

Reconstruction of the Corporate Criminal Liability Model in Natural Resource Corruption Offenses Following the 2023 National Criminal Code

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Abstract

The enactment of Law Number 1 of 2023 concerning the National Criminal Code has introduced a new paradigm in the Indonesian criminal law system, including the regulation of corporate criminal liability. Nevertheless, the implementation of criminal accountability for corporations involved in corruption crimes within the natural resources sector continues to face structural and juridical obstacles. Weak law enforcement, overlapping regulations, limited mechanisms for identifying corporate intent, and difficulties in proving the role of corporate management have resulted in ineffective legal enforcement against corporate corruption in forestry, mining, plantation, and environmental sectors. This study aims to analyze the legal construction of corporate criminal liability in natural resource corruption cases after the enactment of the 2023 National Criminal Code and to formulate an ideal reconstruction model capable of strengthening legal certainty, justice, and corporate accountability. This research employs normative juridical methods using statutory, conceptual, and comparative approaches. Legal materials were obtained from legislation, court decisions, scientific journals, and legal doctrines relevant to corporate criminal law and anti-corruption policies. The findings indicate that the current regulation still leaves normative ambiguities regarding the attribution of criminal acts, standards of corporate fault, and sanctions implementation mechanisms. Therefore, reconstruction is required through the harmonization of criminal law policies, strengthening the doctrine of corporate liability, and reformulating proportional sanctions oriented toward recovery of state losses and environmental sustainability. The study concludes that legal reform in corporate criminal liability must not merely emphasize punitive aspects but also prioritize preventive and restorative dimensions to create a more effective and equitable criminal justice system.

Keywords: *Corporate Criminal Liability, Corruption, Natural Resources, National Criminal Code 2023, Criminal Law Reform*

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Introduction

The development of corruption offenses in the natural resources sector reflects an increasingly complex and systematic tendency. Corruption is no longer carried out individually but instead involves corporations as primary actors that derive economic benefits through the control of the state's strategic resources. This phenomenon is evident in numerous cases of illegal mining, misuse of plantation permits, manipulation of forest governance, and bribery practices in the granting of natural resource concessions in which large corporations act as the principal perpetrators. In practice, natural resource corruption does not merely inflict financial losses on the state; it also impacts environmental degradation, social conflict, and violations of indigenous community rights [1].

From a normative standpoint, the Indonesian legal system has regulated corporate criminal liability through various legal instruments, including Law Number 31 of 1999 as amended by Law Number 20 of 2001 on the Eradication of Corruption Crimes, as well as the latest provisions contained in Law Number 1 of 2023 on the National Criminal Code. The introduction of the 2023 National Criminal Code is viewed as a momentum for criminal law reform in Indonesia, as it seeks to accommodate the development of modern criminal offenses, including corporate crimes [2]. Nevertheless, these regulations still leave numerous problems at the implementation level.

In law enforcement practice, corporations are frequently difficult to hold criminally accountable due to evidentiary obstacles, weak mechanisms for identifying corporate fault, and the prevailing dominance of individual liability approaches directed at company executives. This situation reveals a gap between *das sollen* and *das sein* in the enforcement of corporate criminal law in Indonesia. On one hand, the law demands firm accountability from corporations engaged in corruption; on the other, law enforcement practice tends to remain oriented toward punishing individuals without comprehensively addressing the corporate structure [3].

This issue becomes increasingly relevant when corporations hold strategic positions in the management of national natural resources. In many cases, corporations exploit political and power relations to obtain economic benefits through corruption practices concealed within licensing policies, project procurement, and natural resource exploitation. This situation demonstrates that corporate crime bears the characteristics of organized crime, requiring a criminal law approach that differs from conventional offenses [4]. Theoretically, corporate criminal liability has evolved through various doctrines, including the identification theory, vicarious liability, strict liability, and the corporate culture model. However, the application of these doctrines within the Indonesian legal system has not yet been fully integrated in a systematic manner. While the 2023 National Criminal Code explicitly recognizes corporations as subjects of criminal law, the regulations concerning the parameters of corporate fault, standards of proof, and mechanisms of criminal sanctioning still give rise to multiple interpretations [5].

Another problem arises from the weak harmonization between the National Criminal Code and sectoral regulations, particularly in the areas of anti-corruption and natural resource management. Such inconsistency has the potential to create regulatory dualism, which ultimately undermines the effectiveness of law enforcement. In this context, criminal law reform is insufficient if it relies solely on the enactment of new regulations; it also requires a reconstruction of the paradigm of corporate criminal liability that is more adaptive to the development of modern economic crimes [6].

