

When Corporations Cross the Line: Legal Perspectives on Corporate Corruption in Indonesia

Tri Sandi¹, Lidya Ramadhani Hasibuan^{2*}, Aulia Rahman Lubis³

Jurusan Hukum, Universitas Pembangunan Panca Budi, Sumatera Utara

Corresponding Author: Lidya Ramadhani Hasibuan lidya.hsb@gmail.com

ARTICLE INFO

Keywords: Criminal Responsibility, Corporations, Corruption Crimes

Received : 03 January 2025

Revised : 26 January 2025

Accepted: 27 February 2025

©2025 Sandi, Hasibuan, Lubis: This is an open-access article distributed under the terms of the [Creative Commons Attribution 4.0 International](https://creativecommons.org/licenses/by/4.0/).



ABSTRACT

The phenomenon of corporate involvement in corruption is becoming increasingly prevalent in Indonesia. As a legal entity, a corporation can be held criminally liable for corruption offences committed under its authority. This study aims to analyse the legal framework governing corporate criminal liability in corruption cases and examine the forms of criminal sanctions that may be imposed on corporations. The research methodology employed is normative legal research, utilising a statutory approach and case study analysis of Supreme Court decisions pertaining to corporate corruption offences. The findings reveal that the legal framework for corporate criminal liability in corruption cases is primarily regulated by several key legal instruments, including Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption, as well as Supreme Court Regulation No. 13 of 2016 on Procedures for Handling Criminal Cases Involving Corporations. The forms of criminal liability applicable to corporations include fines, corporate dissolution, and the revocation of business licences. A case study of Supreme Court Decision No. 927 K/Pid.Sus-LH/2021 illustrates the application of these legal provisions, where the Supreme Court dismissed the cassation appeal but revised the corporate fine, reducing it from IDR 20 billion to IDR 2 billion, with the stipulation that assets would be seized should the fine remain unpaid. This ruling underscores the significance of proportionality in corporate criminal sanctions and highlights the judiciary's role in ensuring effective and just enforcement of corporate criminal liability.

INTRODUCTION

In the contemporary era characterised by globalisation and accelerated economic development, the pervasive issue of corruption has emerged as a paramount concern across numerous nations, including Indonesia. Corruption transcends individual misconduct, encompassing corporate entities which, as legal persons, possess the capacity to engage in unethical practices and contravene legal norms. Given their central role in diverse economic activities, corporations inherently possess substantial potential to partake in corrupt behaviours that ultimately inflict widespread harm upon societal welfare and state interests (Nasution & Lakshana, 2022).

Pursuant to Article 1 Number 1 of the Indonesian Anti-Corruption Law, a corporation is explicitly defined as an organised aggregation of individuals and/or assets, irrespective of its status as a legal entity. From a criminal jurisprudence standpoint, attributing criminal accountability to corporations presents a multifaceted challenge necessitating a comprehensive and nuanced approach. Despite their absence of physical form or conscious intent, corporations, as legal constructs, remain subject to criminal sanctions designed to rectify and deter corrupt conduct. Various judicial mechanisms are in place to prosecute corporate entities, encompassing penalties such as monetary fines, revocation of operating licences, alongside other remedial and rehabilitative interventions. Consequently, robust law enforcement directed towards corporations implicated in corruption-related offences has attained increasing urgency, driven by the extensive and deleterious consequences stemming from corporate-level corruption (Kristian, 2016).

Corporate criminal liability in Indonesia has undergone substantial evolution, reflecting a shift from a traditionally individual-centric approach to recognising corporate entities as accountable subjects within criminal jurisprudence. Initially, criminal law predominantly concentrated on individual culpability; however, with escalating complexities in criminal activities, the notion of attributing criminal liability to corporations has gained acceptance and practical application. This development is notably embodied in various legislative frameworks, prominently including Law No. 31 of 1999 juncto Law No. 20 of 2001 on the Eradication of Corruption, which explicitly sanctions criminal penalties against corporations. Nevertheless, the practical implementation of corporate criminal liability continues to confront considerable challenges, such as complexities associated with evidentiary processes, delineation of accountable corporate representatives, and ensuring the efficacy of imposed sanctions. Furthermore, inconsistencies observed in judicial practices when prosecuting corporations for corruption-related offences fuel ongoing discourse regarding the law's effectiveness in combating corporate criminality.

