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Collective Liability in Corporate Crimes: A Conceptual Framework of Criminal Law

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ABSTRAK

Studi ini mengkaji konsep tanggung jawab kolektif dalam kejahatan korporasi melalui analisis hukum komprehensif yang memadukan pendekatan konseptual dan metode yuridis-normatif dalam kerangka penelitian kepustakaan. Tujuan penelitian ini adalah membangun model teoritis yang koheren tentang pertanggungjawaban pidana korporasi yang menangkap kompleksitas struktur organisasi modern, proses pengambilan keputusan, dan penyebaran mens rea dalam lingkungan korporasi. Secara konseptual, studi ini menganalisis teori-teori kunci seperti teori identifikasi, teori agregasi, kesalahan korporasi, pertanggungjawaban perwakilan, dan mens rea organisasi untuk menjelaskan bagaimana tindakan kolektif dan budaya korporasi sistemik membentuk pertanggungjawaban. Secara normatif, studi ini mengevaluasi hukum positif Indonesia yang mengatur pertanggungjawaban pidana korporasi, mengidentifikasi celah hukum terkait pertanggungjawaban kolektif, dan mengkaji putusan pengadilan sebagai alat bukti normatif. Analisis komparatif dengan praktik global semakin menyoroti model praktik terbaik yang dapat menjadi dasar reformasi hukum Indonesia. Temuan menunjukkan bahwa kerangka kerja Indonesia saat ini masih terfragmentasi dan tidak memadai untuk mengatasi pelanggaran kolektif dalam korporasi, sehingga membutuhkan model konseptual yang lebih terintegrasi yang menggabungkan elemen struktural, kultural, dan normatif dari perilaku organisasi. Studi ini diakhiri dengan mengusulkan kerangka kerja konseptual untuk memperkuat akuntabilitas pidana korporasi dan memandu pengembangan kebijakan hukum di masa mendatang di Indonesia.

Kata Kunci: Tanggung Jawab Kolektif, Tanggung Jawab Pidana Korporasi, Mens Rea Organisasi, Analisis Hukum Normatif, Kerangka Hukum Konseptual

ABSTRACT

This study examines the concept of collective responsibility in corporate crime through a comprehensive legal analysis that integrates a conceptual approach and a juridical-normative method within a library research framework. The research aims to construct a coherent theoretical model of corporate criminal liability that captures the complexity of modern organizational structures, decision-making processes, and the diffusion of mens rea within corporate environments. Conceptually, this study analyzes key theories such as identification theory, aggregation theory, corporate fault, vicarious liability, and organizational mens rea to explain how collective actions and systemic corporate cultures shape liability. Normatively, the study evaluates Indonesian positive law governing corporate criminal liability, identifies legal gaps related to collective responsibility, and examines court decisions as normative evidence. A comparative analysis with global practices further highlights best-practice models that may inform Indonesia's legal reform. The findings indicate that Indonesia's current framework remains fragmented and insufficient to address collective wrongdoing within corporations, requiring a more integrated conceptual model that combines structural, cultural, and normative elements of organizational behavior. This study concludes by proposing a conceptual framework to strengthen corporate criminal accountability and guide future legal policy development in Indonesia.

Keywords: Collective Responsibility, Corporate Criminal Liability, Organizational Mens Rea, Normative Legal Analysis, Conceptual Legal Framework

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INTRODUCTION

Global economic developments, characterized by the expansion of cross-border businesses and the complexity of modern organizational structures, have led to an increase in the number of systemic,

organized corporate crimes, often with widespread impacts on society. Corporate crimes encompass not only economic and financial violations but also environmental crimes, occupational safety violations, market manipulation, and corruption involving corporations as both perpetrators and beneficiaries. Data from the Global Economic Crime and Fraud Survey released by PwC indicates that 46% of companies worldwide have experienced corporate crime in the past two years, with global losses reaching USD 42 billion annually (Wyatt et al., 2020).

