Requisitoire : Law Enforcement
Vol. 18, No. 1, July 2026, pp. 11~20
ISSN: 2986-3988 (Online), DOI: 10.59651/relae

Concept of Corporate Criminal Liability in Law Number 1 of 2023 in Indonesia

Meivito Bayu Wicaksono[1], Hery Chariansyah[2]
[1,2]Law, Universitas Krisnadwipayana, Bekasi, Indonesia

Article Info

Article history:

Received : May 12, 2026
Revised : Jun 16, 2026
Accepted : Jul 15, 2026

Keywords:

Beneficial Owner;
Corporate Criminal Liability;
Identification Theory;
Indonesia;
Law Number 1 of 2023 concerning the Criminal Code.

ABSTRACT

Legal systems inevitably evolve to keep pace with social and economic change, and Indonesia is no exception. One recent instance of this evolution is the enactment of Law Number 1 of 2023 concerning the Criminal Code, which amends Law Number 1 of 1946 on Criminal Law Regulations and, for the first time, unifies the general rules on corporate criminal liability under a single statutory framework. This article examines how that concept is regulated, tracing its historical development from Law Number 1 of 1951 through to its current codification, and analyzing the liability theories, statutory provisions, and sanctions established under the new Code. Using a normative juridical method that combines statutory, conceptual, case-based, and historical approaches, this study draws on primary legal materials together with a review of relevant literature and selected Indonesian court decisions. The findings show that Law Number 1 of 2023 broadens the legal definition of a corporation, extends liability to controlling parties and beneficial owners, and adopts the Identification Theory alongside a category-based fine structure and a range of corrective sanctions. These changes close long-standing regulatory gaps, though their effective implementation still depends on the prompt issuance of supporting Government Regulations. This concept therefore needs to be well understood by both the public and law enforcement officials to ensure legal certainty and justice in its application.

Corresponding Author:

Meivito Bayu Wicaksono
Fakultas Hukum, Universitas Krisnadwipayana, Indonesia
Jl. Unkris No.23, Jaticempaka, Kec. Pondok Gede, Kota Bekasi, Jawa Barat 17411
Email: meivitobayuwicaksono@gmail.com

1. INTRODUCTION

The 1945 Constitution of the Republic of Indonesia affirms that Indonesia is a rule of law state (Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, 1945). This principle means that every dimension of national life must be conducted under the authority of law, and that no actor, whether an individual or a corporation carrying out business activities, stands outside the reach of legal obligation.

Corporations, as artificial legal persons, are now deeply embedded in nearly every sector of public life. They are widely credited with driving national and global economic growth (Wicaksana et al., 2025), yet their operations frequently produce negative externalities as well, ranging from environmental degradation to inflated consumer prices caused by anti-competitive practices, along with various forms of fraud and corruption that ultimately burden both society and the state (Ganitri et al., 2024; Wulandari et al., 2026). This dual character of corporations, contributing to prosperity while simultaneously enabling harm, is well documented. Corporations have been linked to environmental pollution, deforestation, depletion of fish stocks, bribery, corruption, and money laundering (Nurhayati et al., 2026; Ulinihayati et al., 2025). Hiariej (2016), drawing on Edwin Sutherland's classic formulation, notes that corporate wrongdoing falls under the category of white-collar crime, a term Sutherland coined to separate offenses committed by high-status professionals from conventional street crimes such as robbery or assault. Such offenses, in this framing, can be carried out either by corporate officers personally or by management acting to advance the corporation's interests. Atmasasmita (2018) and Venugopal (2025) add that corporate crime typically involves deception, misrepresentation, concealment, manipulation, breach of trust, or circumvention of regulatory requirements, all of which inflict broad societal harm. Building on this, Wahyuono (2025) identifies two principal categories of harm associated with corporate crime: harm to the public through practices such as price-fixing or misleading claims about product quality, and harm to society more broadly through environmental destruction or endangerment of worker health and safety. Akbar (2021) emphasizes that such conduct must always be traceable to an economic or business context in order to qualify as corporate crime.

Whether a corporation can be treated as a legal subject distinct from the natural person (natuurlijke persoon) has long been debated in criminal law scholarship. Over time, however, a broad international consensus has emerged that corporations may indeed be held criminally liable (Hendriawan, 2022). This position rests largely on the principle that a corporation's own conduct can be self-evidently harmful, res ipsa loquitor, since corporations routinely act, through the individuals who manage them, in ways that endanger society while generating profit for the entity itself (Hartanti, 2005). Because corporate crime is inherently complex, enforcement cannot rely on punishment alone. As Tursilarini observes in Riski Yunus et al. (2025), preventive strategies, such as embedding compliance programs within corporate governance structures, are equally necessary. Countries like the United States have used tools such as Deferred Prosecution Agreements to incentivize internal reform among companies (Rasyid, 2025), an approach that could plausibly strengthen law enforcement effectiveness if adapted to the Indonesian context.

