



Research Article



## Corporate Crime Prevention Through Sustainable Governance and Regulatory Reform

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**Abstract:** Corporate crime significantly undermines economic integrity, disrupts environmental sustainability, and erodes public trust in governance institutions. In the Indonesian context, the complexity of corporate liability and the limited effectiveness of law enforcement have constrained efforts to prevent corporate offenses. This study critically examines how sustainable governance and regulatory reform contribute to strengthening mechanisms for corporate crime prevention. The research employs a normative juridical method and systematically analyzes secondary data consisting of primary, secondary, and tertiary legal materials through a qualitative descriptive approach. The analysis demonstrates that first, the application of sustainable governance principles such as transparency, accountability, and ethical compliance functions as an effective preventive framework against corporate misconduct. Second, the current legal structure provides a sufficient normative foundation for corporate accountability; however, law enforcement remains inconsistent due to institutional fragmentation and inadequate coordination among agencies. Third, the integration of sustainability indicators and corporate responsibility standards into legal enforcement frameworks becomes a necessary reform priority. The study concludes that the combination of sustainable governance and regulatory reform reinforces corporate integrity, promotes a culture of compliance, and strengthens legal certainty to ensure long term effectiveness in combating corporate crime.

Keywords: Corporate Crime; Corporation; Regulatory; Sustainable;



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## INTRODUCTION

Corruption is not a new phenomenon in the dynamics of a nation's social, political, and economic life; rather, it has long been a deep-rooted and systemic problem.<sup>1</sup> Its existence not only reflects moral and legal deviations but also illustrates institutional failure in creating clean and transparent governance. In a global context, corruption has become a pervasive international phenomenon that affects societal well-being and economic stability.<sup>2</sup> This is proven by the facts from the 2024 Corruption Perceptions Index report published by Transparency International. Out of 180 countries evaluated, two-thirds scored below 50, indicating that corruption levels remain serious and concerning. The data indicate that the integrity and democracy crisis in various countries has experienced a significant decline, with efforts to combat

<sup>1</sup> Muhammad Aman Ullah and others, 'Dimensions of Corruption in Pakistan: A Systems Thinking Approach and Qualitative Analysis', *Systems Research and Behavioral Science*, 39.2 (2022), 324–38 <https://doi.org/10.1002/sres.2775>

<sup>2</sup> Cristina Boța-Avram, 'The Impact of Corruption on Human Well-Being Within an Economic Framework: Evidence from a Cross-National Study', 2023, pp. 127–49 [https://doi.org/10.1007/978-3-031-34082-6\\_6](https://doi.org/10.1007/978-3-031-34082-6_6)



corruption often hampered by weak oversight systems, the lack of independence of law enforcement agencies, and the dominance of political and economic interests.<sup>3</sup>

Countries around the world agreed to form the United Nations Convention Against Corruption (UNCAC).<sup>4</sup> This institution was formed because the problem of corruption poses a detrimental threat to state institutions, democratic values, ethical values, and justice, as well as disrupting sustainable development and law enforcement. Many countries are beginning to seriously consider the dangers of corruption to their economies by establishing institutions or departments capable of preventing and controlling corruption. However, existing institutions or departments are not able to curb the practice of corruption. On the contrary, perpetrators of corruption are emerging from existing institutions or governments.<sup>5</sup> UNCAC affirms that corruption poses a real threat to the global social, economic, and political order. The persistent crime of corruption is an extraordinary offense. Because corruption has been classified as an extraordinary crime, its handling must be done through extraordinary mechanisms. This extraordinary approach is crucial given the multidimensional impact of corruption, which encompasses social, economic, and environmental aspects, as well as natural resource management, and its influence on investment climate stability and national development sustainability. The urgency of implementing this extraordinary approach is increasing as the prevalence of corruption crimes has spread, reaching almost all sectors of national and state life.<sup>6</sup>

In Indonesia, corruption cases have reached a hazardous low point for development in various aspects of life. For Indonesia, corruption is a social parasite that undermines the government's structure and hinders the primary path of governance and development.<sup>7</sup> Anti-corruption efforts are one of the ways to uphold the anti-corruption motto in this country. To eradicate public corruption, the government and all its institutions must play an active role in enforcing an anti-corruption culture by providing early knowledge about the dangers and negative impacts of corruption. However, the reality shows that the eradication of corruption in Indonesia still faces various complex obstacles, both from structural, cultural, and legal aspects. Despite the establishment of various institutions and the tightening of several regulations, the practice of corruption continues to grow systematically. It is widespread in almost all sectors of government and the private sector. This suggests

<sup>3</sup> Magda Siahaan and others, 'Will the Integrated GRC Implementation Be Effective against Corruption?', *Journal of Financial Crime*, 30.1 (2023), 24–34 <https://doi.org/10.1108/JFC-12-2021-0275>

<sup>4</sup> Nani Widya Sari and others, 'Criminal Responsibility of Corporations in Criminal Acts of Corruption', *IJOLARES: Indonesian Journal of Law Research*, 3.1 (2025), 25–33 <https://doi.org/10.60153/ijolares.v3i1.122>

<sup>5</sup> Nani Widya Sari and others.

<sup>6</sup> Bambang Sugeng Rukmono, Pujiyono Suwadi and Muhammad Saiful Islam, *The Effectiveness of Recovering Losses on State Assets Policy in Dismissing Handling of Corruption*, *Journal of Human Rights, Culture and Legal System*, 2024, iv <https://doi.org/10.53955/jhcls.v4i2.259>

<sup>7</sup> Gordon Peake and Miranda Forsyth, 'Street-level Bureaucrats in a Relational State: The Case of Bougainville', *Public Administration and Development*, 42.1 (2022), 12–21 <https://doi.org/10.1002/pad.1911>



that corruption is not merely an individual moral issue but has become deeply ingrained in the social and bureaucratic systems.<sup>8</sup>

Corruption not only occurs in the government sector but also significantly thrives in various other sectors, including the corporate environment.<sup>9</sup> As a business entity playing a crucial role in society, corporations make a substantial contribution to national economic development.<sup>10</sup> In many developed countries, the presence of large corporations is a significant pillar in supporting economic growth through business activities that absorb labor, expand economic activity, and assist the government in achieving social welfare. Nevertheless, it is important to understand that corporations are not, in essence, tangible entities like humans, but rather legal and economic constructs created to facilitate business activities and commercial transactions. Although abstract in nature, corporations are widely recognized as capable of taking concrete actions that have a direct impact on society, making their existence legally and socially significant.<sup>11</sup>

However, in addition to having a positive impact on economic growth, the presence of corporations also has the potential to create negative impacts, primarily when their profit orientation disregards ethical values, social justice, and compliance with the law.<sup>12</sup> In practice, a significant number of corporations are involved in various forms of misconduct, including tax evasion, environmental pollution, violations of workers' rights, and even involvement in criminal acts of corruption. This phenomenon reveals that corporations are not merely neutral economic actors but can also be potential perpetrators of economic crimes that have a far-reaching impact on national stability.<sup>13</sup> In the context of corruption, corporate involvement often occurs through various means, such as bribing public officials, collusion in government procurement processes, and practices of disguised gratification in the form of business partnerships. These actions not only harm the country's finances but also disrupt healthy business competition and erode public trust in the legal system.<sup>14</sup>

Although Indonesia's Law on the Eradication of Corruption has recognised corporations as subjects of criminal law, law enforcement against corporate

<sup>8</sup> Boge Triatmanto and Suryaning Bawono, 'The Interplay of Corruption, Human Capital, and Unemployment in Indonesia: Implications for Economic Development', *Journal of Economic Criminology*, 2 (2023), 100031 <https://doi.org/10.1016/j.jeconc.2023.100031>

<sup>9</sup> Poppy Sofia Koeswayo, Sofik Handoyo and Dede Abdul Hasyir, 'Investigating the Relationship between Public Governance and the Corruption Perception Index', *Cogent Social Sciences*, 10.1 (2024) <https://doi.org/10.1080/23311886.2024.2342513>

<sup>10</sup> Asan Vernyuy Wirba, 'Corporate Social Responsibility (CSR): The Role of Government in Promoting CSR', *Journal of the Knowledge Economy*, 15.2 (2023), 7428–54 <https://doi.org/10.1007/s13132-023-01185-0>

