

***The Digest:***

*Journal of Jurisprudence and Legisprudence*

Vol. 5 Issue 2 (2024) 137-184

DOI: <https://doi.org/10.15294/digest.v5i2.3984>

Available online since: December 31, 2024

**THE DIGEST** Journal of  
*Jurisprudence &  
Legisprudence*

# **Corporate Criminal Liability of Corruption Criminal Actions PT. Sinarmas Asset Management**

(Study of Supreme Court Ruling Number 1228  
K/Pid.Sus/2023)

**Dede Indraswara** ✉

Faculty of Law, Universitas Negeri Semarang, Semarang, Indonesia  
[dedeindraswara07@students.unnes.ac.id](mailto:dedeindraswara07@students.unnes.ac.id)

**Ali Masyhar Musyid**

Faculty of Law, Universitas Negeri Semarang, Semarang, Indonesia  
[ali\\_masyhar@mail.unnes.ac.id](mailto:ali_masyhar@mail.unnes.ac.id)

**Cahya Wulandari**

Faculty of Law, Universitas Negeri Semarang, Semarang, Indonesia  
[cahyawulandari@mail.unnes.ac.id](mailto:cahyawulandari@mail.unnes.ac.id)

✉ Corresponding email: [dedeindraswara07@students.unnes.ac.id](mailto:dedeindraswara07@students.unnes.ac.id)

---

## **Abstract**

Corporations, as legal entities, can be held criminally liable for corruption offenses under Indonesian law. The legal framework in Indonesia recognizes corporations as subjects of criminal law, as outlined in Law No. 20 of 2001 concerning the Eradication of Corruption Crimes (UU Tipikor). However, there are still gaps in the law, particularly regarding main and additional penalties for corporate entities. The introduction of Law No. 1 of 2023 concerning the Criminal Code (KUHP Nusantara) addresses these shortcomings by providing more comprehensive regulations on corporate criminal liability, particularly for corruption-related offenses. This study employs a qualitative research approach, using legislative analysis, case law examination, and conceptual analysis. The research is doctrinal and juridical-normative, relying on literature studies and document analysis of statutory regulations and court decisions regarding corporate corruption. The study focuses on the corruption case involving PT. Sinarmas Asset Management (PT. SAM), where the corporation was held criminally liable under both the Anti-Corruption Law and the Indonesian Criminal Code. The research reveals that the Indonesian Criminal Code offers more detailed provisions, including additional penalties for corporations convicted of corruption. The case study also highlights significant legal developments in the trial process. Initially, the District Court convicted PT. SAM of corruption, but this verdict was overturned by the Jakarta High Court, which acquitted the company. However, the Supreme Court disagreed with the lower courts and upheld the conviction, continuing to impose penalties on PT. SAM for the

mismanagement of unauthorized funds. This case underscores the complexities of corporate criminal liability in corruption cases and the evolving nature of judicial interpretations of corporate accountability in Indonesia.

### **Keywords**

*Corporations; Legal Enforcement; Economic Crime; Corruption Cases; Criminal Liability.*

## **I. Introduction**

The development of the country from a national perspective is experiencing rapid speed, both in the social, political, economic and legal fields. Diving into the past when the national order still depended on conventional commodities, such as in the social sector there was no social media, in the political sector which did not yet recognize the direction of democracy that was envisioned, in the economic sector it only depended on marine and agricultural products for daily needs, and In the field of law, ideal legal supremacy has not yet been established. New crimes caused by economic factors are a new scourge for law enforcement in Indonesia. The perpetrators of economic crimes are not only based on individuals, but currently corporations, whether legal or non-legal entities, which were established to make a profit can also become perpetrators of crimes.

“Corporations are present in today’s economic development and industrialization where their existence makes a very large contribution to the state and society, however in its development it turns out that in addition to having a positive impact, it turns out that corporations also have a negative impact” which can be interpreted as that corporations are present in current economic development and industrialization

where their existence makes a huge contribution to the state and society, but in their development it turns out that apart from having a positive impact, corporations also have a negative impact.<sup>1</sup> Legal responsibility for business entities or corporations involved in criminal activities is an essential requirement. It is important for business entities to be punished so that they can make improvements, experience a deterrent effect, and avoid the occurrence of other crimes. Appropriate criminal sanctions for business entities include fines, additional penalties, as well as compensation and restitution to injured parties as an effort to achieve justice.<sup>2</sup>

Concerns about the development of crimes committed by corporations have made law enforcement officials cautious in acting. Generally, corporate crimes are committed on a large scale and cause large losses.<sup>3</sup> Apart from the crime-making side, corporations also have an important role in economic development by providing extensive employment opportunities for people to get a decent and prosperous life.<sup>4</sup> So a corporation is an entity that can provide opportunities and challenges and if it commits a crime it can of course be held criminally liable as the same form of entity before the law.

One of the problems with law enforcement in corporate criminal responsibility in this modern era is that prosecution in corruption cases still seems slow and difficult. "The number of corporate cases that have

---

<sup>1</sup> R Baihaki, "Application of Articles of Inclusion in Corruption Crimes Performed by Corporations and Management," *The 4th Legal Internasional Conference and Studies*, n.d., <https://jurnal.unissula.ac.id/index.php/lics4/article/view/20806>.

<sup>2</sup> M Kristina, "Tipologi Penindakan Kejahatan Korporasi Dalam Korupsi Dana Bantuan Pandemi Covid-19," *Jurnal Yustika: Media Hukum dan Keadilan*, 2021, <http://repository.ubaya.ac.id/40829/>.

<sup>3</sup> T Pangaribuan, "Perkembangan Bentuk Pertanggungjawaban Korporasi Dalam Tindak Pidana Korporasi," *Law Review*, 2019, <https://ojs.uph.edu/index.php/LR/article/view/1679>. Hlm 2.

<sup>4</sup> Zainal Abidin, *Bunga Rampai Hukum Pidana, Pradnya Paramita* (Jakarta: Pradnya Paramita, 1983). Hlm 51

been convicted of involvement in corruption crimes is very low. This is attributed to obstacles in law enforcement, namely the uncertainty and doubt of law enforcers in proving guilt and prosecuting corporate criminal liability. To overcome these obstacles, it is important to provide law enforcement with a broad understanding of the precedents of corporate criminalization involved in corruption". It is a common problem that the number of corporate cases that have received guilty verdicts for being involved in corruption crimes is very small. This is caused by obstacles in law enforcement, namely uncertainty and doubt from law enforcers in proving wrongdoing and demanding corporate criminal responsibility. To overcome this obstacle, it is important to provide law enforcers with a broad understanding of the precedents for criminalizing corporations involved in corruption.<sup>5</sup> This is closely related to corruption which causes state financial losses and government officials, because the management of state finances is carried out by government officials.<sup>6</sup>

Government officials here can also be interpreted as state-owned legal entities that commit criminal acts just to seek profit. PT. Jiwasraya Insurance (PT.AJS) as a State-Owned Usama Agency (BUMN) collaborates in managing funds for PT. Sinarmas Asset Management (PT. SAM) was carried out against the law, namely there was a "conspiracy" between the two company leaders. Alex Setyawan as director of PT SAM, through the investment manager, approved the share sale and purchase transaction carried out by the investment manager of PT AJS before PT AJS carried out fundamental/technical analysis to determine the benefits of collaborating. In the Supreme

---

<sup>5</sup> H Amelia et al., "Effectiveness of Law Enforcement against Corporations as Perpetrators of Corruption in Indonesia," *History of ...*, 2023, <https://historymedjournal.com/submissions/index.php/hom/article/view/280>.

<sup>6</sup> M Hatta, "Kedudukan Hukum Whistle-Blower Dalam Penanggulangan Tindak Pidana Korupsi di Indonesia," *Cendekia: Jurnal Hukum, Sosial dan Humaniora*, 2024, <https://journal.lps2h.com/cendekia/article/view/74>.

Court Decision File Number 1228 K/Pid.Sus/2023 it is known that the acceptance of PT. SAM in approving the agreement is not independent, because mutual fund transactions between the two have determined the price, type of shares, number of shares and counterparty before a sale and purchase transaction occurs.

The first instance court decision stated that PT SAM participated in corruption as argued by the prosecutor, namely Article 2 Paragraph (1) in conjunction with Article 20 in conjunction with Article 18 Paragraph (1). (2), (3) Law No. 31 of 1999 as amended by Law No. 20 of 2001 concerning PTPK. Then PT SAM filed an appeal at the Jakarta High Court and after making an appeal, the judge believed PT SAM had not committed the criminal act of corruption argued by the prosecutor, so that the district court's decision could be set aside and stated that PT SAM had not interfered in PT SAM's corruption. A.J.M. After efforts to deepen the facts on the ground in the trial, the prosecutor then filed an appeal at the Supreme Court with the PT's decision. AJM remains guilty and has been proven legally and unlawfully in a criminal act water so they can also be punished based on a court decision.

The author based on these problems, then compared it with several previous studies related to the PT SAM corruption case and its corporate responsibility. Mahrus Ali stated that PT SAM was one of the investors who managed PT's shares. AJS was caught in corruption,<sup>7</sup> Ja'far also stated that PT SAM was included in a corporate case involving criminal acts of corruption that were detrimental to state

---

<sup>7</sup> M Ali, "Menolak Tindak Pidana Pasar Modal Dalam Perkara PT. Asuransi Jiwasraya Sebagai Korupsi," *Jurnal Ius Constituendum* (pdfs.semanticscholar.org, 2022), <https://pdfs.semanticscholar.org/9e04/c135b655da742504ebd31dcc92f6b1427df2.pdf>. Hlm. 15

finances.<sup>8</sup> This means that corporations need to be charged with criminal liability because they result in enormous losses.<sup>9</sup> Parameshwara gave his views regarding the PJP Corporation PT corruption case. SAM can be subject to both fines and revocation of business permits.<sup>10</sup> Of all previous research, there is nothing comprehensive to discuss PT decisions. SAM is based on the Special Law on Terrorism and the Indonesian Criminal Code. Apart from that, the description of the corporate criminal liability of perpetrators of criminal acts of corruption should be given consideration of the main and additional relevant crimes. Regarding the description of the corruption corporation PT Sinarmas Asset Management, the formulation of the problem to be analysed and the truth sought is how is the regulation of corporate criminal liability in positive law in Indonesia? and what is the corporate criminal responsibility for criminal acts of corruption at PT. Sinarmas Asset Management?.