In terms of sanctions, corporate criminal liability in corruption cases typically encompasses substantial monetary fines, intended as significant financial deterrents designed to foster accountability and discourage future illicit conduct among corporate actors. In more egregious cases, corporations implicated in corruption offences may be subjected to operational suspensions or, in extreme instances, corporate dissolution. These stringent measures are

employed to terminate activities that profoundly undermine public interests. Additionally, corporations may also bear an obligation to provide restitution or compensation to the state or aggrieved parties, thereby aiming to remediate losses incurred due to corrupt practices and to uphold principles of restorative justice.

Not all corruption offences are applicable to corporations. According to Law No. 31 of 1999 juncto Law No. 20 of 2001, only certain specified provisions permit the imposition of criminal liability upon corporations. Should officials or executives of a corporation partake in corrupt activities, such actions may be legally construed as reflective of corporate decisions or policies, thereby rendering the corporation itself subject to criminal accountability.

A significant case exemplifying corporate involvement in corruption pertains to PT. Natural Persada Mandiri, a company operating within the service, industrial, trade, and construction sectors. The corporation was charged with undertaking mining operations within designated forest areas without the requisite ministerial authorisation. The Konawe District Court found it guilty on 1 September 2020 and imposed a fine of IDR 20 billion. This decision was subsequently affirmed by the Southeast Sulawesi High Court and later upheld by the Supreme Court in Decision No. 927 K/Pid.Sus-LH/2021, although with a revision reducing the fine to IDR 2 billion. This case underscores the imperative necessity of stringently enforcing corporate criminal liability within Indonesia's criminal justice framework.

As legal entities subject to criminal law, corporations can indeed be held accountable for infractions committed under their authority. The aforementioned ruling confirms that the company was demonstrably culpable of corporate criminal offences by executing unauthorised mining operations in protected forest regions. Consequently, it was sanctioned accordingly with fines and other punitive measures consistent with existing legal statutes.

RQ1: What are the specific legal provisions governing corporate criminal liability in corruption cases?

RQ2: What forms of criminal liability are applicable to corporations implicated in corruption-related offences?

LITERATURE REVIEW

According to criminal law theory, entities subject to criminal liability encompass both individuals and corporations. As recognised legal entities, corporations possess specific rights and obligations, thereby making them liable for unlawful actions or any actions explicitly prohibited by law. In Indonesia, corporate criminal offences are primarily governed by four significant laws: Law No. 32 of 2009 concerning Environmental Protection and Management, Law No. 31 of 1999 on the Eradication of Corruption, Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering, and Law No. 1 of 2023 concerning the Criminal Code. Furthermore, formal legal provisions pertinent to corporate criminal offences are reinforced through supplementary regulations, notably Supreme Court Regulation No. 13 of 2016 outlining Procedures for Handling Criminal Cases Involving Corporations, Attorney General Regulation No. 28 of 2014 detailing Guidelines for Handling Criminal Cases with Corporate Legal

Entities, and the Criminal Procedure Code, which provides essential procedural guidance for addressing corporate criminal cases (Fachri, 2020).

Corruption is classified as an extraordinary crime with far-reaching impacts upon economic stability, social cohesion, and the integrity of governance. Corruption is perpetrated not merely by individual actors but frequently involves corporations, either as direct perpetrators or facilitators of corrupt acts. Corporations are often exploited as instruments in diverse manifestations of corruption, encompassing bribery, gratuities, abuse of authority, and money laundering, frequently implicating state officials and private sector participants alike (Hasibuan et al., 2015).