In Indonesia, the Ministry of Environment and Forestry (KLHK) recorded at least 23 major cases of environmental pollution by corporations in the 2018–2023 period, while the Corruption Eradication Commission (KPK) noted that more than 70% of corruption cases involved corporate entities through bribery, gratuity, and money laundering schemes. This fact shows that corporate crime is a criminological and legal phenomenon that cannot be understood solely as individual actions, but as collective actions that arise from organizational processes, corporate culture, and complex decision-making structures (Alcadipani & de Oliveira Medeiros, 2020).

Theoretically, corporate crime poses a fundamental challenge to criminal law because conventional concepts of liability are built on the assumption that perpetrators of criminal acts are individuals with personal culpability. However, in the context of modern organizations, criminal acts are often the result of the accumulated decisions of many individuals, systemic faulty business practices, or corporate cultures that encourage misconduct. Theories of corporate criminal liability such as identification theory, vicarious liability, aggregation theory, and organizational mens rea attempt to explain how collective culpability can be attributed to corporations as legal entities (Luna-Pla & Nicolás-Carlock, 2020).

However, various previous studies have confirmed that no single theory can comprehensively describe the causal relationship between organizational structure, corporate culture, and corporate mens rea. For example, Wells demonstrated that identification theory fails when criminal decisions are not made by a single authority figure but are instead the result of many individuals working in a fragmented manner. Conversely, aggregation theory has been criticized for overly imposing a collective mens rea construct that does not fully reflect the psychological reality of organizational actors. This gap is the primary reason for the need to develop a new conceptual framework that more fully and flexibly explains collective responsibility (Scheidler & Edinger-Schons, 2020).

In the Indonesian context, the challenges are further complicated by the lack of comprehensive legal frameworks for collective liability in corporate crimes. Although several regulations, such as the Environmental Law, the Corruption Law, the Consumer Protection Law, and the Traffic Law, have included corporations as subjects of criminal offenses, collective liability mechanisms remain inconsistent and tend to be sector-specific. Court decisions also demonstrate varying approaches, as seen in Supreme Court Decisions No. 1794 K/Pid.Sus/2014 (the PT Kallista Alam case) and No. 1261 K/Pid.Sus/2015

(a case of corruption by a business entity). This demonstrates a gap in reasoning between theories of corporate criminal liability and their application in national legal practice (Bryan, 2022).

Several previous studies conducted by Situmorang, Rahardjo, and Ramadhan highlighted weaknesses in Indonesia's positive legal regulations, such as the absence of corporate mens rea standards, unclear boundaries of directors' and shareholders' responsibilities, and minimal judicial guidelines regarding collective liability. However, these studies still focused on sectoral normative aspects and failed to develop a conceptual model that holistically integrates conceptual and normative-applicative aspects. This research gap presents an important opportunity for this study to fill the scientific void by formulating a comprehensive conceptual framework for criminal law (de Rancourt-Raymond & Smaili, 2023).

This research employs a qualitative method with library research based on conceptual and juridical-normative approaches. The conceptual approach is used to examine fundamental theories such as corporate criminal liability, collective responsibility, corporate fault, and various theoretical models of corporate criminal liability. Meanwhile, the juridical-normative approach is used to analyze national regulations, court decisions, and legal comparisons with other jurisdictions such as the United States, the United Kingdom, and Australia, which have developed more established models of collective liability. The combination of these two approaches allows the research to produce a conceptual framework that is not only theoretically sound but also practically relevant for legal reform in Indonesia (Gallego-Alvarez et al., 2020).

This research has several main objectives, namely: (1) identifying and developing the concept of collective responsibility in corporate crimes; (2) evaluating the relevance of theories of corporate criminal responsibility in the Indonesian context; (3) analyzing the weaknesses and legal gaps related to collective responsibility in national regulations; and (4) formulating a conceptual framework of criminal law that can be used as a foundation for reforming Indonesian criminal law in the future. Academically, this research provides benefits in the form of strengthening the criminal law literature that focuses on corporate crimes through a synthesis of theories and in-depth normative analysis. Practically, the results of this research are expected to provide recommendations for legislators, law enforcement officials, and judicial institutions in formulating more effective policies to enforce collective responsibility in corporate crime cases (Ciocchini & Greener, 2021).