---

<sup>8</sup> Muhammad Nur Ja'far, "PERBANDINGAN PERTANGGUNGJAWABAN PIDANA KORPORASI TERHADAP TINDAK PIDANA PENCUCIAN UANG DENGAN PREDICATE CRIME KORUPSI DI INDONESIA DAN MALAYSIA" (Universitas Islam Malang, 2024), [https://repository.unisma.ac.id/bitstream/handle/123456789/9118/S1\\_FH\\_220\\_01021082\\_MUHAMMAD\\_NUR\\_JA%27FAR.pdf?sequence=2&isAllowed=y](https://repository.unisma.ac.id/bitstream/handle/123456789/9118/S1_FH_220_01021082_MUHAMMAD_NUR_JA%27FAR.pdf?sequence=2&isAllowed=y). Hlm. 6

<sup>9</sup> ILHAM NUR PRATAMA, "PERBANDINGAN HUKUM METODE DEFERRED PROSECUTION AGREEMENT (DPA) DALAM MENGEMBALIKAN KERUGIAN KEUANGAN NEGARA AKIBAT TINDAK PIDANA KORUPSI" (Universitas Lampung, 2022). Hlm. 7

<sup>10</sup> P Parameshwara dan K Riza, "Tindak Pidana Korupsi dalam Konteks Pertanggungjawaban Pidana Korporasi," *Jurnal Studi Multidisiplin Ilmu*, 2023, <http://penerbitgoodwood.com/index.php/Jasmi/article/view/1973>. Hlm. 33

## II. Method

Research methods are an essential element that must be present in research. Its function is as a guide for researchers to explore, analyze and understand phenomena or problems that are the object of research, with the aim of gaining understanding and achieving research objectives.<sup>11</sup> This research is included in the category of normative legal research because it focuses on analyzing the *decidendi* ratio of court decisions.<sup>12</sup> More specifically, the object of this research is the analysis carried out on the Supreme Court Decision Number 1228 K/Pid.Sus/2023 regarding the PT corruption case. Sinarmas Asset Management with defendant Alex Setyawan. Research approaches can be divided into several approaches, which in this research attempt to take approaches, namely statute approach, conceptual approach and case approach.<sup>13</sup> Meanwhile, the statute approach focuses on reviewing the Corruption Eradication Law, the conceptual approach examines the differences between judges' decisions at the appellate level (High Court) and judges' decisions at the cassation level (Supreme Court) which includes elements of punishment, criminal acts and criminal responsibility. The case approach in this study focuses on discussing trial facts and legal facts that have implications for consideration of court decisions, so that they can be used as a fundamental basis for criticizing decisions using applicable principles, theories and principles.<sup>14</sup>

---

<sup>11</sup> S Soekanto, *Pengantar penelitian hukum*, UI Press (Jakarta: UI Press, 1989). Hlm. 7

<sup>12</sup> Ali, "Menolak Tindak Pidana Pasar Modal Dalam Perkara PT. Asuransi Jiwasraya Sebagai Korupsi." Hlm. 34

<sup>13</sup> Jhony Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif* (Malang: Banyumedia Publishing, 2007). Hlm. 145

<sup>14</sup> M Marzuki, *Penelitian Hukum* (Surabaya: Universitas Airlangga, 2010). Hlm. 139

Normative legal research can be classified into three types of data sources, namely primary, secondary and tertiary legal materials. Primary legal materials consist of statutory regulations, court decisions and official state documents, namely Law Number 1 of 2023 concerning the Criminal Code, Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, and Supreme Court Decision Number 1228 K/Pid.Sus/2023. Meanwhile, secondary legal materials were obtained from various book literature related to corporate criminal responsibility for corruption cases and tertiary legal materials were obtained through citations to both national and international journals, all of which were able to provide guidance related to the writing topic.

### III. Regulation of Corporate Criminal Liability for Corruption Crimes in Positive Law in Indonesia

Actions that have been regulated in the offense formulation as part of actions that are contrary to the rules (reprehensible) or have an unlawful nature do not always result in a person being punished. This is related to the error that occurred, so that whether a person can be held criminally liable. Criminal liability is closely related to the theory of no fault without punishment, which in German is called "no punishment without guilt", while Latin is called "an act does not make one guilty unless the mind is guilty" or in other words "No Punishment Without Guilt" which means that every crime must be accompanied by a mistake. The "culpa" here is not only interpreted as a mistake, but also on purpose. In another postulate it also states "no one is punished without injury, whether done or not" which means that no one can be punished, unless that person has done something wrong. This Latin postulate is closely related to one of the Javanese postulates which says

"which is wrong, righteous" which means someone as a perpetrator of a crime will lose.

The legal understanding of criminal responsibility or elements of wrongdoing in a person was put forward by several criminal law figures, including:

1. **From Hamel**, Criminal liability is a normal state psychologis, by connecting the "mental state of the perpetrator" and the realization of the disgraceful act in the formulation of the offense. This basis emphasizes that guilt is an element that must be proven according to the perpetrator's abilities, so that he is worthy of criminal responsibility. (should is the legal responsibility).
2. **Simons**, Criminal liability is a correlation between mental states or psychologically perpetrators of disgraceful acts carried out against the law, so that they can be criminally charged from a general perspective under appropriate conditions. The emphasis in this case is on social-ethical perpetrators of disgraceful acts who are recognized as having a normal mental state so they are required to receive appropriate punishment (imputability / can be held accountable).
3. **Van Bemmelen**, criminal responsibility is the ability that the perpetrator has for the actions carried out consequently. However, this action was taken to maintain life in a proper way. Explanatory notes The explanation includes 2 (two) things:
  - a. The perpetrator can be held accountable because he has the freedom to act whether ordered or prohibited.
  - b. The perpetrator can be held accountable because there are no such compelling circumstances, so that the action taken originates from personal will and knowing the consequences of the unlawful action.
- I. **Hadith of Tirmidhi**,  
 حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى الْقُطَيْبِيُّ الْبَصْرِيُّ حَدَّثَنَا بِشْرُ بْنُ عُمَرَ حَدَّثَنَا هَمَّامٌ عَنْ حَدَّثَنَا مُحَمَّدُ بْنُ يَحْيَى الْقُطَيْبِيُّ الْبَصْرِيُّ حَدَّثَنَا بِشْرُ بْنُ عُمَرَ حَدَّثَنَا هَمَّامٌ عَنْ قَتَادَةَ عَنِ الْحَسَنِ الْبَصْرِيِّ

عَنْ عَلِيٍّ أَنَّ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ رُفِعَ الْقَلَمُ عَنْ ثَلَاثَةٍ عَنْ النَّائِمِ حَتَّى يَسْتَيْقِظَ وَعَنْ الصَّبِيِّ حَتَّى يَشِبَّ وَعَنْ الْمَعْتُوهِ حَتَّى يَعُولَ

“Muhammad bin Yahya Al Qutha'i Al Bashri narrated to us, Bisyr bin Umar narrated to us, Hammam narrated to us from Qatadah, from Hasan Al Bashri, from Ali, that the Prophet SAW said, "The pen (pen) was lifted from three people (meaning, they are not burdened by the law): a person who sleeps until he wakes up, a child until he reaches adulthood (baligh) and a madman until he comes to his senses.." Hadits Tirmidzi Nomor 1343.<sup>15</sup>

From the aspects of criminal liability that have been mentioned, individuals who can commit legal violations or criminal acts, and have the will and knowledge, are rational humans, have matured or reached the age of obligation, or in other words, have legal capacity. Legal capacity, or Ahliyah, refers to the ability to obtain rights and use them to assume obligations and carry them out. This definition shows two types of capacity, namely the capacity to obtain rights (ahliyat al-wujub) and the capacity to act (ahliyat al-ada').<sup>16</sup>

Based on explanations about criminal liability presented by various criminal law experts. So the author concludes that there are at least 3 (three) elements that must be met by a perpetrator, including: First, the presence of a person's normal psychological condition; second, the action carried out by the perpetrator is not an extraordinary

---

<sup>15</sup> Muhammad bin Isa at-Tirmidzi, “Hadist Riwayat Sunan at-Tirmidzi Nomor 1343,” Ilmu Islam: Portal Belajar Agama Islam, 2015, <https://ilmuislam.id/hadits/perawi/9/tirmidzi?hal=112>.

<sup>16</sup> A Surasa, “PERTANGGUNGJAWABAN PIDANA KORPORASI DALAM TINDAK PIDANA PENCUCIAN UANG PERSPEKTIF HUKUM ISLAM,” *Tatar Pasundan: Jurnal Diklat Keagamaan*, 2020, <https://bdkbandung.id/tatarpasundan/jurnal/index.php/tp/article/view/38>.

situation (a state of urgency so that he does not have the freedom to make decisions and does not know the consequences of the action); third, the perpetrator's actions fulfil the formulation of a criminal offense and are included in the disgraceful act. Therefore, criminal liability is the condition of a person who can take responsibility for disgraceful actions committed because the perpetrator is in a normal psychological condition, there are no external circumstances, and the action is contrary to the law.

Criminal liability can be imposed on individuals or corporations. Law Number 1 of 2023 concerning the Criminal Code (KUHP Nusantara) regulates general provisions and regulations regarding criminal liability. In Book 1 concerning General Rules, in Chapter II Criminal Acts and Criminal Liability in part II Article 36 – 50 of the Indonesian Criminal Code clearly regulates Criminal Liability, Reasons for Forgiveness and Corporate Accountability. The development of corporations as a subject of criminal law in Indonesia began with regulations outside of Law Number 1 of 1946 concerning the Criminal Code (Colonial Criminal Code), because the Colonial Criminal Code did not yet recognize the concept of corporate responsibility. This is because it still maintains its principles society cannot be wrong, where corporations cannot commit criminal acts and cannot be punished. Additionally, corporations have no actual consciousness or physical existence (no soul to be damned and no body to be kicked); Thus, this has become a new colour in several laws and regulations in Indonesia which recognize corporations as subjects of criminal law.<sup>17</sup>

The development of Corporate Responsibility provides a new legal definition, namely "Corporations, when involved in criminal

---

<sup>17</sup> J H Dicky, "Sejarah Pertanggungjawaban Pidana Beneficial Owner Di Indonesia," *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, 2020, <https://ejournal.mandalanursa.org/index.php/JISIP/article/view/1419>.

activities, may face legal penalties. Given their status as legal entities, corporations are recognized as legal entities, making them liable to criminal prosecution” which clearly states that corporations can be punished for committing an evil act.<sup>18</sup> Corporate Crime is a series of criminal acts that occur in a business or industrial environment. These various types of corporate crimes include acts of corruption by companies, waste of resources, monopolistic practices, dumping, suppression of workers' wages, environmental pollution, nepotism, collusion, discriminatory treatment of employees, and even human rights violations.<sup>19</sup> Against increasingly massive corporate crimes, we can change the paradigm of corporations. “The philosophical-legal aspect is ingrained in achieving fairness, its implementation being about "placing everything desired in its rightful position", whereas the sociological-legal aspect is intrinsic to law as a social phenomenon within a corporation, the resolution of which lies in the application of theory.”

