 47, which allows criminal liability to be imposed on those who give orders, control holders, or beneficial owners of the corporation who are outside the formal corporate structure but actually control the corporation.

The formulation of Articles 46 and 47 demonstrates the influence of identification theory, which has developed in the common law system, particularly through the Tesco Supermarkets Ltd v. Nattrass decision. The ruling confirms that corporations can be identified with those parties who clearly direct the mind and will or are the primary controllers in corporate policy-making. Thus, the new Criminal Code demonstrates a shift from an individual approach to an institutional approach to corporate criminal liability.[31]

Dalam upaya menjerat korporasi sebagai pelaku tindak pidana, Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana memberikan

[29] Hendri Et.al, "Urgency of Criminal Liability for Corporations Paying Wages below the Minimum Wage Based on Justice Values," *Global Legal Review* 6, no. 1 (2026): 62–80, https://doi.org/10.19166/glr.v6i1.9107.

[30] Barda Nawawi Arief, *Kapita Selekta Hukum Pidana* (Bandung: Citra Aditya Bakti, 2003): 112-115.

[31] Lalu Saipudin Et.al, "The Concept of Corporate Criminal Liability in the Indonesian Criminal Law System," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 2 (2025): 475–99, https://doi.org/10.29303/ius.v13i2.1817.

parameter pertanggungjawaban pidana yang lebih komprehensif melalui Pasal 48. Ketentuan tersebut menyatakan bahwa tindak pidana korporasi dapat dipertanggungjawabkan apabila perbuatan tersebut termasuk dalam lingkup kegiatan usaha korporasi, memberikan keuntungan secara melawan hukum bagi korporasi, diterima sebagai kebijakan korporasi, tidak adanya langkah pencegahan dan kepatuhan hukum yang memadai, atau korporasi membiarkan terjadinya tindak pidana.

Rumusan Pasal 48 menunjukkan bahwa pertanggungjawaban pidana korporasi tidak lagi semata-mata bertumpu pada kesalahan individu tertentu, tetapi juga pada kegagalan sistem organisasi secara keseluruhan. Pendekatan ini mencerminkan corporate fault theory yang memandang kesalahan korporasi sebagai akibat dari lemahnya budaya perusahaan, sistem pengawasan, tata kelola, dan mekanisme kepatuhan internal. Dengan demikian, korporasi dapat dipidana bukan hanya karena tindakan pengurusnya, tetapi juga karena kegagalan institusional dalam mencegah terjadinya tindak pidana.

Pendekatan serupa sebelumnya telah berkembang dalam Criminal Code Act 1995, khususnya melalui konsep corporate culture yang memungkinkan pembuktian kesalahan korporasi berdasarkan pola kebijakan dan praktik organisasi tanpa harus menunjuk satu individu tertentu sebagai representasi kehendak korporasi. Adopsi pendekatan tersebut dalam KUHP baru menunjukkan kemajuan penting dalam hukum pidana korporasi di Indonesia.[32]

Pendekatan ini juga menjadi solusi atas keterbatasan identification theory yang selama ini terlalu bergantung pada pencarian individu yang dianggap sebagai directing mind and will korporasi. Sebagaimana dikemukakan oleh Celia Wells, ketergantungan pada teori identifikasi dapat menimbulkan impunity gap, terutama pada korporasi besar dengan struktur organisasi yang kompleks dan tersebar. Semakin kompleks struktur korporasi, semakin sulit menemukan satu individu yang dapat dianggap mewakili kehendak korporasi secara keseluruhan. Oleh karena itu, pengaturan dalam Pasal 48 KUHP baru menunjukkan pergeseran menuju pendekatan yang lebih institusional dan adaptif terhadap perkembangan kejahatan korporasi modern.[33]

Pengaturan pertanggungjawaban pidana korporasi dalam Undang-Undang Nomor 1 Tahun 2023 tentang Kitab Undang-Undang Hukum Pidana semakin dipertegas melalui Pasal 49 yang menyatakan bahwa pertanggungjawaban pidana dapat dibebankan kepada korporasi, pengurus yang memiliki kedudukan fungsional, pemberi perintah, pemegang kendali, maupun pemilik manfaat korporasi. Ketentuan ini menunjukkan bahwa hukum pidana tidak hanya menempatkan korporasi sebagai entitas abstrak, tetapi juga menjangkau pihak-pihak yang secara nyata mengendalikan dan memperoleh manfaat dari kegiatan korporasi.