Indonesia's recognition of corporate criminal liability is not a recent phenomenon. It can be traced back to Law Number 1 of 1951 concerning the Hoarding of Goods, which explicitly treated corporations as subjects capable of committing criminal offenses, and was later reinforced by Law Number 7 Drt of 1955 on the Investigation, Prosecution, and Adjudication of Economic Crimes. Since then, over a hundred statutes have incorporated some form of corporate criminal liability, including the anti-corruption law and the anti-money laundering law (Tim Pokja Penyusun Pedoman Pertanggungjawaban Pidana Korporasi, 2017). Corporate liability provisions also appear across a range of sectoral laws, among them Law Number 9 of 1976 on Narcotics Storage, Law Number 23 of 1997 on Environmental Management, Law Number 31 of 1999 on Corruption Eradication as amended by Law Number 20 of 2001, Law Number 21 of 2007 on the Eradication of Human Trafficking, and Law Number 8 of 2010 on Money Laundering.

A significant turning point arrived with Law Number 1 of 2023 concerning the Criminal Code, enacted on January 2, 2023 and taking effect three years later, on January 2, 2026. Under Article 45 paragraph (2) of this Law, corporations are defined broadly to encompass limited liability companies, foundations, cooperatives, state-owned and regionally-owned enterprises or their equivalents, as well as incorporated or unincorporated associations and business entities such as general and limited partnerships, in accordance with prevailing laws and regulations. Recognizing corporations as criminal law subjects under this new Code marks a substantial shift in Indonesia's legal development. It reaffirms that a corporation committing a criminal offense will be held accountable in the interest of justice and legal certainty, and positions the Law as a reference point both for the public and for law enforcement officials carrying out their duties.

This article aims to clarify how the concept of corporate criminal liability under Law Number 1 of 2023 concerning the Criminal Code (Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana, 2023) can be properly understood by society and law enforcement officials alike, so that legal certainty and justice may be realized for the Indonesian nation as a whole.

Specifically, this article seeks to answer the following research question: how is the concept of corporate criminal liability regulated under Law Number 1 of 2023 in Indonesia? The analysis draws on primary legal sources applicable in Indonesia together with a review of relevant literature.

2. METHOD

This study employs the Normative Juridical Legal Research Method, a form of inquiry conducted through the examination of library materials and secondary data rather than field data, and therefore properly classified as library legal research. Understood in its broader sense, normative legal research is not confined to statutory text alone, but extends to any material that can shed light on the operation of law within a given legal system, including doctrine, judicial reasoning, and historical development (Mushafi, 2025). To operationalize this method for the present study, the research draws on several complementary approaches, described below.

2.1. Research Approach

The primary orientation of this research is normative juridical, meaning that corporate criminal liability under Law Number 1 of 2023 concerning the Criminal Code is examined as a matter of positive law: how the rules are formulated, how they relate to earlier and surrounding statutes, and how they have been applied in decided cases. Within this overall orientation, four specific approaches are combined, namely the statutory approach, the conceptual approach, the case-based approach, and the historical approach, each serving a distinct analytical function as outlined in the following sub-sections.

2.2. Statutory Approach

The statutory approach is used to examine the relevant body of legislation governing corporate criminal liability in Indonesia, particularly Law Number 1 of 2023 concerning the Criminal Code, alongside earlier and related statutes such as Law Number 1 of 1946 on Criminal Law Regulations, Law Number 1 of 1951 concerning the Hoarding of Goods, and various sectoral laws that regulate corporate liability in specific fields (environmental, anti-corruption, anti-money laundering, and others). This approach allows the research to trace how the legal subject status of corporations has been formulated, refined, and expanded across different pieces of legislation over time.

2.3. Conceptual Approach

The conceptual approach is applied to clarify the legal concepts underlying corporate criminal liability, including the definition of a corporation itself, the meaning of criminal liability more generally, and the doctrinal theories used to attribute criminal responsibility to a corporate entity, such as strict liability, vicarious liability, and identification theory. This approach is necessary because Law Number 1 of 2023 concerning the Criminal Code adopts and reworks concepts that had previously been scattered and inconsistently defined across sectoral statutes.

2.4. Case-Based Approach

The case-based approach involves examining court decisions in which corporations have been held criminally liable, including rulings against PT National Sago Prima, PT Duta Graha Indah Tbk (later PT Nusa Konstruksi Enjiniring Tbk), and PT Cakrawala Nusadimensi. These decisions are used to illustrate how liability theories are actually applied in practice by Indonesian courts, and to test whether the framework introduced under Law Number 1 of 2023 concerning the Criminal Code is consistent with, or represents a departure from, prior judicial practice.