In essence, the philosophical juridical point of view should place corporations as legal subjects who can be held accountable, in other words "putting everything in its place" as a form of achieving justice. Apart from that, the juridical-sociological perspective requires corporations to obtain a legal basis that the corporation's responsibility is not only to obtain maximum profits, but also to provide respect to society so that it remains in accordance with permitted corridors.<sup>20</sup> The

---

<sup>18</sup> A Taufiq dan S N Haribowo, “Corporate Criminal Responsibility for Corruption Crimes in Perspective Perma No. 13 of 2016,” *International Journal of Health ...*, 2021, <https://jurnal.unismuhpalu.ac.id/index.php/IJHESS/article/view/4015>.

<sup>19</sup> I Rahayu, “Kejahatan Korporasi Terhadap Masyarakat dan Lingkungan dalam Perspektif Etika Bisnis,” *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan ...*, 2023, <https://journal.forikami.com/index.php/dassollen/article/view/388>.

<sup>20</sup> H D P Sinaga, A Wirawan, dan ..., “Recontruction of corporate criminal liability in Indonesia,” *International Journal of ...* (researchgate.net, 2020),

principles of criminal law in corporations are part of a dynamic element and are important in the context of the legal needs of Indonesian society, therefore they require in-depth attention.<sup>21</sup>

Criminal liability has various theories in interpreting legal problems for corporate actors, including:

### 1. Theory Legal Fiction

A term often used in law and legal interactions is "legal subject" (the subject of law). Legal subjects can be divided into 2 (two), namely individuals and legal entities. A legal entity is an abstract thing and cannot possibly become a legal subject. However, legal entities can be imagined (fictionally) as legal subjects by assuming that corporations have the same behaviour as people/individuals.<sup>22</sup> This is because both individuals and legal entities have rights and obligations when acting. These actions are carried out as a form of responding to the social needs of society, whereas in corporate actions it is also possible for crimes to be committed by corporations. The crime committed can be subject to separate responsibility, either to the corporation itself or to the members of the corporation.

### 2. Ultra Vires Doctrine

The Ultra Vires doctrine is a concept of corporate criminal responsibility that cannot be given to corporations but can be given to their management. This is caused when the corporation takes

---

[https://www.researchgate.net/profile/Henry-Sinaga/publication/341830268\\_Reconstruction\\_of\\_Corporate\\_Criminal\\_Liability\\_in\\_Indonesia/links/5ed67b15458515294528d97a/Reconstruct](https://www.researchgate.net/profile/Henry-Sinaga/publication/341830268_Reconstruction_of_Corporate_Criminal_Liability_in_Indonesia/links/5ed67b15458515294528d97a/Reconstruction-of-Corporate-Criminal-Liability-in-Indonesia.pdf)  
[ion-of-Corporate-Criminal-Liability-in-Indonesia.pdf](https://www.researchgate.net/profile/Henry-Sinaga/publication/341830268_Reconstruction_of_Corporate_Criminal_Liability_in_Indonesia/links/5ed67b15458515294528d97a/Reconstruct).

<sup>21</sup> A Manab, Y A T Ohoiwutun, dan ..., "Criminal Responsibilities Or Political Partners As Corporations In Corruption Criminal Action And Money Laundering Criminal Acts," ... : *Jurnal Publikasi Ilmu* ..., 2023, <https://journal.widyakarya.ac.id/index.php/Deposisi-widyakarya/article/view/1059>.

<sup>22</sup> Chaidir Ali, *Badan Hukum* (Bandung: Alumni, 1999). Hlm 32.

actions that deviate from the main purpose of the corporation's existence. Such a situation gives a sense of responsibility only to the corporate management individually or together with other management, not to the corporation itself. The meaning of this doctrine is that actions carried out outside the provisions of the corporation are considered void and cannot be held criminally liable to the corporation (*ultra vires doctrine*).<sup>23</sup>

### 3. Doctrine Successive Liability

Successive liability is a criminal responsibility that focuses on legal disputes in which two or more parties are responsible for resolving them. Internal problems successive liability is a problem that results in only one loss or a single loss (a single harm or loss). In these circumstances, criminal liability by the perpetrators is deemed to be (successive or consecutively), which means that each party/perpetrator is responsible for the damage caused. Successive liability is different from joint liability (the same as joint and several liability) which makes it possible to obtain compensation from the guilty person either as one person or together without considering the level of fault. On the contrary successive liability involves a series of parties being responsible for a single loss and each party's liability depends on previous actions. Generally used in resolving environmental cases against parties who are responsible for police and other environmental damage.<sup>24</sup>

### 4. Doctrine Delegation Liability

---

<sup>23</sup> R. Rufinus Hotmaulana Hutaauruk, *Penanggulangan Kejahatan Korporasi Melalui Pendekatan Restoratif: Suatu Terobosan Hukum*, (Jakarta: Sinar Grafika, 2013), hal. 22.

<sup>24</sup> Fastercapital, "Successive Liability: When Joint and Several Liability Extends Over Time," Fastercapital, 2024, <https://fastercapital.com/content/Successive-Liability--When-Joint-and-Several-Liability-Extends-Over-Time.html>.

Delegation liability is a doctrine of corporate criminal responsibility that applies not only to corporate leaders but can also include everyone within the corporation who is given the authority to carry out corporate duties. The doctrine of delegated criminal responsibility is an extension of the doctrine of identification criminal responsibility which only targets corporate leaders as the holders of evil inner control and determinants of evil actions.<sup>25</sup> the author provides an explanation of delegation liability is corporate criminal liability imposed on people who have the authority to do something ordered based on corporate rules.

## 5. Doctrine Strict Liability

The Principle of Strict Statutory Accountability Law (strict liability) entails absolute responsibility without the need to establish the presence or absence of an element of fault on the perpetrator of the offense. This form of criminal liability is recognized as strict liability crimes.<sup>26</sup> It can be explained that corporations can be held criminally responsible without having to prove the existence or absence of fault in the perpetrators of the crime. Apart from that, there is no need to pay attention to evil mental attitudes. Strict liability is the most practical model of corporate criminal responsibility.<sup>27</sup>

## 6. Identification Doctrine

---

<sup>25</sup> Muladi dan Diah Sulistyani, *Pertanggungjawaban pidana korporasi (Corporate criminal responsibility)*, 2 ed. (Bandung: Alumni, 2015), [https://books.google.com/books?hl=en&lr=&id=KKvEEAAQBAJ&oi=fnd&pg=PP1&dq=muladi+pertanggungjawaban+pidana+korporasi&ots=bh6rXCOR9k&sig=\\_a\\_TPFd5oA0Vcaxkj3WTcNoJhx8](https://books.google.com/books?hl=en&lr=&id=KKvEEAAQBAJ&oi=fnd&pg=PP1&dq=muladi+pertanggungjawaban+pidana+korporasi&ots=bh6rXCOR9k&sig=_a_TPFd5oA0Vcaxkj3WTcNoJhx8).

<sup>26</sup> R. Atmasasmita, "Perbandingan Hukum Pidana," *Bandung: Mandar Maju*, 2000.

<sup>27</sup> A. Kholiq dan G. Gunarto, "Concept of criminal law on corruption of corporate criminal liability system based on justice value," *Jurnal Daulat Hukum*, 2021, <https://jurnal.unissula.ac.id/index.php/RH/article/view/14205>.

Literally, a deep criminal act common law or panel statute cannot be imposed on a company. For example, the criminal act requires mens rea. However, judges have developed mechanisms to link minds with these legal entities, confirming the view that companies are criminally liable in such contexts. The act is based on the doctrine of identification.<sup>28</sup> The concept of the identification doctrine emphasizes criminal liability based on the principle of proving mens rea. This can serve as the basis for corporate leaders who possess a "directing mind" in carrying out wrongful acts to be considered as the attitude of the corporation. Thus, it can be inferred that the corporation can be directly responsible if the leadership of the corporation is identified as engaging in wrongful acts.<sup>29</sup> The actions and intentions of the corporation represent the identification of the actions and intentions of the directors or corporate leaders.<sup>30</sup> The identification doctrine in the theory of corporate criminal responsibility can be interpreted as responsibility that focuses on identifying corporate leaders who commit crimes so that it can be considered as an evil mental attitude (mens rea) from corporate management. This is because corporate leaders as "intellectual actors or directing thoughts" are the basis that all corporate policies are the responsibility of corporate leaders, in other words, corporate actions and will can be identified from the will and actions of corporate leaders.

Based on these various definitions, what must be contained in the identification doctrine is the components of evil actions by corporate

---

<sup>28</sup> M Huda, "Legal Politics Of Corporate Crime In Indonesia," *Iblam Law Review*, 2021, <https://ejurnal.iblam.ac.id/IRL/index.php/ILR/article/view/16>.

<sup>29</sup> B N A Muladi, "Penerapan Pertanggungjawaban Korporasi Dalam Hukum Pidana" (Bahan Kuliah Kejahatan Korporasi ..., 2007).

<sup>30</sup> Hanafi Amrani, "Reformasi Sistem Pertanggungjawaban Pidana" (Islamic University of Indonesia, 1999).

leaders and it is necessary to know the existence of these elements mens rea (evil inner attitude). The author provides an understanding of the identification doctrine as corporate criminal liability which can be imposed on corporations because of their evil actions, which are reflected in the evil actions carried out by corporate leaders as a reflection of good actions and in the name of the corporation. As for proof in the identification doctrine, it must still be proven that there is an element of evil inner attitude (mens rea) from the corporate leadership as a reflection of corporate actions.