<sup>11</sup> Letizia Carrera, 'Corporate Social Responsibility. A Strategy for Social and Territorial Sustainability', *International Journal of Corporate Social Responsibility*, 7.1 (2022), 7 <https://doi.org/10.1186/s40991-022-00074-0>

<sup>12</sup> Benedict Sheehy, 'Sustainability, Justice and Corporate Law: Redistributing Corporate Rights and Duties to Meet the Challenge of Sustainability', *European Business Organization Law Review*, 23.1 (2022), 273–312 <https://doi.org/10.1007/s40804-021-00235-x>

<sup>13</sup> Lieselot Bisschop and others, 'Examining the Multifaceted Harms of Corporate and White-Collar Crime', *Crime, Law and Social Change*, 83.1 (2025), 16 <https://doi.org/10.1007/s10611-025-10198-6>

<sup>14</sup> Fiona Chan and others, 'Understanding Transnational Bribery: A Corporate Crime Framework', *Crime, Law and Social Change*, 75.3 (2021), 221–45 <https://doi.org/10.1007/s10611-020-09924-z>



perpetrators is still considered weak.<sup>15</sup> Many major cases involving corporate entities do not result in the prosecution of the legal entity itself, but only of the individuals acting on behalf of the corporation.<sup>16</sup> This condition reflects a gap between legal norms and law enforcement practices in the field. These weaknesses can be attributed to various factors, including difficulties in establishing a clear link between individual actions and corporate responsibility, inadequate internal company oversight mechanisms, and a lack of courage on the part of law enforcement officials to prosecute large corporations with significant economic and political influence. As a result, many corporations continue to operate and make large profits despite being implicated in acts of corruption. Therefore, strengthening the corporate criminal liability system is an urgent need in the effort to eradicate corruption in Indonesia. A more assertive and comprehensive legal approach is needed so that corporations can no longer hide behind their legal status to avoid responsibility for the crimes they commit.<sup>17</sup>

Previous studies have widely acknowledged that corporate corruption has a significant impact on economic stability, governance, and public trust in the legal system. Corruption committed by corporations not only causes financial losses to the state but also distorts business competition, hinders investment, and undermines the principle of economic justice. However, these studies have not thoroughly explored the aspect of corporate criminal liability in corruption offenses, particularly the individuals who can be held accountable within a corporation. There are still gaps in the study of how the Indonesian criminal justice system comprehensively and consistently accommodates the concept of corporate criminal liability in law enforcement practice. For example, the research by Nani Widya Sari et al. (2025) states that the crime of corruption is an absolute element that can render a corporation criminally liable.<sup>18</sup> Research by Abdul Kholiq and Gunarto (2021) demonstrates that corporations can be held accountable through a system of absolute and vicarious liability, with obstacles including the application of the conventional criminal liability system and the difficulty in proving corporate fault.<sup>19</sup> Research by Nurfarizan Mazhani Mahmud et al. (2021) indicates that corruption in the corporate sector is a significant form of corruption, involving improper contributions made to public officials and high-ranking politicians.<sup>20</sup> Research by Bikki Jaggi et al. (2020) reveals that disclosing information about the existence of corruption within a

<sup>15</sup> Nurohman Nurohman, Hartiwiningsih Hartiwiningsih and Sri Kusriyah, 'Reconstruction of Liability for Corruption Involving Corporations Based on the Justice Value', *Scholars International Journal of Law, Crime and Justice*, 5.10 (2022), 427–32 <https://doi.org/10.36348/sijlcj.2022.v05i10.005>

<sup>16</sup> Bhavna Mahadew, 'The Need for a Robust Legal Framework on Corporate Criminal Liability in Mauritius: Lessons from the French Model', *Journal of Financial Crime*, 31.1 (2024), 88–100 <https://doi.org/10.1108/JFC-02-2023-0030>

<sup>17</sup> Wangwang Xing and Ling Zhu, 'Exploring Legal Gaps and Barriers to the Use of Unmanned Merchant Ships in China', *Marine Policy*, 153 (2023), 105662 <https://doi.org/10.1016/j.marpol.2023.105662>

<sup>18</sup> Nani Widya Sari and others.

<sup>19</sup> Abdul Kholiq and Gunarto Gunarto, 'Concept of Criminal Law on Corruption of Corporate Criminal Liability System Based on Justice Value', *Jurnal Daulat Hukum*, 4.1 (2021), 82 <https://doi.org/10.30659/jdh.v4i1.14205>

<sup>20</sup> Nurfarizan Mazhani Mahmud, Intan Salwani Mohamed and Roshayani Arshad, 'The Supply-Side of Corruption: A Review of Scenario, Causes and Prevention Measure', *Journal of Financial Crime*, 29.1 (2022), 34–44 <https://doi.org/10.1108/JFC-06-2021-0120>





corporation can be beneficial for investors.<sup>21</sup> Research by Lois Lodewijk Sintung et al. (2022) indicates that applying the concept of criminal liability to corporations is highly ambiguous and appears discriminatory and partial due to the uncertainty surrounding the corporate actor and its connection to variations in the application of the criminal system.<sup>22</sup>

This research fills that gap by providing more comprehensive policy and legislative updates on the status of corporations as legal subjects in the prosecution of corruption offenses. The urgency of this research lies in three major threats posed by the weak regulation and enforcement of criminal liability against corporations: first, the increasing potential for corporate entities to be misused as instruments for committing acts of corruption; second, the low effectiveness of law enforcement due to the lack of clear guidelines on the procedures for proving and punishing corporations; and third, the erosion of public trust in the rule of law when corporations proven to have committed violations cannot be held accountable on an equal basis with individuals. Considering this, this research introduces scientific novelty by formulating a normative and policy approach that clarifies the mechanisms of corporate punishment in the context of corruption offenses. Furthermore, this research aims to answer the central question: what form corporate accountability takes in committing acts of corruption, and to what extent is the Indonesian criminal justice system capable of enforcing it effectively and fairly.

## METHOD

This research uses normative legal research, utilising secondary data as the primary source for analysis.<sup>23</sup> This research employs a legislative approach to examine the consistency of norms in Law Number 31 of 1999, as amended by Law Number 20 of 2001, concerning the Eradication of Corruption Crimes and other Related Decisions. A conceptual approach was employed to examine doctrines and theoretical ideas in revisiting the formulation of corporate criminal liability. In contrast, a case approach was utilized to identify relevant judicial practices and jurisprudence. The data sources comprise primary legal materials, such as national legislation, relevant international conventions, and regulations, as well as secondary legal materials, including scientific journals, books, and other research findings that support the analysis.<sup>24</sup>

## RESULT AND DISCUSSION

### *The Role of Sustainable Governance in Corporate Crime Prevention*

Indonesian criminal justice system, corporations have been recognized as legal subjects that can be perpetrators of criminal acts. However, the concept of corporate

<sup>21</sup> Bikki Jaggi and others, 'Determinants of Corporate Corruption Disclosures: Evidence Based on EU Listed Firms', *Meditari Accountancy Research*, 29.1 (2021), 21–38 <https://doi.org/10.1108/MEDAR-11-2019-0616>

<sup>22</sup> Lois Lodewikh Sintung, Syamsul Haling and Kaharuddin Syah, 'Corporate Legal Liability as a Criminal Act of Corruption', *Indonesian Research Journal in Legal Studies*, 1.1 (2022), 33–43 <https://doi.org/https://doi.org/10.31934/irjils.v1i01.2752>

<sup>23</sup> Abdul Kadir Jaelani, Anila Rabbani and Muhammad Jihadul Hayat, 'Land Reform Policy in Determining Abandoned Land for Halal Tourism Destination Management Based on Fiqh Siyasa', *El-Mashlahah*, 14.1 (2024), 211–36 <https://doi.org/10.23971/el-mashlahah.v14i1.8051>

<sup>24</sup> Abdul Kamil Razak, Aloysius Wisnubroto and Tajudeen Sanni, 'Legal Reform in the Enforcement of Illegal Fishing Crimes', *Journal of Justice Dialectical*, 3.2 (2025), 155–75 <https://doi.org/10.70720/jjd.v3i2.97>



criminal liability still shows a dualism that creates legal uncertainty.<sup>25</sup> Based on the Criminal Code, as regulated in Law Number 1 of 1946 concerning the Criminal Code, only individuals are recognized as subjects of criminal law. Consequently, during the validity of these provisions, crimes committed by corporations could not be prosecuted because these entities were not yet recognized as perpetrators of criminal acts.<sup>26</sup>