2.5. Historical Approach

The historical approach traces the development of corporate criminal liability in Indonesian law from its earliest recognition in Law Number 1 of 1951 concerning the Hoarding of Goods through to its consolidation under Law Number 1 of 2023 concerning the Criminal Code. This approach is used to situate the current regulatory framework within a longer trajectory of legal reform, so that the significance of the changes introduced by the new Criminal Code can be properly assessed.

2.6. Legal Materials

Legal materials used in this study are classified into primary and secondary legal materials. Primary legal materials consist of binding legal instruments directly relevant to the research question, namely the 1945 Constitution of the Republic of Indonesia, Law Number 1 of 2023 concerning the Criminal Code, Law Number 1 of 1946 on Criminal Law Regulations, Law Number 1 of 1951 concerning the Hoarding of Goods, Law Number 7 Drt of 1955, Law Number 40 of 2007 concerning Limited Liability Companies, Law Number 20 of 2025 concerning the Criminal Procedure Code, sectoral statutes touching on corporate liability, Supreme Court Regulation Number 13 of 2016, and relevant court decisions. Secondary legal materials consist of sources that explain or support the analysis of primary materials, including textbooks, academic journal articles, prior research findings, and other scholarly literature on corporate criminal liability, as cited throughout this article.

2.7. Techniques for Collecting Legal Materials

Legal materials were collected through documentary study (studi dokumen), involving the identification, collection, and review of relevant statutes, court decisions, books, and journal articles obtained from official legal databases, court archives, and academic publication repositories. Materials were then organized according to their relevance to each sub-topic examined in the Results and Discussion section.

2.8. Analysis Techniques

The collected legal materials were analyzed qualitatively using a descriptive-analytical technique. This involved systematically describing the content of each legal material, comparing provisions across statutes and time periods, and evaluating them against relevant legal doctrines and theories in order to answer the research question posed in the Introduction.

3. RESULTS AND DISCUSSION

This section presents the results of the research together with an integrated discussion. To make the analysis easier to follow, comparative tables are used alongside the narrative discussion, which is organized into the following sub-sections.

3.1. Definition of Corporation

The term corporation traces back to the Latin corporatio, formed from corporare, meaning "to form into a body," combined with the suffix -tio, which turns the verb into a noun. Understood etymologically, a corporation is a body (corpus) that has been given legal recognition and endowed with animus, the intent or will that allows it to function as a distinct legal personality. As a creature of law, a corporation's existence, and likewise its dissolution, depends entirely on legal authorization. Kurniawan and Hapsari (2022), citing Rudi Prasetyo as referenced by Muladi, note that the term corporation is widely accepted among criminal law scholars, who also refer to it using the Dutch-derived term rechtspersoon, or legal entity.

Beyond its legal-technical meaning, the Kamus Besar Bahasa Indonesia (Indonesian dictionary) defines corporation in two ways: first, as a legally established business entity, and second, as a very large enterprise, or a group of enterprises, operated collectively as a single large business unit (Kamus Besar Bahasa Indonesia Online, n.d.).

Table 1 below summarizes how the definition of "corporation" has been articulated across these different sources, together with its most recent statutory formulation under Article 146 of Law Number 1 of 2023 concerning the Criminal Code.

Table 1. Comparison of Definitions of "Corporation" Across Sources

No.	Source	Core Definition
1.	Etymological (Latin corporatio)	A body (corpus) recognized by law and given legal personality (animus), created and dissolved only through legal authorization
2.	Kurniawan and Hapsari (2022), citing Rudi Prasetyo/Muladi	A term accepted among criminal law scholars, synonymous with rechtspersoon (legal entity)
3.	Kamus Besar Bahasa Indonesia Online (n.d.)	(a) a legally established business entity; (b) a very large enterprise or group of enterprises operated as one business unit
4.	Law Number 40 of 2007 on Limited Liability Companies (prior framework)	Corporation understood narrowly, largely equated with the limited liability company (PT)
5.	Article 146, Law Number 1 of 2023 on the Criminal Code (current framework)	An organized collection of persons and/or assets, whether a legal entity (limited liability company, foundation, association, cooperative, state-owned enterprise, regionally-owned enterprise, village-owned enterprise, or equivalent) or an unincorporated entity (general partnership, limited partnership, or equivalent)

As the table illustrates, the statutory understanding of "corporation" has broadened considerably over time. Prior to Law Number 1 of 2023 concerning the Criminal Code, the concept of a corporation was largely confined to etymological or dictionary-based understandings, and had not been given a single, formally binding statutory definition applicable across the criminal law system. Law Number 1 of 2023 concerning the Criminal Code changed this by providing a clear, codified definition and establishing the corporation as a legal subject capable of bearing criminal liability.