## 7. Vicarious Liability

Vicarious liability is a legal concept governing vicarious liability, where a person is responsible for the actions of another person. The principle of vicarious liability is an exception to the principle of "no crime without fault" (actus non facit reum nisi mens sit rea), where this principle allows someone who has authority over a criminal act to be legally charged.<sup>31</sup>

Corporate criminal liability for corruption can use various theoretical approaches to criminal liability. Basically, the regulation of corporate corruption has a strong legal basis in Indonesia. This is stated in Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (UU PTPK) in Article 20 states that:

### *Article 20 of the PTPK Act*

(1) *"In the event that a criminal act of corruption is committed by or on behalf of a corporation, criminal charges and*

---

<sup>31</sup> C T Noerman dan R D Agustanti, "PERTANGGUNGJAWABAN ARTIFICIAL INTELLIGENCE SEBAGAI SUBJEK HUKUM YANG MELAKUKAN TINDAK PIDANA KORUPSI," *Jurnal Hukum Samudra Keadilan*, 2023, <https://ejurnalunsam.id/index.php/jhsk/article/view/8722>.

*impositions can be made against the corporation and/or its management."*

- (2) *"Corruption crimes are committed by corporations if the crime is committed by people either based on work relationships or other relationships, acting within the corporate environment either individually or together."*
- (3) *"In the event that criminal charges are brought against a corporation, the corporation is represented by the management."*
- (4) *"The management representing the corporation as intended in paragraph (3) may be represented by another person."*
- (5) *"The judge can order that the corporation's management appear in court in person and can also order that the management be brought to court."*
- (6) *"In the event that criminal charges are brought against the corporation, the summons to appear and the submission of the summons are delivered to the management at the management's place of residence or where the management has an office."*
- (7) *"The main penalty that can be imposed on a corporation is only a fine, with the maximum penalty being increased by 1/3 (one third)."*

Based on the description of the article above, the PTPK Law regulates criminal liability, which is not limited to individuals, moreover it also covers corporations. In corporate responsibility, the aspect of responsibility is also expanded, namely that it cannot only be imposed on the management but can also be imposed on the corporation or corporation and its management. The expansion of corporate responsibility in the PTPK Law is an extensive interpretation based on Article 1 paragraph (3) of the PTPK Law which provides an explanation that "every person is an individual or includes a corporation".

There are 2 types of staff type In the PTPK Law, what corporate corruption perpetrators can be subject to, namely imprisonment and fines. Meanwhile, there is the death penalty which can be imposed on individuals if their actions meet certain aggravating elements carried out by the perpetrator. However, the criminal sanctions in the PTPK Law are not very complete in prosecuting corrupt corporations. Therefore, the Indonesian Criminal Code provides a breakthrough reform by providing various types of strafsoort, both basic and additional. This is regulated in Articles 119 – 120 of the Indonesian Criminal Code which reads:

*Article 119 of the Indonesian Criminal Code*

*"The principal crime referred to is a fine."*

*Article 120 of the Indonesian Criminal Code*

*(1) "Additional criminal penalties for corporations as intended in Article 118 letter b consist of:*

- a. payment of compensation;*
- b. improvement of the consequences of criminal acts;*
- c. implementation of obligations that have been neglected;*
- d. fulfillment of customary obligations;*
- e. It is financing job training;*
- f. confiscation of goods or profits obtained from criminal acts;*
- g. announcement of court decisions;*
- h. revocation of certain permits;*
- i. permanent prohibition on carrying out certain acts;*
- j. closure of all or part of the Company's business premises and/or activities;*
- k. freezing all or part of the Corporation's business activities;*
- And*
- l. dissolution of the Corporation."*

- (2) *"Additional penalties as referred to in paragraph (1) letters h, letter j, and letter k are imposed for a maximum of 2 (two) years."*
- (3) *"In the event that the Corporation does not carry out additional penalties as intended in paragraph (l) letters a to e, the Corporation's assets or income can be confiscated and auctioned off by the prosecutor to fulfill additional penalties that are not met."*

## IV. Comparative Study of Implementing Public Housing Savings in Government in Various Countries

The application of the principle of no crime without fault begins with the concept of criminal responsibility which focuses on actions and consequences (criminal law), then moves on to the concept of responsibility which focuses on the perpetrator/person who commits a criminal act without ignoring the treatment and consequences of the action (*taterstrafrecht*). The next development is criminal liability which focuses on these three aspects, namely the act, the consequences and the person who committed the disgraceful act (crime-criminal law or act-offender criminal law). The development of criminal liability reflects the moral philosophical style of religious teachings which tends towards the recognition of "moral error" as the main basis for unlawful actions (the influence of "moral philosophy" from religious teachings, tends to lead to the recognition of "moral error" as the main reason).<sup>32</sup>

---

<sup>32</sup> M R Lubis, P S Putra, And Y M Saragih, "Corporate Criminal Liability For Criminal Acts Of Corruption," *JPH* (Lp2m.Umnaw.Ac.Id, 2021), [https://Lp2m.Umnaw.Ac.Id/File\\_Data/Artikel/9\\_Rdwn\\_Corporate\\_Criminal\\_Liability\\_For\\_Criminal\\_Acts\\_Of\\_Corruption.pdf](https://Lp2m.Umnaw.Ac.Id/File_Data/Artikel/9_Rdwn_Corporate_Criminal_Liability_For_Criminal_Acts_Of_Corruption.pdf).

The concept of criminal law subjects as either individuals or legal entities, both have rights and obligations within the structure of legal society.<sup>33</sup> Rights and obligations in the social governance structure relate to the responsibilities of legal entities or corporations when committing criminal acts. In general, the term "criminal act" is often referred to as "delict," which comes from Latin, viz offense. In the Indonesian context, offense refers to an act that can be punished for violating criminal law. Crimes that violate the rule of law, generally intend to obtain property, objects and dignity.

In its implementation, the crime of corruption still uses a repressive approach by acting against a crime after it has been committed.<sup>34</sup> The prosecutor's office has legal capacity and is therefore tasked with handling corruption cases with the aim of immediately recovering state finances from corporate criminal activities. "Promptly recover state finances from corporate criminal activities".<sup>35</sup> apart from that, as a law enforcer, he also plays an important role, namely being the one party who can make demands. "The Prosecutor's Office as a law enforcement agency that holds the role of dominus litis by carrying out prosecution duties, must work optimally by optimizing punishment".<sup>36</sup>

---

<sup>33</sup> T Sudjiarto, "Pertanggungjawaban Pidana Pelanggaran Hak Cipta Lagu Dan Musik Terhadap Subjek Hukum Tindak Pidana Korporasi," *Honeste Vivere*, 2022, <https://www.ejournal.fhuki.id/index.php/hv/article/view/132>.

<sup>34</sup> V A Siregar et al., "Fenomena Tindak Pidana Korupsi Dan Pertanggung Jawaban Pidana Di Wilayah Hukum Kabupaten Indragiri Hilir," *J-ABDI: Jurnal ...*, 2022, <https://www.bajangjournal.com/index.php/J-ABDI/article/view/2783>.

<sup>35</sup> S M Ruhiyat, I Ismansyah, dan N Mulyati, "THE ROLE OF GENERAL ATTORNEY IN ERADICATION OF CORRUPTION BY CORPORATION," *Diponegoro Law Review*, n.d., <https://ejournal.undip.ac.id/index.php/dlr/article/view/22242>.

<sup>36</sup> S Setyowati, "Application of the Business Judgment Rule Doctrine in Corporate Criminal Liability in Corruption Crimes by State-Owned

So when it comes to corporate crimes of corruption, it is not appropriate to apply restorative justice, because criminal acts of corruption are not light crimes.<sup>37</sup> Although there are those who argue that the Adorning's Buiten process (settlement of cases outside the legal process) when applied to criminal acts of corruption involving corporations, can be limited by the Attorney General by considering the value and impact of state financial losses. "May be limited by the Attorney General by considering the value and impact of government financial losses".<sup>38</sup>

The economic motive of obtaining as much wealth as possible is a common crime.<sup>39</sup> Conceptually, wealth for criminals is a resource that supports criminal activities, so the most effective approach in eradicating and preventing economic crimes is to stop the source of life of these crimes through confiscating the proceeds and tools of crime.<sup>40</sup> generally, the impact of losses caused by criminal acts by a corporation has more serious consequences compared to individual criminal acts. the concept of state financial loss in the context of criminal acts of

---

Enterprises," *JHSS (JOURNAL OF HUMANITIES AND SOCIAL ...*, 2023, <https://journal.unpak.ac.id/index.php/jhss/article/view/8641>.

<sup>37</sup> W D Subianto dan H Soeskandi, "Kebijakan Kejaksaan Agung RI Tentang Penghapusan Tindak Pidana Korupsi Di Bawah 50 Juta Ditinjau Dari Restorative Justice," ... *Journal of Law ...*, 2022, <http://bureaucracy.gapenas-publisher.org/index.php/home/article/view/147>.

<sup>38</sup> P Hardinata, K Kristanto, dan ..., "An Ideal Model For Recovering National Financial Losses From Corporate Corruption Crimes With Legal Insurance," ... *Proceeding On Religion ...*, 2022, <https://prosiding.iahntp.ac.id/index.php/internasional-seminar/article/view/254>.

<sup>39</sup> Z A Farid, "Hukum Pidana I, Sinar Grafika" (Jakarta, 2007).

<sup>40</sup> I N Suardiana, AAGP Arjawa, and ..., "Pertanggungjawaban Pidana Mafia Tanah Dalam Tindak Pidana Korupsi Di Bali," *Nusantara Hasana ...*, 2023, <https://www.nusantarahasanajournal.com/index.php/nhj/article/view/1005>.

corruption can be considered a material offense. This indicates that it is not only important to fulfil the formal elements of the offense, but there must also be consequences in the form of actual losses (actual loss) caused by the act.<sup>41</sup> Criminal acts carried out by corporations in carrying out their operations are often referred to as corporate crimes.