Several prior studies have predominantly examined corporate criminal liability from a general perspective, while research that specifically connects natural resource corruption with the construction of corporate criminal liability following the 2023 National Criminal Code remains relatively limited. Research by T. R. Zarzani et al. emphasizes the importance of criminal law reform based on the values of justice in addressing modern crimes [7]. Meanwhile, Mhd. Azhali Siregar argues that the development of the Indonesian criminal law system should be directed toward establishing an accountability system that is more responsive to social and economic changes [8]. However, these studies have not yet provided an in-depth examination

of the formulation of a corporate criminal liability model in natural resource corruption offenses.

This study holds significance because natural resource corruption constitutes a form of extraordinary crime with multidimensional impacts on the state and society. Accordingly, a reconstruction of the corporate criminal liability model is necessary one that is not merely oriented toward punishment but also encompasses the recovery of state losses, environmental protection, and the strengthening of sustainable corporate governance. Furthermore, this study is expected to make an academic contribution to the development of national criminal law following the enactment of the 2023 National Criminal Code.

Amid growing demands for corporate transparency and accountability, reform of corporate criminal law has become an urgent necessity. The state is not only called upon to provide legal certainty but also to ensure that the legal system is capable of responding to the increasingly complex dynamics of corporate crime. Thus, the discussion on the reconstruction of the corporate criminal liability model in natural resource corruption offenses is relevant both theoretically and practically. Based on the foregoing, the research questions of this study are as follows:

1. How is corporate criminal liability constructed in natural resource corruption offenses following the 2023 National Criminal Code?
2. How should the ideal corporate criminal liability model be reconstructed in natural resource corruption offenses in Indonesia?

Literature Review

1. Theory of Corporate Criminal Liability

Corporate criminal liability constitutes one of the significant developments in modern criminal law. Initially, corporations were not regarded as subjects of criminal law since they were considered to lack the element of fault as ascribed to natural persons. However, the expansion of economic activities and the increasing prevalence of corporate crime gave rise to the need to position corporations as perpetrators of criminal offenses [9]. Within modern legal systems, several theories have been developed to explain corporate criminal liability. The first is the identification theory, which holds that the acts and intentions of certain executives may be identified as the acts of the corporation itself. This theory originated in common law jurisdictions and serves as the basis for determining the mens rea of a corporation [10].

The second theory is vicarious liability, which holds corporations accountable for the acts of employees or agents acting within the scope of their employment. Under this theory, corporate liability arises not from the corporation's own direct fault, but from the employment relationship between the perpetrator and the corporation [11]. The third is strict liability, which focuses on accountability without the need to prove an element of fault. This theory is commonly applied to offenses with broad societal impact, including environmental crimes and economic offenses [12].

The fourth theory is the corporate culture model, which developed in Australia and several European countries. This theory emphasizes that a corporate culture that promotes or tolerates the commission of criminal acts may serve as the basis for corporate criminal liability [13]. In the Indonesian context, the regulation of corporate criminal liability has undergone significant development following the enactment of the 2023 National Criminal Code. According to Siregar et al., the Indonesian criminal law system has begun to move toward a modern approach that positions corporations as legal entities bearing criminal rights and obligations [8].

The theory of corporate criminal liability is also closely linked to the concepts of justice and legal certainty. From a progressive legal perspective, the punishment of corporations is not solely aimed at deterrence but also at promoting improvements in corporate governance and protecting the public interest [14]. Therefore, the development of a corporate criminal liability model must take into account the balance among legal certainty, utility, and justice

2. Theory of Criminal Law Policy

Criminal law policy constitutes a component of legal politics aimed at determining the direction of criminal law formation and enforcement. According to Barda Nawawi Arief, criminal law policy does not merely pertain to the formation of legal norms but also encompasses comprehensive strategies for crime prevention [15]. In the context of natural resource corruption offenses, criminal law policy must be directed toward preventing and combating corporate crimes that have systemic impacts on the state and society. This is critical because natural resource corruption not only inflicts financial losses on the state but also threatens the sustainability of the environment and the rights of local communities [16].

A penal approach alone is insufficient to address corporate crime. Therefore, modern criminal law policy emphasizes the importance of integrating penal and non-penal approaches. The penal approach is carried out through effective criminal sanctions, while the non-penal approach is pursued through strengthening corporate governance, licensing transparency, and administrative oversight [17]. This perspective on criminal law reform is also advanced by T. R. Zarzani et al., who assert that the renewal of Indonesian criminal law must be oriented toward substantive justice values and the protection of society [7]. Accordingly, the reconstruction of corporate criminal liability should be designed to be not only repressive but also preventive and restorative.