The development of regulations outside the Criminal Code then expanded the scope of criminal law subjects by explicitly recognizing corporations as actors who can be held accountable. This is reflected in various laws and regulations, including Law No. 31 of 1999, Law No. 20 of 2001 concerning the Eradication of Corruption Crimes, and Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. Both laws state that corporations can be subject to criminal sanctions for unlawful acts committed in their interest.<sup>27</sup> However, not all legislation shows consistency in regulating this. For example, Law Number 6 of 1983, as amended by Law Number 28 of 2007, and Law Number 16 of 2009 concerning General Provisions and Procedures for Taxation, does not provide clarity regarding the mechanism of criminal liability for corporations. The inconsistency in this regulation suggests a reluctance on the part of lawmakers to hold corporations as legal subjects criminally liable. This condition has profound implications for the effectiveness of criminal law enforcement, as without certainty regarding the legal status of corporations, law enforcement agencies will face difficulties in prosecuting corporate entities for the criminal acts they commit.<sup>28</sup>

Besides that issue, several other factors also hinder the effectiveness of law enforcement against crimes committed by corporations.<sup>29</sup> First, corporations, as potential perpetrators of criminal acts, generally have strong and influential lobbying capabilities in the process of formulating criminal provisions and shaping corporate crime prevention policies.<sup>30</sup> The capacity of this lobby is often used to protect corporate interests, both through influencing lawmakers and law enforcement agencies, resulting in less stringent and ineffective regulations for prosecuting corporate actors.<sup>31</sup> Second, determining the criminal liability of corporations is a complex issue because, conceptually, a corporation is not a physical subject that possesses will or moral consciousness like humans.<sup>32</sup> As a result, proving the element of fault (*mens rea*) and the connection between the actions of individual managers and the will of the

<sup>25</sup> Reda Manthovani and others, 'A Deconstruction of Corporate Responsibility in Criminal Law', *Journal of Justice Dialectical*, 3.1 (2025), 1–26 <https://doi.org/10.70720/jjd.v3i1.64>

<sup>26</sup> Abdul Kadir Jaelani and Resti Dian Luthviati, 'The Crime Of Damage After the Constitutional Court's Decision Number 76/PUU-XV/2017', *Journal of Human Rights, Culture and Legal System*, 1.1 (2021) <https://doi.org/10.53955/jhcls.v1i1.5>

<sup>27</sup> Igor Vuletic, 'Corporate Criminal Liability: An Overview of the Croatian Model after 20 Years of Practice', *Laws*, 12.2 (2023), 27 <https://doi.org/10.3390/laws12020027>

<sup>28</sup> Sabine Gless and Katalin Ligeti, 'Regulating Driving Automation in the European Union – Criminal Liability on the Road Ahead?', *New Journal of European Criminal Law*, 15.1 (2024), 33–57 <https://doi.org/10.1177/20322844231213336>

<sup>29</sup> Kholiq and Gunarto.

<sup>30</sup> Annika van Baar, 'Corporate Involvement in Atrocity Crimes—Trends and Patterns in Regulation', *Crime, Law and Social Change*, 82.4 (2024), 989–1010 <https://doi.org/10.1007/s10611-024-10172-8>

<sup>31</sup> Anna Tyllström and John Murray, 'Lobbying the Client: The Role of Policy Intermediaries in Corporate Political Activity', *Organization Studies*, 42.6 (2021), 971–91 <https://doi.org/10.1177/0170840619866486>

<sup>32</sup> Tyllström and Murray.



corporation poses a unique challenge in criminal justice practice. This difficulty often leads to weak enforcement of criminal sanctions against corporations, creating a gap between existing legal norms and their implementation in the field.<sup>33</sup>

Various weaknesses in the law enforcement system regarding corporate crimes have created a space for the continuation of criminal practices by business entities, without any real deterrent effect.<sup>34</sup> This condition can be observed in numerous cases of violations involving corporations across various sectors of life, such as criminal acts in the field of taxation, increasingly severe environmental pollution, exploitation of labor through wage payment practices below the Regional Minimum Wage (UMR) standard, and increasingly widespread and complex corruption practices. This phenomenon reveals that corporations often operate outside legal boundaries without adequate oversight, resulting in continuous and systematic law violations. Ironically, to date, there is no criminal jurisprudence in Indonesia that explicitly places corporations as defendants in criminal cases.<sup>35</sup> This suggests that the national criminal justice system remains insufficiently equipped to effectively reach and prosecute corporations as perpetrators of criminal acts, despite the far more extensive impact of corporate crimes compared to those committed by individuals. Considering the immense social, economic, and environmental damage caused, it would be unfair to exempt corporations from criminal liability while they continue to enjoy the profits from illegal activities.<sup>36</sup>

In the view of Elliot and Quinn, holding corporations criminally liable is a necessary step for several fundamental reasons.<sup>37</sup> First, without a mechanism for criminal accountability, corporations can easily evade legal consequences, while subordinate employees who are merely carrying out orders are held responsible.<sup>38</sup> Second, in many cases, suing a corporation is simpler and more efficient than suing individuals one by one.<sup>39</sup> Third, companies have a greater economic capacity to bear criminal sanctions,

<sup>33</sup> Stephen J. Turner, 'Business, Human Rights and the Environment—Using Macro Legal Analysis to Develop a Legal Framework That Coherently Addresses the Root Causes of Corporate Human Rights Violations and Environmental Degradation', *Sustainability*, 13.22 (2021), 12709 <https://doi.org/10.3390/su132212709>

<sup>34</sup> Diana Johnson, 'What Are the Merits of Taking a Hybrid Regulatory Approach Toward the Enforcement of Corporate Financial Crime in the United Kingdom and United States of America?', *Journal of White Collar and Corporate Crime*, 3.1 (2022), 23–32 <https://doi.org/10.1177/2631309X211050013>

<sup>35</sup> Joanna van der Merwe and Ziad Al Achkar, 'Data Responsibility, Corporate Social Responsibility, and Corporate Digital Responsibility', *Data & Policy*, 4 (2022), e12 <https://doi.org/10.1017/dap.2022.2>

<sup>36</sup> Petter Gottschalk, 'Investigating and Prosecuting White-Collar and Corporate Crime: Challenges and Barriers for National Police Agencies', *Journal of Economic Criminology*, 3 (2024), 100051 <https://doi.org/10.1016/j.jeconc.2024.100051>

<sup>37</sup> Liana Georgieva Minkova, 'The Fifth International Crime: Reflections on the Definition of "Ecocide"', *Journal of Genocide Research*, 25.1 (2023), 62–83 <https://doi.org/10.1080/14623528.2021.1964688>

<sup>38</sup> Asrul Anwar and Denny Suwondo, 'Analysis of Criminal Liability for Money Laundering Crimes Originating from Corruption', *Ratio Legis Journal*, 3.4 (2024) <https://doi.org/http://dx.doi.org/10.30659/rlj.3.4.611-620>

<sup>39</sup> Nizar Alsharari, 'The Implementation of Enterprise Resource Planning (ERP) in the United Arab Emirates: A Case of Musanada Corporation', *International Journal of Technology, Innovation and Management (IJTIM)*, 2.1 (2022) <https://doi.org/10.54489/ijtim.v2i1.57>



such as fines, especially in cases of serious offenses.<sup>40</sup> Additionally, the threat of criminal sanctions against corporations can also encourage shareholders to be more active in monitoring company activities to prevent legal violations.<sup>41</sup> The corporations that profit from illegal activities should also bear the consequences of those actions, not the individuals who serve as intermediaries. The application of criminal liability also serves to prevent internal pressure within the company on employees from seeking profit through illegal means. Furthermore, criminal sanctions and the negative reputational impact resulting from the publication of corporate criminal cases can serve as an effective deterrent for other companies to avoid similar violations.<sup>42</sup>

The imposition of criminal liability on corporations in the modern criminal justice system is a significant development.<sup>43</sup> Although a corporation as a legal entity cannot act directly, the actions of its officers or employees acting on behalf of and for the benefit of the corporation are essentially an extension of the corporation's own will.<sup>44</sup> Therefore, if such actions are taken to provide financial gain, avoid losses, or strengthen the corporation's economic position, it is unfair for the corporation to be exempt from criminal liability for the losses caused to society, whether in the form of loss of life, physical harm, or material damage.<sup>45</sup> Furthermore, criminal liability should not be placed solely on corporate officers. This is due to the limited financial capacity of management to bear the fines imposed, while the social and economic losses caused by corporate crimes are often substantial. Thus, solely imposing sanctions on individual managers does not reflect the principle of substantive justice and does not provide adequate deterrence against the business entity they represent.<sup>46</sup>