This expansion is significant in scope as well as in form. Where corporations were once effectively equated with limited liability companies alone, as reflected in Law Number 40 of 2007 concerning Limited Liability Companies, the definition under Law Number 1 of 2023 concerning the Criminal Code now extends to foundations, cooperatives, state-owned and regionally-owned enterprises, associations, and unincorporated business forms such as general and limited partnerships. This broadened definition closes gaps that previously allowed certain business forms to escape classification as a "corporation" for criminal liability purposes.

3.2. Corporate Criminal Liability

Before corporate criminal liability itself can be discussed, it is necessary to first clarify what "criminal liability" means as a general legal concept. Moeljatno, as cited in Wijaya and Boediningsih (2025), frames criminal liability as resting on two interrelated conditions: an objective condition, namely the unlawful act itself (das kriminelle Unrecht), and a subjective condition, namely fault (Schuld) together with the absence of any excusing ground. These two conditions are not simply juxtaposed but mutually dependent: fault only becomes relevant once an unlawful act has been established, and conversely, an unlawful act only produces criminal consequences once fault can be attributed to its perpetrator. In this framework, liability and the criminal act are inseparable: an act has no criminal significance without liability, just as liability cannot exist in the absence of an act. Whether an act qualifies as unlawful in the first place depends on how the elements of the offense, as formulated in the relevant statute, are satisfied.

Sianturi, as cited in Sinurat (2023), adds that across legal traditions, criminal liability is known variously as toerekenbaarheid, criminal responsibility, or criminal liability, terms that all serve the same underlying purpose: determining whether a suspect or defendant should be held accountable, and therefore convicted, for an act that has occurred. For a conviction to follow, it must be shown that the act was unlawful and that its perpetrator had the capacity to bear liability, meaning that the perpetrator understood the nature of the act, recognized its wrongfulness, and nonetheless chose, whether intentionally or negligently, to carry it out. Sianturi further specifies five elements that must be proven before punishment can be imposed: that the subject matches the statutory formulation of the offense, that fault exists on the part of the perpetrator, that the act is unlawful, that the act is prohibited and threatened with punishment under statute, and that the act was committed within the time, place, and circumstances defined by that statute.

Building on this general framework, Rodliyah et al. (2021) identify three principal theories used to attribute criminal liability to corporations: Strict Liability Theory, Vicarious Liability Theory, and Identification Theory. Under Strict Liability Theory, a corporation is held liable for acts physically carried out by its shareholders, management, agents, representatives, or employees, without the prosecution needing to prove criminal intent (mens rea) in relation to the unlawful element of the act (actus reus), although intent, recklessness, or knowledge may still need to be shown for other elements of the offense. This is also referred to, following Prof. Barda Nawawi's terminology, as strict criminal liability under statute. The rationale is straightforward: because a corporation is itself a legal subject, its failure to comply with a statutory obligation renders it liable regardless of fault. Typical examples include a corporation operating without the required business permit, exceeding the terms of a permit it does hold, or operating an uninsured vehicle on public roads.

Vicarious Liability Theory holds that a superior may be held liable for acts committed by a subordinate acting within a joint or connected activity. Rooted in the common law doctrine of respondeat superior, a form of secondary liability arising from the law of agency, this theory has been elaborated by Peter Gillies through several propositions: first, a corporation, like an individual entrepreneur, may be held vicariously liable for the acts of its employees or agents, but only where the underlying offense is one capable of being committed vicariously in the first place; second, such offenses are generally summary offenses connected to trade regulation; and third, the specific position or intent of the employer is largely irrelevant, since liability may still attach even where an employee acted against express instructions, so long as the act occurred within the scope of employment. This doctrine also operates through the principle of delegation of authority, whereby an employee's mens rea can be imputed to the employer where relevant authority and obligations have been delegated to that employee.

Identification Theory, sometimes called nonvicarious or direct liability, takes a different approach: rather than attributing an employee's conduct to the corporation indirectly, it treats the acts and mental states of senior officers, or those to whom authority has been delegated, as the corporation's own acts and mental state. This is also known as the alter ego doctrine or organ theory, and it allows for a broader scope of corporate liability than the vicarious model. According to Prof. Barda Nawawi, a "senior officer" for these purposes is generally someone who controls the company, whether alone or jointly, typically directors or managers, although in the United States this concept is interpreted more broadly to include agents below senior management as well.