Effective criminal law policy requires the harmonization of regulations across sectors. In practice, various regulations concerning corruption, environmental protection, mining, and forestry frequently operate in a fragmented manner. As a result, law enforcement against corporations becomes suboptimal [18]. Therefore, criminal law reform must be conducted systemically in order to address the complexity of corporate crimes in the natural resources sector

3. Theory of Justice and Legal Certainty

Justice and legal certainty are two fundamental principles in the criminal law system. Gustav Radbruch posits that law must embody three core values: justice, legal certainty, and utility [19]. In the context of corporate criminal liability, all three values must operate in balance. Justice in corporate criminal law means that every corporation that derives benefits through criminal acts must be held accountable in a proportionate manner. At the same time, legal certainty is necessary to ensure that criminal sanctioning mechanisms are not applied arbitrarily. Accordingly, clear parameters are required regarding corporate fault, the form of accountability, and the types of sanctions that may be imposed [20].

In Indonesian law enforcement practice, the ambiguity of parameters for corporate accountability has frequently resulted in inconsistency in court decisions. Several natural resource corruption cases have only implicated individual executives, while the corporation as a legal entity has not been subjected to optimal criminal sanctions [21]. This situation indicates that the legal system has not yet fully reflected substantive justice. Mhd. Azhali Siregar explains that the protection of human rights within the Indonesian legal system must be realized through fair and non-discriminatory law enforcement [22]. In the corporate context, this principle means that the state is obliged to ensure the existence of effective legal mechanisms to prevent the abuse of economic power by corporations.

Furthermore, the theory of restorative justice is also relevant to this discussion. A restorative justice approach is not solely oriented toward punishment but also toward the recovery of harm suffered by victims and society [23]. In natural resource corruption offenses, a restorative approach can be realized through environmental rehabilitation, the payment of state compensation, and social rehabilitation for affected communities

4. The Concept of Natural Resource Corruption and Corporate Crime

Natural resource corruption is a form of crime that occurs in the process of managing the state's strategic resources through the abuse of authority, bribery, gratification, and regulatory manipulation in order to gain economic benefits. Such practices frequently involve

relationships between corporations and public officials [24]. The primary characteristic of natural resource corruption lies in its transnational, organized nature and its broad impact on the environment and society. In many cases, corporations employ financial power and political networks to influence state policies in pursuit of business interests [25].

Corporate crime in the natural resources sector is also associated with weak oversight systems and low levels of governance transparency. Research by Nurhayati et al. demonstrates that the strengthening of governance and oversight mechanisms is a critical factor in creating effective legal accountability [26]. From the perspective of modern criminal law, natural resource corruption must be regarded as an extraordinary crime because its impact not only inflicts financial losses on the state but also threatens environmental sustainability and the rights of future generations [27]. Therefore, addressing it requires a comprehensive and multidisciplinary legal approach.

The concept of sustainability also constitutes an important dimension in this discussion. The management of natural resources must take into account the balance between economic interests and environmental protection. When corporations engage in corruption in the management of natural resources, the resulting harm is long-term in nature and may affect national social and economic stability [28]. Accordingly, the reconstruction of corporate criminal liability must be designed not only to punish the perpetrators but also to ensure the protection of the public interest and the sustainability of the environment.

Research Methodology

This study employs normative legal research with a statutory approach (statute approach), a conceptual approach (conceptual approach), and a case approach (case approach). Normative legal research was selected because the primary focus of this study lies in the analysis of legal norms governing corporate criminal liability in natural resource corruption offenses following the enactment of Law Number 1 of 2023 on the National Criminal Code. The statutory approach was conducted by examining various regulations pertaining to corruption offenses, corporate criminal law, and natural resource management. The regulations analyzed include Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on the Eradication of Corruption Crimes, Law Number 1 of 2023 on the National Criminal Code, Law Number 32 of 2009 on Environmental Protection and Management, as well as other relevant sectoral regulations.

The conceptual approach was employed to analyze the concept of corporate criminal liability based on modern criminal law doctrine. Within this approach, the authors draw upon various theories including the identification theory, vicarious liability, strict liability, and the corporate culture model to understand the development of corporate criminal liability within the Indonesian legal system [9]. Additionally, the conceptual approach was applied through an examination of theories of criminal law policy and theories of justice in law enforcement. The case approach was carried out by analyzing several natural resource corruption cases involving corporations as perpetrators of criminal offenses. Case analysis was conducted to examine how corporate criminal liability has been applied in Indonesian judicial practice and to identify obstacles arising in the law enforcement process.