Additionally, placing criminal liability solely on the management is also considered ineffective in promoting efforts to prevent corporate crime.<sup>47</sup> Without any direct risk to the corporate entity, there is little incentive for the corporation to improve its internal

<sup>40</sup> Robayet Ferdous Syed, 'Labor Standards, Labor Policy, and Compliance Mechanism: A Case Study in Bangladesh', *Labor History*, 65.2 (2024), 256–72 <https://doi.org/10.1080/0023656X.2023.2272124>

<sup>41</sup> Jamel Eddine Mkadmi and Wissem Ben Ali, 'How Does Tax Avoidance Affect Corporate Social Responsibility and Financial Ratio in Emerging Economies?', *Journal of Economic Criminology*, 5 (2024), 100070 <https://doi.org/10.1016/j.jeconc.2024.100070>

<sup>42</sup> Yogi Yasa and others, 'Unraveling the Complex Policies Regulating Conflicts of Interest and Criminal Corruption', *Journal of Human Rights, Culture and Legal System*, 5.1 (2025), 33–59 <https://doi.org/https://doi.org/10.53955/jhcls.v5i1.486>

<sup>43</sup> Fendi Nugroho, Hartiwiningsih Hartiwiningsih and I Gusti Ayu Ketut Rachmi Handayani, 'Rethinking Subsidiary in Corruption Cases: Indonesian Experiences', *Journal of Human Rights, Culture and Legal System*, 5.2 (2025), 686–713 <https://doi.org/10.53955/jhcls.v5i2.714>

<sup>44</sup> Jawade Hafidz and others, 'The Corruption Reduction with an Administrative Law Approach: Evidence from Australia', *Journal of Human Rights, Culture and Legal System*, 4.3 (2024), 822–41 <https://doi.org/10.53955/jhcls.v4i3.396>

<sup>45</sup> R. Narendra Jatna and others, 'Reforming Asset Recovery Work Procedures for Effective and Just Corruption Handling', *Journal of Justice Dialectical*, 3.1 (2025), 46–70 <https://doi.org/10.70720/jjd.v3i1.66>

<sup>46</sup> Olena Volobueva and others, 'Criminal and Administrative Legal Characteristics of Offenses in The Field of Countering Drug Trafficking: Insights from Ukraine', *Yustisia Jurnal Hukum*, 12.3 (2023), 262 <https://doi.org/10.20961/yustisia.v12i3.79443>

<sup>47</sup> Fabian Teichmann, Chiara Wittmann and Sonia Boticiu, 'Compliance as a Form of Defense against Corporate Criminal Liability', *Journal of Economic Criminology*, 1 (2023), 100004 <https://doi.org/10.1016/j.jeconc.2023.100004>





governance and ensure compliance with legal provisions.<sup>48</sup> Conversely, if the corporation is also held criminally liable, all of its assets will be at legal risk due to unlawful actions taken by its management or employees. This condition will have a positive impact, leading to increased oversight of the company's policies and operational activities by shareholders, commissioners, and internal auditors. Thus, the application of criminal liability to corporations serves not only as a repressive means to punish criminals but also as a preventive mechanism that encourages the establishment of stricter oversight systems and more accountable corporate governance.<sup>49</sup>

In the Law on the Eradication of Corruption Crimes, the term "every person" mentioned in the first sentence is explicitly explained to include not only individuals but also corporations as legal subjects. This affirmation is contained in Article 1, paragraph 3 of the Anti-Corruption Law, which states that "every person" includes both individuals and corporations.<sup>50</sup> Thus, normatively, the law has affirmed that perpetrators of corruption can be individuals or legal entities, both of whom have the same status as subjects of criminal law.<sup>51</sup> Recognizing corporations as legal subjects in corruption offences has significant legal consequences, particularly in the application of the principle of criminal liability. Therefore, more comprehensive and detailed regulations are needed to ensure the effectiveness of law enforcement against crimes committed by corporations. The regulation should include at least four important aspects.<sup>52</sup>

First, it is necessary to clearly define the criteria or conditions that determine when a legal entity or corporation can be considered to have committed an act of corruption. This is important so that the limits of corporate legal liability are not vague and can be distinguished from the individual liability of its directors.<sup>53</sup> Second, it must be clearly regulated who can be held criminally liable in acts of corruption involving corporations, whether it is the management, employees, or the corporation as a legal entity. This determination has direct implications for the direction of law enforcement and the effectiveness of imposing sanctions. Third, the mechanism or form of criminal liability that can be imposed on corporations needs to be explained. This mechanism involves proving corporate wrongdoing, examining the relationship between managerial actions and the profits earned by the corporation, and determining the extent to which individual actions can be attributed to the will of the corporation as a legal entity. Fourth, it is necessary to determine the types of criminal sanctions that can be imposed on corporations that commit corruption. These sanctions can include fines,

<sup>48</sup> Murad Harasheh and Roberta Provasi, 'A Need for Assurance: Do Internal Control Systems Integrate Environmental, Social, and Governance Factors?', *Corporate Social Responsibility and Environmental Management*, 30.1 (2023), 384–401 <https://doi.org/10.1002/csr.2361>

<sup>49</sup> Dwi Wahyono, 'The Criminal Responsibility By Corporate', *International Journal of Law Reconstruction*, 5.1 (2021), 126 <https://doi.org/10.26532/ijlr.v5i1.15587>

<sup>50</sup> Mahrus Ali, Andi Mulyono and Syarif Nurhidayat, 'The Application of a Human Rights Approach toward Crimes of Corruption: Analyzing Anti-Corruption Regulations and Judicial Decisions', *Laws*, 12.4 (2023), 68 <https://doi.org/10.3390/laws12040068>

<sup>51</sup> Sintung, Haling and Syah.

<sup>52</sup> John Hopkins and Anne Bardoel, 'The Future Is Hybrid: How Organisations Are Designing and Supporting Sustainable Hybrid Work Models in Post-Pandemic Australia', *Sustainability*, 15.4 (2023), 3086 <https://doi.org/10.3390/su15043086>

<sup>53</sup> Elisabeth Sundari, Hilaire Tegnau and Muhammad Rizqi Alfarizi Ramadhan, 'Reconstructing National Economic Loss in Corruption Crimes', *Journal of Justice Dialectical*, 3.2 (2025), 136–54 <https://doi.org/10.70720/jjd.v3i2.96>



suspension of business activities, revocation of permits, asset forfeiture, or dissolution of the corporation.<sup>54</sup>

Article 20, paragraph (1) of the Anti-Corruption Law indicates that this Law explicitly adheres to the principle that legal entities or corporations can be subjects of criminal acts. This means that not only individuals can be held criminally liable, but also corporations as legal entities with their own will and interests.<sup>55</sup> Furthermore, Article 20 paragraph (2) shows that the criminal liability of corporations under this Law is based on two central doctrines: the identification doctrine and the aggregation doctrine.<sup>56</sup> The doctrine of identification is reflected in the phrase "if the criminal act is committed by individuals, whether based on an employment relationship or otherwise." In this context, the actions of individuals holding important positions within the corporation, such as directors or employees acting for and on behalf of the corporation, can be considered the actions of the corporation itself. Meanwhile, the doctrine of aggregation is evident in the phrase "if the criminal act is committed within the corporate environment, either individually or jointly," which means that the actions of multiple individuals within the corporation can be combined (aggregated) to be considered the collective action of the corporation.<sup>57</sup> Thus, criminal acts can be attributed to a corporation if they are committed by individuals associated with the corporation, whether through employment or other relationships outside of employment, if the actions benefit the corporation or are carried out within the scope of the corporation's activities.<sup>58</sup>