Salah satu pembaruan penting dalam KUHP baru terdapat pada konsep failure to prevent sebagaimana diatur dalam Pasal 48 huruf d. Ketentuan tersebut menandai

[32] Yuyun Ma dan Nicholas Ryder, "Progress or Stagnation? The Evolution and Reform of Corporate Criminal Liability in the UK," *Journal of Economic Criminology* 10 (2025): 1–9, https://doi.org/10.1016/j.jeconc.2025.100172.

[33] Boediningsih, "Pertanggungjawaban Pidana Korporasi Atas Kejahatan Ekonomi Yang Merugikan Keuangan Negara." 2246-2256.

pergeseran dari pertanggungjawaban yang bersifat reaktif menuju pertanggungjawaban yang bersifat proaktif. Korporasi dapat dimintai pertanggungjawaban pidana apabila gagal membangun sistem pencegahan, pengawasan, dan kepatuhan hukum yang memadai, meskipun tidak ditemukan perintah langsung dari pengurus utama. Pendekatan ini sejalan dengan perkembangan hukum internasional, termasuk UK Bribery Act 2010 yang memperkenalkan konsep kegagalan korporasi dalam mencegah tindak penyuapan.[34]

Sistem pemidanaan korporasi dalam KUHP baru juga diatur secara lebih lengkap. Pasal 118 dan Pasal 119 menetapkan bahwa pidana pokok bagi korporasi adalah pidana denda. Selain itu, Pasal 120 mengatur berbagai pidana tambahan, seperti pembayaran ganti rugi, perampasan keuntungan hasil tindak pidana, pencabutan izin usaha, pembekuan kegiatan usaha, penutupan tempat usaha, hingga pembubaran korporasi. Ragam sanksi tersebut menunjukkan bahwa pemidanaan korporasi tidak hanya berorientasi pada penghukuman, tetapi juga pada pemulihan kerugian, perbaikan tata kelola, dan pencegahan tindak pidana di masa mendatang.

Spektrum sanksi dalam KUHP baru mencerminkan orientasi preventif, korektif, dan restoratif. Orientasi preventif terlihat dari dorongan agar korporasi membangun sistem kepatuhan dan tata kelola yang baik. Orientasi korektif tampak melalui kewajiban memperbaiki akibat tindak pidana dan pengawasan terhadap kegiatan usaha korporasi. Sementara itu, orientasi restoratif diwujudkan melalui kewajiban pembayaran ganti rugi kepada korban maupun masyarakat yang dirugikan.

Meskipun demikian, penerapan pertanggungjawaban pidana korporasi dalam KUHP baru masih menghadapi sejumlah tantangan. Ketentuan mengenai standar "langkah-langkah yang diperlukan dan layak" untuk mencegah tindak pidana belum dirumuskan secara rinci sehingga berpotensi menimbulkan perbedaan penafsiran. Selain itu, pembuktian corporate fault membutuhkan kemampuan aparat penegak hukum untuk memahami struktur organisasi, budaya perusahaan, dan sistem pengendalian internal korporasi. Hubungan antara KUHP baru dengan Peraturan Mahkamah Agung Nomor 13 Tahun 2016 tentang Tata Cara Penanganan Tindak Pidana oleh Korporasi juga masih memerlukan harmonisasi agar tidak menimbulkan tumpang tindih dalam praktik penegakan hukum.[35]

Despite these challenges, the New Criminal Code represents an important normative milestone in the development of Indonesian corporate criminal law. The adoption of modern principles of corporate criminal liability, including the corporate fault theory, the failure to prevent doctrine, and a multidimensional orientation toward punishment, places Indonesia in the mainstream of global corporate criminal law reform. The long-term effectiveness of this regulation will depend on the consistency of judicial interpretation, the institutional readiness of law enforcement officials, and the proactive response of businesses in building a culture of genuine compliance, not merely a formality fulfilled to avoid criminal prosecution.

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[34] Shabir Korotana, "The Corporate 'Failure to Prevent' Principle in the UK Bribery Act 2010: Philosophical Foundations of Economic Crime," *Statute Law Review* 45, no. 1 (2024): 1–17, https://doi.org/10.1093/slr/hmae007.

[35] Hermawan dan Agus Jati Waluyo, "Rekonstruksi Pertanggungjawaban Pidana Korporasi Dalam Undang-Undang Nomor 1 Tahun 2023 Tentang KUHP," *Al-Qanun: Jurnal Pemikiran Dan Pembaharuan Hukum Islam* 28, no. 2 (2025): 244–54, https://doi.org/10.15642/alqanun.2025.28.2.244-254.

