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Corporate Criminal Liability in Corruption Offense: A Comparative Study of Indonesia, Singapore, and China

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Abstract

This study examines corporate criminal liability in corruption offenses through a comparative analysis of Indonesia, Singapore, and China. These three countries demonstrate distinct legal approaches in prosecuting corporations as perpetrators of crime. Indonesia still employs the identification theory, which limits corporate liability to the actions of top management, as reflected in the Liquefied Natural Gas (LNG) procurement case involving PT Pertamina. In contrast, Singapore applies vicarious liability and strict liability, allowing companies to be held accountable for the actions of their agents without requiring proof of personal fault, as exemplified by the Keppel Offshore & Marine case. China adopts a more progressive approach through the concept of unit crime, enabling simultaneous prosecution of both individuals and corporate entities, as seen in the GlaxoSmithKline case. Using a normative juridical method and comparative legal approach, this research finds that Indonesia faces significant obstacles in directly prosecuting corporations due to weak technical regulations and an individualistic tendency in criminal law enforcement. The study recommends reforming Indonesia's corporate criminal liability system by adopting more structural and preventive approaches, as implemented in Singapore and China.

Keywords:

Corporate Liability, Corruption, Identification Theory, Vicarious Liability, Comparative Law

Introduction (Font Arial Narrow 13 Bold)

As cross-border economic activity and investment intensify, there has been a growing number of corruption cases involving corporate entities as the primary perpetrators or facilitators of criminal acts (Alfianda et al., 2024). This phenomenon is not unique to Indonesia but is also evident in Singapore and China, each of which adopts a different legal approach in treating corporations as subjects of criminal liability. In Indonesia, the prevailing approach is the identification theory, where a corporation can only be held criminally liable if the offense is committed by someone who represents the will of the corporation, such as directors or top-level management. This is exemplified in the corruption case involving the procurement of Liquefied Natural Gas (LNG) by PT Pertamina (Persero), which implicated its former President Director, Karen Agustawan, as a suspect (Tempo.co, 2024). In contrast, Singapore applies the vicarious liability approach along with elements of strict liability, which allows for the imposition of sanctions on corporations without the need to prove moral fault or the knowledge of top management. This approach is more effective in cases of bribery or systemic negligence, as demonstrated by the international corruption and bribery scandal involving Keppel Offshore & Marine Ltd (Keppel O&M), a subsidiary of Singapore-based Keppel Corporation Ltd (Tempo, 2018). Meanwhile, China also adopts the identification theory, as seen in the corruption case involving GlaxoSmithKline (GSK), a pharmaceutical company accused of channeling approximately 3 billion yuan (around USD 482 million) through a network of 700 travel agencies to bribe doctors, hospitals, health organizations, and even government officials to boost the sales of its pharmaceutical products (BBC.com, 2014).

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These differing approaches illustrate how each country responds to the challenge of holding corporations fully and effectively accountable under criminal law. For instance, while both Indonesia and China apply the identification theory, their implementation differs. Indonesia tends to focus punishment on individual directors, whereas China imposes sanctions on both the individuals and the corporation as a legal entity (identification theory based on the unit crime concept).

The main issue in holding corporations accountable for corruption offenses in Indonesia lies in the limitations of the legal approach in comprehensively addressing corporate liability (Hadrian et al., 2022). For example, the use of the identification theory in practice requires the direct involvement of top executives for a corporation to be held criminally liable. This poses a challenge for law enforcement when the perpetrators are lower-level employees or when crimes are committed through operational systems that cannot be traced back to a single individual. Furthermore, the sanctions imposed are still limited to fines and imprisonment, and even then, they are only applied to the company's executives. Corporations themselves rarely face punishment such as additional sanctions including business suspension or corporate dissolution. On the other hand, Singapore has successfully optimized the application of vicarious liability and strict liability, enabling corporate accountability even when the offense is committed by operational-level employees, as long as the act was carried out for the benefit of the company. This makes law enforcement more practical and assertive. Meanwhile, although China also adopts the identification theory, its implementation differs in that it imposes criminal sanctions on both the company's executives and the corporation itself as a legal entity.