Despite various regulations, including the Anti-Corruption Law, that address corporate criminal liability, its application in Indonesian legal practice remains very limited. Many criminal cases actually involve corporations, such as forest fires, fish theft, illegal logging, money laundering, environmental damage, and even corruption, but corporations are rarely prosecuted and sentenced.<sup>59</sup> Some factors contributing to the limited enforcement of the law against corporations include: first, the absence of technical guidelines in the Criminal Procedure Code regarding the procedure for drafting an indictment when the legal subject is a corporation, making it difficult for law enforcement officers to determine the format and structure of accountability. Second, investigators and prosecutors are often hesitant or unwilling to bring cases involving corporations to court due to the complexity of proving the case and drafting the indictment. Third, the courts are heavily reliant on the prosecutor's indictment, so if the wording of the indictment is weak or unclear, the process of proving the case

<sup>54</sup> Anila Robbani, Raffy Arnanda Faturrohman and Ahmad Hananul Amin, 'Optimization of Income Tax Revenue in Land and Building Rights Transfer Transactions', *Journal of Justice Dialectical*, 2.1 (2024), 28–42 <https://doi.org/10.70720/jjd.v2i2.38>

<sup>55</sup> Zhiyuan Guo, 'Anti-Corruption Mechanisms in China after the Supervision Law', *Journal of Economic Criminology*, 1 (2023), 100002 <https://doi.org/10.1016/j.jeconc.2023.100002>

<sup>56</sup> Serhan Cevik and João Tovar Jalles, 'Corruption Kills: Global Evidence From Natural Disasters', *Scottish Journal of Political Economy*, 2025 <https://doi.org/10.1111/sjpe.70024>

<sup>57</sup> Ellen A. Skinner and others, 'The Complex Social Ecology of Academic Development: A Bioecological Framework and Illustration Examining the Collective Effects of Parents, Teachers, and Peers on Student Engagement', *Educational Psychologist*, 57.2 (2022), 87–113 <https://doi.org/10.1080/00461520.2022.2038603>

<sup>58</sup> Ullah and others.

<sup>59</sup> Ahmad Dwi Nuryanto, Reza Octavia Kusumaningtyas and Bukhadyrov Habibullo, 'The Imperative of Social Justice on the Insolvency and Workers' Wage', *Journal of Sustainable Development and Regulatory Issues (JSDERI)*, 2.3 (2024), 209–32 <https://doi.org/10.53955/jsderi.v2i3.48>



against the corporation becomes ineffective. Fourth, the Corruption Eradication Commission, despite having the authority to prosecute corporations as perpetrators of corruption, has never directly designated a corporation as a suspect, even though many corporate directors or managers have been convicted.<sup>60</sup>

### ***Corporate Crime Prevention Through Sustainable Governance***

Since the enactment of the Anti-Corruption Law, the enforcement of criminal liability against corporations involved in corruption cases in Indonesia has remained significantly limited. Empirical data indicate that only four corporations have been prosecuted as subjects of criminal proceedings. The Corruption Eradication Commission (*Komisi Pemberantasan Korupsi* or KPK) formally indicted PT Nusa Konstruksi Engineering in 2017, marking a critical precedent for corporate accountability in corruption cases. In addition, three other corporations were subjected to criminal prosecution through court proceedings. The first case involved PT Giri Jaladhi Wana, adjudicated in Judgment Number 812/Pid.Sus/2010/PN.BJM. The second concerned PT Cakrawala Nusadimensi, as reflected in Judgment Number 65/Pid.Sus/TPK/2016/PN.Bdg. The third was PT Indosat Mega Media, decided under Judgment Number 01/Pid.Sus/2013/PN.JKT.PST. These cases collectively demonstrate the slow yet evolving recognition of corporate criminal responsibility within Indonesia's anti-corruption framework, highlighting the need for more consistent and assertive law enforcement practices to ensure the effective implementation of corporate liability principles.<sup>61</sup>

This discussion presents a comprehensive case study to demonstrate the enforcement of corporate criminal liability within the Indonesian legal system. The focus is on the case of PT Giri Jaladhi Wana, a corporation involved in the Antasari Central Market construction project, which was investigated and prosecuted by the Banjarmasin District Attorney's Office in South Kalimantan. This case provides concrete evidence that Indonesian law recognizes corporations as legal entities capable of bearing criminal responsibility for unlawful acts committed in the course of their business operations. The examination of this case highlights the practical application of the principle of corporate criminal liability, emphasizing the accountability of corporate management and internal decision-making processes that result in criminal behavior. Moreover, it reflects the judiciary's progressive stance in holding corporations accountable, thereby reinforcing legal certainty, promoting fairness, and strengthening deterrence mechanisms in the enforcement of criminal law in Indonesia.

The case can be examined through the Banjarmasin District Court Decision Number 812/Pid.Sus/2010/PN.BJM in conjunction with the Banjarmasin High Court Decision Number 04/Pid.Sus/2011/PT.BJM. In this case, the Banjarmasin District Attorney's Office adopted a progressive legal approach by designating PT Giri Jaladhi Wana as a corporate defendant after the issuance of a legally binding judgment (*inkracht van gewijsde*) against four individual perpetrators, namely Stephanus Widagdo, who served as President Director of PT Giri Jaladhi Wana; Bonafacius Tjiptomo Subekti, as Director

<sup>60</sup> Arif Rohman, Hartiwiningsih and Muhammad Rustamaji, 'Illegal Mining in Indonesia: Need for Robust Legislation and Enforcement', *Cogent Social Sciences*, 10.1 (2024) <https://doi.org/10.1080/23311886.2024.2358158>

<sup>61</sup> Hariman Satria, 'Pembuktian Kesalahan Korporasi Dalam Tindak Pidana Korupsi', *INTEGRITAS: Jurnal Antikorupsi*, 4.2 (2018). <https://jurnal.kpk.go.id/index.php/integritas/article/view/255>



of PT Giri Jaladhi Wana; Midfai Yabani, the former Mayor of Banjarmasin; and Edwan Nizar, Head of the Banjarmasin City Market Agency. PT Giri Jaladhi Wana was indicted for engaging in a series of interconnected corruption acts that were legally categorized as a continuing offense (*voorgezette handeling*). The case stemmed from Cooperation Agreement Number 664/I/548/Prog and Number 003/GJW/VII/1998, which regulated the Business Space Partnership Contract for the Development of the Antasari Central Market in Banjarmasin. It was further supported by Mayor's Decree Number 500/259/Ekobang/2004 dated May 30, 2004, which officially appointed PT Giri Jaladhi Wana as the temporary manager of Sentra Antasari.

The financing structure for the Antasari Central Market construction project involved PT Giri Jaladhi Wana (PT GJW) securing a Working Capital Credit Facility from PT Bank Mandiri, Tbk. The corporation was legally represented by Stevanus Widagdo bin Suraji Sastrodiwiryo as President Director and Drs. Tjiptomo as Director. During the execution of the cooperation agreement, PT GJW breached the regulatory framework by unilaterally constructing an additional 900 building units consisting of shops, kiosks, stalls, and booths without obtaining prior approval from the Banjarmasin City Regional House of Representatives (DPRD). These additional commercial units were subsequently sold, generating total proceeds of IDR 16,691,713,166.00. However, the revenue from these transactions was not deposited into the municipal treasury of the Banjarmasin City Government as required by law. Moreover, PT GJW failed to fulfill its financial obligations to the local government, which included a retribution payment of IDR 500,000,000.00 and the settlement of the Antasari Market Presidential Instruction Credit amounting to IDR 3,750,000,000.00, resulting in a total liability of IDR 6,750,000,000.00. Despite these obligations, PT GJW only remitted IDR 1,000,000,000.00, leaving an unpaid balance of IDR 5,750,000,000.00 that should have been credited to the municipal treasury, thereby demonstrating clear noncompliance with both contractual and statutory provisions.

Furthermore, PT Giri Jaladhi Wana (PT GJW) intentionally disseminated false information through its board of directors by declaring to the Banjarmasin City Government that the construction of the Antasari Central Market had not yet been completed. This declaration was inconsistent with the completion report prepared by PT Satya Graha Tara, which served as the Supervising Consultant for the Antasari Project upon the request of PT Bank Mandiri, as well as with the testimony provided by Ir. Wahid Udin, MBA, who acted as the Project Manager for the Antasari Central Market construction. Both the consultant's report and the project manager's testimony affirmed that as of September 2004, the construction project had been fully completed, reaching 100 percent progress, and by October 2004, it had generated a surplus of IDR 64,579,000,000.00 from the sale of commercial units. This deliberate misrepresentation demonstrates an intentional effort by PT GJW to conceal the actual financial and operational outcomes of the project, thereby undermining transparency and accountability in the execution of a public-private partnership initiative.

