



LEGAL REVIEW OF CORPORATE CRIMINAL LIABILITY IN CORRUPTION CRIMINAL ACTS

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Article Info	Abstract
Article History Received: 2025-05-05 Revised: 2025-05-06 Published: 2025-06-06 Keywords: Criminal Responsibility, Corporations, Corruption Crimes	<i>The phenomenon of corruption involving corporations is increasingly rampant in Indonesia. As a legal entity, a corporation can be held criminally responsible for corruption offenses committed. This research aims to analyze the legal provisions regarding corporate criminal liability in corruption crimes and the forms of criminal responsibility that can be imposed on corporations. The research method used is normative legal research with an approach based on laws and regulations, as well as case study analysis of Supreme Court rulings related to corruption offenses committed by corporations. The research findings indicate that the legal framework concerning corporate criminal liability in corruption offenses is regulated in various laws such as Law No. 31 of 1999 jo. Law No. 20 of 2001 on the Eradication of Corruption Crimes, as well as Supreme Court Regulation No. 13 of 2016 on Procedures for Handling Criminal Cases Involving Corporations. Forms of criminal liability that can be imposed on corporations include fines, corporate dissolution, and revocation of business licenses. The case study of Supreme Court Decision No. 927 K/Pid.Sus-LH/2021 shows that the Supreme Court rejected the cassation request and revised the sentence imposed on the corporation, reducing the fine from IDR 20 billion to IDR 2 billion, with the provision that assets be seized if the fine is not paid.</i>

I. INTRODUCTION

In the era of globalization and rapid economic development, the phenomenon of criminal acts of corruption is increasingly becoming a serious concern in various parts of the world, including in Indonesia. Corruption does not only involve individuals, but can also include corporations as legal entities that can act unethically and violate the law. As the main actors in various economic activities, corporations have a significant role in corrupt practices, which often harm society and the state.(Daulay, Zarzani, and Aspan 2022)

Based on Article 1 Number 1 of the Corruption Crime Law, it defines "A corporation is a group of people and/or wealth that is organized, whether a legal entity or not a legal entity" according to criminal law, corporate liability is a complex topic and requires a comprehensive approach. Although corporations as legal entities do not have physical or conscious beings like individuals, they can be subject to criminal sanctions designed to address and prevent corrupt behavior. There are various legal

mechanisms that can be used to prosecute corporations, ranging from fines to revocation of business licenses, as well as various remedial and recovery measures. Law enforcement against corporations in corruption crimes is becoming increasingly relevant, given the broad impact that corrupt actions can have at the corporate level.(FOREST 2022)

Based on the theory of criminal law, there are two legal subjects that can be held criminally responsible, namely humans and corporations. Corporations, as recognized legal entities, have rights and obligations and can be held accountable for their unlawful or prohibited actions. In Indonesia, there are four main laws that regulate corporate crimes, namely: Law No. 32 of 2009 concerning Environmental Protection and Management (Environmental Law), Law No. 31 of 1999 concerning the Eradication of Corruption (Corruption Law), Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering (TPPU Law), and Law No. 1 of 2023 concerning the Criminal Code (New Criminal Code).(FOREST 2022)For formal legal provisions

related to corporate crimes, there are several laws and regulations that provide definitions and guidelines regarding corporations as legal subjects, such as Perma No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, Perja No. 28 of 2014 concerning Guidelines for Handling Criminal Cases with Corporate Legal Subjects, and the Criminal Procedure Code (3 Ferinda K Fachri, 2020)

Corruption is an extraordinary crime that has a broad impact on the economy, social stability, and good governance. Not only committed by individuals, but in some cases, corruption also involves corporations as perpetrators or means of committing the crime. Corporations, as legal entities, are often used as tools to facilitate various forms of corruption, such as bribery, gratification, abuse of authority, and money laundering involving state officials or private parties. A corporation can be held accountable if its members commit acts of corruption with the aim of benefiting the corporation itself. For example, an official who accepts a bribe to win a project that benefits the company. (Gemilang, Ismaidar, and Zarzani 2024)

In the criminal law system in Indonesia, corporate criminal liability has experienced significant developments. (Rianto, Zarzani, and Saragih 2024) Initially, criminal law focused more on individual responsibility, but along with the increasingly complex dynamics of crime, the concept of criminal responsibility for corporations began to be recognized and applied. This is reflected in various laws and regulations, including Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption which allows corporations to be subject to criminal sanctions.

