Problems of Proving Corporate Criminal Liability in Organized Narcotics Crimes in Indonesia

Muhammad Rinaldi Tarigan, Henry Aspan, Mhd. Azhali Siregar

Abstract

The development of organized narcotics crime in Indonesia has shown increasingly complex patterns involving corporate entities as instruments for the distribution, concealment, and laundering of proceeds from narcotics trafficking. In practice, corporations are no longer merely passive entities but have become strategic actors facilitating transnational narcotics networks through business structures that appear legally legitimate. This study aims to analyze the problems of proving corporate criminal liability in organized narcotics crimes and to examine the formulation of criminal law policies needed to strengthen the enforcement of corporate accountability in Indonesia. This research uses normative legal research methods with statutory, conceptual, and case approaches. The study reveals that the current legal framework still encounters significant obstacles in proving the mens rea and actus reus of corporations due to the complexity of corporate structures, weak tracing of beneficial ownership, limited investigative capacity, and inconsistencies in the application of corporate criminal liability doctrines by law enforcement officers. In addition, the overlap between the Narcotics Law, Anti-Money Laundering Law, and corporate regulations has created legal uncertainty in practice. Therefore, strengthening legal synchronization, expanding evidentiary mechanisms, optimizing financial investigation techniques, and reformulating corporate criminal liability doctrines are necessary to ensure more effective law enforcement against organized narcotics crimes involving corporations.

Keywords: *Corporate Criminal Liability, Organized Narcotics Crime, Evidence, Criminal Law Policy, Corporate Crime*

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Introduction

The development of narcotics-related crimes in Indonesia has demonstrated an increasingly complex and organized pattern. Contemporary narcotics networks are no longer operated solely by individuals; instead, they involve economic structures and corporate entities as instruments for distribution, asset concealment, and the laundering of illicit proceeds. This phenomenon reflects a significant transformation of narcotics offenses from conventional criminal acts into transnational and organized corporate crimes [1]. In practice, corporations are frequently utilized as legitimate business fronts to disguise narcotics trafficking activities through export-import companies, logistics services, and illegal pharmaceutical industries [2].

As both a transit country and a narcotics market within the Southeast Asian region, Indonesia faces a serious threat arising from the growing involvement of corporations in narcotics offenses. Data released by the National Narcotics Agency indicate that illicit narcotics trafficking is no longer limited to domestic syndicates but also involves international criminal networks that exploit business entities as operational instruments of crime [3]. This condition demonstrates that law enforcement strategies focusing exclusively on individual perpetrators are no longer adequate to address the evolving modus operandi of modern narcotics crimes.

Normatively, the regulation concerning corporate criminal liability has been accommodated under Law Number 35 of 2009 concerning Narcotics. Several provisions within the law recognize corporations as criminal legal subjects that may be held accountable for their involvement in narcotics offenses [4]. Nevertheless, the implementation of these provisions continues to encounter various obstacles. In practical law enforcement, authorities tend to prosecute corporate executives or individual actors rather than corporations as independent legal entities [5].

The principal issue lies within the evidentiary process. Indonesia's criminal evidentiary system, which remains predominantly oriented toward individual fault, creates significant difficulties in proving corporate wrongdoing. As an abstract legal entity, a corporation does not possess physical intent in the same manner as a natural person, making the determination of corporate mens rea highly complex [6]. Furthermore, layered organizational structures within corporations often complicate the identification of individuals who exercise effective control over criminal activities.

Within the context of organized narcotics crimes, proving corporate involvement becomes even more complicated due to the existence of nominee practices, money laundering schemes, shell companies, and cross-border operations [7]. Such circumstances create a gap between *das sollen* and *das sein*. Although Indonesian criminal law formally provides room for imposing criminal liability upon corporations, its practical implementation remains far from effective.

Previous studies have generally focused on corporate criminal liability in cases involving corruption, environmental crimes, and money laundering. Scholarly discussions concerning evidentiary issues in organized narcotics crimes involving corporations remain relatively limited [8]. Several studies merely emphasize normative aspects without comprehensively examining the practical challenges encountered within criminal proceedings. Therefore, this research possesses academic urgency in analyzing the evidentiary problems surrounding corporate criminal liability in organized narcotics crimes in Indonesia.