METHODOLOGY

This study adopts a descriptive-analytical approach, with the primary objective of providing a comprehensive examination of the subject matter, followed by an in-depth analysis to derive conclusions based on empirical and normative legal data (Fajar & Achmad, 2013). In pursuit of this objective, the research employs a normative juridical methodology, which focuses on an analytical inquiry into the application and interpretation of positive legal norms within the prevailing legal framework (Ibrahim, 2013). To substantiate this normative approach, the study also incorporates an extensive library-based research method.

Furthermore, as highlighted by Mestika (2014), this research utilises a library research method (literature review), which entails a systematic process of collecting secondary data, engaging in comprehensive reading, meticulous note-taking, and synthesising various legal sources available within academic and institutional repositories. This methodological approach ensures a robust foundation for doctrinal legal analysis.

The study employs a qualitative analytical method, selected for its capacity to systematically, coherently, and logically present data without redundancy, thereby facilitating a nuanced interpretation and deeper understanding of the legal issues under scrutiny (Hendra, 2019).

Upon gathering all relevant legal materials and data, the subsequent stage involves a rigorous evaluation of consistency and validity. Consistency verification is conducted through comparative analysis of data from multiple authoritative sources to ensure coherence and eliminate discrepancies. Concurrently, data validity is assessed through cross-referencing with established legal literature and consultation with eminent legal scholars to ascertain the accuracy and contextual relevance of the data in relation to the research problem. This stage is particularly critical in managing the complexity and diversity of legal materials under examination. Subsequently, an extensive juridical analysis is undertaken, particularly concerning corporate criminal liability in corruption offences, as exemplified in Supreme Court Decision No. 927/Pdt.Sus/2021. This analysis seeks to provide a profound and critical interpretation of the legal implications embedded within the ruling, while also contributing to the scholarly discourse on the evolution and refinement of corporate criminal liability within Indonesia's legal framework.

RESEARCH RESULT

Regulation on Corporate Criminal Liability in Corruption Offences

The legal framework governing corporate criminal liability in corruption offences in Indonesia has undergone significant development through a series of legislative instruments that explicitly define the legal basis for imposing criminal sanctions on legal entities or corporations engaged in corrupt practices. The principal foundation of this policy is Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption. This legislation unequivocally asserts that corporations may be held criminally liable if proven to have engaged in corrupt practices. Article 20, paragraph (1) of this statute establishes that corporations implicated in corruption offences are subject to criminal sanctions, while Article 20, paragraph (2) enumerates specific punitive measures that may be imposed, including substantial monetary fines, revocation of business licences, and operational restrictions (Muladi & Priyatno, 2013). The implications of these provisions indicate that such sanctions have the potential to profoundly impact corporate sustainability, whether through financial penalties or through constraints on, or the cessation of, business operations.

Moreover, Supreme Court Regulation No. 13 of 2016 on the Procedures for Handling Criminal Cases Involving Corporations further refines the prosecutorial framework for corporate criminal liability. This regulation articulates the evidentiary standards required to establish that criminal acts perpetrated by individuals within a corporate entity were conducted in furtherance of, or for the benefit of, the corporation (Muladi & Priyatno, 2013). Additionally, this regulation stipulates that individuals entrusted with corporate governance, including directors, executives, and other authorised officials, may be held personally accountable should the criminal act occur within the scope of their authority and managerial responsibilities. By integrating these principles, Indonesia's legal system seeks to reinforce corporate accountability and ensure a rigorous approach to prosecuting corporate actors implicated in corruption-related offences.

Furthermore, the revision of the Indonesian Penal Code (KUHP), which came into effect in 2023, has further reinforced the framework for corporate criminal liability. Article 107 of the revised KUHP explicitly provides that corporations may be subjected to criminal sanctions if an offence is committed by an individual with authorised decision-making power within the corporation, provided that the act is executed for the corporation's benefit or interests. This provision aligns with the broader principle of corporate criminal liability, affirming that corporations can be held accountable even when an offence is committed by an individual, as long as the act is undertaken within the scope of securing profit or advancing corporate interests (Muladi & Priyatno, 2013). This principle is crucial in preventing corporations from circumventing responsibility for unlawful acts committed in their name or for their advantage, thereby strengthening legal accountability within Indonesia's corporate sector.