A research gap can be identified from the perspective of *das sein* (what is) and *das sollen* (what ought to be). In the context of *das sein*, Indonesia continues to face serious challenges in enforcing corporate criminal liability, both due to incomplete regulatory frameworks and weak, inconsistent implementation in practice (Retnani et al., n.d.). Many corruption cases involving corporations are not followed up effectively, often resulting in the prosecution of individuals only, without addressing the corporate entity itself. On the other hand, *das sollen* refers to the expectations and ideal standards reflected in modern criminal law principles and the practices of countries with more effective legal systems, such as Singapore and China. Singapore, for instance, explicitly regulates corporate criminal liability under the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act and is known for its strict system of imposing fines and monitoring corporate entities (Ghulam Reza, 2024). Meanwhile, China aggressively employs a combination of administrative and criminal legal instruments to prosecute corporations involved in corruption offenses. This research gap arises from the disconnect between the current legal enforcement reality in Indonesia and the normative ideals as well as best practices from other countries. Therefore, this study is crucial in examining the extent of these differences and exploring how Indonesia can adopt or adjust corporate liability principles from Singapore and China in order to strengthen anti-corruption efforts.

Previous studies comparing anti-corruption law enforcement approaches involving corporations across various countries have shown significant variations in regulatory frameworks and liability mechanisms, particularly within the Asian region. For example, (Larasati, 2020) highlighted that the legal systems of Indonesia and Singapore differ in terms of their anti-corruption institutional frameworks, with Singapore proving to be more effective in implementing regulations against corporations. However, her study focused more on anti-corruption institutions rather than the structure of corporate sanctions themselves. Meanwhile, (Mahendra et al., 2024) offered a new perspective by comparing anti-corruption legal practices in Indonesia, Hong Kong, and China, but their analysis only briefly touched on the authority of law enforcement agencies, without delving deeper into criminal sanctions imposed on corporations as direct offenders. Similarly, the study by Sumunar & Sunaryo (Sumunar & Sunaryo, 2024) focused on a comparison of corruption sanctions in Indonesia and China, yet it lacked a detailed examination of the principles of corporate liability as a legal entity. (Sintung et al., 2022) did explore the concept of corporations as subjects of corruption crimes, but the study did not include an analysis of corporate compliance following the imposition of sanctions. Likewise, (Suhariyanto et al., 2021) evaluated corporate criminal liability in cross-border cases, but failed to comprehensively illustrate the legal effects of corruption sanctions on corporate offenders in a comparative context. Based on the literature reviewed, the novelty of this study lies in its comprehensive comparative analysis of

the regulatory frameworks and forms of corporate criminal liability in corruption cases occurring in Indonesia, Singapore, and China. This approach not only bridges the gaps found in previous literature but also expands both academic and practical understanding of corporate criminal law structures that can be optimized in transnational anti-corruption efforts.

The significance of this study lies in its effort to analyze sanctions against corporations in corruption cases through an in-depth comparative study. By comparing legal approaches in Indonesia, Singapore, and China, this research is expected to provide both academic and practical contributions to the development of legal instruments aimed at combating corporate corruption. However, the study also has limitations, including the complexity of the variables involved, the differing socio-political contexts of the three countries, and the challenges in precisely measuring the forms of liability imposed in Indonesia, Singapore, and China.

Research Methods

This research employs a normative juridical method with a comparative legal approach. The aim is to examine the legal provisions governing corporate criminal liability in corruption offenses by comparing their application in Indonesia, Singapore, and China. The normative juridical approach is used to analyze primary legal materials such as Law No. 31 of 1999 in conjunction with Law No. 20 of 2001 on the Eradication of Corruption Crimes (Indonesia), the Prevention of Corruption Act and the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (Singapore), as well as the Criminal Law of the People's Republic of China (China).

This approach is further supported by the analysis of secondary legal materials including scholarly journals, previous research findings, and other relevant articles. To support the comparative study, this research applies a statute approach to analyze the applicable legal norms in each country; a case approach through the study of corruption cases involving corporations such as the PT Pertamina case (Indonesia), Keppel Offshore & Marine Ltd (Singapore), and GlaxoSmithKline (China); and a comparative approach to observe the differences in corporate criminal law systems among the three countries.