Comparison of the Construction of Corporate Criminal Liability in the Old and New Criminal Codes

A comparison of the construction of corporate criminal liability presents a clash of two drastically opposing philosophical paradigms. The colonial-era Criminal Code absolutely locks the parameters of punishment to natural human actions driven by individual inner intentions. This individualistic paradigm assumes that business entities are merely passive instruments without the capacity for rational will or functional autonomy. This archaic regime fails to grasp the reality that modern corporations possess structured organs capable of making collective decisions that are detrimental to the public. Law Number 1 of 2023 breaks the shackles of this fiction through legal recognition that explicitly positions corporations as pure criminal subjects. This radical transformation shifts the pendulum of justice toward institutional liability, which believes that legal entities are capable of planning crimes, possessing institutionalized bad intentions, and independently bearing institutional blame. This fundamental change in status from mere shadow administrators to autonomous criminal subjects reflects the leap in Indonesian criminal law civilization toward the demands of global modernity. The integration of corporations into this codification of substantive criminal law simultaneously eliminates the confusing dualism between conventional crimes and sectoral economic crimes.[36]

The mechanism for prosecuting commercial entities has undergone a sharp conceptual evolution when analyzed using modern criminal law doctrine. Past judicial regimes relied heavily on modified vicarious liability doctrines and identification theory simply to breach the barrier of corporate immunity in sectoral courts. This theoretical dependence consistently forced prosecutors to first prove the malicious intent (mens rea) of individual directors before shifting the burden of blame onto the institution. This practice of borrowing individual blame often led to an anticlimax when the board of directors' function was deliberately obscured through the delegation of multiple levels of authority to lower-level managers. The latest criminal law codification has abandoned this outdated approach in favor of a holistic and progressive embrace of corporate fault theory. The current law enforcement architecture is no longer held hostage to the need to find scapegoats among the executive board of directors, but rather is directed directly at evaluating internal policies, corrupt work cultures, and institutional negligence as manifestations of corporate culpability. This fundamental shift breaks down the barriers of organizational formality that for centuries served as an absolute bulwark for white-collar bandits. Determination of culpability is now based on the extent to which the corporation profited financially from legal violations that were allowed to occur without adequate mitigation.[37]

The form of criminal sanctions has also undergone a massive architectural overhaul in response to the systemic dangers of business crime. The legacy of past regulations has proven to be extremely blunt, as authorities were only able to impose sanctions of deprivation of liberty on individual directors without a sufficient legal basis to confiscate corporate assets under the general criminal law. The inability to

[36] Muhammad Malik Muda et al., "Rekonstruksi Hukum Pidana Nasional Dalam Perspektif KUHP Baru Tahun 2023," *Causa: Jurnal Hukum Dan Kewarganegaraan* 16, no. 7 (2026): 1–14, https://doi.org/10.6679/nx11w592.

[37] Muladi & Dwija Priyatno, *Pertanggungjawaban Pidana Korporasi* (Jakarta: Kencana Pernada Media Group, 2010): 48-50.

seize institutional assets has fueled the phenomenon of corporate recidivism as companies continue to operate normally using proceeds of crime after the imprisonment of their directors. The national Criminal Code presents a multi-layered criminal system specifically designed to stifle the vitality of predatory business entities by imposing principal penalties in the form of astronomical fines based on corporate category. These principal penalties are even reinforced by a series of progressive additional penalties, including complete asset confiscation, revocation of operational permits, and even permanent dissolution of the corporation from legal jurisdiction. This integrated sanction model directly targets the heart of corporate capital found to facilitate money laundering, finance terrorism, or commit large-scale ecological destruction. This new criminal configuration embodies the doctrine of direct corporate liability, effectively undermining the supremacy of large-capital financial crime entities. The state now possesses the ultimate weapon to liquidate legal entities inherently established for criminal purposes.[38]

The most visionary advantage of this new draft regulation lies in the legal recognition of internal compliance programs, or corporate compliance, as a legitimate criterion for forgiveness under the law. Corporate entities facing criminal charges are now granted the right to objective defense by proving that management has dedicated a rigorous oversight system, multi-layered compliance audits, and the implementation of an internationally recognized anti-bribery code of ethics. This recognition of institutional justification for forgiveness marks a transition from national substantive criminal law to the establishment of a preventive criminal law policy. National legislators formulated this norm not solely motivated by a desire to punish as many commercial entities as possible, but rather with the intention of compelling the private sector to proactively build an ecosystem of corporate governance with integrity. This prescriptive legal policy balances the state's interest in eradicating corporate crime against the pressing need to maintain an easy-to-do business climate for institutions that maintain good faith. Companies in good faith will not be indiscriminately criminalized simply because of the actions of individual employees acting completely outside the control of management that has implemented optimal oversight.[39]