In this case, the public prosecutor filed a primary indictment for violations of Article 2 paragraph (1) in conjunction with Articles 18 and 20 of Law No. 31 of 1999 on the Eradication of Corruption, as amended by Law No. 20 of 2001, in conjunction with Article 64 paragraph (1) of the Indonesian Penal Code (KUHP). The subsidiary indictment was based on alleged violations of Article 3 in conjunction with Articles 18 and 20 of Law No. 31 of 1999 as amended by Law No. 20 of 2001, in conjunction





with Article 64 paragraph (1) of the Penal Code. The legal process in this case underscores the evolving recognition of corporate entities as capable subjects of criminal liability under Indonesian law, reflecting a progressive step toward strengthening the enforcement of anti-corruption norms in the corporate sector.

In adjudicating the case, the Panel of Judges identified and analyzed several essential legal considerations. First, the term “any person” (setiap orang) was interpreted to include both individuals and legal entities or corporations, as stipulated in Article 1 point 3 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001. Second, pursuant to Article 20 paragraph (1) of the same law, when a corruption offense is committed by or on behalf of a corporation, criminal prosecution may be initiated against the corporation and/or its management. Third, the court recognized the Prosecutor’s decision to summon the President Director of PT Giri Jaladhi Wana (PT GJW) as the lawful representative of the corporation as a legitimate procedural act. Fourth, PT GJW was legally classified as a corporation within the meaning of the Corruption Eradication Law. To substantiate corporate criminal liability in this case, the Panel of Judges referred to the expert testimony of Sutan Remy Sjahdeini, who emphasized that not all criminal acts committed by corporate personnel can automatically be ascribed to the corporation. Corporate criminal responsibility arises only when the offense is committed by or under the direction of the corporation’s directing mind, namely those who determine and represent the will of the corporation. This judicial reasoning reflects an effort to balance the principle of *actus reus* and *mens rea* in corporate liability, ensuring that accountability is based on deliberate corporate conduct rather than individual actions detached from corporate intent.

In other words, a corporation may be held criminally accountable for the actions of its management when specific conditions are met <sup>62</sup>. According to the expert’s testimony, a corporation may be held criminally liable for the actions of its personnel or management only when several conditions are fulfilled. The offense must be committed or ordered by a corporate officer who, within the organizational structure, occupies a position as the directing mind of the corporation. The act must also be carried out in pursuit of the corporation’s purposes and objectives, and performed under the instruction or authorization of a superior acting within the scope of corporate duties. Furthermore, the offense must be intended to confer benefit or advantage upon the corporation, and neither the perpetrator nor the person issuing the order may possess any legal justification or excuse for the act. By taking into account the foregoing considerations, the Panel of Judges ultimately rendered a verdict imposing a criminal fine of IDR 1.3 billion on PT Giri Jaladhi Wana, along with an additional sanction in the form of a temporary suspension of the company’s operations for a period of six months.

The foregoing description constitutes a concrete example of law enforcement against a corruption offense committed by a corporation, which clearly contravenes the provisions of the Anti-Corruption Law. Nevertheless, in the practical implementation of law enforcement in Indonesia, there remain numerous corruption cases involving legal entities or corporations that are not followed by criminal prosecution of the corporate

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<sup>62</sup> Fauzan Azima Faturachman, Tomi J.E Hutasoit and Asmak UI Hosnah, ‘Pertanggungjawaban Dan Penegakan Hukum Pidana Korporasi Dalam Tindak Pidana Korupsi Di Indonesia’, *AKADEMIK: Jurnal Mahasiswa Humanis*, 4.2 (2024), 197–212 <https://doi.org/10.37481/JMH.V4I2.731>



entity itself. In several major cases such as those involving the Ministry of Religious Affairs, the Ministry of Social Affairs, and the Hambalang Sports Complex Project law enforcement efforts have predominantly focused on imposing criminal liability on individual offenders, without extending such accountability to the corporate entities that have benefited from or played a role in the commission of the offense<sup>63</sup>. This situation reflects an ongoing inconsistency in the application of the principle of corporate criminal liability in corruption cases. Therefore, law enforcement authorities particularly the Police and the Prosecutor's Office as investigators and public prosecutors are expected to act decisively and without hesitation in prosecuting corporations as subjects of criminal law<sup>64</sup>. The courage and firmness to impose criminal sanctions on corporations involved in corruption constitute a crucial step toward strengthening the integrity of the criminal justice system, upholding the principle of justice, and minimizing state financial losses resulting from systemic and organized corruption<sup>65</sup>.

Over time, corporate entities have gained explicit recognition and regulation as legal subjects within various statutory provisions in Indonesia. Nevertheless, the *modus operandi* of corporate crimes has evolved to become increasingly complex and organized, thereby posing significant challenges in accurately determining the appropriate form of corporate criminal liability<sup>66</sup>. This complexity often leads law enforcement authorities both at the investigative and prosecutorial levels to hesitate in prosecuting corporations as perpetrators of criminal offenses<sup>67</sup>. To address these challenges, the Attorney General of the Republic of Indonesia issued Regulation of the Attorney General Number PER-028/A/JA/10/2014 concerning Guidelines for Handling Criminal Cases Involving Corporate Legal Subjects. This regulation serves as an operational guideline for law enforcement officers in managing criminal cases involving corporations, encompassing the stages of investigation, prosecution, and the execution of court decisions, whether the case concerns corporate executives, the corporation itself, or both concurrently<sup>68</sup>. The principal objective of this regulation is to provide both normative and practical guidance in handling criminal cases with corporate legal subjects, to promote effective and efficient case resolution, and to

<sup>63</sup> Rudy Alfianda and others, 'Tindak Pidana Korupsi Dan Pertanggungjawaban Korporasi', *Wathan: Jurnal Ilmu Sosial Dan Humaniora*, 1.1 (2024), 64–75 <https://doi.org/10.71153/WATHAN.V1I1.23>

<sup>64</sup> Endang Hadrian, Anggreany Haryani Putri and Lukman Hakim, 'Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Korupsi', *Jurnal Hukum Pelita*, 3.2 (2022), 130–40. <https://doi.org/10.37366/jh.v3i2.1464>

<sup>65</sup> Rainma Rivardy Remy Runtuwene, 'Pertanggungjawaban Pidana Korporasi Sebagai Suatu Perkembangan Tindak Pidana', *LEX ET SOCIETATIS*, 5.2 (2017) <https://doi.org/10.35796/LES.V5I2.15245>

<sup>66</sup> Yudi Krismen, Ji Kartama and Marpoyan Damai, 'Pertanggungjawaban Pidana Korporasi Dalam Kejahatan Ekonomi', *Jurnal Ilmu Hukum Riau*, 4.1 (2014), 9090. <https://doi.org/10.30652/jih.14.2.1-17>

<sup>67</sup> Fajar Sugianto and others, 'Analisis Yuridis Terhadap Tanggung Jawab Korporasi Dalam Tindak Pidana Kejahatan Luar Biasa Di Bidang Ekonomi', *Jurnal Sosial Teknologi*, 5.7 (2025), 2819–31 <https://doi.org/https://doi.org/10.59188/jurnalsostech.v5i7.32225>

<sup>68</sup> Anas Maulana, Rizka Sepriyanti and Asep Guntur, 'Tanggung Jawab Pidana Korporasi Dalam Tindak Pidana Korupsi', *Jurnal Ilmu Multidisiplin*, 3.2 (2025), 444–53 <https://doi.org/10.53935/JIM.V3.I2.71>



optimize the imposition of additional criminal sanctions upon corporations in accordance with applicable laws and regulations <sup>69</sup>.

Substantively, the regulation governs several crucial aspects, including criteria for corporate criminal acts, procedures for investigation and inquiry, prosecution processes, execution of court judgments, and management of corporate assets or property <sup>70</sup>. Thus, the regulation establishes a relatively comprehensive legal framework for law enforcement authorities in investigating and prosecuting corporations as criminal offenders. However, despite the extensive guidance provided by the Attorney General's Regulation, the application of corporate criminal liability does not automatically ensure that indictments or charges against corporations will be accepted and granted by the court. This condition indicates the continued necessity for conceptual refinement and consistent implementation of the law to strengthen the enforcement of corporate criminal liability in Indonesia <sup>71</sup>.