On the other hand, the evolution of modern criminal law demands a reformulation of corporate criminal liability concepts that are more adaptive to the development of organized crime. Concepts such as strict liability, vicarious liability, and the corporate culture model have gradually developed within various legal systems as responses to the complexity of corporate crimes [9]. However, the implementation of these concepts in Indonesia remains suboptimal due to regulatory limitations and the conventional paradigm still adhered to by law enforcement authorities.

Issues concerning corporate evidence are also closely related to the effectiveness of national criminal policy. When corporations benefiting economically from narcotics crimes cannot be prosecuted effectively, law enforcement efforts merely target lower-level perpetrators without addressing the principal economic actors behind such criminal enterprises. Consequently, the deterrent effect of criminal law becomes weakened, allowing narcotics crimes to continue developing systematically [10].

From the perspective of criminal law policy, legal reform has become an urgent necessity in order to strengthen mechanisms for proving corporate criminal liability. Such reform must encompass regulatory harmonization, enhancement of law enforcement capacity, and the establishment of clearer evidentiary standards concerning corporate fault [11]. These measures are essential to ensure that Indonesian criminal law is capable of responding effectively to the challenges posed by increasingly organized and corporation-based narcotics crimes. Based on the foregoing discussion, this research focuses on the following issues:

1. What are the evidentiary problems in establishing corporate criminal liability in organized narcotics crimes in Indonesia?
2. What legal formulation is considered ideal for strengthening the evidentiary mechanism of corporate criminal liability in organized narcotics offenses in Indonesia?

Literature Review

1. Theory of Corporate Criminal Liability

The concept of corporate criminal liability has undergone significant transformation alongside the rapid development of economic activities and the increasing complexity of organized crimes. Historically, classical criminal law adhered to the doctrine *societas delinquere non potest*, which emphasized that a corporation could not commit a criminal offense because it lacked physical intent and moral consciousness comparable to a natural person [12]. Under this traditional approach, criminal liability was exclusively attached to individuals who directly carried out unlawful acts. However, the expansion of corporate activities within economic systems gradually demonstrated that corporations could generate enormous social harm, particularly when business entities became instruments for transnational crimes, corruption, environmental destruction, and narcotics trafficking [1].

Modern criminal law theories eventually shifted toward recognizing corporations as independent legal subjects capable of bearing criminal responsibility. One of the earliest theories developed in this context is the *identification doctrine*. This doctrine asserts that the actions and intentions of individuals occupying strategic positions within a corporation, such as directors or senior executives, may be attributed directly to the corporation itself [13]. In other words, those individuals are considered the "directing mind and will" of the corporation. The doctrine became particularly influential in common law countries because it enabled courts to establish corporate intent through the conduct of corporate executives.

Nevertheless, the identification doctrine has several limitations. In large corporations with multilayered organizational structures, identifying a single controlling mind becomes difficult because decision-making processes are often decentralized [14]. This challenge is especially relevant in organized narcotics crimes, where corporations may deliberately create complex administrative systems to distance top executives from illegal activities. As a result, criminal liability frequently falls upon lower-level employees while the corporation as a whole escapes accountability.

To address such limitations, legal scholars introduced the doctrine of *vicarious liability*, which places responsibility upon corporations for unlawful acts committed by employees or agents acting within the scope of their employment [15]. This doctrine does not require direct proof that corporate executives personally participated in the criminal conduct. Instead, liability arises when the employee's actions are sufficiently connected to corporate activities. The vicarious liability approach has proven effective in addressing economic and regulatory offenses because it broadens the scope of corporate accountability.

Another important development is the emergence of the *strict liability* concept. Under this doctrine, prosecutors are not required to prove criminal intent or negligence because liability is imposed solely based on the occurrence of prohibited conduct [16]. In several jurisdictions, strict liability has been applied to offenses involving public safety, environmental protection, and financial regulation. Although controversial, this approach reflects the growing recognition that certain crimes generate such substantial social risks that corporations must bear responsibility regardless of subjective fault.