Corporate Corruption Offences

Not all forms of corruption offences can be directly attributed to corporations; however, corporate entities frequently become entangled in corrupt practices, particularly when individuals within the organisation engage

in unlawful conduct for the benefit of the company. One of the most prevalent forms of corporate corruption is bribery. Pursuant to Articles 5, 6, and 7 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption (the Anti-Corruption Law), bribery occurs when an individual offers or receives money, goods, or promises to influence the decisions or actions of a public official. A corporation may be implicated in bribery when an individual acting on its behalf offers inducements to a public official to obtain undue advantages that contravene public interest (Ali, 2008). For instance, a corporation may engage in bribery to secure government contracts or obtain business licences through illicit means.

Furthermore, gratification constitutes another form of corruption involving corporations, as regulated under Article 12B of the the Anti-Corruption Law. Gratification encompasses any form of gift or benefit received by a civil servant or state official in connection with their position, which has the potential to create a conflict of interest. Corporations may be held liable for gratification if they provide undue benefits or incentives to public officials with the intention of influencing decisions that unduly favour corporate interests.

Another category of corporate corruption is embezzlement in office, as stipulated in Article 8 of the the Anti-Corruption Law. This offence transpires when an individual in an official capacity within a corporation exploits their position to misappropriate funds or assets entrusted to them for personal or third-party gain. A corporation may be held accountable if an individual acting on its behalf diverts corporate resources for personal enrichment or illicit transactions.

Several theories underpin corporate criminal liability. First, the Identity Theory asserts that criminal acts perpetrated by individuals in authoritative positions within a corporation are legally attributable to the corporation itself. Consequently, if a corporate executive, such as a director, engages in criminal conduct, the corporation may also bear criminal liability. Second, the Negligence Theory posits that a corporation may be held criminally responsible if a crime occurs due to organisational negligence, inadequate oversight, managerial failure, or deficient corporate policies enacted by corporate officials.

The misuse of authority for illicit corporate gain is another prevalent facet of corporate corruption, as delineated in Article 3 of the the Anti-Corruption Law. Abuse of authority transpires when an individual manipulates their position or official role to unjustly benefit a corporation or another party. Corporations may be held culpable in such offences when their executives or officials exploit their authority to obtain unlawful advantages that harm third parties or the state, such as through asset misappropriation or the unlawful acquisition of permits.

In the context of corruption offences, corporate liability is contingent upon specific criteria (Muladi & Priyatno, 2013). First, the presence of an act that confers tangible benefits upon the corporation, signifying that individuals within the corporate structure engage in corrupt activities with the objective of advancing corporate interests. An example includes an official accepting a bribe to secure a lucrative contract for the company. Second, the direct involvement of

corporate officials or executives, wherein the corporation may be held legally responsible if its executives or decision-makers participate in corrupt activities. Corrupt acts committed by individuals vested with corporate authority are deemed reflective of the corporation's strategic decisions or institutional policies.

Types of Corporate Criminal Offences

In criminal law, corporations can be held accountable for various types of offences committed by individuals acting on behalf of or for the benefit of the corporation. One of the offences that may involve corporations is corruption, which causes financial losses to the state. A corporation may be implicated in such offences if individuals within the corporation, such as directors or employees, engage in bribery, gratification, or embezzlement aimed at defrauding public finances. For instance, a corporation may offer bribes to government officials to secure project tenders that should be conducted transparently or engage in corrupt practices in public budget management, ultimately harming state finances. In such cases, the corporation may be held criminally liable and subjected to sanctions in accordance with applicable regulations.

