
Responsibility of the Company's Board of Directors as Perpetrators of Corruption Crimes in Case Decision Number: 17/Pid.Sus-Tpk/2020/Pn.Plk

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Abstract

Keywords

Corporate Accountability;
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Corruption in Indonesia increasingly involves corporations beyond individual perpetrators, with limited liability companies frequently implicated in criminal acts despite their status as legal entities under Law Number 40 of 2007. This research examines the criminal liability of corporate owners through a case study of Didie, SE, owner of CV. Liting Perkasa, who was convicted in Decision Number 17/Pid.Sus-TPK/2020/PN.Plk for corruption in a road construction project in Katingan Regency, Central Kalimantan. The study analyzed the application of corporate criminal liability theory to this case, particularly examining whether the defendant's actions constitute corporate or individual criminal responsibility. Employing normative juridical research methods with statutory and conceptual approaches, this study analyzes legal norms, principles, doctrines, and applicable legislation relevant to corporate criminal liability. The findings reveal that the defendant can be classified as capable of being responsible under the theory of corporate criminal liability, as the criminal act was committed through the corporate entity CV. Liting Perkasa. The Panel of Judges correctly declared the defendant legally and convincingly guilty of corruption causing state financial losses. The analysis further indicates that if CV. Lintang Perkasa is considered a corporation, the responsibility imposed should refer to strict liability, which allows criminal responsibility without proving fault on the perpetrator's part. This principle is particularly relevant in corporate crimes where proving individual intent or negligence is challenging.

INTRODUCTION

In addition to having certain characteristics that set it apart from special criminal law, such as the presence of procedural law deviations, the crime of corruption is part of special criminal law and, when viewed from the regulated material, is directly or indirectly intended to reduce the incidence of leaks and deviations in state finances and the economy (Emeke et al., 2023). It is intended that by foreseeing and reducing these deviations as soon as possible, the wheels of the economy and development can be turned as they should, which would eventually have an effect on boosting development and the general well-being of society (Gkinton et al., 2022).

As stated in Article 1 number 1 and Article 7 paragraph (4) of Law Number 40 of 2007 concerning Limited Liability Companies, a limited liability company is a legal entity. In actuality, corruption in Indonesia involves more than just individuals or natural persons (Hamdani et al., 2017). Numerous corporations in the form of limited liability firms are

implicated in illegal acts of corruption, according to a number of corruption cases that are either currently being investigated or have been determined by the courts (Abdul Raof et al., 2024).

The researcher examined one of the Palangkaraya District Court's cases pertaining to a corporation's criminal conduct of corruption, specifically Decision Number: 17 / Pid.Sus-TPK / 2020 / PN.Plk. where in the decision tried a corruption case committed by a corporation. The case began when Didie, SE Bin Degeh as the owner of CV. LITING PERKASA lent the company CV. Liting Perkasa with Director Mr. Suliadi acting as the executor of work in the field or third party, to carry out the construction work of the 950 meter Asem Kumbang village road as per Work Order (SPK) Number: 02 / TPKD / AK-X / 2017, dated October 27, 2017, located in Asem Kumbang Village, Kamipang District, Katingan Regency, Central Kalimantan Province.

In the road filling project, Mr. Kartiansyah, acting as the Village Head of Asem Kumbang, Kamipang District, in 2017, offered the job to Mr. Kendes Arisanto to carry it out. Then, Mr. Kendes Arisanto met with the defendant to borrow from the company CV. Liting Perkasa with an agreement to receive a fee from the loan.

The urgency of this research stems from the increasing prevalence of corporate involvement in corruption and the limitations of existing legal frameworks in addressing this phenomenon. As corporations become more sophisticated in their operations and influence, their potential for involvement in corrupt practices grows accordingly. The absence of clear and consistent standards for corporate criminal liability creates legal uncertainty and may undermine efforts to combat corruption effectively. The new Criminal Code, effective January 2026, expands the definition of criminal subjects by establishing corporations as parties that can be held criminally responsible, codifying corporate criminal liability as a general principle applicable to all offenses. This regulatory development underscores the need for detailed case analysis to inform implementation strategies and ensure effective enforcement (Abikoye et al., 2024; Al-Thani & Isaifan, 2024; Musch et al., 2024; Oduro et al., 2024; Thakkar, 2025).

The novelty of this research lies in its comprehensive analysis of a specific judicial decision to examine the application of corporate criminal liability theory in Indonesian corruption cases. Unlike previous research that has focused primarily on normative frameworks or comparative analysis, this study provides an in-depth examination of how a particular court decision applies corporate criminal liability doctrines to a case involving a corporate owner. By analyzing Decision Number 17/Pid.Sus-TPK/2020/PN.Plk through the lens of corporate criminal liability theory, this research illuminates the practical challenges and opportunities in holding corporate actors accountable for corruption. The analysis considers the application of strict liability principles, the distinction between corporate and individual responsibility, and the implications for future legal reforms (Abdelaziz, 2025; Cappelletti, 2022; Donnelly, 2022; Segrestin & Levillain, 2023; Serota, 2023).

For this act, Didie, SE Bin Degeh as the owner of CV. Liting Perkasa was declared legally guilty of committing the crime of "Intentionally providing assistance at the time the crime was committed, with the aim of benefiting himself or another person or a corporation, abusing the authority, opportunity or means available to him because of his position or position which could harm state finances or the state economy" as regulated and threatened with Law Number 31 of 1999 about the Eradication of Criminal Acts of Corruption, which was revised and expanded

by Law Number 20 of 2001 in accordance with Article 56 paragraph (2) of the Criminal Code, contained criminal penalties in Article 3 in conjunction with Article 18 paragraph (1) letter b.

In relation to the acceptance of corporations as perpetrators of criminal acts and can be held accountable in several laws, then related to corporate criminal liability, the author is interested in examining how the concept of criminal liability to the owner of CV. Liting Perkasa who was accused of corruption in Decision Number: 17 / Pid.Sus-TPK / 2020 / PN.Plk is reviewed from the theory of corporate criminal liability by raising a journal with the title "Accountability of Company Directors as Perpetrators of Corruption Crimes in Road Construction Projects (Case Study of Decision Number: 17 / Pid.Sus-TPK / 2020 / PN.Plk)".

METHOD

This study employed a normative juridical research approach, which focuses on analyzing legal norms, principles, doctrines, and applicable legislation relevant to the issues under study. Normative juridical research is conducted through the examination of legal materials, including primary legal sources such as laws and regulations, secondary legal materials such as journals, books, and previous studies, as well as tertiary materials that support legal interpretation. The purpose of this approach is to understand legal certainty, consistency, and the implementation of legal provisions in judicial practice. The subject of this study is Decision Number 17/Pid.Sus-TPK/2020/PN, which serves as the primary case for examining the application of corruption criminal law and judicial considerations in reaching verdicts. Through the analysis of this court decision, the research aims to evaluate the conformity between judicial reasoning, statutory regulations, and principles of justice within the Indonesian legal system.

RESULTS AND DISCUSSION

Case Position Decision Number: 17/Pid.Sus-TPK/2020/PN.Plk

In 2017 in Asem Kumbang Village, Kamipang District, there was a road filling activity with a budget of Rp. 250,093,450 (two hundred and fifty million ninety-three thousand four hundred and fifty rupiah) sourced from the Asem Kumbang Village Fund (DD) Kamipang District, Katingan Regency for the 2017 fiscal year. For the implementation of the road filling activity, Mr. Kartiansyah as Acting Head of Asem Kumbang Village, Kamipang District in 2017 offered the job to Mr. Kendes Arisanto to carry it out, then Mr. Kendes Arisanto met the defendant to borrow the company CV. Liting Perkasa with an agreement that a fee would be given from the loan, then after there was an agreement between the defendant and Mr. Kendes Arisanto.

Village Head Arisanto contacted Mr. Kartiansyah as Acting Village Head of Asem Kumbang, stating his readiness to carry out the work, then Mr. Kartiansyah as Acting Village Head of Asem Kumbang immediately appointed CV. Liting Perkasa as the executor of the road filling work without carrying out the direct appointment procedure as regulated in Katingan Regent Regulation number 13 of 2016 concerning Procedures for Procurement of Goods/Services in the Village, because previously CV. Liting Perkasa also worked on a work package for the construction of a 410 m long footbridge in Asem Kumbang Village in the 2017 fiscal year with the executor of the work in the field being Mr. Kendes Arisanto.

For the realization of the implementation of the work by Mr. Kendes Arisanto in accordance with the Work Order from the beginning until the end of the implementation period as stated in the Work Order, the work items carried out by Mr. Kendes Arisanto are only in the form of installing gutters made of wooden planks and beams, while the work of filling the road body has not yet been carried out. However, for this work, Mr. Kendes Arisanto has received 100% payment, namely Rp. 250,093,450 (two hundred and fifty million ninety-three thousand four hundred and fifty rupiah).

The payment process for the village road filling activity with a contract value of Rp. 250,093,450 (two hundred and fifty million ninety-three thousand four hundred and fifty rupiah) to Mr. Kendes Arisanto, namely initially on September 17, 2017 Mr. UDUI was called by Mr. KARTIANSYAH to accompany Mr. SUDARMIN to disburse village funds, then the next day on September 18, 2017 Mr. UDUI and Mr. SUDARMIN went to Mr. Kartiansyah's house and after arriving at Mr. Kartiansyah's house there was an unknown person, then Mr. Kartiansyah introduced the person that the person was named Mr. Kendes Arisanto as a third party who carried out activities in Asem Kumbang Village.

In the loan of CV. Liting Perkasa, Mr. Kendes Arisanto gave a portion of the fee to the defendant amounting to Rp. 5,000,000 (five million rupiah) as a service for the company's loan. The defendant's actions in lending CV. Liting Perkasa to Mr. Kendes Arisanto have enriched himself because he received a fee without carrying out the work and has enriched another person, namely Mr. Kendes Arisanto, because he received 100% payment for the work without completing the work in accordance with the Work Order.

The defendant had previously known the background of Mr. Kendes Arisanto who is a State Civil Apparatus (ASN) in the Katingan Regency Regional Government, where the profession concerned is not as a person who works as a contractor or a person who works in the private sector. Based on the Audit Result Report from the BPKP Representative of Central Kalimantan Province Number: SR-98 / PW15 / 5/2019 dated March 28, 2019 regarding the road filling activity along 950 meters in Asem Kumbang Village, Kamipang District, Katingan Regency in the 2017 budget year, there has been a state/regional financial loss, especially in Asem Kumbang Village, Kamipang District, Katingan Regency, Central Kalimantan Province amounting to Rp. 192,093,450.00 (one hundred ninety-two million ninety-three thousand four hundred and fifty rupiah).

The Concept of Criminal Liability for the Owner of CV. LITING PERKASA Who is a Defendant in a Corruption Crime in Decision Number: 17/Pid.Sus-TPK/2020/PN.Plk Reviewed from the Theory of Corporate Criminal Liability

If referring to criminal responsibility in general, it can be said that criminal responsibility must fulfill the elements or conditions for a person to be held criminally responsible (Nicolescu & Sinescu, 2025). In the scope of the principle of criminal responsibility, Sudarto emphasized that "In addition to the ability to be responsible, mistakes (*schuld*) and against the law (*wederechtelijk*) as conditions for imposing a penalty, is the danger to society by the perpetrator. Thus, the concept of criminal responsibility, in the sense of punishing the perpetrator, there are several conditions that must be met, namely: There is a crime committed by the perpetrator, There is a perpetrator who is capable of being responsible, There is an element of error in the form of intent or negligence and There is no excuse.

From the explanation regarding criminal responsibility according to Sudarto above, it is linked to Decision Number: 17/Pid.Sus-TPK/2020/PN.Plk as follows:

1. The person who made the mistake committed a crime. 17/Pid.Sus-TPK/2020/PN is the decision number. According to Article 3 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption and Article 56 Paragraph (2) of the Criminal Code, it is a criminal act of corruption pertaining to public financial losses.
2. There are perpetrators who are capable of being responsible. According to Simons: "The ability to be responsible can be interpreted as a psychological state such that justifies the application of a criminal sanction, both from a general perspective and from the individual's perspective. A person is capable of being responsible if his soul is healthy, namely if he is able to know or realize that his actions are against the law and he can also determine his will in accordance with that awareness."¹²⁵ In Decision Number: 17 / Pid.Sus-TPK / 2020 / PN.Plk it is clear that the defendant has the capacity in the trial process and the judge also stated that the defendant is capable of being responsible for his actions. This is known in the judge's consideration which states that: "The Panel of Judges did not find anything that could eliminate criminal responsibility, either as a justification or excuse, so the defendant must be responsible for his actions."
3. There is an element of fault, whether intentional or negligent. Criminal punishment is not sufficient if a person has committed an unlawful or unlawful act (Gaeta, 2023). Even if the act meets the definition of a crime in law and is not justified, it still does not meet the requirements for criminal punishment. Therefore, criminal punishment still requires the presence of a condition, namely that the person committing the act is guilty or guilty. In the case of Decision Number: 17/Pid.Sus-TPK/2020/PN.Plk, the mistakes made by the defendant and his colleagues together mean that they were done intentionally as an intention, so that the element of criminal responsibility related to "the element of mistake in the form of intention or negligence" has been fulfilled. Mistakes and intent here Where Didie, SE as the owner of CV. Liting Perkasa admitted and confirmed that the reason he lent his company, namely CV. LITING PERKASA to Mr. Kendes Arisanto, S.Sos was to get a reward (fee) used to pay company taxes; and the one who signed the Work Order (SPK) Number: 02/TPKD/AK-X/2017, dated October 27, 2017 was the defendant Didie, SE by imitating the signature of Mr. Suliadi as the director of CV. Liting Perkasa without the knowledge and permission of Mr. Suliadi, because the defendant is the owner of CV. Liting Perkasa and the defendant Didie, SE admitted to having received money amounting to Rp. 5,000,000 from Mr. Kendes Arisanto, S.Sos as a reward for the loan of the company CV. Liting Perkasa.
4. There is no reason to eliminate guilt or there is no reason for forgiveness. A justification is an explanation that makes an act no longer illegal, making the defendant's actions legitimate and correct. A justification for forgiveness, on the other hand, is one that absolves the accused of guilt. The defendant's act is nonetheless illegal and hence criminal, but since there is no blame, it is not penalized. 17/Pid.Sus-TPK/2020/PN is the decision number, the Panel of Judges stated that: "Considering, that in the trial, the Panel of Judges did not find anything that could eliminate criminal responsibility, either as a justification or or a reason for forgiveness, the Defendant must be held accountable

for his actions. Considering, that because the Defendant is capable of being responsible, he must be declared guilty and sentenced to a criminal penalty. Considering, that because the Defendant has been found guilty, he must be sentenced to a criminal penalty and also be ordered to pay court costs."

Based on the analysis conducted by the author, it can be concluded that the defendant is considered capable of being responsible, so the criminal act that has been proven to have been committed must be accounted for by him, therefore it is sufficient reason for the Panel of Judges to declare that, in accordance with Article 56 Paragraph (2) of the Criminal Code (KUHP) and Article 3 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, the Defendant has been legally and convincingly proven guilty of committing the crime of corruption that has resulted in losses to state finances.

Therefore, it can be concluded that if CV. Lintang Perkasa is considered a corporation, then for its actions as mentioned above, the responsibility imposed refers to strict liability. According to this principle, criminal responsibility can be imposed on the perpetrator of the crime concerned without needing to prove any fault (intentional or negligent) on the part of the perpetrator (Ramsay, 2025). Because in this principle of strict liability, criminal responsibility for the perpetrator is not an issue, this strict liability is also called absolute liability or in Indonesian known as "absolute responsibility."

In short, it is liability without fault. Basically, the concept of absolute liability is a form of crime in which there is no requirement for an element of fault in punishment, but only requires the existence of an act. Where what is needed in a crime of strict liability is only the suspicion or knowledge of the perpetrator, and that is enough to demand criminal responsibility from him. Therefore, there is no question of the existence of men's *rea* (fault) because the main element of strict liability is *actus reus* (action), so what must be proven is *actus reus*, not men's *rea*.

As a form of criminal liability based on the principle of fault, it is adopted from the concept of normative fault (Kreitner, 2025). Normative fault theory means that fault does not necessarily have to be viewed as a psychological condition characterized by intent or negligence (Uysal et al., 2024). This allows fault to exist not only in human legal subjects but also in corporations, as it would be very difficult to determine the existence of fault in a corporation if fault were viewed solely as a psychological problem.

Therefore, corporations, which are considered subjects of criminal law like humans, when committing a crime, are subject to different criminal laws and penalties than those for human subjects (Aljbour & AlQudah, 2024). For example, corporations cannot be sentenced to death, life imprisonment, imprisonment, or confinement. However, they can be subject to fines as the principal penalty and additional penalties in the form of revocation of certain rights.

CONCLUSION

It is reasonable for the Panel of Judges to declare that the defendant has been legally and convincingly proven guilty of committing a criminal act of corruption that is detrimental to state finances because, according to the theory of corporate criminal liability based on the author's analysis, the defendant is classified as capable of being responsible, so the criminal act that has been proven to have been committed must be accounted for to him, linked to the theory

of corporate liability mentioned if indeed CV. Lintang Perkasa is considered a corporation then for his actions as mentioned above, the responsibility imposed refers to strict liability. According to this principle, criminal responsibility can be imposed on the perpetrator of the crime concerned without needing to prove any fault (intentional or negligent) on the part of the perpetrator.

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