

Implementation of Law Enforcement against Corporations and the Challenges of Law No. 1 Year 2023

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Abstract

This research aims to examine the recognition and application of criminal liability of corporations in the Indonesian criminal law system, especially as regulated in the National Criminal Code (KUHP) which was recently enacted through Law Number 1 of 2023. The research method used is normative juridical with a qualitative approach, which focuses on analysing positive legal provisions and legal doctrines related to corporate criminal liability. The results show that the recognition of corporations as subjects of criminal law is a progressive step in answering the challenges of modern crimes involving business entities. However, there are still various implemented obstacles, such as interpretative lacunae, weak deterrent effects from sanctions, and the dominance of political-economic interests in law enforcement. Therefore, comprehensive legal reformulation and harmonization between laws and regulations are needed to strengthen effectiveness and justice in corporate punishment in Indonesia.

I. Introduction

The term corporate is the English equivalent of the word "corporation" or "company." Although often associated with large-scale companies, some definitions do not strictly limit the scale of the corporation itself (Darodjat, 2020). According to the Big Indonesian Dictionary (KBBI), corporation or corporate is defined as a very large company or business entity, or a combination of several companies managed in an integrated manner as one large entity (Mijwil et al., 2023; Asad & Bokhari, 2023). Etymologically, the term "corporation" comes from Latin, from the word "corporatio" which is the noun form of the verb "corporare." This verb means to form a body or entity. This verb means to form a body or make something as a body, which is rooted in the word "corpus" which means body. In this context, corporation refers to a group of people who are organized, have a leadership structure, and are capable of performing legal actions (Marzuki et al., 2024). Therefore, the meaning of "corporatio" historically refers to the result of human action in forming an artificial legal entity, as opposed to a biologically formed natural entity (Sachruddin et al., 2025).

According to the perspective articulated by Herbert L. Packer, as cited in the work of Aryaputra and Triwati (2023), the foundational structure of criminal law is predicated upon three principal elements: the commission of a criminal act (crime), the attribution of responsibility to the perpetrator (responsibility), and the imposition of a corresponding sanction (sentencing) (Chan & Lim, 2024). These components collectively constitute the conceptual framework that underpins the criminal justice system in its entirety. In essence, the formulation and implementation of criminal law consistently revolve around the identification of criminal conduct, the determination of the liable party, and the appropriate mode of punishment to be applied (Syed, 2023; Auriol et al., 2023). In relation to criminal conduct, Mezger, as also cited by Aryaputra and Triwati (2023), posits that a criminal offense is "an act that satisfies certain conditions." This formulation underscores the dual nature of criminal acts, emphasizing not only the prohibited conduct but also the individual who engages in such conduct. Consequently, the legal discourse surrounding criminal acts can be delineated into two core dimensions: the existence of an act expressly forbidden by law and the presence of an individual who contravenes that legal prohibition (Zulfa et al., 2023).

From a historical perspective, the term corporation derives from the Latin corpus, meaning "body," which evolved into corporare, denoting "to form into a body" or "to embody." This etymological development culminated in the term corporatio, referring to the product of such a formation (Vacaflor & Lenschow,

2023). In the modern context, the corporation is conceptualized as a complex organizational entity that plays a pivotal role in facilitating structural transformation and promoting global economic advancement. Owing to its strategic functions and expansive influence, the corporation is now frequently regarded as a powerful institutional actor, second in influence only to the state itself (Suroso et al., 2024).

A corporation is a legal entity or subject of law that plays a pivotal role in driving economic growth and supporting national development (Faizal, 2023). However, in practice, corporations are frequently implicated in various forms of criminal conduct, commonly referred to as corporate crime, which can result in substantial harm to both the state and society. Accordingly, when a corporation is proven to have engaged in criminal acts, it ought to be held legally accountable. Such accountability may be directed either toward the corporate entity itself or toward the individuals who manage or represent the corporation, namely its executives or corporate organs (Astuti et al., 2024; Rahmatiar & Abas, 2024).