Data collection is conducted through library research, by examining legal literature, regulations, court decisions, and other supporting documents. The collected data is analyzed qualitatively using a descriptive method to elaborate and compare theories and practices of corporate criminal liability in the three countries. The analysis also evaluates the relevance of theories such as identification theory, vicarious liability, strict liability, corporate culture model, and reactive fault theory within the context of criminal law on corruption.

This study is doctrinal (non-empirical) in nature, meaning that it does not involve fieldwork, but rather focuses on document analysis and regulatory review within the period of 2021 to 2024.

Results and Discussion

How are the legal frameworks and forms of corporate criminal liability in corruption offenses structured in Indonesia, Singapore, and China?

In the development of modern criminal law, corporations are no longer viewed merely as neutral economic entities but rather as legal subjects capable of committing crimes and being held criminally liable (Azhar & Mahyani, 2023). This reflects the reality that crimes—particularly in the economic and corruption sectors—are often perpetrated through corporate structures, which are complex and wield significant influence over public policy and national finances. In Indonesia, the regulation of corporate criminal liability in corruption offenses has been accommodated through Law No. 31 of 1999 in conjunction with Law No. 20 of 2001. However, in practice, the enforcement of laws against corporations as criminal actors still faces numerous obstacles, both in terms of legal doctrine and the low application of sanctions against legal entities. Therefore, it is essential to examine how the Indonesian legal system applies corporate criminal liability, especially in the context of corruption offenses that cause substantial financial losses to the state.

In Indonesia, one prominent case that illustrates the problem of corporate criminal liability in corruption offenses is the Liquefied Natural Gas (LNG) procurement corruption case involving PT Pertamina (Persero), which

implicated former President Director Karen Agustiawan as a suspect. Galaila Karen Kardinah, also known as Karen Agustiawan, served as President Director of PT Pertamina from 2009 to 2014. She was named a suspect in the LNG procurement corruption case in September 2023 and was detained in the same month. The Corruption Eradication Commission (KPK) accused Karen of causing state losses amounting to IDR 2.1 trillion in connection with LNG procurement contracts signed by Pertamina with U.S.-based company Corpus Christi Liquefaction LLC between 2011 and 2021. The case began with an LNG sales-purchase agreement made in 2019, which involved the delivery of 1 million tons per annum (MTPA) over a 20-year period. However, problems arose when global gas prices dropped and domestic LNG supply surged. This led to low domestic absorption, including for export purposes, forcing the excess LNG supply to be sold on the open market at lower prices. As a result, the state suffered financial losses of up to IDR 2.1 trillion.

KPK assessed that the LNG contract with Corpus Christi in 2012 violated Pertamina's internal regulations, as it had never been discussed in the company's work plans and budgets for 2013, 2014, and 2015. The cooperation agreement also lacked approval from the Board of Commissioners, which serves as the government's supervisory arm. The anti-corruption commission had been investigating the case since late 2021, and in June 2022, KPK officially elevated the case to the investigation stage. Due to this contract, the state experienced substantial financial losses because the purchased LNG could not be absorbed by the domestic market and was not economically viable. This led to an estimated financial loss of USD 140 million or around IDR 2.1 trillion. The Supreme Court (MA) in its final verdict stated that Karen was proven to have violated Article 3 of Law No. 31 of 1999 on the Eradication of Corruption Crimes, as amended by Law No. 20 of 2001, in conjunction with Article 55 paragraph (1) and Article 64 paragraph (1) of the Indonesian Penal Code. She was sentenced to 13 years in prison and fined IDR 650 million, with a subsidiary sentence of six months' detention. This penalty was heavier compared to the previous court decision, which sentenced her to 9 years in prison and a fine of IDR 500 million, with a three-month subsidiary sentence.

This case highlights a critical issue: even though the losses were a result of a strategic corporate policy agreed upon through the company's organizational structure, law enforcement's focus was solely on an individual, Karen Agustiawan, and did not extend to PT Pertamina as a legal entity (the corporation). This demonstrates the limitations of the identification theory, which remains dominant in Indonesia. The identification theory dictates that corporate criminal responsibility can only be imposed if a criminal act is committed by an organ or individual representing the company's will, such as a director or top management. However, in practice, courts and law enforcement agencies often prosecute only the individual without further investigating the systemic responsibility of the company as an institution.

