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Criminal Liability of Beneficial Owners in Cases of Corruption Committed by Corporations in Indonesia

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Abstract

Corporate corruption in Indonesia increasingly involves individuals who exercise substantive control over corporations without holding formal positions within their organizational structures. This creates a legal problem because the Criminal Code recognizes beneficial owners as potential subjects of criminal liability but does not provide clear operational parameters for the circumstances under which such liability may be imposed . This study examines the criminal liability of beneficial owners in corporate corruption cases and the legal standards required to attribute individual responsibility. It employs a normative legal research method using statutory, case, and limited comparative approaches. The findings show that beneficial-owner status and the receipt of economic benefits cannot independently establish criminal liability. Liability requires proof of effective control, a clear connection between that control and the corrupt conduct, and individual culpability. The cases of PT Imaji Media, Garuda Indonesia–Rolls Royce, and Pertamina illustrate different forms of control through nominee management, corporate intermediaries, and indirect corporate relationships. Piercing the corporate veil may assist in identifying the individuals behind corporate structures but cannot replace proof of personal involvement in the offense. The study emphasizes the need for clearer legal standards based on effective control, connection with corrupt conduct, individual culpability, and economic benefit as supporting evidence.

Keywords: ***Beneficial Owner; Criminal Liability; Corporation; Corruption Crimes.***

1. INTRODUCTION

Corporate corruption presents a distinct challenge to criminal law because unlawful conduct may be organized through a legal entity while the individuals who determine corporate decisions remain outside its formal management structure. The use of corporations in corrupt transactions may separate the person who formally signs or executes a transaction from the person who substantively directs it and ultimately receives its economic benefits.[1] This separation complicates the attribution of individual criminal responsibility when formal corporate records do not accurately reflect the actual distribution

[1] Prasya Putri Ramadhani and Hadi Yusuf, 'Dampak Buruk Atas Tindak Pidana Korupsi Yang Terjadi Di Indonesia', *Media Hukum Indonesia (MHI)* 4, no. 1 (Desember 2025): 42–47, https://doi.org/http://doi.org/10.5281/zenodo.17815737.

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of control.[2] The legal problem, therefore, extends beyond establishing that corruption was committed through a corporation to identifying the individual whose authority, conduct, and culpability justify the imposition of personal criminal liability.[3]

This problem becomes more pronounced when corporate structures are used to separate formal ownership from substantive control. A person may exercise decisive influence over corporate policies or transactions without formally serving as a director, commissioner, or being registered as a shareholder.[4] Corporate vehicles may also be combined with nominees, affiliated entities, and other intermediaries that obscure the identity of the individual exercising ultimate control. International studies on the misuse of corporate vehicles have shown that otherwise legitimate legal structures may facilitate the concealment and control of illicit financial flows, particularly when ownership and decision-making are mediated through other persons or entities. The concept of beneficial ownership therefore becomes relevant to criminal law not merely because a beneficial owner may receive economic benefits, but because the individual's effective control may provide a legally relevant nexus between the corporation and the underlying criminal conduct.[5]

The concept of beneficial ownership rests on the distinction between formal legal ownership and the natural person who ultimately owns, controls, or benefits from an asset or legal entity.[6] Its relevance has subsequently extended beyond private and financial law to regulatory frameworks concerned with identifying the natural person who ultimately owns or controls a corporate structure. The central issue is therefore substantive rather than merely formal: corporate records may identify the legal or registered owner while effective control remains with another individual. This distinction is particularly important in criminal proceedings because identifying an individual as a beneficial owner does not, by itself, establish that the person participated in, exercised control over, or was culpable for an offense committed through the corporation.

The difficulty of identifying the person behind a corporate structure is not unique to Indonesia. International scholarship has documented how shell companies, professional intermediaries, and multi-jurisdictional corporate arrangements may obscure the identity of individuals who ultimately own or control assets or transactions.[7] Beneficial ownership transparency has consequently emerged as an important response to corporate opacity. However, transparency mechanisms primarily address the question of who ultimately owns or controls a legal entity, rather than whether that person bears criminal responsibility for a particular offense. FATF standards similarly emphasize access to adequate and up-to-date information on the beneficial owners of legal persons

[2] Syahril Hidayat et al., 'Tindak Pidana Korupsi Di Indonesia: Bentuk, Faktor, Penyebab, Dan Dampaknya', *Jurnal Ilmu Multidisiplin* 3, no. 2 (2025): 402–11, https://doi.org/http://doi.org/10.53935/jim.v3.i2.67.

[3] Dwi Atmoko and Amalia Syauket, 'Penegakan Hukum Terhadap Tindak Pidana Korupsi Ditinjau Dari Perspektif Dampak Serta Upaya Pemberantasan', *Binamulia Hukum* 11, no. 2 (Desember 2022): 177–91, https://doi.org/http://doi.org/10.37893/jbh.v11i2.732.

[4] Mas Putra Zenno Januarsyah, 'Penerapan Prinsip Ultimum Remedium Dalam TIndak Pidana Korupsi: Kajian Putusan Nomor 2149 K/PID.SUS/2011', *Jurnal Yudisial* 10, no. 3 (Desember 2017): 257–76, https://doi.org/http://dx.doi.org/10.29123/jy.v10i3.266.