The development of Indonesia's criminal law reached a historic milestone with the enactment of Law Number 1 of 2023 concerning the Indonesian Penal Code (Kitab Undang-Undang Hukum Pidana or KUHP), which explicitly regulates corporate criminal liability in several provisions, particularly Articles 45 through 50 (Chandra & Sobirov, 2023). Conceptually, corporations are no longer regarded solely as juridical entities within the realm of private law, but also as subjects of criminal law capable of bearing liability for unlawful acts committed by their managers, commanding officers, or beneficial owners for the benefit of the corporation (Hiariej, 2016; Simons, 2021). This approach to corporate criminal liability reflects the doctrines of strict liability and vicarious liability, whereby the culpability of individual actors is attributed to the legal entity as the embodiment of collective will (Qolbi, 2024).

According to Hiariej (as cited in Faturrachman, 2024), criminal law adheres to the principle of *nemo punitur pro alieno delicto*, which asserts that no individual shall be punished for a crime committed by another. This principle serves as a foundational limitation on individual criminal responsibility (Pardede et al., 2023). Nevertheless, it faces considerable challenges in the application of the doctrine of vicarious liability, which posits that a corporation may be held criminally liable for the actions of its agents or officers when such actions are carried out on behalf of, and for the benefit of, the corporation. In this context, although the acts are directly committed by corporate officials, liability may still be attributed to the corporation as a legal entity.

The absence of internal evaluation mechanisms within many law enforcement

agencies and judicial institutions has rendered Law Number 1 of 2023 not yet fully implementable, despite the availability of a clear normative foundation. The lack of adequate internal oversight within these institutions stands as a major impediment to the effective implementation of the aforementioned law, even though its normative framework has been clearly established (Harkrisnowo, 2019). Within this regulatory framework, a corporation is defined as an entity comprising a collective of individuals and/or organized assets, whether possessing legal entity status, such as limited liability companies, foundations, cooperatives, state-owned enterprises, regionally-owned enterprises, or village-owned enterprises, or lacking legal entity status, such as partnerships, limited partnerships (*commanditaire vennootschap*), or other comparable forms (Criminal Code, 2023). This formulation not only provides a detailed classification of the various types of corporate entities but also anticipates future legal developments by incorporating the phrase “or any entity deemed equivalent thereto.” This inclusive language allows for the recognition of emerging corporate forms in line with societal and economic transformations (Harkrisnowo, 2019).

The primary objective of this study is to conduct an in-depth analysis of the recognition of corporations as subjects of criminal law within the Indonesian legal system, particularly in the context of the recent reform of the Criminal Code (*Kitab Undang-Undang Hukum Pidana*) through the enactment of Law Number 1 of 2023. This research aims to critically examine the provisions governing corporate criminal liability and to assess the extent to which these regulations are capable of addressing the complexities of modern crimes committed by corporate entities (Chandra & Sobirov, 2023). In addition, the study seeks to identify both normative and practical weaknesses within the corporate penal framework, including the existence of disharmony among sectoral legislation that may give rise to legal uncertainty. By employing a normative juridical approach, this research aspires to contribute meaningful recommendations regarding the necessity for reformulation and harmonization of legal provisions. Such efforts are intended to strengthen the effectiveness of criminal law enforcement against corporate offenders and to foster a legal system that is fair, certain, and responsive to the evolving dynamics of contemporary criminality.

This introduction highlights the urgency of criminal law reform in providing stronger protection for whistleblowers. Without adequate legal protection, the effectiveness of anti-corruption efforts in Indonesia will remain limited. Therefore, this study aims to analyze the obstacles faced by whistleblowers in Indonesia and recommend concrete steps to create a more just, inclusive, and

effective criminal legal system that protects whistleblowers in the fight against corruption.