While Indonesia's Law No. 31 of 1999 alongside Law No. 20 of 2001 concerning the Eradication of Corruption Crimes (UU PTPK) seemingly opens the door for corporate criminal liability, its implementation remains minimal. Article 20 of the law states, "In the event that a corruption crime is committed by or on behalf of a corporation, prosecution and imposition of punishment can be carried out against the corporation and/or its management." However, the practical application of this norm is severely hampered by a lack of clear technical regulations. There are no systematic benchmarks for assessing whether the actions of management truly reflect the corporation's will, or if the company's internal systems enabled or even encouraged the occurrence of corrupt practices. This regulatory gap makes it challenging to prove corporate culpability as a legal subject.

In Indonesia, the forms of criminal liability that can be imposed on corporations are primarily limited to fines, in accordance with general provisions in the Criminal Code (KUHP) and the Corruption Eradication Law (UU Tipikor). In the Pertamina case, for example, if the corporation were held accountable, the potential sanctions would likely only involve fines or compensation payments. This is in stark contrast to other legal systems, like those in China or Singapore, which allow for more structural penalties such as suspension of business activities, license revocation, or even corporate dissolution. This highlights a significant weakness in Indonesia's corporate penal structure. It's not yet progressive enough and fails to provide a deterrent effect against large corporations that often wield significant lobbying power and influence over public policy. This case further underscores that Indonesia has yet to

adopt alternative approaches to corporate accountability, such as the corporate culture model or reactive fault theory. Under these models, a company can be held responsible not just for individual actions, but also for failures in internal control systems, negligence in oversight, or the tacit allowance of corrupt practices. If such approaches were applied, Pertamina as a corporation should have been evaluated based on its governance culture and the corrective measures it took after the potential for state losses became known.

This condition indicates that the identification theory remains dominant in Indonesia, an approach that only links corporate liability if criminal acts are committed by individuals representing the corporation's will, such as directors. However, in practice, law enforcement agencies like the Corruption Eradication Commission (KPK) tend to focus solely on the personalization of perpetrators, rather than the system or corporate entity structurally. The KPK, as the primary institution handling these cases, conducts investigations but does not construct charges against PT Pertamina as a corporation. Yet, referring to the corporate culture model or reactive fault theory, a corporation can be held accountable if there is a negligent organizational culture or internal control system that allows corruption to occur.

In addition to the KPK, the Supreme Audit Agency (BPK) also plays a role through investigative audits to assess state losses, which form the basis for calculating state losses amounting to USD 140 million or Rp 2.1 trillion. The Corruption Court (Tipikor) then becomes the judicial body that decides these cases, but it only adjudicates individual perpetrators. Meanwhile, the Ministry of State-Owned Enterprises (BUMN), which has a supervisory function over PT Pertamina's performance and strategic policies, appears to have been less than optimal in evaluating or promoting governance reform after this case. There have been no administrative or corrective punitive efforts against the Pertamina entity institutionally. Thus, the regulation and form of corporate criminal liability in Indonesia, as illustrated in the Pertamina case, still heavily rely on the involvement of top-level individual management and do not address the root structural problems in company management and oversight systems. This underscores the importance of reformulating the approach to corporate criminal liability in Indonesia to be more adaptive to modern forms of corporate crime, by adopting theories and mechanisms from countries like Singapore and China that place greater emphasis on systemic responsibility and corporate culture.

Next, a case from Singapore involves Keppel Offshore & Marine Ltd (Keppel O&M), a subsidiary of Singapore-based Keppel Corporation Ltd, which was embroiled in an international corruption and bribery scandal (Tempo, 2018). Between 2001 and 2014, Keppel O&M was found to have paid over US\$55 million in bribes to government officials and political parties in Brazil. This was done to secure offshore project contracts from Brazil's state-owned oil company, Petrobras, and its subsidiary, Sete Brasil. The bribery scheme was carried out through intermediaries (agents) knowingly used by Keppel O&M to channel funds to public officials. These bribes were disguised as agency commissions and consulting fees. In return, Keppel O&M successfully obtained projects valued at over US\$350 million. This case was officially revealed in December 2017 through a joint investigation by authorities from the United States, Brazil, and Singapore. At that time, Keppel O&M agreed to pay a total fine of US\$422 million to settle the bribery charges against Brazilian officials to win contracts with Petrobras and Sete Brasil. Subsequently, in December 2022, Keppel O&M reached an additional agreement with Brazilian authorities, paying approximately US\$65 million to settle the remaining obligations related to the case (Zhu, 2022). Investigation into individuals involved in the case in Singapore continued until January 2023. However, no individuals were criminally charged. Instead, six former executives of Keppel Offshore & Marine (Keppel O&M) received stern warnings from the Corrupt Practices Investigation Bureau (CPIB) due to a lack of evidence and the difficulty in obtaining testimonies from overseas (Ang, 2024). Based on the chronology of the case, Keppel O&M was sanctioned through a Deferred Prosecution Agreement (DPA) reached with authorities from three countries: the United States (Department of Justice), Brazil (Ministério Público Federal), and Singapore (CPIB and the Attorney-General's Chambers). Under this agreement, Keppel O&M acknowledged involvement in international bribery practices and agreed to pay a fine of US\$422 million, which was proportionally distributed among the three countries. As long as Keppel O&M complies with the terms of the agreement—such as implementing internal compliance reforms and cooperating with further investigations—the company will not be subject to criminal prosecution. In Singapore, although there were

indications of involvement by several employees, no individuals were criminally prosecuted. The Singaporean government adopted an administrative enforcement and internal investigative approach, rather than direct criminal prosecution of individuals, due to evidentiary limitations and cross-border legal obstacles.

In the case of Keppel Offshore & Marine Ltd (Keppel O&M), the approach to corporate liability combined the principle of vicarious liability and certain elements of strict liability. The vicarious liability approach allows a corporation to be held accountable for criminal acts committed by employees or agents within the scope of their employment, without needing to prove direct involvement by senior management. In Keppel's case, bribes to Brazilian officials were made through agents or intermediaries acting on behalf of the company to secure projects. Because these actions were carried out for the benefit of the company and within the framework of employment relationships, liability could be assigned to the corporation even if there was no explicit directive from senior executives. This approach aligns with Singapore's legal system, which recognizes corporate liability for the acts of its agents or employees when carried out in the interest of the company. In addition, the strict liability approach is also reflected in the resolution mechanism via the Deferred Prosecution Agreement (DPA), where individual fault or criminal intent (*mens rea*) is not required for establishing liability. Under this scheme, Keppel O&M acknowledged institutional wrongdoing, paid a US\$422 million fine, and was required to reform its internal compliance systems. This approach emphasizes that law enforcement against corporations in this case focused more on institutional recovery and structural responsibility rather than individual punishment, which is difficult to implement in cross-jurisdictional contexts.

Furthermore, in analyzing corporate liability in the Keppel Offshore & Marine Ltd (Keppel O&M) case, several legal foundations in Singapore serve as key references, particularly in regulating corporate corruption offenses. The main legislation applied is the Prevention of Corruption Act (PCA), Cap. 241, which specifically addresses corruption-related offenses. Section 5(b) of the PCA states that it is a criminal offense for "any agent to corruptly receive or agree to receive any gratification as an inducement or reward for doing or forbearing to do anything in relation to his principal's affairs or business." In addition, Section 6(b) prohibits any party from giving gratification to an agent under similar circumstances. Crucially, in the context of corporate liability, Section 8 of the PCA allows liability to be imposed on a company if gratification is received or given by its agent in the course of their employment and for the benefit of the company. In the Keppel case, the act of bribery was carried out by intermediaries or agents acting on behalf of the company, and the actions directly benefited the corporation, thereby fulfilling the elements stipulated in the relevant provisions. In addition to the PCA, Singapore's Penal Code (Cap. 224) provides general provisions related to criminal offenses, such as Section 107 on abetment (instigation or assistance in committing a crime) and Section 109 on common intention liability. While not the primary instruments for corruption cases, these sections can be applied as complementary tools in establishing criminal liability for individuals. From a procedural standpoint, the Criminal Procedure Code (Cap. 68) governs the processes of investigation and prosecution. Meanwhile, the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act (CDSA), Cap. 65A regulates the mechanisms for asset confiscation derived from criminal conduct, including Section 5 (prohibition against concealing criminal proceeds) and Section 7 (confiscation of benefits from criminal conduct). These three legal instruments together form a robust framework for Singaporean authorities in handling cases such as Keppel, although in practice, the approach taken tends to be administrative and focused on institutional resolution through a Deferred Prosecution Agreement, rather than individual criminal prosecution.

Meanwhile, the GlaxoSmithKline (GSK) corruption case in China began in mid-2013 when Chinese authorities, led by the Changsha Municipal Police and later the Ministry of Public Security (MPS), launched an investigation into alleged bribery by executives of GlaxoSmithKline (GSK) China. The pharmaceutical company was accused of funneling approximately 3 billion yuan (around US\$482 million) through a network of 700 travel agencies to bribe doctors, hospitals, healthcare organizations, and even government officials in order to boost pharmaceutical sales. The scheme involved fake invoices, fictitious conferences, and other illegal financial activities. Although GlaxoSmithKline (GSK) initially denied the allegations, the company later admitted that certain executives had committed legal violations, including through a televised public confession. In 2014, a Chinese court sentenced five

GlaxoSmithKline (GSK) executives, including Mark Reilly, who received suspended prison sentences. The company's Chinese subsidiary was fined nearly US\$500 million—the largest corporate fine in the country at the time. The scandal severely damaged GlaxoSmithKline (GSK)'s global reputation and had a significant impact on its sales in China, which plummeted by 61%. In addition, GlaxoSmithKline (GSK) faced further investigations in other countries over similar bribery allegations. (Kompasiana, 2015).

In this case, China's criminal law governs corporate criminal liability under the Criminal Law of the People's Republic of China, specifically Article 30, which states that corporations can be subjects of criminal offenses. Crimes that may be committed by corporate entities include commercial bribery, fraud, falsification of invoices, tax and import-export violations, and breaches of pharmaceutical product safety regulations. In addition to Article 30, Article 31 stipulates that when a corporation commits a crime, both the corporation and the individuals responsible may be held criminally liable. Thus, in this case, executive Mark Reilly was subjected to criminal punishment for his direct involvement in carrying out the bribery. The approach to corporate liability applied in this case is based on the Identification Theory, under which a corporation is held responsible for the actions of individuals who occupy high-ranking positions or functionally represent the company. In this context, Mark Reilly, as the director of GlaxoSmithKline (GSK), was identified as embodying the corporate intent, thereby rendering GlaxoSmithKline (GSK) as an entity also liable for the offense. This theory is well-suited to China's legal system, which recognizes the concept of unit crime as a form of shared liability between the corporation and the individual decision-makers. (Kaiman.Jonathan, 2014).

GlaxoSmithKline (GSK) as an entity was fined 3 billion yuan in criminal administrative penalties. This fine serves as a form of corporate criminal liability, which is not only a punishment but also encourages internal system improvements and compliance with the law. Based on findings that the company engaged in bribery for commercial gain, this constitutes the application of criminal liability to a legal entity for actions committed by employees in their official capacity. Senior executives were sentenced to suspended prison terms. Mark Reilly, who allegedly oversaw the entire bribery scheme, was sentenced to three years in prison with a four-year probation period and will be deported, thus not being detained in China. Four other local officials were sentenced to two to four years in prison. In addition, GlaxoSmithKline (GSK) also changed its sales incentive system, increased oversight, and publicly apologized to the Chinese government and people.

In this case, institutions like the Ministry of Public Security (MPS), which is the central police agency under China's State Council, led a national investigation into alleged serious economic crimes involving bribery by GlaxoSmithKline (GSK). They coordinated with municipal police in various cities such as Changsha, Shanghai, and Beijing to apprehend individuals and seize GSK's assets. After the MPS concluded its investigation in May 2014, the case was transferred to the procuratorate, which then handed it over to the Changsha People's Court for trial. This demonstrates that China's criminal justice system is capable of handling transnational corruption cases with a multi-agency approach, targeting both individuals and corporations. (Criminal law and Practice, 2014).

What are the differences and similarities in the application of criminal sanctions against corporations involved in corruption offenses in these three countries

All three nations Indonesia, Singapore, and China have acknowledged that corporations can be subjects of criminal law in corruption cases. In each jurisdiction, corporations are no longer considered passive entities but rather capable of being held criminally liable when they commit crimes for the benefit of the corporation. This is also evident in their respective regulations, which explicitly allow for sanctions against legal entities (not just individuals). Although their approaches and mechanisms differ, all three have established legal bases that enable the imposition of criminal penalties on corporations. To provide a more comprehensive understanding of how Indonesia, Singapore, and China regulate corporate criminal liability in corruption cases, the following comparative table presents aspects such as legal basis, forms of criminal sanctions, theoretical approaches to liability, and implementation in real case studies in each country. This table aims to highlight the similarities and differences in both the normative frameworks and the enforcement practices regarding corporations as perpetrators of corruption.

Table 1. Comparison of Corporate Criminal Liability in Corruption Cases

Aspect	Indonesia	Singapore	China
Legal basis	Law No. 31 of 1999 as amended by law No. 20 of 2001 (Anti-Corruption Law) and Criminal Code	Prevention of Corruption Act (PCA), Penal Code, CDSA, Criminal Procedure Code	Criminal Law of the PRC
Theoretical model	Identification theory- liability lies with individuals representing the will of the corporation (directors)	Vicarious liability & strict liability – corporations are responsible for the actions of agents/employees for the benefit of the company	Identification theory with a unit crime approach – if committed by top officials, the corporation is also liable
Types of sanctions	Limited to fines, no business freezing, license revocation, or dissolution	Large fines through Deferred Prosecution Agreement (DPA), internal system reform	Conditional administrative fines for individuals, corporate structural changes
Enforcement approach	Focus on individuals, not legal entities, weakness in the application of Article 20 of the Anti-Corruption Law	Focus on corporate entities through DPA, administrative & reformative	Combination of structural & individual approaches, multi-agency/multi-stakeholder involvement
Role of institutions	KPK, BPK, Corruption Court – focus on individual perpetrators, not corporations	CPIB, Attorney-General’s Chambers, DOJ (AS), MPF (Brasil) – Cross-border & coordinated enforcement	Ministry of Public Security (MPS), prosecutor’s office, courts-national integrated approach
Corporate response	No sanctions or legal liability against Pertamina	Keppel O&M agreed to pay fines and internal compliance reform	GSK issued public apology, changed incentive and oversight system

All three countries Indonesia, Singapore, and China share the common recognition that corporations can be held criminally liable in corruption cases. This is based on legal principles that link the actions of individuals within a company to reflect the corporation's own will. Despite this shared understanding, each country employs a different approach: Indonesia still tends to focus on sanctioning individual perpetrators and rarely directly prosecutes the corporate entity. Singapore primarily utilizes Deferred Prosecution Agreements (DPAs), often agreed upon with authorities from three countries, which encourage internal improvements within companies. China adopts a comprehensive approach by rigorously prosecuting both individuals and corporations simultaneously, reflecting a stronger and more thorough law enforcement stance.

It appears that the approach to corporate criminal liability in corruption cases heavily relies on each country's legal construct and enforcement philosophy. Indonesia still shows limitations in directly prosecuting corporations as perpetrators of criminal acts, even though the law has opened up that possibility. Law enforcement is more often

directed at individuals in key positions, while corporate entities that profit from the crime frequently escape criminal responsibility. This reflects the need for an update to the models of accountability and enforcement, which should more deeply address the structural and systemic roots within corporate governance. Conversely, Singapore and China demonstrate models that are more adaptive to the complexities of modern corporate crime. Singapore emphasizes an institutional restorative approach through Deferred Prosecution Agreements (DPAs) and the principle of vicarious liability. China, on the other hand, utilizes an Identification approach based on unit crime, allowing for parallel accountability between individuals and corporations. Both countries not only impose criminal and administrative sanctions but also encourage structural reforms within companies' internal compliance systems. Therefore, Indonesia can learn from these models to strengthen law enforcement against corporations and prevent organized corruption by large legal entities that have a significant impact on public finance and policy.