Contemporary legal scholarship has also developed the *corporate culture model*, which focuses on organizational culture as the basis for determining corporate fault [19]. According to this theory, a corporation may be held criminally liable when its internal policies, institutional practices, or organizational culture encourage or tolerate criminal conduct. This approach is particularly relevant in cases involving organized narcotics crimes because such crimes often occur systematically through institutional mechanisms rather than isolated individual actions.

In Indonesia, the regulation of corporate criminal liability remains fragmented across various sectoral laws. Although several statutes, including Law Number 35 of 2009 concerning Narcotics and Supreme Court Regulation Number 13 of 2016, recognize corporations as criminal legal subjects, the implementation of these regulations remains inconsistent [4]. The Indonesian legal system still relies heavily upon conventional criminal law doctrines emphasizing individual fault. Consequently, prosecutors often experience difficulties in proving corporate mens rea, especially in cases involving complex organizational structures and cross-border transactions.

The urgency of strengthening corporate criminal liability becomes increasingly apparent when viewed from the perspective of organized narcotics crimes. Modern narcotics syndicates frequently exploit corporations as legal fronts for illicit activities, including money laundering, import-export manipulation, and distribution operations [20]. Through corporate structures, criminal organizations are able to conceal ownership, disguise financial flows, and avoid direct detection by law enforcement authorities.

Moreover, globalization and technological development have intensified the challenges associated with corporate crimes. Digital financial systems, offshore banking, and shell corporations have enabled organized criminal groups to operate transnationally with minimal physical presence [23]. As a result, traditional evidentiary approaches based solely on physical conduct are no longer sufficient. Modern legal systems must therefore adopt broader doctrines capable of capturing institutional and structural forms of criminality.

Theoretical discussions concerning corporate criminal liability are also closely related to broader debates on criminal justice and legal policy. Scholars increasingly argue that criminal law should not merely punish individual actors but must also address institutional structures that facilitate criminal activities [22]. In this regard, corporate criminal liability functions not only as a punitive mechanism but also as a preventive instrument aimed at encouraging compliance, accountability, and ethical corporate governance.

Consequently, the evolution of corporate criminal liability demonstrates the necessity of adapting criminal law doctrines to the realities of modern organized crimes. In the context of narcotics offenses in Indonesia, strengthening theoretical and normative foundations regarding corporate liability is essential for ensuring more effective and comprehensive law enforcement.

2. Theory of Evidence in Criminal Law

Evidence constitutes the fundamental basis of criminal adjudication because it determines whether a defendant can be held legally accountable for a criminal offense. In criminal law, evidentiary mechanisms serve not only as procedural instruments but also as safeguards for legal certainty and justice [17]. Within the Indonesian legal system, the evidentiary framework is governed primarily by the Criminal Procedure Code, which adopts the *negative statutory evidentiary system*. Under this system, judges may only impose criminal sanctions if they obtain conviction based upon at least two lawful forms of evidence accompanied by judicial confidence.

The philosophy underlying the Indonesian evidentiary system seeks to balance procedural certainty with substantive justice. On the one hand, legal evidence is required to prevent arbitrary punishment; on the other hand, judicial conviction ensures that judges retain discretion in assessing the truth of facts presented before the court [9]. However, this evidentiary model becomes increasingly problematic when applied to corporate crimes because the object of proof extends beyond physical conduct and individual intent.

In conventional criminal cases, evidentiary processes generally focus on direct actions performed by natural persons. By contrast, corporate crimes involve organizational decisions, institutional policies, and collective conduct [18]. Consequently, proving corporate criminal liability requires a broader evidentiary approach capable of identifying relationships between individuals, corporate structures, and unlawful activities. This challenge becomes even more significant in organized narcotics crimes, where criminal operations are often concealed through complex business arrangements and financial transactions.