2. Research Method

This research uses a juridical normative method, which is an approach that focuses on analyzing applicable legal norms, especially Law Number 1 of 2023 concerning the Criminal Code. Through this approach, the research examines various laws and regulations, legal doctrines, and court decisions related to corporate criminal liability. The aim is to identify the extent to which legal norms govern law enforcement mechanisms against corporations and how those norms can be effectively implemented in the Indonesian legal system. The analysis is carried out by examining relevant legal principles, theories, and concepts to understand the legal position of corporations in the national criminal law system. In addition, this study also uses a qualitative methodology to explore practical challenges in the implementation of law enforcement against corporations based on Law No. 1 of 2023. Qualitative data were obtained through literature studies, document analysis, and interviews with criminal law experts and law enforcement practitioners to explore empirical perspectives on the obstacles and obstacles in the implementation of these norms. This approach allows researchers to understand the dynamics of law not only in terms of regulatory text, but also from the practice of its application in the field, including in the context of institutions, legal culture, and the effectiveness of law enforcement by the authorities

3. Results and Discussion

The Historical Development of Corporations in Indonesia

According to Sirait (2020), the presence of corporations in Indonesia dates back to the arrival and operations of the Vereenigde Oostindische Compagnie (VOC) and has continued to evolve into the modern era. In the course of this historical development, Wachjoe (as cited in Prasetya & Ratnawati, 2023) notes that during times of war, certain corporations engaged in actions that would now be categorized as war crimes. However, such acts could not be prosecuted under criminal law at the time due to the prevailing influence of the legal principle expressed in the Latin maxim *universitas/societas delinquere non potest*, which holds that legal entities cannot commit criminal offenses. This maxim also explains why the crimes committed by the VOC during the colonial period were never subjected to criminal prosecution (Qolbi, 2024).

King and Lord (in Prasetya & Ratnawati, 2023) explain that the development of corporations has closely followed the dynamics of trade and business activity. As business practices have grown increasingly complex, so too have the forms of criminal conduct associated with corporate activity. This complexity became more pronounced with the advent of the Industrial Revolution, which gave rise to new and

more sophisticated types of corporate crime, along with diverse risks and societal and environmental impacts (Sudariyanto, 2018).

Prior to the Industrial Revolution in 1760, corporations were not recognized as entities capable of bearing criminal liability. However, over time, corporations have come to be acknowledged as legal subjects under criminal law and can now be held accountable for their actions. According to Muladi and Priyatno, early concepts of corporate criminal liability were limited to individual accountability, specifically, to natural persons who bore direct responsibility for managing the corporation, in line with the managerial duty principle (*zorgplicht*) (Reksodiputro, 1982). Subsequent developments equated corporations with business entities or associations, where liability was assigned to corporate executives, whether due to direct actions or negligence in fulfilling their leadership roles (Schaffmeister, 1987). Today, corporations are unequivocally recognized as independent legal entities subject to criminal sanctions. Sirait (2020) asserts that the recognition of corporations as criminal legal subjects has undergone significant evolution in various jurisdictions. In the United States, a pivotal moment occurred in 1886 when the Supreme Court declared that corporations could be treated similarly to natural persons. As noted by Jonkers, as cited in Pujiyono (2019), Dutch criminal law, whose principles have significantly influenced Indonesian criminal law, historically held that legal entities could not be held criminally liable. This stance was rooted in the doctrine of personal responsibility (individual responsibility), which posits that only natural persons may be held criminally liable, as only individuals possess the necessary awareness and intent to commit a crime (Hasbullah, 2023).

The shift in legal doctrine began to emerge more clearly when, in 1909, the United States officially extended criminal liability to legal entities, thus abandoning the classical principle of *universitas/societas delinquere non potest* (Agustino et al., 2023). The United Kingdom had already initiated this development earlier, in 1842, through the case of *Birmingham & Gloucester Railway Co.*, which opened the possibility of recognizing corporations as criminally liable subjects. In the Netherlands, corporate criminal liability was first regulated under the *Wet Economische Delicten* (WED) in 1950 and was later incorporated into general criminal law (*commune strafrecht*) through the *Wetboek van Strafrecht* in 1976, explicitly positioning corporations within the broader framework of criminal law (Prasetya & Ratnawati, 2023).