The sources of legal materials in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include legislation, court decisions, and official state documents related to corruption offenses and corporate criminal liability. Secondary legal materials consist of books, scientific journals, academic articles, research findings, and the opinions of legal experts relevant to the research topic [15]. Tertiary legal materials include legal dictionaries, encyclopedias, and other supporting sources.

The technique for collecting legal materials was conducted through library research. The authors gathered various legal materials and relevant scientific literature for systematic analysis. The collection of legal materials was carried out by examining valid and verifiable academic sources, particularly peer-reviewed journals and recent academic books. In normative legal research, the analysis of legal materials is conducted qualitatively using legal interpretation methods and deductive reasoning. The authors analyzed the relationship between

legal norms and law enforcement practice in order to identify the gap between normative provisions and empirical implementation [29]. Furthermore, the analysis was conducted by comparing various concepts of corporate criminal liability in order to formulate a more ideal model for addressing natural resource corruption.

The analytical technique was also applied through a prescriptive approach, namely by providing legal argumentation and formulating recommendations in response to the issues identified in the research. In this regard, the authors endeavored to construct a reconstruction of the corporate criminal liability model that is more effective, just, and adaptive to the development of national criminal law. This research methodology was selected because it is capable of providing a comprehensive understanding of the legal construction of corporate criminal law and is relevant for analyzing the reform of Indonesian criminal law following the enactment of the 2023 National Criminal Code. Through this approach, the study is expected to produce a critical, argumentative analysis that contributes academically to the development of corporate criminal law in Indonesia

Results

1. Construction of Corporate Criminal Liability in Natural Resource Corruption Offenses Following the 2023 National Criminal Code

The regulation of corporate criminal liability in the 2023 National Criminal Code demonstrates a significant development within the Indonesian criminal law system. Corporations are explicitly recognized as criminal law subjects that may be held accountable for criminal offenses committed for and on behalf of the corporation. This regulation is of critical importance because previously the concept of corporate criminal liability was more extensively governed on a sectoral basis through special legislation, including the Law on the Eradication of Corruption Crimes.

In natural resource corruption offenses, the presence of corporations as principal perpetrators cannot be separated from the national economic and political structure. Many corruption practices occur through the abuse of mining permits, manipulation of environmental documents, illegal land acquisition, and bribery of public officials. Corporations derive substantial benefits from such practices, while the state and society bear both economic and ecological losses [24].

The 2023 National Criminal Code provides a new legal basis specifying the conditions under which corporations may be subject to criminal sanctions, who may represent a corporation in legal proceedings, and the types of criminal sanctions that may be imposed on corporations. However, these provisions still leave several normative problems unresolved. One of the primary issues is the lack of clear parameters regarding corporate fault as the basis for criminal liability. In practice, the proof of corporate fault remains heavily dependent on the actions of individual company executives. This approach indicates that the Indonesian legal system continues to be influenced by the identification theory, which identifies the acts of executives as the acts of the corporation [10]. As a result, when the principal perpetrators are difficult to identify or where responsibility is distributed across the corporate structure, the law enforcement process becomes ineffective.

In addition, the application of corporate criminal liability in natural resource corruption cases frequently encounters technical and political obstacles. Corporations possess substantial economic resources, enabling them to influence legal proceedings through various means, including the use of political power and power networks. This situation often results in law enforcement against corporations failing to operate optimally. Further problems arise from the lack of harmonization between the National Criminal Code and sectoral legislation. The corporate provisions in the National Criminal Code still require synchronization with the Anti-Corruption Law, the Environmental Law, and regulations governing the mining and forestry sectors. Without such harmonization, the potential for normative conflict and inconsistency in the application of law will persist.

From the perspective of criminal law policy theory, this situation indicates that criminal law reform has not yet fully succeeded in addressing the complexity of modern corporate crime [15]. In contrast, natural resource corruption carries far broader impacts than conventional criminal offenses. State losses arising from natural resource corruption are not merely financial in nature; they also affect environmental degradation, the loss of indigenous community rights, and the disruption of sustainable development. In several cases, criminal sanctions against corporations have also tended to be limited to financial penalties. However, in the context of corporate crime with systemic impact, criminal sanctions should not be solely oriented toward financial punishment. The state must develop additional forms of sanctions, such as the revocation of business licenses, restrictions on business activities, environmental remediation, and the obligation to pay compensation to affected communities.