One of the principal issues in corporate evidentiary theory concerns the determination of *mens rea* or criminal intent. In traditional criminal law doctrine, mens rea refers to the guilty mind of an individual offender [25]. However, corporations do not possess physical consciousness or psychological intention. Therefore, legal scholars have developed alternative methods for establishing corporate intent, including attribution theories, organizational fault theories, and corporate culture approaches.

The *corporate culture model* has become particularly influential in modern evidentiary discussions. Under this approach, corporate intent may be inferred from institutional practices, internal policies, or systemic failures that allow criminal conduct to occur [19]. For example, if a corporation consistently ignores compliance mechanisms or facilitates illegal financial transactions, such behavior may indicate organizational fault. This model shifts evidentiary focus from isolated individuals toward broader institutional behavior.

Another important aspect of criminal evidence involves documentary and electronic evidence. The rapid development of digital technology has transformed the nature of criminal activities, including narcotics trafficking and money laundering [20]. Criminal organizations increasingly utilize encrypted communications, digital banking systems, cryptocurrency transactions, and online distribution networks. Consequently, electronic evidence has become indispensable in investigating organized narcotics crimes.

Nevertheless, the use of electronic evidence also presents significant legal challenges. Questions frequently arise regarding authenticity, admissibility, and reliability of digital data [26]. In many jurisdictions, procedural rules concerning electronic evidence remain underdeveloped, creating uncertainty during criminal proceedings. Indonesia similarly faces difficulties in adapting its evidentiary mechanisms to technological advancements, particularly when investigating transnational corporate crimes involving multiple jurisdictions.

Financial evidence also plays a crucial role in proving organized narcotics crimes. Modern criminal organizations rarely rely solely on physical distribution networks; instead, they operate through sophisticated financial systems designed to conceal illicit profits [23]. As a result, evidentiary approaches increasingly emphasize financial tracing, asset recovery, and anti-money laundering investigations. The principle of *follow the money* has therefore emerged as a strategic method for identifying hidden corporate involvement in criminal enterprises.

Furthermore, evidentiary theory must also consider the relationship between procedural law and human rights protection. Criminal evidence should not only facilitate effective prosecution but also guarantee fair trial standards and legal certainty [24]. Excessive reliance on presumptions or indirect evidence may undermine due process and create risks of wrongful prosecution. Therefore, evidentiary reforms must maintain a balance between effective law enforcement and the protection of fundamental rights.

Within the context of Indonesia, evidentiary challenges in corporate narcotics crimes are exacerbated by institutional limitations among law enforcement agencies. Investigating corporate structures requires expertise in forensic accounting, cybercrime analysis, and international cooperation mechanisms [21]. However, institutional capacity in these areas remains relatively limited, resulting in difficulties when tracing cross-border financial transactions and identifying beneficial ownership structures.

The complexity of organized narcotics crimes demonstrates that conventional evidentiary models are no longer adequate for addressing modern forms of criminality. Contemporary criminal law must therefore develop more adaptive evidentiary standards capable of responding to digital technology, transnational financial systems, and institutional forms of criminal conduct. Strengthening evidentiary mechanisms is essential for ensuring that corporations involved in organized narcotics crimes can be held accountable effectively under Indonesian law.

3. Theory of Criminal Law Policy

Criminal law policy represents a strategic and rational effort undertaken by the state to prevent and combat crime through both penal and non-penal approaches [21]. Within the framework of modern criminal justice, criminal policy is no longer viewed solely as an instrument of punishment but also as a broader mechanism aimed at protecting society, maintaining public order, and promoting social welfare. The development of organized crimes, particularly narcotics-related offenses, has significantly influenced the evolution of criminal law policy in many jurisdictions, including Indonesia.

Theoretical discussions concerning criminal law policy are closely associated with the concept of *social defense*. This theory emphasizes that criminal law must function as a means of protecting society from harmful conduct that threatens collective security and social stability [22]. Organized narcotics crimes clearly fall within this category because they generate extensive social harm, including public health crises, economic instability, corruption, and violence. Consequently, criminal policy toward narcotics offenses must prioritize not only punishment but also prevention and dismantling of criminal networks.