Table 2. Comparison of Corporate Criminal Liability Theories

Theory	Basis of Liability	Whether Mens Rea Must Be Proven	Typical Scope of Application
Strict Liability Theory	Corporation held liable for statutory non-compliance regardless of fault	Not required for the unlawful element (actus reus); may still be required for other elements	Regulatory offenses, e.g. operating without a permit, breaching permit terms, uninsured vehicle use
Vicarious Liability Theory	Superior held liable for acts of subordinate within scope of employment	Not required; liability follows from the employment relationship or delegation of authority	Summary/regulatory offenses connected to trade, employment-based conduct
Identification Theory	Acts and intent of senior officers treated as the corporation's own acts and intent	Required, but attributed directly through the senior officer ("alter ego"/organ theory)	Broader offenses, including serious crimes attributable to directing minds of the corporation

Read together, these three theories are not mutually exclusive; rather, they represent different doctrinal routes for reaching the same underlying goal, holding a corporation accountable when it causes harm through the people who act on its behalf, and Indonesian law, as will be discussed in the following sub-section, draws on more than one of them in practice.

3.3. Corporate Criminal Liability in Indonesia

Corporate criminal liability first entered Indonesian law through Emergency Law Number 17 of 1951 concerning the Hoarding of Goods, which defined a legal entity broadly to include any company, corporation, association, or foundation, even one that had not formally acquired legal-entity status under law or in fact. Article 12 of this Emergency Law required that, when a criminal prosecution was brought against a legal entity, the entity be represented throughout the proceedings by an administrator, appointed by the Prosecutor's Office where necessary, with court documents delivered either to the entity's office or to that administrator's residence. This provision is generally regarded as the origin point of corporate criminal punishment in Indonesian law (Undang-Undang Darurat Nomor 17 Tahun 1951 Tentang Penimbunan Barang-Barang, 1951).

Over the following decades, additional statutes extended corporate liability into new fields, including Emergency Law Number 7 of 1955 on the Investigation, Prosecution, and Adjudication of Economic Crimes, Law Number 9 of 1976 on Narcotics Storage, Law Number 23 of 1997 on Environmental Management, Law Number 31 of 1999 on Corruption Eradication as amended by Law Number 20 of 2001, Law Number 21 of 2007 on the Eradication of Human Trafficking, Law Number 32 of 2009 on Environmental Protection and Management, and Law Number 8 of 2010 on Money Laundering. For a long period, however, no single statute provided formal procedural guidance for enforcing corporate criminal liability, a gap eventually filled by Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. Even without a unified procedural framework, Indonesian courts had already begun holding corporations, mostly limited liability companies, criminally liable well before 2016. Table 3 summarizes three notable decisions that illustrate how liability was established and what sanctions were imposed.

Table 3. Summary of Selected Court Decisions on Corporate Criminal Liability

Corporation	Ruling	Legal Basis	Liability Theory Applied	Sanction
PT National Sago Prima (PT NSP)	Bengkalis District Court Ruling No. 547/Pid.Sus/2014/PN.Bls	Article 99(1) jo. Article 116(1)(a), Law No. 32 of 2009 on Environmental Protection and Management	Liability arising from acts of persons in an employment relationship with the corporation	Fine of Rp2,000,000,000.00, without substitute imprisonment (Pengadilan Negeri Bengkalis, 2015)
PT Duta Graha Indah Tbk / PT Nusa Konstruksi Enjiniring Tbk (PT DGI)	Central Jakarta District Court Ruling No. 81/PID.SUS/TIPIKOR/2018/PN.JKT.PST	Article 2(1) jo. Article 18, Law No. 31 of 1999 as amended by Law No. 20 of 2001, jo. Article 55(1) point 1 jo. Article 64(1) of the former Criminal Code	Identification theory (directing mind: President Director Dudung Purwandi)	Fine of Rp700,000,000.00; restitution of Rp85,490,234,737.00; asset confiscation if unpaid within one month; 6-month ban from government project tenders (Pengadilan Negeri Jakarta Pusat, 2019)
PT Cakrawala Nusadimensi (PT CN)	Bandung District Court Ruling No. 65/Pid.Sus/TPK/2016/PN.Bdg	Article 2(1) jo. Article 18, Law No. 31 of 1999 as amended by Law No. 20 of 2001	Aggregation theory (combined acts of multiple interrelated persons)	Criminal fine per court ruling (Pengadilan Negeri Bandung, 2016)

These three rulings show that Indonesian courts have, in practice, drawn on more than one liability theory, from identifying a directing mind within the corporation to aggregating the conduct of several individuals, even in the absence of a single unifying statutory framework. This judicial practice set the stage for the more systematic approach later adopted in Law Number 1 of 2023 concerning the Criminal Code.