This regulation outlines the criteria for offenses in criminal cases involving corporate legal entities, including provisions on investigation and inquiry, prosecution procedures, execution of court judgments, and the management of assets or property related to the offense. Although the regulation provides comprehensive guidelines for investigating and prosecuting corporate or institutional offenders, its implementation does not necessarily guarantee that such prosecutions will be accepted or upheld by the Panel of Judges in court <sup>72</sup>. The issuance of the Attorney General's Regulation has not fully ensured that corporations are genuinely positioned as defendants in criminal cases. In many instances, both the Corruption Eradication Commission (KPK) and the Attorney General's Office merely incorporate corporate liability within the indictment of individual defendants. In response to this situation, the Supreme Court issued Regulation (PERMA) No. 13 of 2016 on Procedures for Handling Criminal Offenses Committed by Corporations. This regulation serves as a guideline for law enforcement authorities and fills the legal vacuum concerning procedural mechanisms for addressing crimes committed by corporations and/or their management.

Supreme Court Regulation (PERMA) No. 13 of 2016 outlines several fundamental principles that law enforcement authorities must understand and apply when handling criminal offenses allegedly committed by corporate executives and/or the corporation itself. The principles outlined in Supreme Court Regulation (PERMA) No. 13 of 2016 <sup>73</sup> include several essential procedural and substantive elements in handling

<sup>69</sup> Hasbullah F. Sjawie, *Pertanggungjawaban Pidana Korporasi Pada TIPIKOR* (Jakarta: Kencana Prenada Media, 2018). <https://prenadamedia.com/produk/pertanggungjawaban-tindak-pidana-korporasi-pada-tipikor/>

<sup>70</sup> Silvia Kurnia Dewi, 'Perumusan Pertanggungjawaban Tindak Pidana Korporasi Dalam Berbagai Undang-Undang', *Arena Hukum*, 13.1 (2020), 135–56 <https://doi.org/10.21776/UB.ARENAHUKUM.2020.01301.8>

<sup>71</sup> Gilang Gemilang, Ismaidar Ismaidar and T. Riza Zarzani, 'Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Pencucian Uang', *Innovative: Journal Of Social Science Research*, 4.2 (2024), 8455–71 <https://doi.org/10.31004/INNOVATIVE.V4I2.10027>

<sup>72</sup> Rodliyah Rodliyah, Any Suryani and Lalu Husni, 'Konsep Pertanggungjawaban Pidana Korporasi (Corporate Crime) Dalam Sistem Hukum Pidana Indonesia', *Jurnal Kompilasi Hukum*, 5.1 (2020), 191–206 <https://doi.org/10.29303/JKH.V5I1.43>

<sup>73</sup> Bambang Ali Kusumo, *Penegakan Hukum Pidana Terhadap Korporasi Dalam Tindak Pidana Korupsi Di Indonesia* (Surakarta: Unisri Press, 2022). <https://www.myedisi.com/unisripress/212004/penegakan-hukum-pidana-terhadap-korporasi-dalam-tindak-pidana-korupsi-di-indonesia>



corporate criminal cases. First, the process of summoning and examining a corporation and/or its management as suspects must be conducted formally, with the summons letter containing details such as the corporation's name, domicile, nationality, legal status in the criminal case (witness, suspect, or defendant), time and place of examination, and a summary of the alleged criminal act. Second, the indictment requirements, as stipulated in Article 12, must follow the provisions of Article 143(2) of the Criminal Procedure Code (KUHP), with adjustments to include the corporation's name, place and date of establishment, articles of association, most recent amendments, domicile, nationality, type and nature of business, and the identity of the representative. The indictment must also describe, clearly and comprehensively, the alleged criminal act, including its time and place <sup>74</sup>.

Third, the regulation emphasizes the separation of criminal liability between the corporation and its management. In determining corporate guilt, judges may consider whether the corporation benefited from or acted in its interest in committing the offense, whether it allowed the offense to occur, or whether it failed to take necessary preventive or corrective measures to ensure compliance with the law. The cessation or death of one or more corporate executives does not extinguish the corporation's criminal liability. Fourth, corporate sanctions consist of principal penalties such as fines and additional penalties in accordance with applicable laws, including compensation, company closure, restitution, or reimbursement of state losses. Finally, the evidentiary system for corporate criminal cases continues to refer to the Criminal Procedure Code (Law No. 8 of 1981) and other specific laws governing evidence, with statements from corporate executives recognized as legitimate means of proof.

The enactment of Supreme Court Regulation (PERMA) No. 13 of 2016 represents a significant improvement and reconstruction of procedural law concerning criminal cases involving corporations as offenders. However, despite this advancement, several deficiencies remain. Most of the provisions contained in the regulation are predominantly formal and procedural, focusing primarily on technical aspects such as courtroom examination procedures for corporations, the format of summons letters, indictment structures, and judicial decision formats concerning corporate entities <sup>75</sup>. In practice, certain cases such as the PT Giri Jaladhi Wana corruption case demonstrate that corporate criminal proceedings can still be carried out effectively without strict adherence to these procedural formalities. Therefore, it would be more constructive if the regulation also addressed substantive aspects, such as clear criteria for determining when a corporation can or cannot be held criminally liable <sup>76</sup>. Additionally, further clarification is needed to distinguish between incorporated and unincorporated entities,

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<sup>74</sup> Ana Aniza Karunia, 'Penegakan Hukum Tindak Pidana Korupsi Di Indonesia Dalam Perspektif Teori Lawrence M. Friedman', *Jurnal Hukum Dan Pembangunan Ekonomi*, 10.1 (2022), 115–28 <https://doi.org/10.20961/HPE.V10I1.62831>

<sup>75</sup> Irfan Ardiansyah, 'Solusi Dalam Penegakan Hukum Terhadap Tindak Pidana Korporasi Ditinjau Dari Aspek Kriteria Dan Pola Pemidanaan', *UIR Law Review*, 3.1 (2019), 61–72 [https://doi.org/10.25299/UIRLREV.2019.VOL3\(01\).2095](https://doi.org/10.25299/UIRLREV.2019.VOL3(01).2095)

<sup>76</sup> Wahyu Prestianto, 'Peraturan Mahkamah Agung Republik Indonesia Nomor 13 Tahun 2016 Tentang Tata Cara Penanganan Perkara Tindak Pidana Oleh Korporasi; Solusi Sementara Upaya Meminta Pertanggungjawaban Pidana Korporasi', *"Dharmasisya" Jurnal Program Magister Hukum FHUI*, 1.3 (2021). <https://scholarhub.ui.ac.id/dharmasisya/vol1/iss3/34/>





as this distinction significantly affects the legal consequences of corporate criminal liability.

In addition, regulatory overlap may occur between existing legal instruments, particularly between the Regulation of the Attorney General of the Republic of Indonesia No. PER-028/A/JA/10/2014 on Guidelines for Handling Criminal Cases Involving Corporate Legal Subjects which applies internally within the Attorney General's Office and Supreme Court Regulation (PERMA) No. 13 of 2016 on Procedures for Handling Criminal Cases Committed by Corporations, which applies universally to all law enforcement institutions. Given this potential overlap, it is essential to establish a unified perspective among law enforcement authorities in handling corporate criminal cases <sup>77</sup>. In such cases, it is necessary to distinguish between the criminal liability of corporate management as individuals and that of the corporation as a legal entity. This requires determining whether the management acted under the company's directives or exploited the corporation for personal gain. Furthermore, differentiation must also be made between the actions of former and current management, particularly when new management had no knowledge of the offenses committed by their predecessors. Such distinctions are crucial to ensure that new corporate leaders are not unjustly associated with criminal acts perpetrated by former management <sup>78</sup>.

Although the issuance of Supreme Court Regulation No. 13 of 2016 and the Attorney General Regulation No. PER-028/A/JA/10/2014 has provided procedural guidance for law enforcement officers in handling corporate criminal cases, these instruments have not yet fully addressed the need for legal certainty and consistency in the application of corporate criminal liability principles. Substantively, both regulations tend to emphasize formal and procedural aspects such as procedures for summons, examination, indictment drafting, and verdict formulation rather than substantive elements. The absence of comprehensive provisions delineating when a corporation may be held criminally liable, the distinction between legal and non-legal entities, and the criteria for managerial involvement creates a normative vacuum. This deficiency increases the likelihood of interpretive disparities and inconsistent enforcement among law enforcement authorities in determining corporate liability.