Barda Nawawi Arief argues that criminal law reform should be responsive to social developments and contemporary forms of criminality [22]. According to this perspective, criminal law cannot remain static while crimes continue evolving through technological advancement and globalization. In the context of narcotics crimes, organized criminal groups increasingly utilize corporations, digital financial systems, and transnational operations to avoid legal detection. Therefore, criminal policy must also evolve to address these sophisticated criminal methods.

Modern criminal law policy generally incorporates two major approaches: penal policy and non-penal policy. Penal policy focuses on the use of criminal sanctions, including imprisonment, fines, and asset confiscation [24]. Meanwhile, non-penal policy emphasizes preventive measures such as education, supervision, economic regulation, and institutional reform. In addressing organized narcotics crimes, these two approaches must operate simultaneously because punitive measures alone are insufficient to eradicate criminal networks.

One significant issue within Indonesian criminal policy concerns the overemphasis on individual offenders. Law enforcement practices frequently target narcotics users, couriers, and street-level dealers while neglecting corporations and financial actors who obtain substantial economic benefits from narcotics trafficking [10]. This imbalance weakens the effectiveness of criminal policy because it fails to dismantle the structural foundations of organized crime.

The principle of *follow the money* has become increasingly important in contemporary criminal policy discussions. This principle focuses on tracing financial flows and illicit assets derived from criminal activities [23]. Through financial investigation, law enforcement authorities are able to identify hidden corporate involvement, uncover money laundering schemes, and disrupt economic networks supporting organized crime. Consequently, anti-money laundering measures have become integral components of narcotics criminal policy.

Another important aspect concerns international cooperation. Organized narcotics crimes operate across national borders, involving international financial systems, offshore corporations, and transnational trafficking routes [27]. As a result, criminal policy must include cooperation among states, international institutions, and financial monitoring agencies. Indonesia's ratification of the United Nations Convention against Transnational Organized Crime demonstrates recognition of the necessity for global cooperation in combating organized crimes.

Progressive legal theory also contributes significantly to criminal policy discussions. According to progressive legal scholars, law enforcement should prioritize substantive justice rather than rigid formalism [24]. This perspective is particularly relevant in corporate narcotics crimes because formal legal approaches often fail to address hidden organizational structures and indirect forms of participation. Progressive criminal policy therefore encourages adaptive interpretation of legal norms to achieve effective justice.

The emergence of corporate criminal liability further illustrates the relationship between criminal law policy and economic regulation. Corporations possess substantial economic power and institutional influence, making them capable of facilitating large-scale criminal operations [14]. Consequently, criminal policy must ensure that corporations are not merely treated as economic actors but also as legal entities capable of bearing criminal responsibility.

In Indonesia, several regulations have attempted to strengthen criminal policy concerning corporate crimes, including Supreme Court Regulation Number 13 of 2016 and anti-money laundering legislation [11]. Nevertheless, institutional coordination among law enforcement agencies remains relatively weak. Differences in authority, limited technological resources, and bureaucratic fragmentation often hinder effective implementation of criminal policies against organized narcotics crimes.

Additionally, criminal policy must also consider proportionality and human rights principles. Excessive punitive measures without adequate legal safeguards may result in abuse of power and violations of due process [17]. Therefore, criminal policy reform must balance effective law enforcement with the protection of fundamental rights and legal certainty.

Ultimately, criminal law policy serves as a crucial framework for addressing the growing complexity of organized narcotics crimes. Effective policy requires not only stronger regulations but also institutional reform, inter-agency cooperation, financial investigation mechanisms, and adaptive legal paradigms capable of responding to contemporary forms of organized criminality.

4. The Concept of Organized Crime in Narcotics Offenses

Organized crime is generally understood as criminal activity conducted systematically, continuously, and collectively for economic or political gain [25]. Unlike conventional crimes committed spontaneously by individuals, organized crime involves structured groups operating through coordinated systems and long-term strategies. Narcotics trafficking constitutes one of the most prominent forms of organized crime because it generates substantial profits and frequently involves transnational criminal networks.