However, the application of criminal liability to corporations in corruption crimes still faces various challenges. Among them are the issue of proof, determining the legal subject responsible, and the effectiveness of the application of sanctions to corporations. In addition, in judicial practice, there is still inconsistency in charging corporations as perpetrators of corruption crimes, thus giving rise to debate about the extent of the effectiveness of the law in prosecuting crimes involving business entities.

The form of corporate criminal liability in criminal acts of corruption can be

in the form of:

1. Fine

Corporations proven to have committed corruption crimes can be subject to fines that can be very large. These fines serve as a burdensome sanction and as a form of accountability for criminal acts committed by members of the corporation.

2. Freezing or Dissolution of Corporation

In some very serious cases, corporations involved in corruption crimes can be subject to sanctions in the form of freezing or dissolution.

3. Obligation to Pay Compensation:

Corporations may also be required to pay compensation to the state or parties harmed by the criminal act of corruption.

Corruption crimes committed by corporations are regulated in Article 2 paragraph (1), Article 3, Article 5 paragraph (1), Article 6 paragraph (1), Article 7, Article 13, Article 15, and Article 16 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001. So not all corruption crimes can be committed by corporations. If officials or corporate administrators are involved in corruption, the corporation can be held accountable. Corruption crimes committed by individuals who have authority in the corporation can be considered as acts that reflect the company's decisions or policies. (Sabadina 2021)

One of the corruption cases involving corporations is the case of PT. Natural Persada Mandiri, a service, industry, trade, and development company represented by Nico Fernandus Sinaga. This company was accused of mining in a forest area without the Minister's permission. In the decision of the Konawe District Court on September 1, 2020, PT. Natural Persada Mandiri was found guilty and sentenced to a fine of IDR 20 billion. If the fine is not paid within one month, the company's assets will be confiscated and auctioned. The Southeast Sulawesi High Court upheld the decision, but the defendant and public prosecutor filed an appeal. The Supreme Court in Decision No. 927 K/Pid.Sus-LH/2021 rejected the cassation request from both parties, with improvements to the sentence imposed. PT. Natural Persada Mandiri was finally fined IDR 2 billion, with the provision that the company's assets would be confiscated if the fine was not paid. (Suharko 2017)

Corporations, as subjects of criminal law, can be held criminally liable for violations of the law they commit. The court decision shows that PT. Natural Persada Mandiri was proven to have committed a corporate crime by mining without a permit in a forest area, and the corporation can be

subject to sanctions in the form of fines and other actions in accordance with legal provisions.

1. What are the legal rules regarding corporate criminal penalties for corruption?
2. What form of criminal liability is imposed on corporations in criminal acts of corruption?

II. RESEARCH METHODS

This research is descriptive analytical, because the researcher wants to describe or explain the subject and object of the research, which is then analyzed and finally drawn conclusions from the results of the research. The type of research used in this legal research is normative juridical. Normative juridical research is research that focuses on examining the application of rules or norms in positive law.

According to Zed Mestika, library research or library research is a series of activities related to library data collection methods, reading and recording and processing library collection materials without requiring field research. In this study, the analysis used is qualitative analysis, namely a description of quality data in the form of regular, sequential, logical and non-overlapping sentences so as to facilitate data implementation and understanding of analysis results.² In this case, after the materials and data are obtained, the materials and data that have been received are re-examined, especially regarding the consistency of the answers from the diversity of materials and data, then a legal analysis is carried out on the criminal liability of corporations in corruption crimes in the Supreme Court Decision no. 927/Pdt.Sus/2021.