On January 2, 2023, the Government enacted Law Number 1 of 2023 concerning the Criminal Code, replacing Law Number 1 of 1946 concerning Criminal Law Regulations, a code inherited from the Dutch colonial period. The new Criminal Code was also aligned with Law Number 1 of 2016 concerning the Adjustment of Criminal Penalties, and now serves as the primary codified source of substantive criminal law in Indonesia (Ramdani, 2024).

Unlike its predecessor, which contained no provisions on corporate criminal liability, the new Criminal Code regulates the matter directly. Article 45 paragraph (2) defines corporations broadly, covering limited liability companies, foundations, cooperatives, state-owned and regionally-owned enterprises or their equivalents, as well as incorporated or unincorporated associations and business entities such as general and limited partnerships. Article 46 further defines a Corporate Offense as one committed by management holding a functional position within the corporation, or by persons acting for, on behalf of, or in the interest of the corporation within the scope of its business, whether individually or jointly. Article 47 extends this scope to a person giving orders, a controlling party, or a beneficial owner who sits outside the corporation's formal organizational structure but is nonetheless able to control it.

Under Article 48, a corporation may be held criminally liable where the offense falls within the scope of its business activities as set out in its articles of association, where the offense unlawfully benefits the corporation, where the offense is accepted as corporate policy, where the corporation fails to take the necessary preventive or compliance measures, or where the corporation simply allows the offense to occur. Article 49 then clarifies that liability for such an offense may be imposed jointly on the corporation itself, its functional management, the person giving orders, the controlling party, and/or the beneficial owner.

Where a corporation is proven to have committed an offense, it becomes subject to a principal penalty in the form of a fine, set at a minimum of category IV, or at least Rp2,000,000,000.00, together with additional penalties. These additional penalties may include compensation, remediation, fulfillment of neglected or customary obligations, financing of job training, confiscation of proceeds, publication of the ruling, revocation of permits, permanent prohibition from specified acts, closure or suspension of business activities, and even dissolution of the corporation. Further measures available under the Code include takeover of the corporation, placement under supervision, or placement under guardianship.

This regulatory framework has since been reinforced by Law Number 20 of 2025 concerning the Criminal Procedure Code, which replaces Law Number 8 of 1981 and, unlike its predecessor, contains formal procedural provisions for handling corporate criminal cases (Undang-Undang Nomor 20 Tahun 2025 Tentang Kitab Undang-Undang Hukum Acara Pidana, 2025). To date, however, the

Government Regulations needed to elaborate both the new Criminal Code and the new Criminal Procedure Code have not yet been issued, leaving a regulatory gap that still needs to be addressed.

A further issue this new framework raises is its relationship with Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, which for nearly a decade served as the sole procedural basis for prosecuting corporations in the absence of general provisions in the old Criminal Code. Because Law Number 1 of 2023 concerning the Criminal Code now regulates corporate liability directly and Law Number 20 of 2025 concerning the Criminal Procedure Code introduces its own procedural mechanism for corporate cases, the two frameworks overlap in subject matter but were drafted independently of one another. Under the principle of lex posterior derogat legi priori, meaning a later law overrides an earlier one to the extent they conflict, provisions of Supreme Court Regulation Number 13 of 2016 that conflict with the new Criminal Code or Criminal Procedure Code should, in principle, give way to the later statutes, while provisions that do not conflict may continue to apply as interim technical guidance. However, neither the new Criminal Code nor the new Criminal Procedure Code expressly states whether Supreme Court Regulation Number 13 of 2016 is revoked, retained, or intended to be revised, so this relationship remains a matter of interpretation rather than settled law. Clarification from the Supreme Court, whether through formal revision of the Regulation or a circular confirming its continued validity, would remove this uncertainty for prosecutors and judges applying both instruments.

Beyond this procedural relationship, the practical readiness of law enforcement institutions to apply the new framework is a separate concern, since the new Criminal Code took effect on 2 January 2026 while several of the implementing arrangements needed to operationalize it remain unfinished. Investigators require updated internal directives on identifying and documenting a corporation's role in an offense under Articles 45 through 49, a task that differs in nature from investigating an individual suspect. Prosecutors similarly need prosecution guidelines specific to corporate cases, covering matters such as how a corporation is formally charged, represented, and summoned, since the general provisions of the new Criminal Procedure Code do not fully replicate the detailed procedural steps previously set out in Supreme Court Regulation Number 13 of 2016. A further practical difficulty concerns beneficial ownership: Article 47 extends liability to a person giving orders, a controlling party, or a beneficial owner situated outside a corporation's formal organizational structure, yet neither the new Criminal Code nor its accompanying regulations set out a concrete evidentiary standard or verification mechanism for establishing who qualifies as a beneficial owner in a given case. Without such guidance, this expanded scope of liability risks being difficult to enforce in practice, regardless of how clearly it is defined in statutory text.

