

Analysis of Corporate Criminal Liability in Consumer Protection Crimes in Indonesia after the Enactment of Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code

Andreas Daniel Libri Anugrah Situmeang¹⁾, Lasmin Alfies Sihombing²⁾ & Yeni Nuraeni³⁾

¹⁾Universitas Pakuan Bogor, Indonesia, E-mail: Dataandreassitumeang93@gmail.com

²⁾Universitas Pakuan Bogor, Indonesia, E-mail: alfies.sihombing@unpak.ac.id

³⁾Universitas Pakuan Bogor, Indonesia, E-mail: yeni.nuraeni@unpak.ac.id

Abstract. *The practice of abusing the corporate veil as a shield for organized economic crime has caused massive losses to consumers and created serious loopholes for impunity for the intellectual actors involved. Therefore, this study aims to analyze the urgency of expanding the Piercing the Corporate Veil doctrine from the civil realm into criminal law as a progressive law enforcement instrument. In addition, this study also aims to formulate a model of criminal liability that is capable of ensnaring the actual beneficial owners in order to optimize restorative justice and restitution for the victims. To answer these questions, this study uses a normative juridical research method using a legislative and conceptual approach that is analyzed qualitatively and normatively based on a literature review. The extension of the Piercing the Corporate Veil (PCV) doctrine into the realm of criminal law through Law Number 1 of 2023 marks a fundamental transformation in prosecuting intellectual actors and beneficial owners behind corporate crimes. This extension effectively dismantles the limited liability immunity that is often abused, thereby providing a strong legal basis for the application of restorative justice through the optimization of asset restitution for victims of consumer protection crimes. Ultimately, the success of implementing this new paradigm depends heavily on cross-institutional synergy among law enforcement agencies in tracking assets and promoting a culture of corporate compliance in order to create an accountable business ecosystem.*

Keywords: *Criminal; Consumers; Corporations; Law; Restitution.*

1. Introduction

A limited liability company (PT) is recognized as a separate legal entity that provides limited liability protection to its shareholders. This protection, metaphorically referred to as the “corporate veil,” is the foundation of the modern economy that encourages investment. However, this protective veil has been systematically abused as a shield for organized crime against consumers. Criminals use corporations as vehicles to defraud, drain assets for personal gain, and then hide behind their legal status to avoid personal criminal liability. This creates a serious accountability gap, where mass losses occur without any real perpetrators who can be effectively prosecuted (Arkush & Braman, 2024).

There are three main groups of actors in this issue. The Principal Actors are individuals who act as the masterminds or actual controllers (directing minds or alter egos) behind corporations. They may be controlling shareholders, directors, or even other parties who de facto control company policy for unlawful purposes, even though their names are not listed in the formal structure. The second group is the Victims, namely consumers as the general public who are the targets of fraudulent business practices, deception, or dangerous products marketed by these corporations. Their position is inherently weak and unbalanced in the face of the economic and legal power of corporations. Finally, there are the Law Enforcement Agencies, which include the police, prosecutors, and courts that face structural difficulties in penetrating the corporate veil within the existing criminal law framework. They are often only able to prosecute corporations as entities (which are often already empty shells) or lower-level executives, while the main masterminds escape (Yeh, 2023).

This problem has arisen in Indonesia and has escalated into a critical situation in the last decade, in line with the digitization of the economy and the ease of establishing business entities. The most vulnerable sectors include travel services (Umrah), financial investment, e-commerce, and other mass consumer products. The data shows the massive and actual scale of the problem. In terms of timing, the Financial Services Authority (OJK) report shows that the total losses suffered by the public due to illegal investments during the 2017-2022 period have reached IDR 123 trillion, with the peak losses occurring in 2022 at IDR 109.67 trillion. In terms of where, contextual examples can be seen in major cases such as PT First Travel, which caused losses to tens of thousands of prospective umrah pilgrims, illegal investment schemes based on applications such as Binomo and MeMiles. These cases show a similar pattern: corporations are used as a legal facade to collect massive amounts of public funds, which are then misused by their founders (Friedmann, 1957).