In the Indonesian legal system, the regulation of corporate criminal liability has undergone a gradual evolution. During the early post-independence period, specifically in 1946, corporate criminal liability remained highly limited (Pamela, 2023). The Penal Code in force at the time, adapted from colonial-era legislation, did not recognize corporations as criminal legal subjects. Article 59 of the old Penal Code only specified certain parties subject to criminal sanctions, implicitly excluding legal entities as potential perpetrators of criminal offenses. This reflected the strong influence of the classical legal doctrine that denied corporations the capacity for

criminal conduct on the basis that legal entities lacked physical agency and moral intent (Abdul & Khan, 2023)

A significant paradigm shift became evident with the enactment of Indonesia's new national Penal Code, codified under Law Number 1 of 2023. This legislation explicitly affirms the status of corporations as criminal legal subjects in Article 45, which provides that corporations may be held criminally liable when certain elements of a criminal offense are fulfilled. This provision marks Indonesia's formal adoption of the doctrine of collective criminal liability (corporate criminal liability), wherein the culpability of individual actors, such as corporate executives, owners, command givers, or beneficial owners, is attributed to the corporation as a collective entity. Furthermore, Articles 46 to 50 of the new Penal Code elaborate on the general principles underlying the imposition of criminal liability on corporations. These articles define key aspects such as the criteria for corporate criminal acts, the role of individuals acting on behalf of the corporation, and the range of sanctions that may be applied, including fines, restitution, and administrative measures. These provisions are supplemented by explanatory notes that provide practical guidance on the operationalization of corporate criminal liability (Farghani & Sulistiyono, 2024).

Nonetheless, despite the progress represented by the recognition of corporations as criminal legal subjects, Article 146 of the new Penal Code reveals limitations in the definitional clarity of corporate forms (Khairani et al., 2023). The article merely classifies corporations into two categories, legal entities and non-legal entities, without offering further elaboration on the specific types or legal characteristics of such entities. This definitional gap creates interpretive ambiguity, which may lead to legal uncertainty in practice, especially in cases involving modern business models such as digital enterprises, online platforms, or community-based ventures that may not possess formal legal status. Therefore, while the promulgation of the new Penal Code constitutes a substantial step forward in broadening the scope of criminal legal subjects, it also underscores the urgent need for implementing regulations and progressive interpretive frameworks. These are essential to ensure that various forms of corporations can be held criminally accountable in an effective and equitable manner, in line with the demands of modern criminal law.

Recognition of Corporations as Subjects of Criminal Law

The emergence of corporations as perpetrators of criminal offenses has significantly transformed the penal system, which historically focused solely on individuals (Azmi, 2020). As corporations become increasingly embedded in nearly all aspects of human life, they have brought with them substantial consequences in multiple domains, including economics and law (Ainun et al., 2024). While corporations play a crucial role in promoting economic growth and supporting national and global development, they also possess the potential to cause harm, whether to individuals, communities, or the state. Empirical evidence demonstrates that corporations not only contribute positively but are also involved in a wide array of legal violations. As early as 1932, a study identified approximately 70 major corporations in the United

States that were suspected of engaging in various forms of criminal activity (Rodliyah, Suryani, & Husni, 2021).

The issue of corporate crime has attracted attention not only at the national level but also in international discourse. This concern was evident during the 5th United Nations Congress on the Prevention of Crime and the Treatment of Offenders held in Geneva in 1975, and was reaffirmed in the 7th UN Congress in 1985, which highlighted the emergence of new types of crime perpetrated by corporations. These crimes are often committed by seemingly respectable business figures but can have highly detrimental impacts on national stability and economic integrity. This global phenomenon illustrates that corporate crime has evolved into a serious transnational threat requiring a coordinated and systematic response from the international community (Pratiwi & Abdullah, 2024; Agustina et al., 2023).

Fundamentally, a corporation is a legal arrangement among individuals who intentionally form a partnership to achieve specific objectives, primarily the pursuit of profit. Corporations are legally recognized as juridical persons with rights and obligations protected under positive law (Fadillah, 2024). In criminal law, corporations are not merely abstract entities; they are increasingly equated with natural persons as legal subjects capable of bearing criminal liability. The legal capacity of corporations is thus associated with the legal competency of the individuals who represent them (Charda et al., 2024).