4. CONCLUSION

Law Number 1 of 2023 concerning the Criminal Code marks a turning point in Indonesia's criminal law enforcement by unifying, for the first time, the general rules governing corporate criminal liability. Where the law had long been fragmented across sectoral statutes and shaped by the colonial-era doctrine of universitas delinquere non potest, the new Criminal Code establishes a single, comprehensive framework: it defines corporations broadly, extends liability to controlling parties and beneficial owners, and adopts the Identification Theory to attribute a directing officer's fault directly to the corporation itself. Combined with a category-based fine structure and a wide range of additional, largely corrective and rehabilitative sanctions, this framework finally lifts the veil of immunity that had long shielded corporations from meaningful criminal accountability.

From a policy standpoint, the most pressing recommendation is for the Government to promptly issue the implementing Government Regulations for both Law Number 1 of 2023 concerning the Criminal Code and Law Number 20 of 2025 concerning the Criminal Procedure Code, since their continued absence leaves a regulatory gap that could undermine consistent enforcement. Alongside this, the Supreme Court should clarify the status of Supreme Court Regulation Number 13 of 2016 relative to the new Criminal Code and Criminal Procedure Code, whether by retaining it as interim technical guidance to the extent it does not conflict with the new statutes, revising it to match their terminology and procedural structure, or formally superseding it, so that prosecutors and judges are not left to resolve this overlap on a case by case basis. The Attorney General's Office and the National Police should likewise issue corporate specific prosecution and investigation guidelines, including a concrete verification mechanism for establishing beneficial ownership under Article 47, given that institutional readiness has not yet caught up with the Code's entry into force on 2 January 2026. In practical terms, this framework gives law enforcement officials, prosecutors, and judges a clearer and more certain basis for prosecuting corporate crime proportionately, while also giving corporations themselves a stronger incentive to build genuine internal compliance systems rather than rely on the separation between a company and the individuals who act on its behalf.

Future research would benefit from empirically tracking how these provisions are applied once the new Criminal Code and Criminal Procedure Code are fully operational, particularly through case studies of early prosecutions under Articles 45 through 49, so that gaps between the statutory design and its actual enforcement in Indonesian courts can be identified and addressed.

REFERENCES

Akbar, M. F. (2021). Penerapan Pertanggungjawaban Pidana Korporasi dalam Berbagai Putusan Pengadilan. *Jurnal Hukum & Pembangunan*, *51*(3). https://scholarhub.ui.ac.id/jhp/vol51/iss3/15/?utm_source=scholarhub.ui.ac.id%2Fjhp%2Fvol51%2Fiss3%2F15&utm_medium=PDF&utm_campaign=PDFCoverPages

Atmasasmita, R. (2018). *Pengantar Hukum Kejahatan Bisnis*. Kencana.

Ganitri, N. N. A. R., Sugiartha, I. N. G., & Setiabudhi, I. K. R. (2024). Corporate Criminal Liability for Criminal Negligence of Forest and Land Fire Causes Undang-Undang Darurat Nomor 17 Tahun 1951. *YURIS: Journal of Court and Justice*, *3*(2), 1–13. https://doi.org/10.56943/jcj.v3i2.513

Hartanti, E. (2005). *Tindak Pidana Korupsi*. Sinar Grafika.

Hendriawan, M. R. (2022). Politics of Criminal Law Liability of Corporate Criminal in Indonesia. *YURIS: Journal of Court and Justice*, *1*(1), 25–37. https://doi.org/10.56943/jcj.v1i1.12

Hiariej, E. O. S. (2016). *Prinsip-Prinsip Hukum Pidana*. Cahaya Atma Pustaka.

Kamus Besar Bahasa Indonesia Online. (n.d.). *Korporasi*. KBBI Online. https://kbbi.web.id/korporasi

Kurniawan, K. D., & Hapsari, D. R. I. (2022). Pertanggungjawaban Pidana Korporasi menurut Vicarious Liability Theory. *Jurnal Hukum Ius Quia Iustum*, *29*(2), 324–346. https://doi.org/10.20885/iustum.vol29.iss2.art5

Mushafi. (2025). *Metode Penelitian Hukum: Teori dan Praktik*. Eureka Media Aksara.