The overlap between the Attorney General Regulation, which operates internally, and the Supreme Court Regulation, which binds all law enforcement institutions, has the potential to generate dualism in legal implementation. Accordingly, a unified perspective among law enforcement officials is imperative particularly in distinguishing between personal criminal liability of corporate managers and the corporate entity's own liability. Law enforcement officers must carefully assess whether a criminal act was committed under the corporation's directive and for its benefit or merely to advance the personal interests of individual managers. Such distinction is essential to prevent the unjust criminalization of new management who are uninvolved in offenses committed by their predecessors.

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<sup>77</sup> Khairil Andi Syahrir, M. Said Karim and Hijrah Adhyanti Mirzana, 'Pembaharuan Metode Pembuktian Subjek Hukum Korporasi Sebagai Pelaku Tindak Pidana Korupsi', *Tumou Tou Law Review*, 1.1 (2022), 32–47. <https://ejournal.unsrat.ac.id/v3/index.php/tumoutou/article/view/43633>

<sup>78</sup> Ana Fauzia and Fathul Hamdani, 'Pembaharuan Hukum Penanganan Tindak Pidana Korupsi Oleh Korporasi Melalui Pengaturan Illicit Enrichment Dalam Sistem Hukum Nasional', *Jurnal Hukum Lex Generalis*, 3.7 (2022), 497–519 <https://doi.org/10.56370/JHLC.V3I7.249>



The case of PT. Giri Jaladhi Wana serves as a crucial precedent demonstrating that corporations can indeed be held criminally liable in corruption cases. The designation of this corporation as a criminal suspect by the Banjarmasin District Prosecutor's Office reflects the courage of law enforcement in implementing the principle of corporate criminal liability. Nonetheless, the case also reveals regulatory limitations, as the effectiveness of corporate criminal enforcement still heavily depends on the interpretation and assertiveness of legal authorities rather than on clear and binding normative provisions. Therefore, a comprehensive reformulation of regulations in the form of a dedicated law governing corporate criminal liability is necessary to ensure stronger binding force and universal applicability across all law enforcement bodies. Such substantive legal reform would clarify the boundaries between individual and corporate accountability, prevent regulatory overlap, and strengthen the integrity of the criminal justice system. Ultimately, this reform is expected to promote a more consistent, equitable, and effective implementation of corporate criminal liability particularly in addressing corruption cases that cause substantial financial losses to the state.<sup>79</sup>

The prevention of corporate crime in Indonesia requires the transformation of governance mechanisms through a sustainable and legally coherent framework. The current regulatory system, while providing a foundation for accountability, still demonstrates structural weaknesses, particularly in the consistency and enforceability of judicial regulations. In the author's analysis, these weaknesses stem from the limited legal force of Supreme Court Regulations (*Peraturan Mahkamah Agung*), which, under the hierarchy of laws as stipulated in Law No. 12 of 2011 on the Formation of Laws and Regulations as amended by Law No. 13 of 2022, rank below statutory laws (*Undang-Undang*). Consequently, a regulation such as Supreme Court Regulation No. 13 of 2016 concerning the Procedure for Handling Criminal Cases Committed by Corporations, though substantively progressive, does not possess sufficient coercive power to bind all law enforcement authorities uniformly. This regulatory gap often results in inconsistent application of justice, particularly in cases involving large-scale environmental damage, financial fraud, and corruption by corporate entities.<sup>80</sup>

Empirical evidence from several court practices reinforces this claim. For example, Supreme Court Regulation No. 02 of 2012 regarding the Adjustment of the Limits for Minor Criminal Acts and the amount of Fines in the Indonesian Penal Code has frequently been disregarded by District Courts when handling minor criminal cases involving losses below IDR 2,500,000. This inconsistency reveals the limited normative authority of PERMA within the broader enforcement structure, where its implementation often depends on judicial discretion rather than binding obligation. Therefore, to achieve sustainable governance in corporate crime prevention, the legal framework must be elevated from a Supreme Court Regulation to a statutory law. Such

<sup>79</sup> Fauzi Iswari, I. Gusti Ayu Ketut Rachmi Handayani and Lego Karjoko, *Portrait of Ulayat Land Conflicts in Minangkabau Customary Law Community: Alternative Resolutions Under Islamic Law*, *Al-Istinbath: Jurnal Hukum Islam*, 2025, x <https://doi.org/10.29240/jhi.v10i1.11066>

<sup>80</sup> Ninuk Triyanti, I Gusti Ayu Ketut Rachmi Handayani and Lego Karjoko, 'Legal Gaps in Personal Data Protection: Reforming Indonesia's Population Administration Law', *Hasanuddin Law Review*, 11.1 (2025), 132 <https://doi.org/10.20956/halrev.v11i1.6177>



elevation would ensure the regulation possesses binding legal force across all institutions, thereby reinforcing accountability, transparency, and the rule of law.<sup>81</sup>

In this context, the Government and the Supreme Court should engage in institutional coordination to draft and harmonize a comprehensive legislative framework. This coordination process must include the Ministry of Law and Human Rights, the Financial Services Authority (OJK), and the Corruption Eradication Commission (KPK) to ensure that the resulting law integrates corporate liability principles with sustainable governance standards. The new law should also adopt preventive mechanisms, including compliance programs, due diligence obligations, and environmental and social responsibility requirements as mandated by Law No. 40 of 2007 concerning Limited Liability Companies and Government Regulation No. 47 of 2012 regarding Corporate Social and Environmental Responsibility.<sup>82</sup> Furthermore, the integration of sustainable governance principles aligns with the objectives of the National Medium-Term Development Plan (RPJMN) 2025–2029, which emphasizes the importance of good governance, environmental protection, and social justice in business regulation. Through this transformation, Indonesia can strengthen its institutional capacity to prevent corporate crime, promote corporate ethics, and ensure long-term sustainability in both the economic and legal sectors.<sup>83</sup>

## CONCLUSION

The study concludes that Indonesia's legal framework for combating corruption has provided a clear and comprehensive normative foundation for establishing corporate criminal liability. Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 explicitly recognizes corporations as subjects of criminal law, affirming that legal entities may be held accountable for acts of corruption committed through the conduct, decisions, or negligence of their executives and controlling personnel. This recognition reflects the constitutional principle of equality before the law as mandated in Article 27 paragraph (1) of the 1945 Constitution and reinforces the pursuit of justice and integrity in Indonesia's legal system. Despite the sufficiency of these statutory provisions, particularly Articles 20 and 21 of Law No. 31 of 1999 and Supreme Court Regulation No. 13 of 2016 on Corporate Crime Procedure, the implementation remains inconsistent. The primary challenge does not lie in the substantive law but in the weak institutional commitment of investigators, prosecutors, and judges to apply criminal sanctions against corporate actors. This enforcement gap has diminished the deterrent effect of anti-corruption laws and allowed corporations to evade responsibility despite their evident involvement in systemic corruption, especially in procurement and environmental sectors. Therefore, the realization of sustainable governance in anti-corruption enforcement requires a consistent, coordinated, and transparent approach across all law

<sup>81</sup> In'am Zaidi and I Gusti Ayu Ketut Rachmi Handayani, 'Indonesia's Unclear Groundwater Management in Achieving Sustainable Development Goals: Regulations, Environmental Impacts, and Strategic Solutions', *International Journal of Sustainable Development and Planning*, 20.1 (2025), 263–70 <https://doi.org/10.18280/ijstdp.200124>

<sup>82</sup> Atikah Mardhiya Rohmy, Hartiwiningsih and I Gusti Ayu Ketut Rachmi Handayani, 'Judicial Mafia and Ecological In-Justice: Obstacles to Policy Enforcement in Indonesian Forest Management and Protection', *Trees, Forests and People*, 17 (2024), 100613 <https://doi.org/10.1016/j.tfp.2024.100613>

<sup>83</sup> Agus Budi Susilo and others, 'Optimizing the Role of Information and Communications Technology within the State Administrative Court Environment', *Media Hukum*, 32.1 (2025), 78–95 <https://doi.org/https://doi.org/10.18196/jmh.v32i1.25118>



enforcement bodies. Strengthening inter-agency collaboration, enhancing prosecutorial competence, and ensuring judicial firmness are imperative steps toward reinforcing legal certainty and accountability. By institutionalizing consistent corporate liability enforcement, Indonesia can not only uphold the rule of law but also promote integrity-based governance that deters corruption and supports long-term national development.

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