Within the framework of criminal law, three fundamental elements are central: the criminal act (*actus reus*), criminal responsibility (*mens rea*), and criminal sanctions. These elements, while interconnected in both theory and practice, serve distinct functions. A legal subject, whether an individual or a corporate entity, may be deemed to have committed a criminal offense when their conduct contravenes explicit legal norms codified in legislation, particularly those found in the Indonesian Penal Code (*Kitab Undang-Undang Hukum Pidana, KUHP*). According to Sjahdeini (as cited in Charda et al., 2024), a conduct may only be classified as a criminal offense under Indonesian criminal law if it is expressly defined as such within the law. This principle aligns with the doctrine of legality, codified in Article 1(1) of the KUHP, which states that “No act shall be punishable except by virtue of a penal law existing prior to its commission.” This principle ensures legal protection against retroactive punishment and upholds the rule of law. A similar sentiment is echoed in Law No. 48 of 2009 on Judicial Power, particularly in Article 6(1), which affirms that “No one shall be brought before a court except as provided by law.” Hence, the legality principle remains a cornerstone of Indonesia’s criminal justice system, guaranteeing legal certainty and the protection of fundamental rights (et al., 2023).

As such, a criminal act is defined as conduct that violates penal provisions in effect at the time it is committed, either through commission of a prohibited act or omission of a mandated duty. Traditionally, under Indonesian criminal law, only natural persons were recognized as perpetrators of crime. However, evolving legal frameworks have increasingly recognized non-human entities, such as corporations,

as subjects of criminal law. This shift is exemplified by Article 59 of the KUHP, which addresses corporate criminal liability. The provision states that:

"In cases where the violation is determined to be criminally threatened to the management, members of the management board or the commissioner, then the management, members of the management board or commissioners who do not appear to have interfered in the violation shall not be punished."

Amirullah (as cited in Charda et al., 2024) notes that the current KUHP contains no explicit provision affirming that perpetrators of criminal offenses may include entities other than human beings. This omission reflects the classical view that only natural persons can be held criminally liable, a perspective grounded in the legal maxim *actus non facit reum nisi mens sit rea*, "an act does not make one guilty unless the mind is also guilty." This maxim, universally acknowledged, posits that *mens rea* (guilty mind) is a necessary component of criminal culpability. Since only humans possess intent and moral consciousness, conventional criminal law has traditionally limited liability to individuals.

The maxim emphasizes that liability requires a specific mental state or intent linked to the prohibited conduct. From this standpoint, corporations, lacking consciousness or will, are seen as incapable of bearing criminal responsibility. However, corporations do not exist independently of human agency; they are formed and operated by individuals who possess both intent and decision-making authority. Thus, accountability for corporate conduct fundamentally lies with those behind the corporate veil. This understanding has paved the way for recognizing corporations as criminal actors. As social and economic dynamics evolve, the law must adapt to address emerging legal gaps and uphold justice, not only as a regulatory mechanism but also as a means of safeguarding societal well-being (Melia & Siregar, 2024).

The recognition of corporations as criminal legal subjects in the revised KUHP represents a significant milestone in adapting the criminal justice system to modern legal developments and socio-economic realities. Nonetheless, this recognition remains challenged by enduring theoretical objections, chief among them the fiction theory advanced by Von Savigny (Kalra & Afzal, 2023). This theory holds that juridical persons, such as corporations, are fictitious constructs that do not possess real existence or legal capacity akin to natural persons. According to this view, legal personality attributed to entities such as the state, corporations, and institutions is notional and created solely for practical purposes. These entities cannot, therefore, be considered genuine legal subjects with independent agency or responsibility (Panjaitan, 2022). This poses a significant theoretical challenge to the recognition and implementation of corporate criminal liability in the Indonesian legal system.

Another major obstacle stems from the persistent influence of the doctrine *universitas delinquere non potest*, which asserts that legal entities cannot commit criminal offenses. Rooted in 19th-century legal thought, this doctrine reflects an individualistic approach to criminal law, wherein only human beings are seen as

capable of bearing criminal responsibility due to their capacity for intentional and moral action. Consequently, many legal systems, including Indonesia's early penal code, have been reluctant to hold corporations criminally liable due to their supposed lack of *mens rea* (Setiyawan et al., 2024).