The United Nations Convention against Transnational Organized Crime defines organized criminal groups as structured associations consisting of three or more persons acting together over a period of time to commit serious crimes for financial or material benefit [27]. This definition highlights several important characteristics of organized crime, including continuity, organization, coordination, and profit orientation. These characteristics are clearly visible in modern narcotics syndicates operating across national borders.

The transformation of narcotics crimes into organized transnational enterprises has been accelerated by globalization, technological advancement, and international trade liberalization [23]. Modern narcotics syndicates no longer rely solely on traditional smuggling methods but increasingly utilize sophisticated logistics systems, digital communication platforms, and financial technologies. In many cases, criminal organizations establish legitimate corporations to facilitate transportation, import-export operations, and money laundering activities.

Corporate involvement in organized narcotics crimes creates serious legal challenges because corporations provide institutional legitimacy and financial infrastructure for criminal operations [20]. Through shell companies and nominee arrangements, criminal groups are able to conceal beneficial ownership and disguise illicit financial transactions. Consequently, organized narcotics crimes often appear as legitimate business activities, making detection significantly more difficult.

One important characteristic of organized crime is the division of roles within criminal networks. Organized narcotics syndicates generally consist of financiers, distributors, transport operators, financial intermediaries, and legal facilitators [26]. This specialization increases operational efficiency while simultaneously reducing the risk of direct exposure for high-level actors. As a result, lower-level participants are often prosecuted while principal organizers remain protected behind corporate and financial structures.

The concept of organized crime is also closely linked to money laundering activities. Narcotics trafficking generates enormous illicit profits that must be integrated into legal financial systems to avoid detection [16]. Corporations therefore become strategic instruments for disguising the origin of criminal proceeds. Through complex financial transactions, offshore banking systems, and business investments, organized criminal groups are able to transform illegal profits into apparently legitimate assets.

In Indonesia, organized narcotics crimes have evolved into serious threats affecting national security, economic stability, and public health [1]. The country's geographical position as an archipelagic state with extensive maritime borders makes it particularly vulnerable to transnational narcotics trafficking networks. Furthermore, weaknesses in regulatory supervision and institutional coordination have allowed organized criminal groups to exploit corporate sectors for illicit purposes.

Legal scholars argue that organized crimes cannot be effectively addressed through conventional criminal law approaches emphasizing individual culpability alone [22]. Instead, law enforcement must adopt broader strategies targeting organizational structures, financial systems, and institutional facilitators of criminal activities. This perspective has contributed to the growing importance of corporate criminal liability within contemporary criminal law.

The concept of organized crime also intersects with theories of criminology and social control. Some criminologists emphasize that organized crime thrives in environments characterized by weak governance, corruption, economic inequality, and ineffective law enforcement [24]. In such contexts, criminal organizations are able to infiltrate legal institutions and economic systems, thereby strengthening their operational capacity.

International cooperation has become essential in combating organized narcotics crimes. Because criminal networks operate transnationally, national law enforcement agencies frequently encounter jurisdictional limitations [27]. Mutual legal assistance treaties, extradition agreements, and financial intelligence sharing mechanisms are therefore crucial for effective criminal investigations.

In Indonesia, law enforcement agencies such as the National Narcotics Agency, the Police, and the Financial Transaction Reports and Analysis Center have increasingly adopted financial investigation strategies to combat organized narcotics crimes [23]. Nevertheless, institutional challenges remain substantial, particularly in tracing cross-border financial flows and uncovering beneficial ownership structures hidden behind corporate entities.

The growing complexity of organized narcotics crimes demonstrates that legal systems must continuously adapt to new forms of criminality. Organized crime is no longer confined to violent street-level operations but has evolved into sophisticated institutional networks supported by corporations, financial systems, and digital technology. Therefore, strengthening legal frameworks concerning corporate criminal liability and evidentiary mechanisms is essential for addressing the realities of organized narcotics crimes in Indonesia.