The urgency of implementing Piercing the Corporate Veil (PCV) in the criminal sphere is driven by the systemic failure of existing legal mechanisms. This failure is evident in the weak deterrent effect, where criminal sanctions imposed on corporations, such as fines, are often ineffective. Criminals view fines as merely a “cost of doing business” and can easily avoid them by declaring bankruptcy for companies whose assets have been depleted. In addition, there is impunity for the main masterminds, as the corporate veil provides legal immunity for the real controllers. They can establish new companies to repeat their crimes, creating a cycle of fraud that continues to repeat itself. Finally, there is a failure to provide restitution for victims. The current focus of criminal law is more on punishing perpetrators than on recovering victims' losses. The legal tragedy in the First Travel case is the most obvious example, where the proceeds of crime, which should have been the right of the victims, were instead seized by the state by a Supreme Court ruling. This ruling ignored the fact that these funds never legally belonged to the corporation, but always belonged to the consumers who were defrauded. This demonstrates the fundamental failure of the judicial system to provide substantive justice and protection of the property rights of victims (Di Nuzzo & Falcone, 2025).

Piercing the Corporate Veil (PCV) is a legal doctrine that allows courts, in extraordinary circumstances, to disregard the corporate shield and impose personal liability on shareholders or directors for debts or unlawful acts committed by the corporation. This doctrine is an equitable tool designed to prevent abuse of the corporate form and to achieve substantive justice, particularly in cases of fraud or when treating the corporation as a separate entity would result in manifest injustice. Its application is rare and reserved for specific situations where bad faith is evident (Virjan, 2024).

In Indonesia, the PCV doctrine has been explicitly codified in Article 3 paragraph (2) of the UUPT. This provision explicitly states that the principle of limited liability does not apply if certain conditions are met. These conditions are the legal gateway to piercing the corporate veil. An analysis of the PCV criteria based on Article 3 paragraph (2) of the UUPT covers several conditions. First, the requirement that the company be a legal entity has not been met, which is interpreted as a company that has not been properly established or maintained, thereby failing to obtain legal entity status from the Ministry of Law and Human Rights; an example of this is conducting business in the name of a limited liability company (PT) before the official registration is complete, with the key element of proof being evidence of non-compliance with the formalities of establishment or the absence of approval from the Ministry of Law and Human Rights (Almutawa & Almana, 2022).

Second, the shareholders concerned, either directly or indirectly, with malicious intent, exploit the company for personal gain, which is the core of the alter ego theory, whereby shareholders treat the company as an extension of themselves and mix finances; for example, using company funds to pay personal debts, as evidenced by the mixing of funds or the absence of corporate records. Third, the shareholders concerned are involved in unlawful acts committed by the company, defined as the active participation of shareholders in directing or conspiring with the company to commit unlawful acts; for example, directing the company to sell defective products known to be dangerous, as evidenced by the direct involvement or instructions of shareholders regarding such illegal activities. Fourth, the shareholders concerned directly or indirectly unlawfully use the company's assets, resulting in the company's assets being insufficient to pay off the company's debts; this includes asset stripping or inadequate capitalization, such as siphoning off company profits through excessive salaries or transferring valuable assets shortly before insolvency, as evidenced by a financial analysis showing asset transfers below fair value or evidence of inadequate capitalization (Jayasekara dkk., 2023).

In applying these criteria, the court is guided by established jurisprudential theories, such as the Alter Ego Theory, which applies when there is such a close unity of interests and ownership that the separate personalities of the corporation and the individual no longer exist in fact, and the Instrumentality Doctrine, which applies when a corporation is used solely as a business tool or vehicle by another party. Both theories focus on the domination and control exercised by shareholders over the corporation, which ultimately renders the company a fictitious entity and provides an intellectual framework for interpreting the criteria of “bad faith” and “personal interest” in the UUPT. The criteria listed in Article 3 paragraph (2) of the UUPT are not arbitrary provisions, but rather a legislative codification of internationally recognized legal doctrines. This connection shows that PCV law in Indonesia is rooted in a broader universal concept to prevent corporate abuse, so that when Indonesian courts apply it, they are essentially participating in a global legal tradition that aims to uphold justice (Widjajanto dkk., 2025).

The wording in Article 3 paragraph (2) letter c “involved in unlawful acts committed by the company” has a very broad scope and, although often interpreted in a civil context, the term “unlawful acts” inherently does not exclude criminal acts, and it is this ambiguity that has created a legal loophole for expanding the application of PCV into the criminal sphere. Historically, the Indonesian Criminal Code (KUHP) only recognized humans as subjects of criminal acts in line with the adage *societas delinquere non potest*, but there has been a significant paradigm shift in line with the development of modern crime. Various laws outside the KUHP, such as laws on criminal acts of corruption and

environmental protection, have explicitly placed corporations as subjects of criminal law in recognition that corporations are major actors capable of causing massive social harm. To fill the procedural law gap, the Supreme Court issued Supreme Court Regulation (PERMA) Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, which serves as a definitive guideline for law enforcement officials. This PERMA defines corporate crime as a crime committed by a person based on an employment relationship or other relationship, acting for and on behalf of a corporation, and most importantly, Article 4 paragraph (2) establishes criteria for determining the existence of fault (*mens rea*) in a corporation.