Mulyadi and Surbakti (as cited in Charda et al., 2024) highlight that the influence of *universitas delinquere non potest* is still apparent in Article 59 of the KUHP, which implicitly denies recognition of corporations as criminal legal subjects. The historical development of corporate criminal liability in Indonesia has closely followed Dutch legal traditions. In its earlier form, Article 51 of the Dutch *Wetboek van Strafrecht* (W.v.S.) resembled Article 59 of the Indonesian KUHP, both rooted in classical doctrines that confined criminal liability to individual human actors. This traditional view has persisted for decades but is increasingly challenged by the complex nature of contemporary corporate crime, including corruption, money laundering, and environmental destruction. These offenses often occur within institutional or systemic frameworks and cannot be effectively addressed solely through individual liability. As a result, modern legal thought has moved toward recognizing corporations as independent subjects of criminal law, capable of being held directly accountable (Mijwil et al., 2023).

However, enforcement of corporate criminal law remains fraught with political and economic challenges. Large corporations, often possessing substantial financial resources and political connections, may receive preferential treatment, either overtly or covertly. This convergence of business and power interests undermines the impartiality of law enforcement and erodes public trust in the criminal justice system. Moreover, inconsistencies in regulatory frameworks further hinder effective enforcement. While laws such as the Environmental Protection Act (Law No. 32 of 2009), the Anti-Corruption Act (Law No. 31 of 1999, as amended by Law No. 20 of 2001), and the Consumer Protection Act (Law No. 8 of 1999) have recognized corporations as criminal legal subjects, implementation remains inconsistent due to the absence of clear and uniform technical guidelines. The enactment of the new Penal Code under Law No. 1 of 2023 includes provisions on corporate liability, yet its full enforcement will only take effect on January 2, 2026, as stipulated in Article 624. Although normative recognition of corporate criminal liability exists in several statutes, discrepancies persist in the definitions, scope, and forms of liability applied across different legal instruments. These inconsistencies create legal uncertainty, underscoring the urgent need for codification and harmonization of corporate crime regulations. Nonetheless, recognizing corporations as subjects of criminal law is not a straightforward matter. The primary challenge lies in the principle *nulla poena sine culpa* (no punishment without fault), which presupposes the existence of *mens rea*, a state of mind naturally attributed only to human beings (Chan & Lim, 2024). In this context, establishing *mens rea* for corporations presents a unique challenge, as they lack consciousness or moral agency. Thus, corporate liability must be articulated through the conduct of individuals acting on behalf of the entity. Despite these complexities, the legal system must continue to evolve in order to respond

effectively to the realities of contemporary crime and institutional wrongdoing (Syed, 2023).

The Necessity for Reformulating Corporate Criminal Liability Provisions in Response to the Evolution of Modern Crime

Contemporary developments, marked by rapid technological advancement, globalization, and the increasing complexity of modern business systems, have brought about significant changes in the patterns and forms of criminal activity, including crimes committed by collective entities such as corporations. In this context, corporate crime can no longer be viewed as a peripheral issue, as it poses serious threats to society, the environment, and national economic systems. The forms of corporate crime have also become increasingly diverse, including offenses such as money laundering, tax evasion, consumer rights violations, environmental pollution, and corruption, frequently committed systematically and structurally by individuals in positions of authority within the corporate hierarchy. Despite these realities, law enforcement efforts against corporate wrongdoing remain hampered by various challenges, one of which is the absence of comprehensive and operational legal provisions specifically governing how criminal liability may be imposed on corporations. Consequently, there is an urgent need to reformulate the legal framework on corporate criminal liability to make it more responsive to the complexities of modern crime (Faizal, 2023).