[5] Mas Putra Zenno J., *Tindak Pidana Korupsi Di Lingkungan BUMN Persero: Penerapan Asas Ultimum Remedium* (Bandung: Logoz Publishing, 2017).

[6] Widhy Andrian Pratama and Halimah Endang Widyaningsih, 'Hakikat Penegakan Hukum Yang Progresif Terhadap Korupsi Dan Upaya Pencegahannya Di Masyarakat', *Verfassung: Jurnal Hukum Tata Negara* 4, no. 1 (2025): 49–79, https://doi.org/https://doi.org/10.30762/vjhtn.v4i1.689.

[7] Mochamad Lutfi Suryana, 'Tinjauan Hukum Peran Direktorat Jenderal Administrasi Hukum Umum Terhadap Beneficial Owner Pada Perseroan Terbatas Dalam Tindak Pidana Pencucian Uang', *Dharmasisya: Jurnal Program Magister Hukum Fakultas Hukum Universitas Indonesia* 1, no. 4 (Desember 2021): 1995–2004.

to prevent anonymous corporate structures from being misused for criminal purposes.[8] The distinction between identifying beneficial ownership and attributing criminal responsibility is therefore essential when the concept of beneficial ownership is applied in the context of corporate corruption.[9]

Indonesia initially addressed beneficial ownership primarily through a corporate transparency framework. Presidential Regulation Number 13 of 2018 requires corporations to identify and disclose their beneficial owners, while Minister of Law Regulation Number 2 of 2025 strengthens this framework through mechanism for the verification and and supervision of beneficial-ownership information.[10] The legal significance of beneficial ownership expanded with Law Number 1 of 2023 concerning the Criminal Code. Article 47 expressly provides that a corporate criminal offense may also be committed by an order-giver, controlling person, or beneficial owner who is outside the corporate organizational structure but is capable of controlling the corporation, while Artcle 49 includes beneficial owners among the persons upon whom liability for a corporate criminal offense may be imposed . This development moves beneficial ownership beyond its predominantly identification and transparency oriented function and brings it directly into the framework of criminal attribution. The distinction is significant because identifying a person who ultimately owns or controls a corporation and establishing that person's criminal responsibility for a particular offense involve separate legal inquiries.

The recognition of beneficial owners as potential subjects of criminal liability does not resolve the conditions under which such liability should be imposed in corruption cases. The Criminal Code identifies the relevant category of persons but does not provide detailed operational parameters for determining when factual influence amounts to effective control or when the exercise of that control is sufficiently connected to corrupt conduct committed through the corporation. A further distinction is therefore necessary between an individual who merely holds an economic interest and a beneficial owner who directs, authorizes, participates in, or knowingly facilitates the relevant corporate conduct. Without such a distinction, beneficial-owner status risks being treated as a substitute for proof of individual culpability, even though criminal responsibility must remain grounded in the individual's conduct and the mental element required by the relevant corruption offense.

The problem becomes more complex at the evidentiary level. Nominee arrangements, layered ownership, affiliated entities, and indirect decision-making may distance the beneficial owner from the observable acts through which corruption is committed. Formal corporate documents may identify one individual as the shareholder or manager, while instructions, financial authority, and strategic decision-making originate from another.[11] Evidence of economic benefit may assist in tracing this relationship, but it cannot, by itself, establish criminal liability. The evidentiary inquiry must instead establish a sufficient connection between the individual's factual control and the relevant corporate

[8] FATF, 'Guidance on Beneficial Ownership of Legal Persons', 2023, https://www.fatf-gafi.org/en/publications/Fatfrecommendations/Guidance-Beneficial-Ownership-Legal-Persons.html.

[9] Ridwan Arifin et al., 'A Discourse of Justice and Legal Certainty in Stolen Assets Recovery in Indonesia: Analysis of Radbruch's Formula and Friedman's Theory', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 27 December 2023, 159–81, https://doi.org/10.24090/volksgeist.v6i2.9596.

[10] Marolop Pandiangan, Harkristuti Harkrisnowo, and Febby Mutiara Nelson, 'The Conflict between Mining Law and Anti-Corruption Law in Indonesia's Extractive Sector: A Study of Legal Justification and Judicial Reasoning', *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, 15 May 2026, 111–26, https://doi.org/10.24090/volksgeist.v9i1.14411.

[11] Lastuti Abubakar, *Transaksi Derivatif Di Indonesia: Tinjauan Hukum Tentang Perdagangan Derivatif Di Bursa Efek* (Bandung: Books Terrace & Library, 2009).

decision or transaction, while also proving the conduct and mental elements required by the applicable offense, including where relevant, knowledge, intent, direction, or participation. This requirement is necessary both to reach individuals who operate behind corporate structures and to prevent beneficial ownership from being treated as a form of strict liability.

Existing international scholarship has approached this problem from several directions, but beneficial ownership and corporate criminal attribution have largely developed as distinct fields of inquiry. Research on corporate vehicles has examined how otherwise legitimate companies and professional intermediaries may facilitate the concealment or control of illicit financial flows, while beneficial-ownership scholarship has concentrated primarily on transparency and the identification of the natural persons who ultimately own or control legal entities.[12] Scholarship on corporate criminal liability has separately examined attribution doctrines and the limitations of identification-based approach to liability. Recent analysis of the United Kingdom's anti-bribery regime, for example, distinguishes identification-based attribution from statutory corporate liability based on the failure to prevent bribery.[13] Although these bodies of literature illuminate different dimensions of corporate opacity and criminal attribution, They do not fully address the conditions under which a beneficial-owner may be held personally criminally liable for corruption committed through a corporation.