Nurhayati, N., Rahman, A. A., Pribadi, E. P. A., Panjaitan, N. R., Nismara, T. S., & Tohadi, T. (2026). Civil Liability for Environmental Damage from Mining on Small Islands: PT Gag Nikel Case after Constitutional Court Decision No. 35/PUU-XXI/2023. *Requisitoire Law Enforcement*, *17*(2), 183–190. https://ejournal.cria.or.id/index.php/relae/article/view/372

Pengadilan Negeri Bandung. (2016). *Putusan Nomor 65/Pid.Sus/TPK/2016/PN.Bdg atas nama terdakwa PT Cakrawala Nusadimensi*.

Pengadilan Negeri Bengkalis. (2015). *Putusan Nomor 547/Pid.Sus/2014/PN.Bls atas nama terdakwa PT National Sago Prima*.

Pengadilan Negeri Jakarta Pusat. (2019). *Putusan Nomor 81/Pid.Sus/Tipikor/2018/PN.Jkt.Pst atas nama terdakwa PT Nusa Konstruksi Enjiniring Tbk (sebelumnya PT Duta Graha Indah Tbk)*. Pengadilan Negeri Jakarta Pusat.

Ramdani, A. (2024). *Sumber-sumber Hukum Pidana di Indonesia*. Lawyer Ahdan Ramdani. https://www.lawyer-ahdanramdani.com/sumber-sumber-hukum-pidana-di-indonesia/

Rasyid, M. F. F. (2025). White-Collar Crime Prevention Through Corporate Governance Mechanisms: Evidence from Emerging Markets. *Proceeding of the International Conference on Law and Human Rights*, *2*(1), 19–35. https://doi.org/10.62383/iclehr.v2i1.49

Riski Yunus, Roy Marthen Moonti, Nurmik K. Martam, & Muslim A. Kasim. (2025). Analisis Penegakan Hukum Pidana terhadap Kejahatan Korporasi. *Mahkamah : Jurnal Riset Ilmu Hukum*, *2*(3), 70–85. https://doi.org/10.62383/mahkamah.v2i3.660

Rodliyah, R., Suryani, A., & Husni, L. (2021). Konsep Pertanggungjawaban Pidana Korporasi (Corporate Crime) Dalam Sistem Hukum Pidana Indonesia. *Journal Kompilasi Hukum*, *5*(1), 191–206. https://doi.org/10.29303/jkh.v5i1.43

Sinurat, A. (2023). *Azas-Azas Hukum Pidana Materil di Indonesia*. Lembaga Penelitian Universitas Nusa Cendana (LP2M Universitas Nusa Cendana).

Tim Pokja Penyusun Pedoman Pertanggungjawaban Pidana Korporasi. (2017). *Tata Cara Penanganan Perkara Pidana Korporasi*. Mahkamah Agung RI dan Komisi Pemberantasan Korupsi.

Ulinihayati, N., Effendy, F. S. W., & Prabawani, R. D. (2025). Reformulating Corporate Liability for Environmental Crimes: Implications of the National Criminal Code. *International Journal of Multidisciplinary Research and Analysis*, *08*(06). https://doi.org/10.47191/ijmra/v8-i06-11

Undang-Undang Darurat Nomor 17 Tahun 1951 Tentang Penimbunan Barang-Barang (1951).

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (1945).

Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana (2023).

Undang-Undang Nomor 20 Tahun 2025 Tentang Kitab Undang-Undang Hukum Acara Pidana (2025).

Venugopal, K. (2025). Corporate Liability for White-Collar Crimes: A Critical Analysis. *International Journal For*

Multidisciplinary Research, *7*(2). https://doi.org/10.36948/ijfmr.2025.v07i02.40500
Wahyuono, K. (2025). Corporate Criminal Liability for Substandard Wage Violations: A Case Study of PT. Sahabat Lingkungan Hidup. *IUS POSITUM: Journal of Law Theory and Law Enforcement*, *4*(4), 66–81. https://doi.org/10.56943/jlte.v4i4.843
Wicaksana, E., Widodo, E., Astutik, S., & Handayati, N. (2025). Application of Business Judgement Rule in the Management of Multinational Companies. *Requisitoire Law Enforcement*, *17*(1), 140–152. https://doi.org/10.59651/relae.v17i1.324
Wijaya, A., & Boediningsih, W. (2025). Pertanggungjawaban Pidana Korporasi atas Kejahatan Ekonomi yang Merugikan Keuangan Negara. *Jurnal Ilmu Hukum, Humaniora Dan Politik*, *5*(3), 2246–2256. https://doi.org/10.38035/jihhp.v5i3.4088
Wulandari, D., Thariq, B. H. A., Indriyanti, D., Wulandari, M., & Tohadi, T. (2026). Business Operator Liability According to Article 19 of Law Number 8 of 1999 in the Case of Wedding Organizer Ayu Puspita. *Requisitoire Law Enforcement*, *17*(2), 173–182. https://ejournal.cria.or.id/index.php/relae/article/view/371