Research Methodology

This research employs normative legal research using statutory, conceptual, and case approaches. Normative legal research is utilized because the study primarily focuses on analyzing legal norms, the concept of corporate criminal liability, and evidentiary problems in organized narcotics crimes [29]. The statutory approach is conducted through the examination of laws and regulations related to narcotics offenses and corporate criminal liability, including Law Number 35 of 2009 concerning Narcotics, the Indonesian Criminal Procedure Code, Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering, and Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Corporate Crimes.

The conceptual approach is used to analyze legal doctrines relating to corporate criminal liability, strict liability, vicarious liability, and the concept of organized crime within modern criminal law [30]. This approach is important for understanding the evolution of corporate criminal liability theories relevant to narcotics offenses. Meanwhile, the case approach is utilized to examine the implementation of corporate criminal liability within Indonesian judicial practice. Case analysis is conducted through the study of court decisions and law enforcement practices related to corporate involvement in organized crimes.

The legal materials employed in this research consist of primary, secondary, and tertiary legal sources. Primary legal materials include statutory regulations, judicial decisions, and international legal instruments concerning narcotics and organized crime. Secondary legal materials derive from peer-reviewed journals, academic books, research findings, and indexed scientific articles. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting references. The collection of legal materials is conducted through library research by systematically reviewing relevant legal sources. Documentation techniques are also used to analyze regulations and court decisions related to the object of study.

The analysis of legal materials is carried out qualitatively using a descriptive-analytical method. All legal materials are examined through legal interpretation, regulatory synchronization, and juridical argumentation to answer the research questions [31]. The analysis connects legal theories, statutory norms, and the realities of law enforcement practices concerning evidentiary mechanisms in corporate criminal liability for organized narcotics crimes.

Results

1. Evidentiary Problems in Establishing Corporate Criminal Liability in Organized Narcotics Crimes in Indonesia

The evidentiary process in establishing corporate criminal liability within organized narcotics crimes represents one of the most complex issues in Indonesia's criminal justice system. Although Law Number 35 of 2009 concerning Narcotics recognizes corporations as criminal legal subjects, its implementation continues to face numerous juridical and technical obstacles [4]. One of the primary challenges concerns the difficulty of proving corporate fault. In conventional criminal law, fault is always associated with individual intent. By contrast, corporations as legal entities do not possess physical will. Consequently, law enforcement authorities frequently encounter difficulties in proving corporate mens rea in narcotics-related offenses [12].

This problem becomes increasingly complicated when criminal acts are committed through multilayered organizational structures. In many cases, corporate directors are not directly involved in narcotics distribution activities, yet they continue to obtain economic benefits from such operations. This situation creates difficulties in identifying the individuals who possess the controlling mind behind the offense [13]. Furthermore, the use of shell companies and nominee arrangements also obstructs the evidentiary process. Modern narcotics syndicates often establish legitimate companies to conceal financial transactions and illegal distribution activities [20]. In practice, proving the relationship between corporations and narcotics networks requires highly complex financial investigations involving multiple jurisdictions.

Another obstacle concerns the limited capacity of law enforcement authorities in investigating corporate crimes. Handling organized crime requires specialized expertise in forensic auditing, cyber investigation, and asset tracing. However, such institutional capacity remains relatively limited in Indonesia [23]. From the perspective of criminal procedural law, Indonesia's evidentiary system still relies heavily on conventional forms of evidence. Meanwhile, modern narcotics crimes increasingly involve electronic transactions and digital communication systems. As a result, proving corporate involvement often encounters difficulties due to limitations in the recognition and management of electronic evidence [17].

Regulatory weaknesses also constitute an important factor. Although Supreme Court Regulation Number 13 of 2016 provides guidelines for handling corporate crimes, it does not comprehensively regulate evidentiary standards concerning corporate mens rea in organized crimes [29]. This condition has resulted in varying interpretations among law enforcement officials. Research conducted by Sidi and Zarzani demonstrates that criminal liability requires a clear legal construction in order to avoid uncertainty during evidentiary proceedings [30]. This perspective is highly relevant in the context of proving corporate liability in narcotics offenses involving complex organizational structures.