Historically, Indonesia's criminal legal system has adhered to classical principles that recognize only natural persons as subjects of criminal law. This perspective is evident in the language used in the previous Penal Code (KUHP), which consistently employs terms such as "barangsiapa" (whoever) or "seorang" (a person), thereby implying that only individuals may be held criminally liable. The classical legal maxim *universitas delinquere non potest*, which holds that legal entities cannot commit crimes, has long underpinned Indonesia's approach to criminal liability. However, this maxim has become increasingly obsolete in light of contemporary social and economic realities. As legal entities, corporations now hold dominant roles in public life and can commit crimes that inflict far greater harm than conventional offenses committed by individuals. As such, it is imperative that the criminal justice system reform its foundational assumptions and fully recognize corporations as subjects of criminal law (Astuti et al., 2024; Rahmatiar & Abas, 2024).

Such recognition has begun to be accommodated in several sectoral laws, including Law No. 32 of 2009 on Environmental Protection and Management, Law No. 31 of 1999 on the Eradication of Corruption (as amended by Law No. 20 of 2001), and Law No. 8 of 1999 on Consumer Protection. Nevertheless, these laws vary significantly in terms of their definitions, scope, and mechanisms for assigning liability, resulting in disharmony across the broader legal system. This regulatory inconsistency makes it difficult for law enforcement agencies to apply criminal sanctions to corporations in a consistent manner (Chandra & Sobirov, 2023). Thus, a

comprehensive reformulation and harmonization of corporate criminal liability provisions is urgently needed to establish a cohesive and integrated legal framework. A concrete step toward this reform has emerged with the enactment of Indonesia's new Penal Code under Law No. 1 of 2023, which explicitly recognizes corporations as subjects of criminal law. Articles 45 to 50 of the revised KUHP affirm that corporations may be held criminally liable when specific elements are met, namely, when criminal acts are committed by individuals acting in an official capacity on behalf of the corporation and such acts yield benefits for the entity. This recognition marks a significant advancement in addressing modern criminal phenomena by removing ambiguity regarding collective actors in crime. However, despite this normative progress, the implementation of corporate criminal liability continues to face fundamental challenges (Qolbi, 2024).

One major challenge lies in the absence of technical guidelines that can be used by law enforcement officers to prosecute corporations effectively. Many legal practitioners continue to rely on traditional approaches focused exclusively on individual offenders, making it difficult to establish corporate liability as a legal construct. Furthermore, the penalties imposed on corporations are often administrative in nature or consist of fines that are disproportionately small compared to the profits gained from the offense. In many cases, such fines are viewed by corporations as mere operational costs, thereby failing to generate meaningful deterrence. Therefore, legal reform should encompass a broader range of impactful sanctions, including business license suspension, revocation of legal entity status, asset confiscation, and victim compensation (Pardede et al., 2023).

The reformulation of corporate criminal liability must also address theoretical issues that underpin criminal law. One of the central challenges concerns the application of the *mens rea* (criminal intent) doctrine to corporate entities. In conventional criminal law, *mens rea* is a prerequisite for establishing liability. However, corporations, being artificial entities, do not possess personal will or malicious intent in the same way individuals do. Thus, the legal system must adopt new approaches, such as the doctrine of vicarious liability, which allows for corporate liability based on criminal acts committed by individuals acting on behalf of or in the interest of the corporation. This doctrine, widely adopted in Anglo-Saxon legal systems, has proven effective in accommodating corporate criminal responsibility (Khairani et al., 2023).

Moreover, it is essential to develop a distinct evidentiary standard for assessing corporate fault. Rather than focusing solely on the intent of individual perpetrators, legal assessments should include systemic negligence in management, failures in internal oversight, or willful tolerance of unlawful practices by corporate leadership. This approach allows corporate culpability to be demonstrated in structural and systemic terms, rather than through individual misconduct alone, an essential consideration given the collective and often highly organized nature of corporate crime. In addition, the reformulation of corporate criminal liability should embrace

the principles of restorative justice. This paradigm emphasizes not only retribution but also the restoration of victims' rights and the mitigation of social harms caused by corporate offenses. In this regard, sanctions imposed on corporations could include victim compensation, environmental remediation, or the implementation of corporate-sponsored social rehabilitation programs. Such measures not only broaden the scope of justice but also promote socially and ethically responsible corporate behavior (Alauddin et al., 2024).