III. RESULTS AND DISCUSSION

A. Regulations on Corporate Crime in Corruption Crimes

Criminal liability for corporations in corruption crimes in Indonesia is regulated in several regulations that provide a legal basis that a legal entity or corporation can be held criminally liable if involved in corruption crimes. One of the main bases is Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 concerning the Eradication of Corruption Crimes, which stipulates that corporations can be subject to criminal sanctions if involved in corruption crimes. Article 20 paragraph (1) of this Law states that corruption crimes committed by corporations can be subject to criminal sanctions, and Article 20 paragraph (2) further stipulates

that corporations can be subject to criminal sanctions in the form of fines, revocation of business licenses, or prohibitions on operations. Thus, corporations can be subject to various types of criminal sanctions that have the potential to harm the survival of the company, such as large fines or restrictions on operational activities.(Sabadina 2021)In addition, Supreme Court Regulation (Perma) No. 13 of 2016 also provides guidelines on handling criminal cases involving corporations, including the evidentiary mechanisms required to show that actions taken by individuals within a corporation are aimed at the interests of the business entity.(Ningsih 2018)

In this case, the Perma stipulates that persons responsible for a corporation, such as directors or administrators, can be held accountable if a crime occurs within the scope of their role. Meanwhile, the New Criminal Code (KUHP) which will come into effect in 2023 clarifies this in Article 107, which states that a corporation can be subject to criminal sanctions if an authorized individual in the corporation commits a crime for the benefit or purpose of the corporation. Based on the principle of corporate criminal liability, even if a crime is committed by an individual, as long as it is done for the benefit or interest of the corporation, the corporation can still be held accountable. Then the Regulation of the Attorney General of the Republic of Indonesia (Perja) No. Per-028 / A / JA / 10/2024 regulates guidelines for handling criminal cases with corporate legal subjects. This ensures that corporations cannot escape responsibility for actions taken by their administrators or employees, who act on behalf of and in the interests of the corporation. Thus, through these various regulations and legal principles, the justice system in Indonesia provides space to ensure that corporations involved in criminal acts of corruption can be subject to strict sanctions and provide a deterrent effect, either in the form of large fines or sanctions that can harm their operations.(Suharko 2017)

B. Criminal Acts of Corruption by Corporations

Not all forms of corruption can be committed by corporations, but there are several forms of corruption that often involve corporations, especially those related to illegal actions carried out by individuals within a corporation for the benefit of the company. One form of corruption that often involves corporations is bribery. Based on Articles 5, 6, and 7 of Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 (Corruption

Law), bribery occurs when someone gives or receives money, goods, or promises to influence the decisions or actions of public officials. Corporations can be involved in this crime if individuals acting on behalf of the corporation bribe public officials to gain benefits that are detrimental to the public interest. For example, a company can bribe government officials to win a project or obtain a business license.

In addition, gratification is also a form of corruption that can involve corporations, as regulated in Article 12B of the Corruption Law. Gratification is a gift in any form received by civil servants or state administrators related to their positions, which has the potential to cause a conflict of interest. Corporations can be involved in gratification when they provide gifts or facilities to public officials or state administrators with the aim of influencing their decisions that benefit the company. Another form of crime is embezzlement in office, which is regulated in Article 8 of the Corruption Law. This crime occurs when a person working in his capacity as an official or manager of a corporation abuses his position to embezzle goods or money entrusted to him for personal gain or that of another party. Corporations can be involved if individuals acting on behalf of the company embezzle company funds or assets for personal gain or that of a third party. (2018 Report)

There are several theories used to regulate corporate criminal liability, including:

a. Identity Theory

In this theory, a criminal act committed by an individual who has authority within a corporation is considered an act also committed by the corporation. This means that if a corporate official (such as a director) is involved in a crime, then the corporation can also be held responsible.

b. Theory of Negligence

Corporations can be held responsible if a criminal act occurs due to negligence or failure in supervision, management, or policies made by officials or directors of the corporation.