"There are various countries that recognize corporate crime and do not recognize the existence of corporate crime. "Corporate criminal liability is not a universal feature of today's modern legal system. Some countries such as Brazil, Bulgaria, Luxembourg, and the Slovak Republic do not recognize any form of criminal liability for corporations. Other countries such as Germany, Greece, Hungary, Mexico, and Sweden, although they do not provide criminal liability to corporations, they still have a system of administrative sanctions that can be imposed on corporations for the criminal acts of some of their employees".<sup>42</sup> Corporate crime tends to cause greater financial losses in its scope. Even though corporations are legally recognized as entities that contribute to national economic growth, they are often involved in corporate crimes that harm the country and society. In fact, it is not uncommon for business activities to be used as a means to hide criminal assets that cannot be punished.<sup>43</sup>

---

<sup>41</sup> M Mamduh, "Kedudukan Dan Pertanggung Jawaban Pidana BUMN Sebagai Korporasi Terhadap Kerugian Negara," *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, 2022, <https://ejournal.mandalanursa.org/index.php/JISIP/article/view/3282>.

<sup>42</sup> L L Sintung, S Haling, dan K Syah, "Corporate Legal Liability as a Criminal Act of Corruption," ... *Research Journal in Legal ...*, 2022, <https://jurnal.unismuhpalu.ac.id/index.php/IRJILS/article/view/2752>.

<sup>43</sup> D P Azhar dan A Mahyani, "Pertanggungjawaban Pidana Korporasi Sebagai pelaku Tindak Pidana Penyebaran Data Pribadi," ... *Journal of Law ...*, 2023, <http://bureaucracy.gapenas-publisher.org/index.php/home/article/view/200>.

Corporate crime is collective unlawful behaviour by an organization with the aim of achieving certain targets, which has several distinctive characteristics as follows:

- 1) Low levels of visibility because they are often hidden behind normal work routines, involve professional expertise, and complex organizational systems.
- 2) High complexity because it often involves acts of fraud, lies and theft, and is related to scientific, technological, financial and legal aspects, involving many individuals and taking place over a long period of time.
- 3) Wide distribution of responsibilities due to complex organizational structures.
- 4) The diversity of victims affected, such as pollution, consumer fraud, and so on.
- 5) Challenges in detection and prosecution due to the imbalance of professionalism between law enforcement and criminals.
- 6) Ambiguous regulations, which often create uncertainty in the application of law, especially in the realm of economic law due to complex regulations.
- 7) Unclearness regarding the moral condition of the perpetrator of a criminal act. In the scope of economic crimes, it is necessary to understand that perpetrators are not always inherently morally wrong (*mala per se*), but more because they violate regulations set by the government to protect the public interest (*mala prohibita*).<sup>44</sup>

A Limited Liability Company, in its capacity as a legal entity, indicates that a limited liability company has rights and obligations that must be accounted for. When a limited liability company commits a

---

<sup>44</sup> H. Setiyono, *Kejahatan Korporasi: Analisis Viktimonologis Dan Pertanggungjawaban Korporasi Dalam Hukum Pidana Indonesia* (Malang: Averros Press, 2002).Hlm 54-55.

criminal act, especially in the context of criminal acts of corruption, as a legal entity whose existence is recognized by law with inherent rights and obligations, the limited liability company can also be held legally responsible.<sup>45</sup> However, what remains a problem is the lack of clarity regarding when and how corporations can carry out criminal sanctions. "Lack of clarity on when and how the actions taken by corporations so that criminal penalties committed by corporations are still difficult to implement".<sup>46</sup> This also applies to criminal acts of corruption.

Corruption cases that present corporations as the subject of criminal acts are often difficult because of the difficulty in proving wrongdoing, especially in the form of 'intentional'. Additionally, there is a risk that innocent individuals could become victims, such as employees who lose their jobs if their company closes. Likewise, shareholders who are unaware of the crime may be affected by paying fines out of their investment profits. Not all criminal acts of corporate corruption can be made the subject of law. For example, in cases where the subject of the crime has special qualifications as a "civil servant or official", the corporation is generally unlikely to be considered the subject of the crime.<sup>47</sup> With the enforcement of corporations as legal subjects, Muladi, a legal expert, stated that the acceptance of corporations as subjects of criminal acts raises problems in the criminal

---

<sup>45</sup> B Suluh, F Farhana, and R L Sinaulan, "Criminal Liability Of The Company's Legal Entity In The Crime Of Money Laundering," *IBLAM LAW REVIEW*, 2022, <https://ejurnal.iblam.ac.id/IRL/index.php/ILR/article/view/61>.

<sup>46</sup> S M Ruhiyat, I Ismansyah, dan N Mulyati, "Application of Republic of Indonesia Supreme Court Regulation No. 13 of 2016 Concerning Procedures for Subscribing to Criminal Cases by Corporations in Corporate Criminal Responsibility in Indonesia Based ...," *International Journal of Multicultural* ..., 2019, <https://ijmmu.com/index.php/ijmmu/article/view/725>.

<sup>47</sup> Andi Hamzah, *Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional* (Jakarta: Rajawali Pers, 2012). hal. 80-81.

law system in Indonesia, especially regarding corporate criminal liability. The question is whether legal entities can make mistakes, either intentionally or through negligence.<sup>48</sup>

Regarding corporate responsibility as the subject of criminal acts, the question arises as to whether corporations need to have the ability to be responsible. Finding the basis for corporate responsibility is not easy, considering that corporations as subjects of criminal acts do not have psychological aspects like humans naturally do. This is an obstacle in law enforcement, which comes from the law itself. "Barriers in law enforcement may arise from the legal framework itself, including: (1) Failure to adhere to the fundamental principles by legislative bodies; (2) Lack of necessary implementing regulations to enforce the legislation effectively; (3) Ambiguity in the wording of the laws leading to confusion in interpretation and application".<sup>49</sup> However, this challenge can be overcome by accepting the concept of functional behaviour (functioneel daderschap). Wolter stated that the concept of functional behaviour (functioneel daderschap) is the result of judicial interpretation.

Judges interpret criminal acts in such a way that the punishment given is in accordance with the norms that apply in society. The uniqueness of functional behaviour is that the physical action performed by an individual (who performs or induces it) produces a functional effect on another individual. By accepting the concept functional perpetration, the principle of capacity for responsibility remains relevant in confirming corporate responsibility in criminal law. This is because corporations are not formed without certain goals, and in achieving these goals, corporations always operate through human action.

---

<sup>48</sup> Andi Hamzah. hal. 18.

<sup>49</sup> S Soekanto, *Faktor-faktor yang mempengaruhi penegakan hukum* (senayan.iain-palangkaraya.ac.id, 2004), [http://senayan.iainpalangkaraya.ac.id/index.php?p=show\\_detail&id=1427&keywords=](http://senayan.iainpalangkaraya.ac.id/index.php?p=show_detail&id=1427&keywords=).

Therefore, the capacity for responsibility of individuals acting on behalf of a corporation is transferred to the capacity for responsibility of the corporation as the subject of a criminal act.<sup>50</sup>

Muladi introduced various models of corporate responsibility as follows:<sup>51</sup>

- a. As agents of the corporation, the management holds the dual role of decision maker and implementer, and therefore, is responsible for the corporation's actions.
- b. The corporation, as a separate legal entity, acts through its agents, namely the administrators, who are responsible for the implementation of these actions.
- c. The corporation, in its role as a separate legal entity, is responsible for the actions taken, which are carried out through the intermediary of the management who also act as decision makers. As a legal entity.

PT. Sinarmas Asset Management applies the principle of strict separation between legal entity assets and individual ownership of shareholders. This is in accordance with the principle of Corporate Separate Legal Personality in the context of a Limited Liability Company. This principle emphasizes that companies, especially PTs, have a legal identity that is independent from the individual or entity that founded them. Full responsibility in the PT lies with the Board of Directors as a Company Organ which has the authority and obligation to manage the company in the interests of the company itself, in line with the aims and objectives that have been determined, as well as representing the company both inside and outside the legal process, in

---

<sup>50</sup> H. Setiyono, *Kejahatan Korporasi: Analisis Viktimonologis Dan Pertanggungjawaban Korporasi Dalam Hukum Pidana Indonesia*. hal. 133-134.

<sup>51</sup> Muladi dan D Priyatno, "Pertanggungjawaban korporasi dalam hukum pidana" (Bandung: Sekolah Tinggi Hukum Bandung, 1991). Hlm 86.

accordance with the provisions stipulated regulated in the articles of association and Law Number 19 of 2003 concerning Limited Liability Companies. Therefore, PT. Sinarmas Asset Management, like other PT companies, must comply with the regulations of the PT Law. Thus, this reaffirms the importance of understanding the legal principles related to legal entity structures to maintain a clear separation between company assets and the personal ownership of shareholders.

At the cassation level, the case of PT. Sinarmas Asset Management is facing accusations of misinterpretation of the law relating to the corruption case that befell the company. In the Jakarta High Court Decision Number 33/PID.SUS/TPK/2022/PT DKI dated 18 October 2022, the judge's decision in his decision stated that the defendant was acquitted of all charges on the grounds that there was no proven unlawful act committed by PT Sinarmas Asset Management represented by the Director of PT SAM, namely Alex Setyawan. This decision was taken because the defendant company had followed the principles stipulated in Article 2 of the Financial Services Authority Regulation Number 43/POJK.04/2015 concerning Investment Manager Code of Conduct and also in receiving mutual fund management fees amounting to IDR 4,272,423,804.00, which deemed reasonable in accordance with the provisions of Article 30 to Article 33 of the Financial Services Authority Regulation Number 23/POJK.04/2016 concerning Mutual Funds in the Form of Collective Investment Contracts, so that they do not cause financial losses for the state.