Additionally, corporations may be held accountable for environmental violations involving bribery in the permitting process. In numerous cases, companies may be involved in illegal permitting by offering bribes to obtain environmental licences that should not be granted, such as permits for hazardous waste disposal or for activities that damage conservation areas. Such practices not only harm the environment but also violate legal provisions on environmental protection. Corporations engaged in such offences may face criminal sanctions, including fines, operational restrictions, and obligations to rectify the damage caused.

Corporations may also be liable for the manipulation of procurement contracts in government projects. Contract manipulation occurs when individuals within a corporation engage in fraudulent practices to unlawfully secure government contracts for goods or services, such as price fixing, budget inflation, or document forgery. In such cases, corporations may be held criminally liable if they are found to have played a role in these manipulative processes. An example is a construction company that manipulates the tender process for government projects to gain illicit financial benefits. Such offences result in financial losses for the state and society, leading to public budget misallocation and a decline in service quality. Corporations involved in such practices may be subject to criminal sanctions, including substantial fines, activity restrictions, or even business licence revocation (Amrullah, 2008). This regulatory framework reflects the Indonesian judiciary's serious commitment to ensuring that corporations involved in corruption cannot evade strict legal consequences, thereby upholding justice and effective legal certainty.

Considerations of the Supreme Court in Decision No. 927 K/Pid.Sus-LH/2021

The Supreme Court Decision No. 927 K/Pid.Sus-LH/2021 in the case of PT. Natural Persada Mandiri underscores the application of the principle of proportionality in determining sanctions for corporations. In its ruling, the

Supreme Court rejected the cassation appeal filed by both the public prosecutor and the defendant but revised the previously imposed fine. The Court's primary considerations included several factors relevant to the principles of justice and the effectiveness of law enforcement. Firstly, the Court assessed the damage caused to the environment and state finances due to PT. Natural Persada Mandiri's unauthorised mining activities, which clearly harmed both the ecosystem and the state. Secondly, the principle of justice was applied by reducing the fine from IDR 20 billion to IDR 2 billion. This reduction was aimed at maintaining the deterrent effect on the company while considering its operational sustainability in a rational manner, ensuring that the penalty does not entirely dismantle the company's business continuity. Furthermore, the Supreme Court also emphasised the effectiveness of law enforcement by establishing a mechanism for asset confiscation should the imposed fine remain unpaid. Through this cautious and fair approach, the Supreme Court ensured that the sanctions imposed were both effective and proportional.

This ruling has significant implications for the enforcement of corporate sanctions in corruption cases, particularly those involving environmental damage and state financial losses. Firstly, the ruling reaffirms that corporations may be subjected to effective criminal sanctions, whether through substantial fines or asset confiscation, to ensure that businesses are held legally accountable. Secondly, the decision serves as an impetus for strengthening regulations related to corporate criminal liability, including potential revisions to Supreme Court Regulation No. 13 of 2016, which governs the procedures for handling criminal cases involving corporations. Enhancing this regulation is crucial in clarifying and reinforcing evidentiary mechanisms, the imposition of sanctions, and corporate oversight in cases of legal violations, thereby fostering a more just and effective legal system for the benefit of the state and society (Moeljatno, 2000).

The evidentiary mechanism is detailed in Supreme Court Regulation No. 13 of 2016, which requires courts to establish a clear link between an individual's actions and corporate interests. This highlights the importance of concrete evidence linking corporate involvement in criminal acts, such as through corporate policies or management decisions endorsing corrupt practices. Evidence such as internal documents, employee communications, or financial audit reports can serve as strong indicators of corporate complicity in such offences.

Moreover, internal oversight mechanisms and anti-corruption policies within corporations also play a crucial role. While legal provisions impose sanctions on corporations involved in corruption, companies are also encouraged to implement internal policies aimed at preventing corrupt activities. These measures include robust internal control systems, regular audits, and employee training on legal compliance. By adopting these policies, corporations can mitigate the risk of engaging in corruption-related offences, and such efforts may also serve as mitigating factors in legal proceedings should violations occur.