Abuse of authority that benefits corporations illegally also often involves corporations in criminal acts of corruption, as regulated in Article 3 of the Corruption Law. Abuse of authority occurs when someone uses their position or title to provide illegal benefits to a corporation or other party. Corporations can be involved in this crime if company officials or managers abuse their power to gain benefits that harm other parties or the state, such as in the case of transferring company assets or misusing permits. Overall,

although not all criminal acts of corruption can be committed by corporations, these forms of corruption that often involve corporations show how individuals in corporations can carry out illegal actions aimed at gaining benefits for the company, which in turn can harm the public and create injustice in the economic and government systems. (Mahmud, Syawali, and Amrulloh 2021)

In the context of criminal acts of corruption, corporations can be held accountable if:

a. There are Actions that Benefit Corporations

A corporation can be held accountable if its members commit acts of corruption with the aim of benefiting the corporation itself. For example, an official who accepts a bribe to win a project that benefits the company.

b. Involvement of Corporate Officials or Managers:

If an official or manager of a corporation is involved in an act of corruption, the corporation can be held accountable. Corruption committed by an individual who has authority in a corporation can be considered an act that reflects the company's decisions or policies.

C. Types of Corporate Crimes

Some types of Corporate Crimes include Money Laundering, Fraud, Tax Evasion, False Bookkeeping, Bribery, Corruption, and Environmental Crimes. In criminal law, corporations can be held responsible for various types of crimes committed by individuals acting on behalf of or in the interests of the corporation. One of the crimes that can involve corporations is corruption that harms state finances. (Supusepa 2019)

The following are further details regarding the types of corporate crimes:

a. Criminal Acts of Corruption by Corporations

- 1) Bribery: Corporations provide money or facilities to state officials to gain business advantages.
- 2) Gratuity: Giving gifts or facilities to officials to influence certain policies or decisions.
- 3) Embezzlement of State Finances: Manipulation of the budget or financial reports that is detrimental to the state.

b. Environmental Crimes by Corporations

- 1) Environmental Pollution: Disposal of hazardous waste without a permit or exceeding specified limits.
- 2) Illegal Resource Exploitation: Forest destruction, illegal mining, or fictitious permits for industrial activities.

- 3) Licensing Manipulation: Corporations bribe officials to obtain environmental permits that should not have been granted.
- c. Economic and Financial Crimes by Corporations
 - 1) Market Manipulation: Corporations engage in cartel practices, monopolies, or price speculation that harm consumers.
 - 2) Money Laundering: Concealing the origins of illegal funds through fictitious business transactions.
 - 3) Investment Fraud: Ponzi schemes or fraudulent investments that defraud investors.
- d. Criminal Acts in Procurement of Goods and Services
 - 1) Tender Manipulation: Collusion in the tender process to win a project illegally.
 - 2) Budget Mark-Up: Inflation of the prices of goods or services in a government or private project.
 - 3) Contract Document Forgery: Falsification of specifications or bidding documents to meet project requirements.
- e. Tax Crimes by Corporations
 - 1) Tax Evasion: Corporations do not report their actual income to reduce tax liabilities.
 - 2) Tax Invoice Forgery: Use of fictitious tax invoices to avoid paying taxes.
 - 3) Illegal Transfer Pricing: Moving profits to low-tax countries to avoid taxes at home.
- f. Labor Crimes by Corporations
 - 1) Labor Exploitation: Corporations employ workers at below-standard wages or without job protection.
 - 2) Violations of Labor Rights: Unilateral termination of employment, discrimination in the workplace, or obstruction of labor union rights.
 - 3) Child Labor and Modern Slavery: Corporations employ underage children or use forced labor.
- g. Criminal Acts in the Field of Technology and Information
 - 1) Data Protection Breach: Corporations misuse or sell customers' personal data without permission
 - 2) Spread of Hoax News: Corporations spread false information for business gain.
 - 3) Cybercrime: Misuse of computer systems, hacking, or spreading malware for corporate gain.