Indonesian scholarship has addressed beneficial ownership more directly, although its dominant orientation differs from the problem examined in this study. Ariani examined beneficial ownership in relation to corporate crime and the need to identify the person behind corporate structure. Syakur analyzed the criminal liability of beneficial owners primarily in to the context of money laundering and other offenses committed through limited liability companies. Maulidah, Hengki, and Sari likewise focused on beneficial-owner liability within the money-laundering framework. These studies provide an important foundation for understanding beneficial ownership beyond formal legal ownership, but they do not sufficiently explain the doctrinal transition from identifying an individual as a beneficial owner to attributing personal criminal responsibility for corporate corruption following the recognition of beneficial owners under the 2023 Criminal Code. The unresolved question therefore concerns the legal parameters for distinguishing mere economic interest or factual influence from effective control that is sufficiently connected to the corrupt conduct and accompanied by individual culpability to justify criminal punishment.

This study addresses that gap by developing a doctrinal framework that distinguishes beneficial ownership as a status of ownership or control from beneficial-owner criminal liability as a form of individual criminal attribution. The framework evaluates liability through four connected elements: effective control, a demonstrable nexus between that control and the relevant corrupt conduct, individual culpability, and economic benefit as supporting rather than determinative evidence. The study analyzes the normative construction of beneficial-owner liability under Indonesian criminal law and examines its operation through selected corporate corruption cases. A limited comparative perspective is also used to assess how attribution principles developed in another corporate criminal law system can clarify the boundaries of the Indonesian approach.

[12] Nicholas J. Lord, Liz J. Campbell, and Karin Van Wingerde, 'Other People's Dirty Money: Professional Intermediaries, Market Dynamics and the Finances of White-Collar, Corporate and Organized Crimes', *The British Journal of Criminology* 59, no. 5 (September 2019): 1217–36, https://doi.org/10.1093/bjc/azz004.

[13] Shabir Korotana, 'The Corporate "Failure to Prevent" Principle in the UK Bribery Act 2010: Philosophical Foundations of Economic Crime', Statute Law Review 45, no. 1 (April 2024).

The study therefore seeks not merely to identify beneficial owners but to formulate evaluative parameters that may assist courts in determining when a person behind a corporate structure can properly bear personal criminal responsibility for corruption.[14]

This study employs a normative research method using statutory, case, and limited comparative approaches. The legal materials include the applicable anti-corruption legislation, the Criminal Code, the Criminal Procedure Code, and regulations governing corporate beneficial ownership. These legal materials are analyzed through a grammatical, systematic, and teleological interpretation to determine the scope of beneficial-owner criminal liability and its relationship with corporate criminal responsibility.

The case approach is used to examine selected Indonesian corruption cases involving persons who exercised substantive control beyond the formal corporate structure. A limited comparison with the United Kingdom is undertaken to examine alternative approaches to corporate control and criminal attribution. The identification doctrine, de facto control, and piercing the corporate veil are employed as analytical frameworks to assess effective control, its nexus with the relevant corrupt conduct, individual culpability, and economic benefit as supporting rather than determinative evidence. The analysis is conducted qualitatively by examining the relationship among legal norms, doctrinal principles, comparative perspectives, and the legally relevant facts of the selected cases.[15]

2. ANALYSIS AND DISCUSSION

2.1. Construction of Criminal Liability Against Beneficial Owners in Cases of Corruption Committed by Corporations

The construction of criminal liability for beneficial owners begins with a distinction between formal corporate status and substantive control. Corporate conduct may be formally performed by directors, managers, or other registered actors, while the authority that determines the relevant corporate decision remains with an individual outside the organizational structure.[16] This separation becomes legally significant when the corporation is used to commit corruption because individual criminal responsibility cannot be determined solely by reference to formal corporate registration. The analysis must therefore identify who exercised actual or effective control and determine whether the exercise of that control was sufficiently connected to the conduct constituting the offense.[17]

Beneficial ownership should be distinguished from registered ownership because it focuses on natural person who ultimately owns or control a corporate vehicle.[18] International beneficial-ownership standards similarly emphasize the identification of the true person who ultimately owns and controls a legal entity , particularly where formal ownership does not reveal actual distribution of control. Beneficial ownership is

[14] Syamsir Syamsir et al., 'State Asset Management in the Framework of Good Governance and International Law for Sustainable Development', *Jambura Law Review* 1, no. 1 (March 2026): 250–71, https://doi.org/10.33756/jlr.v1i1.30817.

[15] Putra Perdana Ahmad Saifulloh et al., 'Reconstruction of Restrictions on the President's Power in Determining the Posture of Ministries in the Indonesian Government System', *Jambura Law Review* 7, no. 2 (July 2025): 521–58, https://doi.org/10.33756/jlr.v7i2.29684.