According to T. R. Zarzani et al., criminal law reform must be capable of delivering substantive justice values within the law enforcement system [7]. Therefore, corporate criminal liability must not be understood solely as a formal punishment mechanism but also as an instrument for creating more accountable corporate governance. Accordingly, the construction of corporate criminal liability following the 2023 National Criminal Code still requires strengthening from both regulatory and implementation perspectives. Corporate criminal law reform must be directed toward establishing a system capable of reaching the entirety of corporate criminal structures rather than focusing exclusively on individual perpetrators.

2. Reconstruction of the Ideal Corporate Criminal Liability Model in Natural Resource Corruption Offenses in Indonesia

Reconstruction of the corporate criminal liability model is necessary as a response to the weaknesses of the existing legal system. An ideal liability model must be capable of integrating legal certainty, substantive justice, and the effectiveness of law enforcement in addressing natural resource corruption offenses. First, reconstruction must be pursued through the harmonization of regulations between the 2023 National Criminal Code and other sectoral legislation. Such harmonization is essential to prevent regulatory dualism and inconsistency in the application of law. In this context, the state must build an integrated corporate criminal law system that encompasses anti-corruption, environmental, mining, and forestry regulations.

Second, the strengthening of the concept of corporate culture liability within the Indonesian legal system is required. This approach allows corporations to be held accountable on the basis of a corporate culture that promotes or tolerates the commission of criminal acts [13]. Thus, proof of corporate fault would no longer depend solely on the actions of individual executives but would also take into account the organizational system and corporate culture. Third, the corporate criminal sanctioning system must be directed toward a multidimensional approach. Criminal sanctions should not be limited to fines but must also encompass environmental remediation, payment of state compensation, revocation of business licenses, restrictions on business activities, and the obligation to implement corporate legal compliance programs.

A restorative justice approach must also be integrated into the handling of natural resource corruption offenses. Restorative justice is not intended to eliminate criminal liability but to ensure the recovery of harm caused by criminal acts [23]. In this context, corporations are obliged to be accountable for the remediation of environmental damage and the provision of compensation to affected communities. Furthermore, the reconstruction of corporate criminal liability must strengthen oversight and transparency mechanisms. The state must build an oversight system based on technology and freedom of information to prevent corruption practices in natural resource management. The strengthening of oversight must also involve civil society organizations and independent institutions so that the natural resource management process operates more accountably.

From a progressive legal perspective, law must not be understood merely as written rules but also as an instrument for achieving social justice [14]. Therefore, reform of corporate criminal liability must take into account the social and environmental impacts of corporate

activities. The strengthening of law enforcement capacity also constitutes a critical factor in the reconstruction of the corporate criminal liability model. Enforcement of the law against corporations demands specialized expertise in financial auditing, digital investigation, and corporate business structure analysis. Without adequate human resource support, even well-designed regulations will be difficult to implement effectively.

Furthermore, corporate criminal law reform must be directed toward building a legal system that is adaptive to the development of global economic crime. Natural resource corruption frequently involves cross-border transactions, money laundering, and the use of shell companies in certain jurisdictions. Therefore, Indonesia must strengthen international cooperation in addressing corporate crime. According to Mhd. Azhali Siregar, the development of the Indonesian criminal law system must be directed toward establishing a system that is responsive to social changes and global dynamics [8]. In this context, the reconstruction of corporate criminal liability must form part of the larger agenda of national legal reform.

Thus, the ideal corporate criminal liability model must not only emphasize punishment but also prioritize the formation of corporate governance with integrity, environmental protection, and the restoration of community rights. This approach is expected to create a more effective, just, and sustainable law enforcement system.

Conclusion

1. The construction of corporate criminal liability in natural resource corruption offenses following the 2023 National Criminal Code has demonstrated progress through the recognition of corporations as subjects of criminal law. Nevertheless, its regulation still faces numerous weaknesses, particularly regarding the parameters of corporate fault, regulatory harmonization, and the effectiveness of law enforcement. In practice, law enforcement continues to be oriented predominantly toward individual accountability, so that corporations as legal entities have not yet been held fully accountable in an optimal manner.
2. Reconstruction of the corporate criminal liability model must be pursued through regulatory harmonization, the strengthening of corporate culture liability, the application of multidimensional sanctions, and the integration of a restorative approach in handling natural resource corruption. In addition, the strengthening of oversight, transparency, and the capacity of law enforcement authorities constitutes an important step toward creating a corporate criminal law system that is more effective, just, and responsive to the development of modern economic crime.

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