METHODS

This research uses library research with a qualitative approach, without experiments or field observations, but rather relies on an in-depth review of criminal law literature and various theoretical studies on corporations. A conceptual approach is applied to examine a number of important theories such as corporate criminal liability, collective responsibility, corporate fault, vicarious liability, identification theory, aggregation theory, and organizational mens rea, so that researchers can build a new

theoretical understanding of the relationship between organizational structure, corporate culture, and the formation of collective mens rea. Meanwhile, a juridical-normative approach is used to examine the provisions of Indonesian positive law that regulate corporate criminal liability, including regulations in the Criminal Code and the Draft Criminal Code, Law No. 32/2009 concerning Environmental Protection and Management, Law No. 31/1999 in conjunction with Law No. 20/2001 concerning the Eradication of Corruption, Law No. 8/2010 concerning Money Laundering, and a number of Supreme Court decisions such as Decision No. 1794 K/Pid.Sus/2014 and Decision No. 1261 K/Pid.Sus/2015. This normative approach is also complemented by comparative studies of other countries' legal systems, such as the United Kingdom through the UKBA 2010, the United States through the DOJ's corporate prosecution guidelines, and Australia through the Criminal Code Act 1995, to identify best practices in implementing the concept of collective responsibility (Salahdine et al., 2021).

The data sources in this study cover three main groups: primary, secondary, and tertiary legal materials. Primary legal materials include various national laws and regulations relating to corporate liability, relevant court decisions, and international documents and global principles such as the OECD Guidelines for Multinational Enterprises. Secondary legal materials consist of academic literature in the form of books on criminal law and corporate law, scholarly articles from reputable journals, such as the Journal of Corporate Law Studies, the Yale Law Journal, the Harvard Law Review, and the Indonesia Law Review, as well as investigative reports from international institutions such as PwC, UNODC, and Transparency International Indonesia. Tertiary legal materials include legal encyclopedias and dictionaries, decision indexes, official government statistics, and various judicial manuals, prosecution guidelines, and legal practice documents that help provide additional context for the analysis (Chen et al., 2021).

Data collection in this study was conducted entirely through document searches, namely by systematically reviewing various academic literature, regulatory databases, journal repositories, and court decisions. The search process used a systematic literature review method to select, analyze, and synthesize relevant sources through databases such as Google Scholar, HeinOnline, JSTOR, Scopus, ProQuest, and DOAJ. Furthermore, the study also employed normative comparative techniques to collect and compare collective responsibility models from various international jurisdictions with the Indonesian legal framework. All data obtained was then processed using analytical recording techniques to sort out the theories, legal concepts, basic principles, and positive norms that emerged from each study material (Payne et al., 2020).

The data analysis in this study was conducted qualitatively through several stages. First, a conceptual analysis was used to describe and compare various theories of corporate criminal liability, such as identification theory, corporate fault, vicarious liability, and organizational mens rea, in order to identify the interconnectedness, differences, and scope for constructing new concepts regarding

collective liability. Second, a juridical-normative analysis was conducted by interpreting legal provisions through grammatical, systematic, historical, and teleological approaches, as well as by examining the ratio legis to assess the adequacy of existing regulations. Next, a comparative analysis was used to compare corporate liability models from various countries to identify best practices relevant to the development of Indonesian law. Finally, an analysis of court decisions was conducted to understand how judges apply the concept of corporate liability in actual legal practice (Mohammed et al., 2021).

The validity of the data in this study was maintained through several steps, namely by triangulating sources by comparing information obtained from books, journals, regulations, and court decisions to ensure consistency. Furthermore, theoretical triangulation was applied by utilizing various theories of corporate responsibility and the concept of mens rea as a comparative tool to test the accuracy of the analysis. A critical evaluation of the literature was also conducted using critical appraisal tools to assess the scientific quality of each source used. Finally, a conceptual peer debriefing was conducted, a process of cross-checking concepts with global literature references to ensure the findings have a strong academic foundation (Miller et al., 2021).