The effectiveness of this new regulation is projected to plug dozens of loopholes in legal smuggling often exploited by beneficial owners. The loopholes of impunity deliberately maintained through the practice of establishing shell companies and appointing nominees under the old Criminal Code have now been successfully eliminated thanks to the expansion of de facto manager qualifications. The law mandates that anyone proven to hold actual control over business operations, regardless of their absence on the deed of establishment, bears the same legal burden as formal managers. Potential regulatory weaknesses continue to haunt the implementation of this progressive norm, particularly stemming from the gap in judges' literacy capacity in precisely defining the boundaries of corporate culture in the courtroom. First-instance judges are required to adapt extra quickly to recognize modern financial crime patterns to avoid interpretive bias when evaluating the

[38] Firda Faradila dan Nur Kholim, "Sanksi Pidana Tambahan Terhadap Korporasi Dalam Praktik Penegakan Hukum Di Indonesia," *Action Research Literate* 8, no. 11 (2024): 3174–84, https://doi.org/10.46799/arl.v8i11.2349.

[39] Fadhila, "Reformasi Hukum Pidana Dan Pertanggungjawaban Korporasi Dalam UU KUHP 2023." 650.

extensive internal compliance documents submitted by corporate attorneys. This constraint on the qualifications of law enforcement resources has the potential to distort the noble application of corporate fault theory into merely imposing strict liability that ignores the principle of no crime without fault.[40]

The practical implications of this paradigm shift undoubtedly require a complete overhaul of the working methods of all leading law enforcement institutions in the country. The Indonesian National Police (Polri) and the Attorney General's Office (AGO) are strictly prohibited from continuing to rely on conventional evidentiary techniques to pursue individual testimony, but are instead required to mobilize the power of forensic accountants to comprehensively unravel the institutional mens rea construction of corporations. Changes in investigative tactics must immediately address the realm of digital footprint audits and forensic analysis of shareholder structures to dismantle the corporate protection net layer by layer. Domestic and multinational businesses are simultaneously responding to this stark warning by racing to re-audit entire supply chains and modernize internal oversight standards to reduce the risk of high-cost corporate criminal traps. The presence of this cutting-edge codification ultimately restores the authority of state authorities in the battle against the superiority of capitalist cartels hiding behind the shield of legitimate legal entities. This new justice architecture has proven successful in humanizing the accountability of artificial entities proportionally in order to repay the debt of substantive justice forfeited by corporate operational greed.

CONCLUSION

The colonial legacy of the Criminal Code has proven to be chronically flawed due to its rejection of the existence of corporations as independent criminal subjects. This past legal construction was purely held hostage by an individualistic legal fiction that deified the dogma of societas delinquere non potest. Law Number 1 of 2023 breaks this dogmatic impasse through explicit and comprehensive legal recognition, marking a paradigm shift in the national criminal justice architecture toward the concept of direct corporate liability. This monumental transformation simultaneously eliminates the fragmentation of the prosecution regime, which had been scattered sectorally outside of codification. The mechanism for attribution of fault has also undergone a sharp evolution in response to the sophistication of modern white-collar crime methods, abandoning the doctrine of vicarious liability in favor of a corporate fault theory that directly assesses the institutional work culture. The expansion of sanction instruments for commercial entities has also been realized through the imposition of proportional fines, confiscation of assets, and even permanent revocation of operational permits. This progressive criminalization configuration firmly upholds a preventive, corrective, and restorative vision to repair the multidimensional damage caused by illegal business operations. The recognition of the corporate compliance system as a legitimate instrument of forgiveness has ushered in a new chapter in domestic and global business governance. The private sector is being forced to modernize its internal oversight standards to proactively build a legally compliant business ecosystem. This cutting-edge codification architecture is considered highly

[40] Fiki Muzaki Makhron et al., "Penerapan Teori Strict Liabillity Dalam Tindak Pidana Pencemaran Lingkungan Dikaitkan Dengan Undang-Undang," *Jurnal Ilmu Hukum, Humaniora Dan Politik* 6, no. 1 (2025): 441–54, https://doi.org/10.38035/jihhp.v6i1.6290.

effective in plugging dozens of loopholes in impunity often exploited by intellectual actors through the establishment of multiple shell companies. Future Indonesian criminal law enforcement will finally have a comprehensive regulatory instrument to prosecute financial predators without compromise. Substantive justice can finally be upheld proportionally to protect the human rights of the wider community without sacrificing the investment stability of well-intentioned corporations.

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