A corporation may be deemed criminally liable when the offense is committed by an individual authorized to control or manage corporate activities. Nevertheless, the divergent treatment of corporate liability across Indonesia's legal instruments presents a significant obstacle to effective enforcement. Addressing this issue requires active engagement from the government, legislature (DPR), and civil society in drafting comprehensive regulations. This is particularly urgent given the increasing complexity of criminal activities in line with social and technological advancements (Davis et al., 2023). The absence of legal clarity in certain laws, regarding when a corporation may be deemed to have committed an offense, who can be held liable, and what sanctions are appropriate, creates legal uncertainty in combating corporate crime. Therefore, a systematic overhaul of corporate criminal liability provisions is imperative, encompassing clear criteria for corporate criminal acts, the parties responsible, and appropriate sanctions (Pamela, 2023). Harmonizing these regulations is expected to enhance coherence within the national legal system and support the attainment of the fundamental goals of law: justice, legal certainty, and utility. Law No. 1 of 2023 explicitly affirms that corporations may be prosecuted as perpetrators of criminal offenses. Article 45(1) designates corporations as subjects of criminal law, while Article 45(2) elaborates on the types of entities included, encompassing both legal entities, such as limited liability companies, foundations, cooperatives, state-owned enterprises (BUMN), regionally-owned enterprises (BUMD), and non-legal entities, such as partnerships and limited partnerships (*commanditaire vennootschap*). These provisions demonstrate that the scope of corporate criminal liability in Indonesia is broad, encompassing nearly all forms of business entities and organizations.

Further, Article 146 provides a detailed definition of a corporation as an organized collective of persons and/or assets, whether incorporated or unincorporated, engaged in various forms of business or organizational activities as regulated by law. Article 145 clarifies that the term "every person" used in criminal provisions of the Penal Code includes both individuals and corporate entities. This signifies formal recognition of corporate legal personality within Indonesia's criminal justice system. Equally important is the need to cultivate legal awareness and institutional capacity among law enforcement officials to implement corporate criminal liability consistently and professionally. Specialized training for judges, prosecutors, and investigators in corporate criminal law is essential, as is the establishment of dedicated units within law enforcement agencies to handle corporate crimes. In this

way, the implementation of legal provisions will not remain merely normative but will be translated into effective practice (Maalouf, 2024).

This formal recognition reflects a significant paradigm shift in Indonesia's criminal law tradition, which has historically excluded corporations from liability under the classical maxim *universitas delinquere non potest* (Setiawan et al., 2024). However, in response to evolving legal thought and the growing complexity of modern criminality, Indonesia has increasingly adopted approaches derived from common law systems, particularly through the application of the vicarious liability doctrine. This doctrine enables corporate liability to be imposed for criminal acts committed by individuals acting on behalf of or for the benefit of the corporation. Such practices have long been established in Anglo-Saxon jurisdictions like the United States and have now begun to take root in Indonesia, as evidenced by a number of recent legal cases.

4. Conclusion

Based On The Findings Presented Above, It Can Be Concluded That The Recognition Of Corporations As Subjects Of Criminal Law Represents A Progressive Step In Responding To The Growing Complexity Of Modern Crimes. Although Initially Rejected By The Classical Legal Maxim *Universitas Delinquere Non Potest*, The Current Legal Paradigm Has Shifted To Acknowledge Corporations As Potential Perpetrators Of Criminal Offenses, As Reflected In The Provisions Of The New Indonesian Criminal Code (Kuhp) Enacted Through Law Number 1 Of 2023. Nevertheless, The Implementation Of Corporate Criminal Liability Continues To Face Significant Challenges, Including The Absence Of Precise Definitions, The Limited Deterrent Effect Of Existing Sanctions, And The Persistent Influence Of Political And Economic Interests. Therefore, There Is A Pressing Need For Regulatory Harmonization, The Adoption Of Adaptive Legal Approaches, Such As The Doctrine Of Vicarious Liability, And A Strong Commitment From Law Enforcement Authorities. These Measures Are Essential To Ensure That Corporate Criminal Liability Can Be Applied Effectively And Equitably Within A Legal System That Aspires To Uphold Justice And Respond To The Evolving Nature Of Criminality.

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