This research focuses on two main areas. In the conceptual realm, the study explores various theories of corporate criminal liability, examines the idea of collective liability in modern organizations, and examines the relationship between corporate structure, corporate culture, and the formation of corporate mens rea. Furthermore, the study examines several theoretical models, such as identification theory, aggregation theory, corporate fault, vicarious liability, and organizational mens rea, and discusses the limits and challenges in establishing corporations as perpetrators of criminal acts. In the normative-applicative realm, the study assesses Indonesia's positive legal regulations regarding corporate liability, identifies weaknesses and gaps in regulations related to collective liability, and analyzes court decisions as normative material. This study also involves comparisons with models applied in various jurisdictions to identify best practices and ultimately develop a conceptual framework for criminal law that can support the legal reform agenda in Indonesia (Griffin et al., 2022).

FINDINGS AND DISCUSSION

Tabel 1. Conceptual and Normative-Applicative Findings

No	Conceptual and Normative-Applicative Findings	Research Findings	Supporting Data / Information
1	Theory of Corporate Criminal Liability	It was found that the theory of corporate criminal liability developed from the classical doctrine of individuals to the modern doctrine that recognizes corporations as fault-forming entities.	Literature: Wells (2014), Clarkson (2018). Modern models adopted in the UK (Corporate Manslaughter Act 2007) and Australia (Criminal Code 1995).

No	Conceptual and Normative-Applicative Findings	Research Findings	Supporting Data / Information
2	The Concept of Collective Accountability in Modern Organizations	The concept of collective responsibility shows that mistakes can be formed from the accumulation of actions of various organizational actors, not just directors or certain individuals.	Fisse & Braithwaite's (1993) theory of collective mens rea and the principles of Australian corporate culture.
3	Relationship between Organizational Structure – Corporate Culture – Corporate Mens Rea	Complex organizational structures, multi-layered chains of command, and permissive corporate cultures play a major role in shaping organizational intent and corporate mens rea.	Case data: BP Texas Refinery Disaster (2005), Volkswagen Emission Scandal (2015), and OECD Study (2022) on corporate culture & crime.
4	Theoretical Model: Identification Theory	Identification theory is considered inadequate for large organizations because it focuses too much on the mistakes of directors.	Academic criticism by Gobert (2008); failed to ensnare large companies as in the case of P&O European Ferries.
5	Theoretical Model: Aggregation Theory	Aggregation theory is better able to explain the formation of collective errors because it collects knowledge from various individuals in the company.	Used in US jurisdictions; this model explains the case of US v. Bank of New England (1987).
6	Theoretical Model: Corporate Fault	This model views the failure of a corporation's internal systems as a form of collective negligence.	This model is applied in the Australian Criminal Code (1995) Article 12.3 regarding corporate fault.
7	Theoretical Model: Vicarious Liability	Vicarious liability is relevant in cases of strict liability, but is weak in proving collective mens rea, making it unsuitable for serious crimes.	Used in the US in environmental and occupational safety cases.
8	Theoretical Model: Organizational Mens Rea	Organizational mens rea is formed from internal systems, policy patterns, risk tolerance, and corporate culture.	Supported by Fisse & Braithwaite's theory, applied in the UK Corporate Manslaughter Act 2007.
9	The Limits and Challenges of Placing Corporations as Subjects of Criminal Acts	The main challenges: proving corporate intent, fragmentation of structures, difficulty attributing fault, and minimal recognition of Indonesian legal norms.	UNODC study (2020); KPK report; analysis of environmental PPNS law enforcement practices.
10	Corporate Accountability Regulations in Indonesia	Many sectoral laws provide for this, but there is no unified standard for collective responsibility. The new Criminal Code remains conservative.	Environmental Law, Corruption Law, TPPU Law, PP MA 13/2016 concerning Procedures for Handling Corporate Cases.
11	Legal Weaknesses and Voids	There are no explicit provisions regarding collective mens rea and organizational fault. The Draft	Comparative analysis shows a lag compared to Australia and the UK.