The consideration of Supreme Court judges regarding the high court's decision shows significant differences, as can be seen in the consideration of Supreme Court Decision Number 1228 K/Pid.Sus/2023. The Supreme Court explained that the high court judge's considerations could not be accepted because the defendant PT SAM acted as the manager of PT BUMN funds. Jiwasraya Insurance

from 2016 to 2018, with initial funds of IDR 100,000,000,000.00 (one hundred billion rupiah) and a total withdrawal (redemption) of IDR 23,000,000,000.00, (twenty-three billion rupiah) leaving funds under management of Rp. 77,000,000,000.00. (seventy-seven billion rupiah) The withdrawal was considered unlawful because the Investment Manager had carried out share transactions without adequate analysis of certain shares, such as LCGP, IIKP, TRAM, PPRO, SMBR, INAF, SUGI, MYRX, FIRE, and POOL, on instructions from external parties who are not PT customers. SAM. These instructions were given by Moudy Mangkey at the direction of Joko Hartono Tirto, and conveyed to the Investment Manager of PT. SAM, Agustin Widyastuti, as well as securities parties (brokers) such as Trimegah Securitas and Mirae who have been previously determined. This shows that PT. SINARMAS ASSET MANAGEMENT, as Investment Manager who manages investment funds of PT. AJS in mutual fund products does not act independently.

All purchase and sale transactions of shares underlying the Simas Stock Ultima (SSU) Mutual Fund are carried out through a broker that has been determined by Agustin Widhiastuti (from PT. AJS), namely PT Trimegah Sekuritas (TRS) with Meitawati Edianingsih as PT Sales. TRS. On May 2 and May 18 2016, PT. AJS made a Subscription to Simas Shares Ultima (SSU) in the amount of IDR 50,000,000,000.00 (fifty billion rupiah) each. After that, Meitawati Edianingsih contacted Alvin, who is the Fund Manager of PT. SINARMAS ASSET MANAGEMENT (PT. SAM), via email to provide share purchase instructions in accordance with the PT Subscription. A.J.S. These instructions are equipped with details of the share name, number of shares, and share price. Alvin then asked for approval from Alex Setyawan Widjaya Kusuma, Main Director of PT. SINARMAS ASSET MANAGEMENT, which is also a member of the Investment management team of PT. SAM, for the transaction. After receiving

confirmation from witness Agustin Widhiastuti, Alex Setyawan Widjaya Kusuma gave instructions to Alvin and the dealer PT. SINARMAS ASSET MANAGEMENT to carry out the transaction.

PT. AJS determines the investment management of the mutual funds it holds with Joko Hartono Tirto, who has a relationship with Heru Hidayat, managing the portfolio composition when buying and selling shares by PT. A.J.S. This process involved instructions to Piter Rasiman to carry out the transaction, who then delegated technical tasks to his secretary, Moudy Mangkey. Piter Rasiman is responsible for finding shares to buy and parties who will carry out sales transactions. Joko Hartono Tirto uses two schemes to provide transaction instructions to Investment Managers. Based on this scheme, Moudy Mangkey, on the instructions of Joko Hartono Tirto, gave instructions to the Investment Manager of PT. SINARMAS ASSET MANAGEMENT through Agustin Widyastuti from PT. AJS and previously determined securities parties, including Trimegah Sekuritas and Mirae. These instructions were later confirmed by Alex Setiawan, Main Director of PT. SINARMAS ASSET MANAGEMENT (PT. SAM), to AJS, especially Agustin Widyastuti. After confirmation, PT. SINARMAS ASSET MANAGEMENT (PT. SAM) through Alex Setyawan, carried out fundamental and technical analysis to execute these instructions until settlement at the agreed custodian bank, namely Bank CIMB Niaga.

Heru Hidayat and Benny Tjokrosaputro managed and controlled the management transactions of the Simas Stock Ultima (SSU) Mutual Fund through Joko Hartono Tirto with the intention of purchasing their non-liquid shares and making them the underlying in the mutual fund portfolio. As a result, the shares purchased as the underlying Simas Stock Ultima (SSU) Mutual Fund have high risk or low liquidity so they cannot provide profits and do not meet liquidity needs to support PT company operations. A.J.S. Thus, the impact of this action resulted

in financial losses to state entities, namely PT. AJS, with a minimum amount of IDR 77,000,000,000.00 or more, as disclosed in the Investigative Audit Result Report regarding the Calculation of State Losses for Financial Management and Investment Funds at PT Asuransi Jiwasraya (Persero) for the period 2008 to 2018, with reference number 06/LHP/XXI/03/2020, dated March 9 2020, issued by the Indonesian Financial Audit Agency (BPK RI)

Based on this legal evidence, the judge believes that in managing PT AJS's investments, the defendant PT. SINARMAS ASSET MANAGEMENT has carried out actions that are contrary to the law. The Supreme Court judge then handed down actions in accordance with his capacity as *judex juris* and in accordance with the applicable laws and regulations. "They are not allowed to sentence beyond what laws have formulated".<sup>52</sup> This action violates the rules stipulated in Article 27 of Law Number 8 of 1995 concerning Capital Markets, Article 2, Article 18, Article 19 sub a and b, Article 20 sub b numbers 1 and 2, Article 22 of Financial Services Authority Regulation Number 43/POJK.04/2015 concerning Investment Manager Code of Conduct, and Article 2 of the Financial Services Authority Regulation Number 23/POJK.04/2016 concerning Mutual Funds in the Form of Collective Investment Contracts. As a result, this unlawful action led to the Defendant PT's efforts. SINARMAS ASSET MANAGEMENT to enrich yourself. The company received a commission in the form of management fees amounting to IDR 4,272,413,804.00, part of which was deposited back into the state treasury as PPh Tax amounting to IDR 1,068,103,451.00 and levies from the Financial Services Authority

---

<sup>52</sup> A Zakaria, "Criminal Law Enforcement of Indonesian Commerce Act Number 7 the Year 2014 for Corporation Perpetrators: Why It Will Be Difficult," *Brawijaya Law Journal* (pdfs.semanticscholar.org, 2019), <https://pdfs.semanticscholar.org/37ea/e14dae43420f161ee66b5d47a9df43d8aec0.pdf>.

amounting to IDR 143,014,507.00. The total management fees received by the Defendant and benefiting the Defendant were IDR 3,061,295,846.00, which were mixed with company funds and used for operational needs such as paying employee salaries, building rental, transportation and other office needs.

Because the Defendant was proven to have received management fees amounting to IDR 3,061,295,846.00 and had deposited the same amount to the Attorney General's Office on March 9, 2020, the money was considered a compensation payment. Therefore, the actions carried out by the Defendant were in accordance with the provisions regulated in Article 2 Paragraph (1) relating to Article 20 and Article 18 Paragraph (1), Paragraph (2), and Paragraph (3) of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes which has undergone changes as regulated in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, as explained in the First Indictment. Thus, the Defendant was found guilty and sentenced.

The decision of the Supreme Court *aquo* adjudicated the ruling which reads:

1. "Declaring that the Defendant PT. SINARMAS ASSET MANAGEMENT has not been legally and convincingly proven guilty of committing the crime of money laundering as stated in the second indictment of the Primair and the second indictment of the Public Prosecutor's Subsidiary;"
2. "Freed the Defendant PT. SINARMAS ASSET MANAGEMENT from the Second Indictment of the Primair and the Second Indictment of the Public Prosecutor's Subsidiary;"
3. "Declaring that the Defendant PT. SINARMAS ASSET MANAGEMENT has been legally and convincingly proven guilty of committing the crime of "Corruption" as in the First Indictment of the Primary Public Prosecutor;"

4. "Imposing a crime to the Defendant PT. SINARMAS ASSET MANAGEMENT, therefore, with a fine of Rp. 1,000,000,000.00 (one billion rupiah), provided that if the fine is not paid no later than 1 (one) month after the court decision becomes legally binding, then the assets will be confiscated by prosecutor and auctioned to cover the fine and the 1 (one) month period can be extended for 1 (one) month only for strong reasons;"
5. "Determine evidence in the form of:
  - Which was confiscated in the PT case. Sinarmas Asset Management Serial Number 1, namely 1 (one) copy of the Financial Services Authority Letter Number: 137/D.04/2016 dated March 31 2016 concerning Effective Notification of Mutual Fund Registration Statements in the Form of Simas Stock Ultima Mutual Fund Collective Investment Contract up to Serial Number 61, namely the suspension data of the IDX Transaction Supervision Division on the securities being transacted; Everything remains attached to the case file;"
  - "The evidence was used in another case on behalf of the Defendant DR. Hendrisman Rahim;"
  - "Cash amounting to IDR 488,759,080.00 (four hundred eighty eight million seven hundred fifty nine thousand eighty rupiah) with proof of 1 (one) Bank Mandiri transfer receipt to the AGO account with Virtual Account: 8830641934420203 transfer date March 9 2020; Returned to the rightful person, namely HERMAWAN HOSEIN"
  - "Cash amounting to IDR 3,061,295,846.00 (three billion sixty one million two hundred ninety five thousand eight hundred and forty six rupiah) with proof of 1 (one) Bank Mandiri transfer proof number: 10304 1030452 to the Attorney General's account with Virtual Account: 8830641934420204 transfer date March

9 2020; Compensated to pay compensation to the Defendant PT. SINARMAS ASSET MANAGEMENT”

- “Confiscation of evidence from PT. Bank CIMB Niaga, Tbk”
6. "Charges the Defendant to pay court costs at the cassation level of IDR 2,500.00 (two thousand five hundred rupiah)."

Based on the corporate criminal liability model, it can be categorized in the *aquo decision* as the corporation that acts as the creator and is also responsible, not the corporation that acts and its management is responsible, or the corporate management as the creator and also the one who has the responsibility. This can be seen from the sound of the decision which clearly states that PT. SAM is legally and convincingly guilty of committing the crime of "corruption" and is sentenced to a fine of IDR 1,000,000,000.00 (one billion rupiah), if the fine is not paid within a maximum of 1 (one) month after the court decision which has entered into force the law remains, then the prosecutor's property will be confiscated and auctioned off to pay the fine. Extension of the payment period for 1 (one) month can only be done if there is a strong reason.

Payment of replacement money generally actually has the aim of providing a deterrent effect, this is in accordance with "The use of substitute money as a form of punishment to restore state losses and deter future offenses faces execution challenges. Despite its intent to serve as a deterrent, its effectiveness is hindered by obstacles. Many defendants are unwilling to voluntarily transfer money directly, resulting in prosecutors having to resort to confiscating the defendant's assets. However, this poses another challenge as prosecutors often struggle to trace and seize these assets. Consequently, even when assets are identified, they often only cover a small portion of the total

substitute amount”.<sup>53</sup> What is clear is that this effort has the aim of returning state losses either by transfer or confiscation. In fact, PT SAM has made efforts as a form of good faith to provide compensation money to the prosecutor's office for corruption cases involving it.

Differences in the application of law by judges are normal and commonplace, because law is art of interpretation as long as it is with a noble aim, namely the presence of certainty and justice. This is in accordance with the view "In the practical realm, judges possess the authority to exercise their discretion and interpret the implementation of corporate criminal liability in cases of corruption. This implies that there are variations in the interpretation of the law among judges. The discrepancy extends to handling prosecutions and dismissing corporations without naming them as defendants. Discrepancies have surfaced between district courts and higher courts, as well as between lower courts and the supreme court. Even within the Supreme Court, conflicting interpretations among justices have emerged. The challenge posed by these conflicting interpretations among judges underscores the necessity of finding solutions to establish a cohesive application of the law in pursuit of justice with legal certainty”.<sup>54</sup> Which basically states that in practice judges often have different views in interpreting the application of the law, this is a common occurrence because of corporate criminal liability in corruption, this is often a real difference between decisions in district courts and high courts, also different between high courts and Supreme Court.

---

<sup>53</sup> A M Sofyan, "Corporate Prosecution in Criminal Acts of Corruption: Opportunity and Challenge," *Mulawarman Law Review*, 2019, <https://e-journal.fh.unmul.ac.id/index.php/mulrev/article/view/67>.

<sup>54</sup> B Suhariyanto, "Contradiction Over the Application of Corporate Liability in Corruption Court Decisions in Indonesia," *Indonesia Law Review*, 2023, <https://scholarhub.ui.ac.id/ilrev/vol13/iss1/8/>.

In the theoretical approach to criminal responsibility, one of them is identification (direct corporate criminal liability) or the doctrine of direct criminal liability.<sup>55</sup> The doctrine of identification is different from the doctrine strict liability and vicarious liability with the difference being in the interpretation mens rea her “The understanding of corporate criminal liability using the identification doctrine differs significantly from vicarious liability and strict liability doctrines. This is because the identification doctrine does not disregard the principle of "mens rea", whereas in vicarious liability and strict liability doctrines, it is assumed that "mens rea" is not required or the principle of "mens rea" does not apply absolutely”.<sup>56</sup> For The correct analysis in drawing conclusions is the use of the theory of criminal responsibility using the identification doctrine, this is reflected in Alex Setyawan as Director of PT. SAM was also involved in the process of establishing an agreement between PT AJS and PT. SAM and Alex also agreed to continue the relationship between the two companies. Therefore, Alex, who is actually the highest leader in PT. Sam or referred to as senior officer has been identified as a person who can represent PT. SAM in its capacity is responsible for criminal acts committed by corporations.

## V. Conclusion

Criminal liability does not only apply to individuals, but also to corporations. Law Number 1 of 2023 concerning the Criminal Code (KUHP Nusantara) regulates criminal liability in general and specifically for corporations. There are several theories that explain how corporate criminal liability can be applied, including the Legal Fiction

---

<sup>55</sup> Barda Nawawi Arief, *Kapita Selektta Hukum Pidana* (Bandung: PT. Citra Aditya Bakti, 2003). hlm 233-238.

<sup>56</sup> Muladi dan Priyatno, “Pertanggungjawaban korporasi dalam hukum pidana.” Hlm 93-94.

theory, Ultra Vires Doctrine, Successive Liability Doctrine, Delegation Liability Doctrine, Strict Liability Doctrine, Identification Doctrine, and Vicarious Liability. Article 20 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes (UU PTPK) regulates corporate criminal liability, which can be imposed on corporations or their management. In the Indonesian Criminal Code, there are Articles 119 and 120 which regulate the basic and additional penalties that can be given to corporations, such as payment of compensation, reparation for the consequences of criminal acts, and so on.

In the case of PT. Sinarmas Asset Management, corporate criminal liability is reflected through three models explained by Muladi, namely:

1. As corporate agents: Management is responsible for corporate actions because they hold a dual role as decision makers and implementers.
2. Corporation as a separate legal entity: The corporation acts through its agents, namely administrators, who are responsible for the implementation of actions.
3. Strict separation between corporate assets and individual ownership: PT. Sinarmas Asset Management, as a legal entity, separates its legal identity from other individuals or entities, and its management acts in accordance with corporate interests.

The Jakarta High Court initially decided to acquit PT. Sinarmas Asset Management from corruption charges based on the consideration that the company has followed applicable regulations. However, the Supreme Court had a different view, stating that PT. Sinarmas Asset Management was involved in acts of corruption due to unauthorized fund management. In this case, the identification doctrine in the theory of corporate criminal responsibility becomes relevant, where Alex Setyawan Widjaya Kusuma, as Director of PT.

SAM, identified as a person who can represent PT. SAM in carrying out actions that are contrary to the law. Therefore, PT. SAM was found guilty and sentenced. From a legal perspective, differences in interpretation between high courts and the Supreme Court are common, and the application of the theory of corporate criminal responsibility is important to ensure fairness and accountability in law enforcement.

## VI. References

- Abidin, Zainal. Bunga Rampai Hukum Pidana. Pradnya Paramita. Jakarta: Pradnya Paramita, 1983.
- Ali, Chaidir. Badan Hukum. Bandung: Alumni, 1999.
- Ali, M. "Menolak Tindak Pidana Pasar Modal Dalam Perkara PT. Asuransi Jiwasraya Sebagai Korupsi." *Jurnal Ius Constituendum*. pdfs.semanticscholar.org, 2022.  
<https://pdfs.semanticscholar.org/9e04/c135b655da742504ebd31dcc92f6b1427df2.pdf>.
- Amelia, H, R Sukma, T Arethusa, dan ... "Effectiveness of Law Enforcement against Corporations as Perpetrators of Corruption in Indonesia." *History of ...*, 2023.  
<https://historymedjournal.com/submissions/index.php/hom/article/view/280>.
- Amrani, Hanafi. "Reformasi Sistem Pertanggungjawaban Pidana." Islamic University of Indonesia, 1999.
- Andi Hamzah. Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional. Jakarta: Rajawali Pers, 2012.
- at-Tirmidzi, Muhammad bin Isa. "Hadist Riwayat Sunan at-Tirmidzi Nomor 1343." *Ilmu Islam: Portal Belajar Agama Islam*, 2015.  
<https://ilmuislam.id/hadits/perawi/9/tirmidzi?hal=112>.

- Atmasasmita, R. "Perbandingan Hukum Pidana." Bandung: Mandar Maju, 2000.
- Azhar, D P, dan A Mahyani. "Pertanggungjawaban Pidana Korporasi Sebagai pelaku Tindak Pidana Penyebaran Data Pribadi." ... *Journal of Law* ..., 2023. <http://bureaucracy.gapenas-publisher.org/index.php/home/article/view/200>.
- Baihaki, R. "Application of Articles of Inclusion in Corruption Crimes Performed by Corporations and Management." *The 4th Legal Internasional Conference and Studies*, n.d. <https://jurnal.unissula.ac.id/index.php/lics4/article/view/20806>.
- Barda Nawawi Arief. *Kapita Selekta Hukum Pidana*. Bandung: PT. Citra Aditya Bakti, 2003.
- Dicky, J H. "Sejarah Pertanggungjawaban Pidana Beneficial Owner Di Indonesia." *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, 2020. <https://ejournal.mandalanursa.org/index.php/JISIP/article/view/1419>.
- Farid, Z A. "Hukum Pidana I, Sinar Grafika." Jakarta, 2007.
- Fastercapital. "Successive Liability: When Joint and Several Liability Extends Over Time." Fastercapital, 2024. <https://fastercapital.com/content/Successive-Liability--When-Joint-and-Several-Liability-Extends-Over-Time.html>.
- H. Setiyono. *Kejahatan Korporasi: Analisis Viktimologis Dan Pertanggungjawaban Korporasi Dalam Hukum Pidana Indonesia*. Malang: Averros Press, 2002.
- Hardinata, P, K Kristanto, dan ... "An Ideal Model For Recovering National Financial Losses From Corporate Corruption Crimes With Legal Insurance." ... *Proceeding On Religion* ..., 2022. <https://prosiding.iahntp.ac.id/index.php/internasional-seminar/article/view/254>.
- Hatta, M. "Kedudukan Hukum Whistle-Blower Dalam Penanggulangan

- Tindak Pidana Korupsi di Indonesia.” *Cendekia: Jurnal Hukum, Sosial dan Humaniora*, 2024.  
<https://journal.lps2h.com/cendekia/article/view/74>.
- Huda, M. “LEGAL POLITICS OF CORPORATE CRIME IN INDONESIA.” *IBLAM LAW REVIEW*, 2021.  
<https://ejurnal.iblam.ac.id/IRL/index.php/ILR/article/view/16>.
- Ibrahim, Jhony. *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Banyumedia Publishing, 2007.
- Kholiq, A, dan G Gunarto. “Concept of criminal law on corruption of corporate criminal liability system based on justice value.” *Jurnal Daulat Hukum*, 2021.  
<https://jurnal.unissula.ac.id/index.php/RH/article/view/14205>.
- Kristina, M. “Tipologi Penindakan Kejahatan Korporasi Dalam Korupsi Dana Bantuan Pandemi Covid-19.” *Jurnal Yustika: Media Hukum dan Keadilan*, 2021.  
<http://repository.ubaya.ac.id/40829/>.
- Lubis, M R, P S Putra, dan Y M Saragih. “Corporate criminal liability for criminal acts of corruption.” *JPH. lp2m.umnaw.ac.id*, 2021.  
[https://lp2m.umnaw.ac.id/file\\_data/artikel/9](https://lp2m.umnaw.ac.id/file_data/artikel/9).  
rdwn  
CORPORATE CRIMINAL LIABILITY FOR CRIMINAL ACTS OF CORRUPTION.pdf.
- Mamduh, M. “Kedudukan Dan Pertanggung Jawaban Pidana BUMN Sebagai Korporasi Terhadap Kerugian Negara.” *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, 2022.  
<https://ejournal.mandalanursa.org/index.php/JISIP/article/view/3282>.
- Manab, A, Y A T Ohoiwutun, dan ... “Criminal Responsibilities Or Political Partners As Corporations In Corruption Criminal Action And Money Laundering Criminal Acts.” ... : *Jurnal Publikasi Ilmu* ..., 2023.

- <https://journal.widyakarya.ac.id/index.php/Deposisi-widyakarya/article/view/1059>.
- Marzuki, M. *Penelitian Hukum*. Surabaya: Universitas Airlangga, 2010.
- Muhammad Nur Ja'far. "PERBANDINGAN PERTANGGUNGJAWABAN PIDANA KORPORASI TERHADAP TINDAK PIDANA PENCUCIAN UANG DENGAN PREDICATE CRIME KORUPSI DI INDONESIA DAN MALAYSIA." Universitas Islam Malang, 2024. [https://repository.unisma.ac.id/bitstream/handle/123456789/9118/S1\\_FH\\_22001021082\\_MUHAMMAD NUR JA%27FAR.pdf?sequence=2&isAllowed=y](https://repository.unisma.ac.id/bitstream/handle/123456789/9118/S1_FH_22001021082_MUHAMMAD_NUR_JA%27FAR.pdf?sequence=2&isAllowed=y).
- Muladi, B N A. "Penerapan Pertanggungjawaban Korporasi Dalam Hukum Pidana." *Bahan Kuliah Kejahatan Korporasi ...*, 2007.
- Muladi dan Diah Sulistyani. *Pertanggungjawaban pidana korporasi (Corporate criminal responsibility)*. 2 ed. Bandung: Alumni, 2015.
- [https://books.google.com/books?hl=en&lr=&id=KKvEEAAAQBAJ&oi=fnd&pg=PP1&dq=muladi+pertanggungjawaban+pidana+korporasi&ots=bh6rXCOR9k&sig=\\_a\\_TPFD5oA0Vcaxkj3WTcNoJhx8](https://books.google.com/books?hl=en&lr=&id=KKvEEAAAQBAJ&oi=fnd&pg=PP1&dq=muladi+pertanggungjawaban+pidana+korporasi&ots=bh6rXCOR9k&sig=_a_TPFD5oA0Vcaxkj3WTcNoJhx8).
- Muladi, dan D Priyatno. "Pertanggungjawaban korporasi dalam hukum pidana." Bandung: Sekolah Tinggi Hukum Bandung, 1991.
- Noerman, C T, dan R D Agustanti. "PERTANGGUNGJAWABAN ARTIFICIAL INTELLIGENCE SEBAGAI SUBJEK HUKUM YANG MELAKUKAN TINDAK PIDANA KORUPSI." *Jurnal Hukum Samudra Keadilan*, 2023. <https://ejurnalunsam.id/index.php/jhsk/article/view/8722>.
- Pangaribuan, T. "Perkembangan Bentuk Pertanggungjawaban Korporasi Dalam Tindak Pidana Korporasi." *Law Review*, 2019. <https://ojs.uph.edu/index.php/LR/article/view/1679>.

- Parameshwara, P, dan K Riza. "Tindak Pidana Korupsi dalam Konteks Pertanggungjawaban Pidana Korporasi." *Jurnal Studi Multidisiplin Ilmu*, 2023.  
<http://penerbitgoodwood.com/index.php/Jasmi/article/view/1973>.
- PRATAMA, ILHAM NUR. "PERBANDINGAN HUKUM METODE DEFERRED PROSECUTION AGREEMENT (DPA) DALAM MENGEMBALIKAN KERUGIAN KEUANGAN NEGARA AKIBAT TINDAK PIDANA KORUPSI." Universitas Lampung, 2022.
- Rahayu, I. "Kejahatan Korporasi Terhadap Masyarakat dan Lingkungan dalam Perspektif Etika Bisnis." *Das Sollen: Jurnal Kajian Kontemporer Hukum Dan ...*, 2023.  
<https://journal.forikami.com/index.php/dassollen/article/view/388>.
- Ruhiyat, S M, I Ismansyah, dan N Mulyati. "Application of Republic of Indonesia Supreme Court Regulation No. 13 of 2016 Concerning Procedures for Subscribing to Criminal Cases by Corporations in Corporate Criminal Responsibility in Indonesia Based ...." *International Journal of Multicultural ...*, 2019.  
<https://ijmmu.com/index.php/ijmmu/article/view/725>.
- . "THE ROLE OF GENERAL ATTORNEY IN ERADICATION OF CORRUPTION BY CORPORATION." *Diponegoro Law Review*, n.d.  
<https://ejournal.undip.ac.id/index.php/dlr/article/view/22242>.
- Setyowati, S. "Application of the Business Judgment Rule Doctrine in Corporate Criminal Liability in Corruption Crimes by State-Owned Enterprises." *JHSS (JOURNAL OF HUMANITIES AND SOCIAL ...)*, 2023.  
<https://journal.unpak.ac.id/index.php/jhss/article/view/8641>.

- Sinaga, H D P, A Wirawan, dan ... "Recontruction of corporate criminal liability in Indonesia." *International Journal of ...* researchgate.net, 2020.  
[https://www.researchgate.net/profile/Henry-Sinaga/publication/341830268\\_Reconstruction\\_of\\_Corporate\\_Criminal\\_Liability\\_in\\_Indonesia/links/5ed67b15458515294528d97a/Reconstruction-of-Corporate-Criminal-Liability-in-Indonesia.pdf](https://www.researchgate.net/profile/Henry-Sinaga/publication/341830268_Reconstruction_of_Corporate_Criminal_Liability_in_Indonesia/links/5ed67b15458515294528d97a/Reconstruction-of-Corporate-Criminal-Liability-in-Indonesia.pdf).
- Sintung, L L, S Haling, dan K Syah. "Corporate Legal Liability as a Criminal Act of Corruption." ... *Research Journal in Legal ...*, 2022.  
<https://jurnal.unismuhpalu.ac.id/index.php/IRJILS/article/view/2752>.
- Siregar, V A, I M Adnan, W Wandi, dan ... "FENOMENA TINDAK PIDANA KORUPSI DAN PERTANGGUNG JAWABAN PIDANA DI WILAYAH HUKUM KABUPATEN INDRAGIRI HILIR." *J-ABDI: Jurnal ...*, 2022.  
<https://www.bajangjournal.com/index.php/J-ABDI/article/view/2783>.
- Soekanto, S. Faktor-faktor yang mempengaruhi penegakan hukum. *senayan.iain-palangkaraya.ac.id*, 2004. [http://senayan.iain-palangkaraya.ac.id/index.php?p=show\\_detail&id=1427&keywords=](http://senayan.iain-palangkaraya.ac.id/index.php?p=show_detail&id=1427&keywords=).
- . Pengantar penelitian hukum. UI Press. Jakarta: UI Press, 1989.
- Sofyan, A M. "Corporate Prosecution in Criminal Acts of Corruption: Opportunity and Challenge." *Mulawarman Law Review*, 2019.  
<https://e-journal.fh.unmul.ac.id/index.php/mulrev/article/view/67>.
- Suardiana, I N, AAGP Arjawa, dan ... "PERTANGGUNGJAWABAN PIDANA MAFIA TANAH DALAM TINDAK PIDANA

- KORUPSI DI BALI.” Nusantara Hasana ..., 2023.  
<https://www.nusantarahasanajournal.com/index.php/nhj/article/view/1005>.
- Subiantoro, W D, dan H Soeskandi. “Kebijakan Kejaksaan Agung RI Tentang Penghapusan Tindak Pidana Korupsi Di Bawah 50 Juta Ditinjau Dari Restorative Justice.” ... Journal of Law ..., 2022.  
<http://bureaucracy.gapenas-publisher.org/index.php/home/article/view/147>.
- Sudjiarto, T. “PERTANGGUNGJAWABAN PIDANA PELANGGARAN HAK CIPTA LAGU DAN MUSIK TERHADAP SUBJEK HUKUM TINDAK PIDANA KORPORASI.” Honeste Vivere, 2022.  
<https://www.ejournal.fhuki.id/index.php/hv/article/view/132>.
- Suhariyanto, B. “Contradiction Over the Application of Corporate Liability in Corruption Court Decisions in Indonesia.” Indonesia Law Review, 2023.  
<https://scholarhub.ui.ac.id/ilrev/vol13/iss1/8/>.
- Suluh, B, F Farhana, dan R L Sinaulan. “CRIMINAL LIABILITY OF THE COMPANY’S LEGAL ENTITY IN THE CRIME OF MONEY LAUNDRING.” IBLAM LAW REVIEW, 2022.  
<https://ejurnal.iblam.ac.id/IRL/index.php/ILR/article/view/61>.
- Surasa, A. “PERTANGGUNGJAWABAN PIDANA KORPORASI DALAM TINDAK PIDANA PENCUCIAN UANG PERSPEKTIF HUKUM ISLAM.” Tatar Pasundan: Jurnal Diklat Keagamaan, 2020.  
<https://bdkbandung.id/tatarpasundan/jurnal/index.php/tp/article/view/38>.
- Taufiq, A, dan S N Haribowo. “Corporate Criminal Responsibility for Corruption Crimes in Perspective Perma No. 13 of 2016.” International Journal of Health ..., 2021.

<https://jurnal.unismuhpalu.ac.id/index.php/IJHESS/article/view/4015>.

Zakaria, A. "Criminal Law Enforcement of Indonesian Commerce Act Number 7 the Year 2014 for Corporation Perpetrators: Why It Will Be Difficult." *Brawijaya Law Journal*. pdfs.semanticscholar.org, 2019. <https://pdfs.semanticscholar.org/37ea/e14dae43420f161ee66b5d47a9df43d8aec0.pdf>.

\*\*\*

### **DECLARATION OF CONFLICTING INTERESTS**

The author states that there is no conflict of interest in publishing the article entitled "Corporate Criminal Accountability of Corruption Crime Perpetrators Pt. Sinarmas Asset Management (Study of Supreme Court Decision Number 1228 K/Pid.Sus/2023)".

### **FUNDING INFORMATION**

In writing this article, the author did not use any funding sources.

### **ACKNOWLEDGMENT**

In writing this article, I would like to express my deepest gratitude to my parents for their unwavering support, encouragement, and boundless love. I also want to extend my thanks to the lecturers at the Faculty of Law, Universitas Negeri Semarang, for their knowledge and guidance throughout. Thank you for all the contributions and assistance provided. May I continue to develop the knowledge and skills acquired to become better in the future.

Errare humanum est, trupe in  
errore perseverare