[16] Ayu Suraya and Afrijal, 'Dampak Korupsi Terhadap Pembangunan Ekonomi Dan Penegakan Hukum Di Indonesia', *Mahkamah: Jurnal Riset Ilmu Hukum* 3, no. 1 (January 2026): 01–08, https://doi.org/https://doi.org/10.62383/mahkamah.v3i1.1340.

[17] Abubakar, *Transaksi Derivatif Di Indonesia: Tinjauan Hukum Tentang Perdagangan Derivatif Di Bursa Efek*.

[18] Teddy Anggoro and Fahrurrozi, *Beneficial Ownership: Sejarah, Teori, Perkembangan, Dan Penerapannya* (Depok: Rajawali, 2025).

therefore inherently concerned with substantive rather than merely formal relationship, because control may arise through ownership rights, decision-making authority, financial influence, contractual arrangements, or other relationships that enable a person to exercise decisive influence over corporate conduct. The concept therefore extends beyond the name recorded in corporate documents and directs attention to the substantive distribution of ownership and control within or behind the corporation.

For criminal-law purposes, however, identifying a beneficial owner and establishing criminal liability are separate inquiries. An individual may ultimately own, control, or benefit from a corporation without necessarily participating in a particular criminal offense.[19] Beneficial ownership becomes relevant to corporate corruption when the individual's substantive control can be sufficiently connected to the corporate decision or transaction through which the corruption was committed. This distinction prevents beneficial ownership from being transformed from an identification mechanism into an automatic basis for criminal punishment.[20]

In Indonesian law, the recognition of beneficial ownership initially developed through sector-specific financial and corporate regulatory framework and was subsequently consolidated at the corporate level through Presidential Regulation Number 13 of 2018. The Presidential Regulation identifies beneficial owners through criteria including share ownership , voting rights, entitlement to profits, authority to appoint or dismiss directors and commissioners, receipt of economic benefits, and actual ownership of corporate funds.[21] These criteria are important for identifying the person behind a corporation, but their primary function is to facilitate corporate transparency and beneficial-owner identification. They do not, by themselves, establish whether the identified individual bears criminal responsibility for an offense committed through the corporation. The transition from regulatory identification to criminal attribution therefore requires an additional doctrinal inquiry into control, conduct, and culpability.[22]

The recognition of beneficial owners under the Criminal Code establishes a general framework for attributing criminal liability to individuals who exercise control over a corporation while remaining outside its formal organizational structure. Articles 47 expressly recognize that a corporate criminal offense may be committed by an order-giver, controlling person, or beneficial owner who remains outside the organizational structure but is capable of controlling the corporation, while Article 49 includes beneficial owners among the persons upon whom liability for a corporate criminal offense may be imposed . When the underlying conduct constitutes a corruption offense, these general rules of corporate criminal attribution must be applied in conjunction with the relevant provisions of the Anti-Corruption Law. . The Criminal Code provides the general framework governing for corporate criminal responsibility and attribution, while the Anti-Corruption Law remains the specific regime governing the elements and legal consequences of corruption offenses. The status of a person as a beneficial owner therefore does not independently establish criminal liability. Liability requires a demonstrable connection between the beneficial owner's effective control and the corrupt conduct attributed to the corporation. This approach provides a normative

[19] Syahrijal Syakur, 'Pertanggungjawaban Pidana Oleh Pemilik Manfaat (Beneficial Owner) Sebagai Pelaku Pencucian Uang Dan Kejahatan Lainnya Dalam Perseroan Terbatas', *Journal of Anti-Money Laudering/Countering the FInancing of Terrorism* 1, no. 1 (Desember 2022): 101–12, https://doi.org/DOI:10.59593/amlcft.2022.v1i1.28.

[20] Dicky J.H., 'Sejarah Pertanggungjawaban Pidana Beneficial Owner Di Indonesia', *Jurnal Ilmu Sosial Dan Pendidikan* 4, no. 4 (November 2020): 137–49, https://doi.org/http://dx.doi.org/10.58258/jisip.v4i4.1419.

[21] Abubakar, *Transaksi Derivatif Di Indonesia: Tinjauan Hukum Tentang Perdagangan Derivatif Di Bursa Efek*.

[22] Ridwan Ridwan et al., 'Reconsidering the Death Penalty for Bribery in Law Enforcement to Prevent and Eradicate Corruption in Indonesia', *Jambe Law Journal* 8, no. 2 (December 2025): 751–79, https://doi.org/10.22437/41zyxg03.

basis for extending criminal responsibility beyond formally registered directors or shareholders without treating beneficial ownership itself as an independent basis of criminal.

The attribution of criminal liability to a beneficial owner requires a doctrinal basis that connects factual corporate affairs with the commission of a relevant criminal offense. The identification theory may assist in examining this relationship because it focuses on individuals whose acts and mental states may be attributed to the corporation when they exercise the decisive authority of its directing mind and will.[23] Its relevance to beneficial ownership therefore lies in the substance of the individual's control rather than in formal corporate status. A person outside the organizational structure may therefore become relevant to criminal attribution where that person possesses and exercises the factual authority to determine corporate decisions or direct the conduct through which the offense is carried out.[24]

Current legislation recognizes that the acts and mental states of certain senior corporate officers may closely related to the corporation where those people exercise significant authority over corporate affairs, allowing the elements of a criminal offense to be established through their conduct and culpable state of mind . Those people can be referred to as "senior officers" of the company. From the description above, it can be said that the acts/delicacies and mistakes/attitudes of senior officials are seen as the company's inner actions and attitudes. The elements of criminal acts can be gathered from the actions and inner attitudes of several senior officials.