No	Conceptual and Normative-Applicative Findings	Research Findings	Supporting Data / Information
		Criminal Code has not adopted modern theories.	
12	Analysis of Court Decisions	Courts often prosecute corporations through the individual mistakes of managers, not systemic or collective mistakes.	Supreme Court Decision 1794 K/Pid.Sus/2014 (Corporation as perpetrator); Supreme Court Decision 1261 K/Pid.Sus/2015 (PT KAI).
13	International Model Comparison	Developed countries have adopted the concepts of corporate culture, organizational mens rea, and failure to prevent offense. Indonesia has not.	UK Bribery Act 2010, US DOJ Principles, Australian Criminal Code 1995.
14	Conceptual Models that Indonesia Can Adopt	Integrative model: combines corporate culture test, aggregation model, and internal control system (compliance system liability).	Recommended by the OECD (2022), FATF Guidance (2021), and various corporate liability reform studies.

The Theory of Corporate Criminal Liability in the Perspective of Global Literature

A literature review on the theory of corporate criminal liability shows that the development of this concept is inseparable from the transformation of modern business structures. In classical legal thought, corporations were considered incapable of being punished because they lacked physical bodies, wills, or the ability to act like humans. However, this view began to shift when the industrial economic system positioned corporations as key actors with significant influence over society. Studies by various authors such as Wells, Gobert, and Clarkson demonstrated that corporations possess collective decision-making mechanisms, enabling their organizational structure to produce actions with criminal consequences. This development gave rise to basic theories of liability that serve as the foundation for this research (Zhang & Guo, 2022).

Identification theory was one of the early models used to link the actions and intentions of specific individuals within a corporation to the corporation itself. This model assumes that the corporation's will can be identified through its top brass, who serve as its directing mind and will. However, various empirical studies have shown that identification theory is often irrelevant for large corporations with complex bureaucratic structures. In response, aggregation theory was introduced to combine a number of different individual actions or knowledge into a single, unified corporate mens rea. Contemporary literature suggests that this model better reflects the operational realities of large corporations, particularly those with decentralized work systems (Wyrobek, 2020).

As research has progressed, the concepts of corporate fault and organizational mens rea have emerged as more comprehensive models. Various studies in criminal law and corporate criminology have

shown that corporate wrongdoing stems not only from individual malice, but also from internal system failures, weak oversight, or a corporate culture that neglects compliance. This model aligns with modern approaches that view corporations as social organisms with collective behavior. Therefore, this study uses these theories as the basis for analyzing collective responsibility to formulate the most appropriate model for application in the Indonesian legal system (TOMBS, 2020).

The Concept of Collective Accountability in Modern Organizations

The concept of collective responsibility develops from the understanding that a corporation is not simply a collection of individuals, but a structured entity that generates behavior based on internal mechanisms. The literature on organizational sociology and corporate psychology shows that illegal acts often arise not from the decisions of single individuals, but from interactions between parts of a company. Therefore, the concept of collective responsibility places the organization as the primary unit of analysis, rather than the individuals within it. This approach is reinforced by research in institutional economics, which suggests that organizations have incentives, preferences, and action patterns that are shaped by internal policies (Iglesias Pérez et al., 2021).

In the context of criminal law, the notion of collective liability shifts the focus of proof from "individual intent" to "systemic or structural intent." International literature, such as the work of Cressey and Vaughan, documents numerous cases in which corporate crime occurs due to internal systems that encourage performance without regard for compliance. Thus, unlawful acts can occur routinely without a single perpetrator explicitly intending to commit a crime. These findings form the basis for the argument that collective liability is relevant because it captures the root cause of corporate crime: systemic behavior generated by organizational structure and culture (Tombs & Whyte, 2020).

This conceptual study also reveals that collective accountability poses significant challenges, particularly in balancing substantive justice and the public interest. Many researchers have highlighted that prosecuting corporations as entities should not eliminate the accountability of the individuals involved, but should also not hinder the imposition of sanctions on the entities that created the conditions for the crime. This discussion leads to the understanding that the collective model does not replace the individual model, but rather complements it. Thus, collective accountability is the most appropriate approach to describe how corporate crime emerges in the realities of modern organizations (Lynch et al., 2021).

The Relationship between Organizational Structure, Corporate Culture, and Corporate Mens Rea

Organizational studies show that corporate structure significantly influences patterns of behavior and decision-making related to crime risk. Structures that are too hierarchical or decentralized can create coordination gaps, making illegal activities less easily monitored. Furthermore, research by Hirayama and Fleming confirms that reward-punishment systems within organizations often encourage practices that

disregard compliance in order to achieve targets. This structural relationship is a key factor in assessing how corporate mens rea is formed through negligence or failure of oversight (Lynch et al., 2021).

Corporate culture also plays a significant role in shaping collective attitudes toward legal compliance. Corporate culture theory in Australian criminal law asserts that internal culture can create a "climate of wrongdoing" that encourages crime. When a company prioritizes profit without adequate oversight, employee behavior will follow these unwritten norms, making wrongdoing no longer individual but systemic. Comparative literature shows that countries that have adopted this approach are able to prove corporate mens rea by assessing the policies, procedures, and behavior of top management (Pusch & Holtfreter, 2021).

The interrelationship between organizational structure, corporate culture, and corporate mens rea illustrates that corporate wrongdoing is not simply the sum of individual errors. Mens rea can be formed through erroneous policies, weak internal controls, or neglect of legal risks. This approach differs from traditional models that prove the perpetrator's intent through the actions of specific individuals. Therefore, this study asserts that corporate mens rea must be understood as a collective phenomenon produced simultaneously by organizational structure and culture (Boustras & Waring, 2020).

Analysis of Theoretical Models in Corporate Accountability

An analysis of identification theory shows that this model has significant limitations in the context of modern corporations. The theory only assesses the actions of top corporate executives as reflecting the will of the corporation, thus failing to accommodate the reality that business decisions are often dispersed across multiple departments. The literature suggests that identification theory is more relevant for small companies with less complex structures. However, in multinational corporations or corporations with multi-layered management systems, this model fails to capture the full dynamics of corporate crime (Hu et al., 2020).

Aggregation theory offers a more realistic approach by combining knowledge and actions from various parts of a company. This approach has been widely used in corporate fraud cases in the United States, where mens rea is proven through the aggregated behavior of various employees. However, some critics argue that this theory can lead to overcriminalization because it collects partial information without considering the full operational context. To address these shortcomings, the corporate fault and organizational mens rea model was developed by assessing the supervisory system, internal control patterns, and corporate culture (Khan et al., 2023).

Vicarious liability remains a widely used approach, particularly in cases of strict liability. However, many experts believe this approach does not accurately reflect corporate wrongdoing because it bases liability solely on employment relationships without assessing internal systems. Therefore, modern research has shifted to organizational mens rea, which focuses on proving structural failures and

corporate culture. This approach is the most relevant conceptual model for developing the collective accountability framework proposed in this study (Meerts, 2020).

Limits and Challenges in Placing Corporations as Subjects of Criminal Acts

Although many countries have recognized corporations as criminal entities, a number of conceptual challenges remain debated. One key challenge is how to prove mens rea in entities that lack biological consciousness. Contemporary literature attempts to address this issue by shifting the concept of mens rea from the individual to the organizational level, but this approach remains controversial. Furthermore, there are concerns that criminalizing corporations could negatively impact shareholders, employees, and other parties not involved in the crime (Braithwaite, 2020).

The second challenge is determining the most effective and proportionate form of sanctions. Research confirms that large fines are not always effective because they can be diverted to consumers or workers. Therefore, some legal systems introduce alternative sanctions such as compliance orders, company dissolution, or external oversight. However, the effectiveness of these sanctions depends heavily on the ability of state institutions to conduct consistent monitoring, something that is often a challenge in developing countries, including Indonesia (Dodge, 2020).

Another challenge is the issue of evidence, particularly in proving the link between system failures and the commission of crimes. Companies with complex structures can hide or disguise traces of wrongdoing through bureaucratic processes. Therefore, various studies emphasize the need for reform of evidentiary mechanisms and standards for evaluating compliance systems. This research suggests that these challenges must be addressed through an integration of conceptual and normative approaches to formulate a collective accountability framework that truly works in practice (Rashid et al., 2022).

Analysis of Corporate Liability Regulations in Indonesian Positive Law

An analysis of positive law shows that regulations on corporate liability in Indonesia are scattered across various sectoral laws, such as the Environmental Law, the Narcotics Law, the Corruption Law, and the new Criminal Code. However, none of these regulations comprehensively explain how to prove corporate mens rea, especially in the context of collective liability. A literature review reveals that many provisions simply stipulate that corporations are "capable of prosecution" without providing operational guidelines regarding systemic evidentiary mechanisms (Bisschop et al., 2022).

Furthermore, regulatory analysis shows that most laws still prioritize individual liability, with corporations positioned as secondary actors. This contrasts with international developments, which position corporations as the primary subjects of economic crimes. This normative vacuum makes it difficult for law enforcement officials to prosecute large corporations, as there is no standard for determining the relationship between individual actions and corporate wrongdoing. Comparative studies of national cases show a tendency for top management to be more frequently convicted than the corporation as a whole (Sarhan & Gerged, 2023).

The limitations of positive law are further exacerbated when faced with transnational or complex corporate crimes such as money laundering, banking, and environmental crimes. In such cases, individual proof becomes inadequate because the actions are spread across multiple organizational levels. Therefore, this study concludes that the Indonesian legal system needs reform to accommodate a more modern model of collective accountability and address the complexities of contemporary crime (Lynch et al., 2020).

Weaknesses and Legal Vacancies in the Implementation of Collective Responsibility

Literature reviews and normative analyses indicate a number of gaps in regulations regarding collective liability. One of the most significant gaps is the lack of a legal definition of corporate mens rea. Without such a definition, proving corporate wrongdoing relies heavily on the subjective interpretations of law enforcement. This situation creates legal uncertainty and inconsistent decisions (Schoultz & Flyghed, 2021).

Furthermore, there are no procedural guidelines on how to assess failures in a company's internal systems. This makes the corporate culture and organizational mens rea approaches difficult to apply, despite their theoretical relevance. Comparisons with countries such as Australia and the United Kingdom demonstrate that the existence of technical guidelines is a crucial factor in the effectiveness of criminal enforcement against corporations. The absence of such guidelines in Indonesia has resulted in many corporate cases proceeding without punishment for the company as an entity (Chan & Gibbs, 2022).

Another weakness is the lack of provisions regarding non-financial sanctions designed to improve internal corporate systems. The dominant fines in Indonesian law are considered insufficient to deter crime because they are easily transferred to other parties. Therefore, this study emphasizes the need for legal reform to incorporate the concept of structural sanctions such as compliance orders, internal reforms, independent audits, and judicial oversight. These reforms are crucial to effectively address the legal gap regarding collective accountability (Greife & Maume, 2020).

Analysis of Court Decisions as Evidence of Weak Implementation of Collective Responsibility

A literature review of several decisions shows that judges still tend to use an individualistic approach in determining corporate criminal liability. Decisions in environmental cases, for example, often impose criminal penalties on directors or managers, but rarely impose sanctions on corporations as entities. This indicates that judges have not yet internalized the concept of collective liability in judicial practice (Javaid et al., 2020).

Furthermore, most decisions fail to consider a company's internal systems when determining corporate wrongdoing. Global research shows that many corporate crimes occur due to internal oversight failures. Decision analysis also shows that evidence regarding company policies, internal culture, and

supervisory systems is rarely used as a basis for consideration. This indicates a lack of judicial understanding of the concept of corporate fault (Lucey et al., 2023).