CONCLUSIONS AND RECOMMENDATIONS

The case of PT. Natural Persada Mandiri illustrates that corporations can be held criminally liable for offences committed under their authority. The existing regulatory framework provides a clear legal basis for corporate law enforcement, including fines and asset confiscation, if found guilty of corruption-related offences. Supreme Court Decision No. 927 K/Pid.Sus-LH/2021 demonstrates how corporate criminal liability can be enforced while maintaining proportionality in sentencing and the effectiveness of law enforcement.

A crucial recommendation is the reinforcement of internal audit and supervisory mechanisms within corporations to prevent criminal offences, particularly corruption. Companies should be mandated to conduct regular internal audits, involving independent entities with high integrity and competence. This initiative not only facilitates the early detection of potential legal violations but also fosters a culture of transparency and accountability within the organisation. Furthermore, strengthening internal supervision mechanisms serves as an effective deterrent, preventing companies from engaging in unlawful activities while ensuring a solid foundation for stricter and more proportional legal enforcement if wrongdoing is established.

ADVANCED RESEARCH

In writing this article the researcher realizes that there are still many shortcomings in terms of language, writing, and form of presentation considering the limited knowledge and abilities of the researchers themselves. Therefore, for the perfection of the article, the researcher expects constructive criticism and suggestions from various parties.

REFERENCES

- Ali, M. (2008). *Kejahatan korporasi: Kajian relevansi sanksi tindakan bagi penanggulangan kejahatan korporasi* (Cetakan Pertama). Arti Bumi.
- Amrullah, A. (2008). *Kejahatan korporasi*. Bayu Media Publishing.
- Fajar, M., & Achmad, Y. (2013). *Dualisme penelitian hukum normatif dan empiris*. Pustaka Pelajar.
- Hasibuan, L. R., Hamdan, M., Marlina, M., & Barus, U. M. (2015). Restorative justice sebagai pembaharuan sistem peradilan pidana berdasarkan UU No. 11 Tahun 2012 tentang Sistem Peradilan Pidana Anak. *USU Law Journal*, 3(3).
- Hendra. (2019). *Metode penelitian kuantitatif: Analisis isi dan analisis data sekunder*. PT Rajagrafindo Persada.
- Ibrahim, J. (2013). *Teori dan metodologi penelitian hukum normatif*. Bayumedia.
- Kitab Undang-Undang Hukum Pidana (KUHP) Tahun 2023.
- Kristian. (2016). *Kejahatan korporasi di era moderen & sistem pertanggungjawaban pidana korporasi*. PT. Refika Aditama.
- Mestika, Z. (2014). *Metode penelitian kepustakaan*. Yayasan Bogor Indonesia.
- Moeljatno. (2000). *Asas-asas hukum pidana*. Rineka Cipta.
- Muladi & Priyatno, D. (2013). *Pertanggungjawaban pidana korporasi*. Prenadamedia.
- Nasution, A. H., & Lakshana, I. G. A. A. (2022). Kewenangan Penyidik Pegawai Negeri Sipil (PPNS) dalam Undang-Undang Republik Indonesia No. 8 Tahun 1981 tentang Hukum Acara Pidana pada Pasal 1 Ayat (1) Jo. Pasal 6 Ayat (1) dan Undang-Undang No. 19 Tahun 2019 tentang Tindak Pidana Korupsi pada Pasal 1 Ayat (6) dalam proses peradilan pidana Indonesia. *Focus (Madison)*, 3(2).
- Peraturan Mahkamah Agung No. 13 Tahun 2016 tentang Tata Cara Penanganan Perkara Tindak Pidana oleh Korporasi.
- Putusan Mahkamah Agung No. 927 K/Pid.Sus-LH/2021.
- Undang-Undang No. 31 Tahun 1999 jo. Undang-Undang No. 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi.