

## **The Development of Corporate Criminal Responsibility and its Impacts to Third Parties' Interests in the Indonesian Anticorruption Law**

By:

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### **ABSTRACT**

Corporations have been considered as a legal subject within Law Number 31 Year 1999 concerning the Eradication of Corruption. However, the pursuit of corporate criminal responsibility within the corruption cases have demonstrated key differences such as the types of corporate criminal responsibility enforced and the identification of corporate *mens rea*. Furthermore, the interests of employees and third parties of the convicted corporation are often overlooked. As such, this legal research is aimed to address these issues by way of a comparative study of three corporate corruption cases: PT Giri Jaladhi Wana, PT Indosat Mega Media, and PT Lina Suasana. Additionally, this research would also tackle the question of how corporate criminal responsibility could affect the interests of employees as well as identifying whether such employees are legally protected from such effects.

This legal research relies on a doctrinal method by way of resorting to secondary data in the form of legal instruments, laws and regulations, books, jurisprudences, and journals related to the pursuit of corporate criminal responsibility within the context of the Indonesian anticorruption legal regime as well as its impacts against the interest of employees and other third parties.

This research concludes that corporate criminal responsibility within Indonesian anticorruption law has been ever developing. It adheres to not only the aggregation theory, but also the identification theory, vicarious liability doctrine, and strict liability theory; giving it a wide scope. Furthermore, negative impacts from applying corporate criminal responsibility could indeed be incurred by employees of the convicted corporation. Despite Indonesian criminal law offers no consideration towards their interests, employees are still protected by the prevailing rules and regulations on labour law and bankruptcy law.

**Key Words:** Corporate criminal responsibility, anticorruption.

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## ***Perkembangan Tanggung Jawab Pidana Perusahaan dan Dampaknya pada Kepentingan Pihak Ketiga Dalam Undang-Undang Tindak Pidana Korupsi Indonesia***

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### **INTISARI**

*Korporasi telah dianggap sebagai subjek hukum dalam Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi. Namun, ada beberapa perbedaan dalam upaya tanggung jawab pidana korporasi di undang-undang antikorupsi Indonesia yang berkisar dari jenis tanggung jawab pidana korporasi yang ditegakkan, serta mens rea korporasi. Selain itu, kepentingan pihak ketiga dan pegawai korporasi terpidana seringkali terabaikan. Dengan demikian, penelitian hukum ini menjawab isu-isu tersebut dengan metode studi banding tiga kasus korupsi korporasi: Kasus PT Giri Jaladhi Wana, PT Indosat Mega Media, dan PT Lina Suasa. Selain itu, penelitian ini juga akan menjawab pertanyaan tentang bagaimana tanggung jawab pidana korporasi dapat mempengaruhi kepentingan karyawan serta mengidentifikasi apakah karyawan dilindungi secara hukum.*

*Penelitian hukum ini menggunakan metode doktrinal dengan bergantung pada data sekunder berupa instrumen hukum, peraturan perundang-undangan, buku-buku, yurisprudensi, dan jurnal yang berkaitan dengan upaya pertanggungjawaban pidana korporasi dalam konteks hukum antikorupsi Indonesia serta dampaknya terhadap kepentingan karyawan dan pihak ketiga.*

*Penelitian hukum ini berkesimpulan bahwa pertanggungjawaban pidana korporasi dalam hukum antikorupsi Indonesia terus berkembang dan tidak hanya menganut teori agregasi, tetapi juga teori identifikasi, doktrin vicarious liability, dan teori strict liability. Selanjutnya, dampak negatif dari penerapan pertanggungjawaban pidana korporasi memang dapat dialami oleh para pegawai korporasi terpidana. Meskipun hukum pidana Indonesia tidak mempertimbangkan kepentingan mereka, para pekerja tetap dilindungi oleh peraturan perundang-undangan yang berlaku tentang hukum ketenagakerjaan dan hukum kepailitan.*

**Kata Kunci:** *Pertanggungjawaban pidana korporasi, antikorupsi*

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