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

Supreme Court Decision No. 927 K/Pid.Sus-LH/2021 in the case of PT. Natural Persada Mandiri confirms the application of the principle of proportionality in determining sanctions for corporations.(Supusepa 2019)In its ruling, the Supreme Court rejected the appeals from both the public prosecutor and the defendant, but revised the previously set fine. The main considerations taken by the Supreme Court include several factors relevant to the principles of justice and the effectiveness of law enforcement.(Perdana, Aurellia, and Faridz 2024)First, the Supreme Court considered the losses caused to the environment and state finances due to mining activities carried out by PT. Natural Persada Mandiri without a permit, which clearly harms the ecosystem and the state. Second, the principle of justice is applied by reducing the amount of the fine from IDR 20 billion to IDR 2 billion. This reduction aims to continue to provide a deterrent effect on the company, but by considering the sustainability of the company's operations rationally, so as not to completely destroy the continuity of the company's business. In addition, the Supreme Court also pays attention to the effectiveness of law enforcement, by regulating the mechanism for confiscating company assets if the fine imposed is not paid according to the verdict. With this careful and fair approach, the Supreme Court determines sanctions that are effective but remain proportional.(Faturohman, Kurniawati, and Milani 2023)

This ruling has important implications for the application of sanctions against corporations in corruption cases, especially those related to environmental damage and state losses. First, this ruling confirms that corporations can be subject to effective criminal sanctions, either in the form of high fines or asset confiscation as a step to ensure that the company is legally responsible. Second, this ruling is an impetus for strengthening regulations related to corporate criminal liability, which could include improving Perma No. 13 of 2016, which regulates the procedures for handling criminal cases involving corporations. Improving these regulations is important to clarify and strengthen the mechanisms for providing evidence, imposing sanctions, and supervising corporate actions in cases of violation of the law, so as to create a fairer and more effective justice system for the interests of the

state and society.(Faturrohman, Kurniawati, and Milani 2023)

This evidentiary mechanism is explained in Perma No. 13 of 2016, which requires the court to be able to prove the existence of a relationship between actions taken by individuals and corporate interests. This shows the importance of evidence linking the role of corporations in criminal acts, for example through policies or decisions taken by management to commit corruption. Evidence such as internal documents, communications between employees, or financial audit evidence can be used to show the involvement of corporations in the crime.(Faturrohman, Kurniawati, and Milani 2023)

In addition, the role of internal supervision and anti-corruption policies within the corporation are also important factors. Although the law provides sanctions for corporations involved in corruption, corporations are also encouraged to implement internal policies that prevent corruption. This includes having a good internal control system, conducting regular audits, and providing training to employees on the importance of compliance with the law.(SINAGA and SH 2013)With this policy, corporations can reduce the risk of being involved in criminal acts of corruption, and on the other hand, this can also be a mitigating factor if a criminal act occurs.

IV. CONCLUSIONS AND RECOMMENDATIONS

The case of PT. Natural Persada Mandiri shows that corporations can be held criminally liable for crimes committed. Existing regulations provide a clear legal basis for law enforcement against corporations, including through fines and asset confiscation if found guilty of corruption. Supreme Court Decision No. 927 K/Pid.Sus-LH/2021 shows how the criminal liability mechanism can be applied by considering the proportionality of punishment and the effectiveness of law enforcement.

Strengthening the internal monitoring and audit mechanisms within corporations to prevent criminal acts, especially corruption. Companies should be required to conduct regular internal audits involving independent parties with high capacity and integrity. This step will not only help detect potential violations of the law early on, but will also encourage the creation of a culture of transparency and accountability within the company. In addition, strengthening the internal monitoring system can also be an effective deterrent so that companies do not get caught up

in illegal practices, while providing a strong basis for stricter and more proportional law enforcement if proven guilty.

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