To strengthen corporate criminal liability in Indonesia, a comprehensive reform is needed across theoretical approaches, regulations, and law enforcement practices. Currently, Indonesia still utilizes the Identification Theory, which focuses on prosecuting individuals, such as directors, rather than the corporate entity as a whole (Syahrir et al., 2022). This approach allows many corruption cases involving corporate systems to escape punishment for the corporation itself.

Therefore, Indonesia needs to adopt additional approaches like Vicarious Liability and Strict Liability. These would allow corporations to be penalized for the actions of their subordinates without requiring proof of fault from top management. Furthermore, implementing the Corporate Culture Model and Reactive Fault Theory is crucial to prosecute corporations that possess a work culture or internal system negligent in preventing corruption.

Indonesia also needs to establish a special law enforcement unit within the KPK (Corruption Eradication Commission) or the Attorney General's Office that focuses on handling corporate crime. This unit must have the capability to investigate corporate organizational structures, profit flows, and decision-making systems, so that responsibility doesn't stop at individuals alone.

In addition, Indonesia can implement a Deferred Prosecution Agreement (DPA). This is an agreement between law enforcement and a corporation where the company admits wrongdoing, pays a fine, and undertakes internal reforms to avoid criminal prosecution. This scheme has been successfully applied in other countries like Singapore and can serve as an incentive for structural improvements within corporations.

Furthermore, collaboration among institutions such as the KPK, BPK (Supreme Audit Agency), Ministry of SOEs (State-Owned Enterprises), and OJK (Financial Services Authority) must be strengthened. Handling corporate corruption cannot be left to one institution alone. Synergy is needed in conducting financial audits, legal investigations, administrative oversight, and formulating risk control policies.

Conclusions

Based on an analysis of the regulation and implementation of corporate criminal liability in corruption cases across Indonesia, Singapore, and China, it can be concluded that while all three recognize corporations as legal subjects, their approaches and the effectiveness of their law enforcement show significant differences. Indonesia still conventionally applies the identification theory, where criminal liability is only imposed on individuals representing the corporate will, such as directors. This is clearly illustrated in the case of Karen Agustiawan and PT Pertamina, where the focus of law enforcement was directed solely at the individual perpetrator, without touching the corporate entity itself. Existing regulations, such as Article 20 of the Anti-Corruption Law (UU Tipikor), are not yet supported by adequate technical rules of evidence, and institutions like the Corruption Eradication Commission (KPK) and the Ministry of State-Owned Enterprises (Kementerian BUMN) have not optimally promoted structural corporate accountability.

In contrast, Singapore adopts a more functional and progressive approach through a combination of vicarious liability and strict liability, as seen in the case of Keppel Offshore & Marine Ltd. Corporations can be held accountable for the actions of agents or employees within the scope of their employment without needing to prove the mens rea of top management. Enforcement is carried out administratively through a Deferred Prosecution

Agreement (DPA) scheme, which also encourages internal corporate reform. Meanwhile, China demonstrates the application of identification theory based on unit crime, which not only prosecutes top corporate officials, as in the GlaxoSmithKline (GSK) case, but also imposes criminal and administrative sanctions on the corporate entity simultaneously. This approach is strengthened by multi-agency coordination, reflecting a more comprehensive and systemic enforcement system. Overall, Indonesia's approach remains individualistic and falls short of addressing the structural roots of corporate crime, whereas Singapore and China have developed systems that are more adaptable to the complexities of corruption committed through business entities. Therefore, Indonesia needs to reform its legal approach by considering the integration of theories such as corporate culture and reactive fault theory, as well as strengthening coordination among law enforcement agencies and business regulators. This is crucial so that corporations are not merely viewed as tools used by perpetrators, but also as entities responsible for crimes committed within and through their own structures. Thus, law enforcement against corporations in corruption cases in Indonesia can become more just, effective, and provide a real deterrent effect.

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