The application of identification doctrine to beneficial owners must distinguish factual control from individual culpability. A person may exercise substantial influence over corporate affairs without participating in the corruption offense committed through the corporation.[25] Criminal liability therefore requires a demonstrable connection between the exercise of control and the relevant criminal conduct. The evidence must also establish the knowledge, intention, direction, or participation required by the applicable corruption offense. This distinction prevents beneficial ownership or corporate influence from becoming an independent basis for criminal punishment.

A limited comparison with United Kingdom law reinforces the importance of separating corporate control from criminal attribution. The United Kingdom addresses significant corporate control through its People with Significant Control regime, while criminal attribution is governed through separate mechanisms. Section 196 of the Economic Crime and Corporate Transparency Act 2023 attributes specified economic offenses to a corporate body when they are committed by a senior manager acting within the actual or apparent scope of authority. The Bribery Act 2010 adopts another model by creating a distinct corporate offense for failure to prevent bribery. These mechanisms demonstrate that identifying a person who owns or controls a corporation and the attributing criminal responsibility are related but legally distinct inquiries.

The comparative value of the United Kingdom approach lies not in transplanting its corporate liability rules into Indonesian law, But in illustrating the functional distinction between identifying substantive control and establishing the legal basis for criminal attribution. Applied to Indonesian corporate corruption, the same distinction requires beneficial-owner status to operate as the starting point of inquiry rather than

[23] Dwidja Priyatno, *Sistem Pertanggungjawaban Pidana Korporasi Dalam Kebijakan Legislali* (Jakarta: Kencana, 2017).

[24] Hariman Satria, 'Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Sumber Daya Alam', *Mimbar Hukum* 28, no. 2 (June 2016): 288–300, https://doi.org/https:doi.org/10.22146/jmh.16722.

[25] Priyatno, *Sistem Pertanggungjawaban Pidana Korporasi Dalam Kebijakan Legislali*.

its conclusion. Criminal responsibility must still depend on whether effective control is connected to the relevant corrupt conduct and accompanied by the culpability required under the applicable offense.

Corporate criminal liability also requires a distinction between liability imposed on the corporation and personal liability imposed on individuals behind its conduct. The development of corporate criminal liability has moved beyond models that confine responsibility solely to formally appointed management.[26] A corporation may bear liability for offenses committed through its organizational activities while individuals who direct or control those activities may be held personally responsible when the elements of individual culpability are established. This distinction is particularly relevant to beneficial owners because substantive corporate control may exist outside the formal management structure.[27]

The criminal liability of a beneficial owner should therefore not arise merely from beneficial-owner status or the receipt of economic benefits from corporate activities. The relevant inquiry is whether the person exercised effective control and whether that control was connected to the corporate decision or conduct through which corruption was committed. Personal criminal liability may arise when the beneficial owner directs, authorizes, participates in, or knowingly facilitates the relevant corrupt conduct and the requisite culpability is established. Economic benefit may strengthen the evidentiary connection but should not operate as an independent ground for criminal liability.

The remaining normative difficulty lies in determining when factual influence amounts to effective control sufficient to justify criminal attribution. The Criminal Code recognizes beneficial owners within the framework of corporate criminal liability but does not provide detailed operational criteria for measuring such control in corruption cases. Effective control should not be assessed not only through share ownership or formal authority but also by examining whether a person has the factual capacity to determine strategic corporate decisions, direct formal management, influence significant transactions, control corporate funds, or determine the parties through whom corporate activities are conducted. These indicators provide a substantive basis for distinguishing an actual corporate controller from a person who merely holds an economic interest in the corporation.

Establishing effective control requires evidence of a consistent factual relationship between the beneficial owner and the corporation rather than reliance on formal corporate records alone. Relevant evidence may include instructions given to directors or employees, communications concerning strategic decisions, control over bank accounts or financial transactions, involvement in contractual arrangements, authority over the appointment of corporate actors, and the flow of economic benefits resulting from the relevant transaction. No single indicator should automatically establish criminal liability. The evidentiary assessment should demonstrate a coherent connection between factual control, involvement in the relevant conduct, and the requisite culpable state of mind.

The evidentiary task becomes more complex when control is exercised through nominee arrangements, affiliated entities, shell companies, or layered ownership structures. Formal documents may identify another person as the shareholder or manager even though strategic authority remains with the beneficial owner. In such circumstances, the assessment must move beyond registered ownership to examine

[26] Munir Fuady, *Doktrin-Doktrin Modern Dalam Corporate Law & Eksistensinya Dalam Hukum Indonesia* (Bandung: Citra Aditya Bakti, 2002).

[27] Priyatno, *Sistem Pertanggungjawaban Pidana Korporasi Dalam Kebijakan Legislali.*

patterns of instruction, financial control, decision-making authority, and the distribution of economic benefits across related entities. Cross-border corporate structures may create additional difficulties where ownership information and transaction records are located in different jurisdictions. These circumstances reinforce the need for an evidentiary approach that focuses on substantive control rather than formal corporate structure alone. International beneficial-ownership standards support this substantive orientation by requiring competent authorities to have access to adequate and accurate information on the true owners of legal persons, particularly where shell companies or complex structures obscure ownership and control.

Piercing the corporate veil must be approached cautiously because separate corporate personality remains a fundamental principle of corporate law. The doctrine becomes relevant only where reliance on the formal separation between the corporation and the person controlling it would allow the corporate structure to be used to evade an existing legal responsibility. Comparative jurisprudence likewise treats veil piercing as an exceptional mechanism rather than a general method for disregarding corporate personality. Its significance for beneficial-owner analysis therefore lies in exposing the relationship concealed by the corporate structure rather than automatically equating the corporation with the individual behind it.[28]

Its function in corporate criminal law should therefore be distinguished from the basis of criminal liability itself. Piercing the corporate veil may assist the legal inquiry in moving beyond registered ownership to identify the individual who substantively controls the corporation. It cannot, however, replace proof that the individual participated in, directed, or otherwise contribute to the corrupt conduct. Once the corporate structure has been examined beyond its formal legal boundaries, criminal attribution must still establish effective control, a demonstrable connection with the relevant offense, and the requisite culpable state of mind. The doctrine therefore performs an identification function, while criminal liability remains governed by the principles of attribution and individual culpability.

Identification theory, de facto control, and piercing the corporate veil accordingly perform different but complementary functions within the proposed framework. Piercing the corporate veil assists in revealing the individual behind the formal corporate structure. De facto control determines whether that individual exercised actual authority over corporate decisions or transactions.[29] Identification and attribution analysis then examine whether the individual's conduct and state of mind can be sufficiently connected to the corruption offense. Keeping these functions separate avoids treating ownership, control, and culpability as interchangeable concepts while still allowing criminal law to reach individuals who use corporate form to distance themselves from the commission of the offense.

2.2. The Application of Criminal Liability to Beneficial Owners in Cases of Corruption Committed by Corporations in Indonesia

The application of beneficial-owner criminal liability requires the legal framework developed above to be tested against the factual circumstances of individual cases. The principal difficulty lies in determining whether a person outside the formal corporate

[28] Edy Setyawan, Ahmad Alamuddin Yasin, and Rahman Dahlan, 'Legal Culture Review and Judicial Track Record of the Kesultanan Cirebon in the Manuscript Pepakem Jaksa Pepitu', *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 24, no. 1 (July 2024): 1–21, https://doi.org/10.18326/ijtihad.v24i1.1-21.

[29] Putu Eva Ditayani Antari, 'The Interpretation of Misconduct Act as A Reason to Dismiss President: An Ethical Approach', *De Jure: Jurnal Hukum Dan Syar'iah* 13, no. 1 (July 2021), https://doi.org/10.18860/j-fsh.v13i1.12122.

structure exercised effective control and whether that control was connected to the transaction through which corruption occurred. Formal records may identify directors or shareholders without revealing the person who actually determined the relevant corporate conduct. The analysis must therefore examine the factual distribution of authority rather than rely on formal corporate status alone.[30]

The three cases examined below are assessed using the same analytical framework. The inquiry focuses on effective control, the nexus between that control and the corrupt conduct, individual culpability, and economic benefit as supporting evidence. Applying common parameters makes it possible to distinguish different mechanisms of corporate control while maintaining the same threshold for individual criminal attribution. The cases are therefore used to test the doctrinal framework rather than merely to illustrate that persons outside formal management may be criminally liable.

2.2.1 Corruption Cases PT. Imaji Media[31]

The PT Imaji Media case concerned the procurement of videotron equipment by the Ministry of Cooperatives and Small and Medium Enterprises, with a project budget of approximately Rp2.3 billion. PT Imaji Media was formally registered as the tender participant and was ultimately declared the successful bidder, with Hendra Saputra recorded as its President Director. The trial findings, however, indicated that both the establishment of the company and Hendra Saputra's appointment were directed by Riefan Avrian. Hendra had previously worked for PT Rifuel and carried out the formal corporate functions assigned to him, while Riefan exercised substantive influence over the company's participation in the procurement process.

The actual distribution of authority became more apparent after PT Imaji Media secured the contract. Although PT Imaji Media was the formal contracting party, the project was substantively implemented by PT Rifuel, while Hendra Saputra performed formal administrative functions, including signing tender documents, contractual documents, payment documents, and the work handover record. Strategic decisions concerning the project and its implementation remained under Riefan Avrian's direction. The financial arrangements further reflected the separation between formal management and substantive control, as Hendra dd not exercise effective control over the economic benefits arising from the project despite his formally registered position as President Director.

Viewed through the analytical framework developed in Subsection 2.1, the PT Imaji Media case reflects effective control exercised through nominee management. First, Riefan Avrian's control was indicated by his role in establishing the corporate arrangement and positioning Hendra Saputra within the formal management structure. Second, that control had a direct nexus with the procurement transaction because it extended to both the tender process and the substantive implementation of the project. Third, criminal attribution depended on Riefan's proven involvement in the conduct underlying the offense rather than on his beneficial owner status alone. The economic benefits associated with the transaction reinforced this evidentiary connection but did not independently establish liability. The case therefore illustrates how nominal management can be distinguished from substantive control through a combination

[30] Ridwan et al., 'Comparative Study on the Choice of Regulatory Models for the Formulation of Corruption Crimes in the Anti-Corruption Laws of Indonesia and Malaysia: Studi Komparatif Pemilihan Bentuk Pengaturan Tentang Model Penyusunan Tindak Pidana Korupsi dalam Undang-Undang Tindak Pidana Korupsi Indonesia dan Malaysia', *LITIGASI* 26, no. 1 (April 2025): 228–59, https://doi.org/10.23969/litigasi.v26i1.19611.

[31] Putusan Mahkamah Agung Nomor: 980 K/Pid.Sus/2015.

of decision-making authority, involvement in the relevant conduct, and supporting financial evidence.

The court ultimately imposed criminal liability on Riefan Avrian after finding that he was involved in the corruption offense arising from the videotron procurement. The judicial findings concerning his control over the establishment of PT Imaji Media and the tender process are significant for beneficial-owner analysis because they connect his factual authority with the transaction through which the offense was committed. His conviction should therefore be understood not as a consequence of beneficial-owner status alone, but as the result of his proven involvement in the conduct underlying the offense. The case illustrates how nominee arrangements may be scrutinized where formal corporate status does not reflect the actual distribution of decision-making authority.

In its decision, the court sentenced Riefan Avrian to 6 (six) years' imprisonment and imposed a fine of Rp. 200,000,000. – with 3 (three) months of imprisonment in default of payment. The sentence demonstrates that a person who acts as a beneficial owner and factual control over a corporation may still be held criminally liable even though he is not formally registered as a corporate officer.

2.2.2 Cases of Corruption in Aircraft Procurement and Aircraft Engine Repair PT. Garuda Indonesia (Persero)[32]

The Garuda Indonesia–Rolls Royce case concerned aircraft procurement and engine-maintenance arrangements involving PT Garuda Indonesia, Rolls-Royce, and Airbus. In the course of these commercial relationships, Soetikno Soedarjo acted as an intermediary in negotiations and business arrangements connected with PT Ardyaparamita Ayuprakarsa. The company formed part of the contractual mechanism through which funds associated with the transactions were received and distributed, including commissions linked to parties involved in the procurement process.

The judicial findings placed Soetikno beyond the role of a passive beneficiary of the transaction. He was found to have used PT Ardyaparamita Ayuprakarsa as a corporate vehicle and to have played an active role in initiating and directing the relevant business arrangements. The company provided the formal contractual vehicle, while Soetikno exercised substantive authority over the arrangement and the movement of funds associated them. His role therefore illustrates how effective control may arise through transactional authority even where the individual is not formally recorded as the relevant corporate manager or shareholder.

The Garuda Indonesia–Rolls Royce case presents a different form of substantive control. The relevant control was exercised through the use of PT Ardyaparamita Ayuprakarsa as a corporate intermediary in the contractual and financial arrangements surrounding the transaction. The facts established in the judgment indicate that Soetikno Soedarjo initiated and directed the business relationship, while the corporation served as the formal vehicle for receiving and distributing funds. His role is legally relevant not merely because he obtained an economic benefit, but because his authority was connected to the design and execution of the transaction underlying the corrupt conduct. This combination of transactional control and individual participation distinguishes substantive control from passive economic ownership.

The conviction of Soetikno Soedarjo further demonstrates that factual control must be examined together with personal involvement in the prohibited conduct. The

[32] Putusan Pengadilan Tinggi DKI Jakarta Nomor: 22/PID.SUS-TPK/2020/PT.DKI.

significance of this case for beneficial-owner liability lies in the evidentiary connection between his control over the corporate intermediary and his participation in the financial arrangements underlying the offense. The use of corporate vehicle did not eliminate the need to establish individual culpability. Instead, the corporate arrangement formed part of the factual evidence through which his role in the transaction could be established.

2.2.3 Oil Trade Governance Corruption Cases PT. Pertamina (Persero)[33]

The Pertamina-related case concerns the relationship between PT Orbit Terminal Merak and PT Pertamina in the provision of fuel-terminal services. The materials cited in this article describe Riza Chalid as a person who exercised influence over the development of the commercial relationship despite not occupying a relevant formal corporate position. The arrangement involved communications with Pertamina officials and parties associated with PT Orbit Terminal Merak before the parties entered into a long-term agreement for fuel reception, storage, and delivery services. This factual pattern raises a different issue from the two preceding cases because the alleged control was exercised indirectly through personal and corporate relationships rather than through an formally documented managerial role.

Although at that time PT Orbit Terminal Merak reportedly lacked adequate experience and fuel storage facilities at the time, the cooperation process continued and ultimately resulted in the signing, on March 5, 2014 of a memorandum of understanding for fuel reception, storage, and delivery services for a ten years.

The facts described in relation to PT Orbit Terminal Merak indicate a form of control operating beyond formal shareholding or management. Riza Chalid's alleged influence is reflected in his capacity to affect strategic corporate decisions and business relationships through persons acting within the formal structure. The use of family members or trusted parties as formal corporate actors may obscure the relationship between registered authority and substantive control. For beneficial-owner analysis, however, such relationships must be supported by evidence demonstrating who actually directed the relevant decisions, exercised authority over the corporate transaction, and maintained an economic interest in its outcome. Informal influence alone should not be treated as sufficient proof of criminal liability.

Criminal attribution in an indirect-control arrangement requires evidence connecting substantive authority to the corporate transaction through which the offense was committed. It must also establish the individual's direction, participation, knowledge, or other culpable involvement as required by the applicable offense. This threshold is particularly important where authority is exercised through relatives, trusted persons, or affiliated entities because the existence of such relationships cannot, by itself, establish criminal responsibility.

The enforcement proceedings discussed in this case also concern Muhammad Kerry Adrianto Riza, whom this article identifies as a beneficial owner and who was subjected to criminal liability by the Corruption Court. His legal position must be assessed independently of the factual control attributed to Riza Chalid. The relevance of the judgment to beneficial-owner liability therefore depends on evidence establishing Kerry's own control over the relevant corporate activities, his connection with the prohibited conduct, and the economic benefits attributed to him. Criminal liability

[33] Hidayat Salam, 'Peran Riza Chalid dan Anak dalam Kasus Korupsi Minyak Mentah Rp 285 Triliun', *Kompas. Com,* n.d.

imposed on one individual cannot be used to infer the culpability of another merely because both are connected to the same corporate structure.

The three cases reveal different mechanisms through which substantive control may operate behind a formal corporate structure. PT Imaji Media illustrates control exercised through nominee management and the placement of a formal director whose role was largely administrative. The Garuda Indonesia–Rolls Royce case reflects control exercised through a corporate intermediary used in contractual and financial arrangements. The Pertamina-related case raises a more complex form of indirect control involving personal relationships and individuals positioned within the corporate structure. Despite these differences, the cases share a common evidentiary question: whether the person identified as the beneficial owner exercised actual authority over the corporate conduct that formed part of the corruption offense.

Tracing financial flows remains important in establishing this relationship because it may reveal who controlled the proceeds or obtained economic benefits from the related transaction. Financial benefit should nevertheless be assessed together with evidence of control and participation. The receipt of funds does not, by itself, establish beneficial-owner liability if the evidence cannot connect the recipient to the decision or conduct constituting the offense. Financial records are therefore most probative when they reinforce other evidence, such as instructions, communications, contractual involvement, control over corporate accounts, or authority over the individuals carrying out the transaction.

Evidentiary difficulties become more pronounced when substantive control is separated from formal ownership through nominee arrangements, affiliated entities, shell companies, or layered corporate structures. Corporate records may identify the legal holder of shares or the registered manager while providing little information about the person who actually determines corporate conduct. The evidentiary inquiry must therefore examine patterns of authority across the corporate relationship rather than rely exclusively on registration documents. The consistency among instructions, financial control, decision-making power, and economic benefit becomes necessary in distinguishing genuine beneficial ownership from ordinary commercial affiliation.

Cross-border corporate arrangements create an additional layer of difficulty because ownership records, financial transactions, and entities involved in the same arrangement may be located in different jurisdictions. This fragmentation may weaken the evidentiary connection between the individual controller and the corporation used in the offense. A substantive approach to control remains necessary, but criminal attribution must still rest on evidence connecting the individual to the relevant conduct and establishing the requisite culpability. The complexity of the corporate structure cannot reduce the evidentiary threshold required to establish individual criminal responsibility.[34]

The application of the proposed framework to these cases supports a differentiated model of beneficial-owner criminal attribution. Formal corporate position is neither necessary nor sufficient to establish individual liability. What matters is whether the evidence identifies effective control and connects the exercise of the control to the decision or transaction through which the corruption was committed. Nominee management, corporate intermediaries, and indirect control may create different factual pathways, but none dispenses with the requirement to prove personal culpability. Economic benefit and financial tracing strengthen the evidentiary picture only when

[34] Achmad Zuhdi et al., 'Presidential Partisanship in Indonesian Elections: A Legal and Ethical Analysis', *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 1 (April 2025): 168–86, https://doi.org/10.29303/ius.v13i1.1635.

the corroborate the relationship between control and the relevant conduct . The case analysis therefore supports a model of beneficial-owner liability capable of reaching substantive corporate controllers without converting ownership, influence, or economic interest into automatic criminal responsibility.

3. CONCLUSION

This study concludes that beneficial owners may be held criminally liable for corruption committed through corporations even when they do not hold formal positions within the corporate structure. Such liability cannot be based solely on beneficial-owner status or the receipt of economic benefits. It requires proof of effective control, a clear connection with the corrupt conduct, and individual culpability. The cases examined show that control may operate through nominee management, corporate intermediaries, or indirect corporate relationships. Piercing the corporate veil may assist in identifying the person behind the corporate structure, but criminal liability must still be established through evidence of personal involvement in the offense.

Based on these findings, clearer legal standards are needed to determine beneficial-owner liability in corporate corruption cases. Courts should assess effective control, its nexus to the corrupt conduct, individual culpability, and economic benefit as supporting rather than determinative evidence. Further research should examine these parameters across a wider range of judicial decisions and more complex corporate structures, including nominee arrangements, shell companies, layered ownership, and cross-border corporate networks.

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