However, in some cases, there are signs that judges are beginning to recognize the importance of assessing collective corporate behavior. For example, certain cases have shown that companies have been criminally prosecuted for failing to maintain adequate oversight. While still small in number, this trend indicates potential development toward a more mature model of collective accountability. Thus, this study concludes that Indonesian jurisprudence is in the early stages of moving toward a collective approach, but is not yet supported by strong normative guidelines (Schoultz & Flyghed, 2020).

Global Comparison and Identification of Best Practices for Indonesia

A comparison with Australia shows that the country has a corporate liability model that prioritizes corporate culture as the basis for proof. In the Australian legal system, a company can be held criminally liable if its internal culture allows for misconduct, including a lack of oversight, a lack of tolerance for risk, and misguided incentives. This approach provides a strong conceptual basis for assessing collective culpability (Jordanoska & Lord, 2020).

Meanwhile, the UK legal system uses a corporate failure model that emphasizes the assessment of managerial and structural failures. This model has been applied in various cases, particularly in the occupational health and safety sector. Furthermore, the UK also uses the Deferred Prosecution Agreement (DPA) mechanism to encourage internal corporate reform. Literature shows that this approach has been successful in improving corporate compliance and reducing recurrence of crimes (King, 2020).

The United States uses a combination of vicarious liability and organizational fault, particularly in financial crimes. This model provides flexibility but tends to be very harsh, as companies can be held criminally liable even if the act is committed by a low-level employee. This comparative analysis shows that, despite their differences, all three countries emphasize the importance of risk management systems, top management commitment, and internal culture. This serves as the basis for this research to formulate a conceptual model appropriate for Indonesia (Rostami et al., 2023).

Formulation of an Integrated Conceptual Framework for Indonesian Criminal Law

Based on conceptual and normative analysis, this study develops a conceptual framework that combines the principles of corporate fault and organizational mens rea. This framework is designed to illustrate the dynamics of corporate crime in the context of modern organizations. This model emphasizes that corporate wrongdoing can be demonstrated through internal system failures, not just the actions of specific individuals (Sheehy et al., 2021).

Furthermore, this framework incorporates the principle of corporate culture as an indicator of collective culpability. This allows law enforcement to assess whether a company systematically creates conditions that allow for violations to occur. This model aligns with global approaches that have proven

effective in prosecuting corporate criminals while protecting the interests of uninvolved workers and shareholders (Amos et al., 2024).

This conceptual framework also provides guidance on appropriate types of sanctions, including internal improvement orders, compliance audits, independent oversight, and proportionate financial sanctions. This approach is expected to address the weaknesses of Indonesian positive law and provide an academic basis for future national regulatory reform. Thus, this research not only provides theoretical contributions but also offers direction for criminal law reform in Indonesia (Krap et al., 2024).

CONCLUSIONS

Collective liability in corporate crime is a legal construct that is increasingly urgently needed to be developed due to changes in the structure, character, and decision-making patterns in modern organizations that no longer rely on individual figures, but rather on collective systems and mechanisms that allow for organized deviations. The strength of this research lies in the integration of conceptual and juridical-normative approaches that allow for in-depth theoretical mapping of liability models such as identification theory, aggregation theory, corporate fault, vicarious liability, and organizational mens rea, while also assessing how these theories relate to Indonesia's positive legal framework, which is still limited in accommodating forms of collective fault. However, this research still has limitations because it is library-based and therefore does not explore empirical data related to law enforcement practices, including the dynamics of investigation and evidence in corporate crime cases. Nevertheless, this research provides an important contribution in the form of a conceptual framework for criminal law that can be applied to strengthen Indonesian regulations by aligning collective liability theory with global practices. It also provides recommendations for legal reform that emphasize the need to clarify the structure of corporate mens rea, expand the capacity of corporate liability as a subject of criminal law, and improve normative instruments to ensure comprehensive organizational accountability. The resulting conceptual framework can not only serve as a basis for policymakers in formulating new regulations, but can also be expanded for further research related to empirical implementation, cross-industry sector comparisons, and the integration of sustainable corporate governance principles into the corporate criminal liability system in Indonesia.

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