Empirically, law enforcement practices continue to focus more heavily on individual perpetrators, such as couriers and dealers, rather than corporations that derive the primary economic benefits from narcotics operations [10]. This condition indicates that criminal law enforcement policies have not fully addressed the intellectual actors and economic structures underlying organized narcotics crimes.

2. Ideal Legal Formulation for Strengthening the Evidentiary Mechanism of Corporate Criminal Liability in Organized Narcotics Crimes

Strengthening the evidentiary mechanism of corporate criminal liability requires comprehensive legal reform. Such reform should not merely involve amendments to legislation but must also include a transformation of law enforcement paradigms concerning modern corporate crimes. The first necessary step is the harmonization of regulations concerning corporate criminal liability. Currently, provisions relating to corporate liability are dispersed across various sectoral laws, thereby creating inconsistencies in implementation [21]. Therefore, a more integrated legal framework connecting narcotics law, anti-money laundering law, and corporate criminal law is urgently required.

In addition, the concept of the corporate culture model should be explicitly adopted within Indonesia's legal system. This approach allows corporate fault to be established based on a company's culture that encourages or tolerates criminal conduct [19]. Consequently, evidentiary mechanisms would no longer depend exclusively upon the conduct of particular individuals. Strengthening evidentiary mechanisms should also involve expanding the use of electronic evidence and financial tracing methods. In modern narcotics crimes, digital financial transactions constitute a principal instrument of organized crime [26]. Therefore, law enforcement agencies must be granted adequate authority and technical capacity to conduct asset tracing and cross-border investigations.

At the same time, the application of the "follow the money" principle must be reinforced in narcotics crime investigations. This approach is crucial for dismantling corporate networks that profit from narcotics trafficking [23]. Without tracing illicit financial flows, law enforcement efforts will remain limited to low-level offenders. Legal reform should also focus on strengthening sanctions imposed upon corporations. Currently, sanctions against corporations primarily consist of monetary fines. However, organized crime requires more effective sanctions, including business suspension, license revocation, asset confiscation, and corporate dissolution [22].

From the perspective of criminal policy, law enforcement against corporations must be supported through inter-agency cooperation involving the National Narcotics Agency, the Indonesian National Police, the Financial Transaction Reports and Analysis Center, the Financial Services Authority, and the Attorney General's Office. Corporation-based narcotics crimes cannot be addressed sectorally because they involve financial systems and cross-border transactions [27]. Zarzani's research on terrorism criminal law reform emphasizes that organized crimes require adaptive legal approaches grounded in substantive justice [28]. This concept is equally relevant in the reformulation of Indonesia's narcotics criminal law policies.

Apart from regulatory reform, improving the quality of law enforcement personnel also constitutes a significant factor. The handling of corporate crimes requires multidisciplinary expertise encompassing criminal law, finance, information technology, and international investigation techniques [18]. Accordingly, the ideal legal formulation for strengthening evidentiary mechanisms in corporate criminal liability should focus on regulatory reinforcement, harmonization of criminal policies, expansion of evidentiary instruments, and enhancement of law enforcement capacity to address the growing complexity of organized narcotics crimes in Indonesia.

Conclusion

1. The evidentiary problems surrounding corporate criminal liability in organized narcotics crimes in Indonesia are primarily caused by difficulties in proving corporate fault, the complexity of corporate organizational structures, the use of shell companies, regulatory limitations, and the weak institutional capacity of law enforcement authorities in addressing corporation-based organized crime. Consequently, law enforcement efforts continue to focus predominantly on individual perpetrators while failing to effectively target corporations as the principal economic actors behind narcotics networks.
2. An ideal legal formulation should therefore emphasize the harmonization of corporate criminal liability regulations, the strengthening of the corporate culture model, the expansion of electronic evidence and financial tracing mechanisms, and stronger inter-agency cooperation. Furthermore, improving the quality of law enforcement personnel and reforming criminal policy constitute strategic measures necessary for establishing a more effective and adaptive evidentiary system capable of addressing the development of organized narcotics crimes in Indonesia.

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