Determining the “malicious intent” of a non-human entity is a complex conceptual challenge, but PERMA 13/2016 attempts to address this with concrete indicators of fault, aided by legal theories such as the Vicarious Liability Theory and the Corporate Culture Model, which assess whether internal policies failed to prevent criminal acts. There is significant legal overlap between the PCV criteria in the UUPT and the criteria for establishing corporate criminal fault in PERMA 13/2016, as the logic underlying these two rules is essentially identical. The condition in which shareholders use the company for “personal gain” is a reflection of the condition in which the corporation ‘profits’ from a criminal act, and the involvement of shareholders in “unlawful acts” is directly related to the condition in which the corporation allows criminal acts to occur.

This doctrinal synergy is clearly evident in a comparison of the two sets of criteria (Cahill-Ripley, 2025). The UUPT criteria regarding shareholders with bad faith who exploit the company for personal gain are in line with the PERMA criteria whereby corporations derive profit or benefit from criminal acts, both of which are based on the principle of targeting the exploitation of corporate structures for illegal gain. Furthermore, the UUPT criteria regarding shareholders involved in unlawful acts committed by the company synergize with the PERMA criteria where the corporation allows criminal acts to occur, both of which point to the principle of reprehensible participation, whether active or passive. Finally, the UUPT criteria regarding shareholders who unlawfully use the company's assets to the point of causing insolvency are in line with the PERMA criteria where corporations fail to take the necessary preventive measures, both of which target the principle of gross negligence or wilful blindness that reflects governance failure and disregard for legal compliance.

2. Research Methods

This study uses a normative (doctrinal) legal research method that focuses on examining legal principles, norms, and doctrines through library research. The approaches used include a statute approach to analyze the coherence between

Law Number 1 of 2023 concerning the Criminal Code, Law Number 40 of 2007 concerning Limited Liability Companies, along with other derivative regulations, as well as a conceptual approach to examine the rationality of the shift in the Piercing the Corporate Veil doctrine from the civil to the criminal realm. Data collection was based on primary legal materials in the form of binding regulatory instruments, secondary legal materials such as academic literature, journals, and jurisprudence related to corporate crime, as well as tertiary legal materials. All classified legal materials were then analyzed qualitatively and normatively through deductive reasoning and systematic interpretation to produce comprehensive legal prescriptions related to criminal liability models and the optimization of restitution for consumer protection victims (Z. Ali, 2021).

3. Result and Discussion

3.1. Extension of the Piercing the Corporate Veil Doctrine from Civil Law to Criminal Liability

The existence of corporations as independent legal entities is fundamental to global economic stability and growth, including in Indonesia. The concept of separate legal personality provides a clear distinction between the personal assets of founders or managers and the assets of the legal entity itself. This principle traditionally creates what is known as the corporate veil, which serves to protect individuals within a corporation from legal obligations arising in the name of that entity (Sipayung dkk., 2024). However, in the dynamics of modern law, this veil is often abused to conceal malicious intent or to commit crimes that harm the wider community, particularly in the area of consumer protection. Therefore, there is an urgent need to expand the application of the doctrine of piercing the corporate veil, which was originally civil in nature, into the criminal law dimension, a paradigm shift that is now formally recognized through Law Number 1 of 2023 concerning the Criminal Code.

The philosophical transformation in Indonesian criminal law from previously only recognizing humans as subjects of criminal law as reflected in the principle of *societas delinquere non potest* to recognizing corporations as equal subjects of law, is a response to the complexity of white-collar crime. Prior to the enactment of the new Criminal Code, corporate criminal liability often ran up against the classic doctrine that corporations do not have a soul or criminal intent (*mens rea*). However, with the rise of massive consumer fraud cases, the law is required to be able to penetrate this “veil” of legality in order to reach the intellectual actors or beneficial owners who control corporations from behind the scenes for their own illegal personal gain (Marzuki, 2023).

The doctrine of piercing the corporate veil literally means “lifting the corporate veil,” a legal attempt to disregard legal entity status and impose direct liability on

the individuals within it. In the Indonesian civil law system, this principle has been accommodated through Law Number 40 of 2007 concerning Limited Liability Companies (UUPT). Article 3 paragraph (1) of the UUPT stipulates that shareholders are not personally liable for obligations made on behalf of the company. However, this protection is not absolute. Article 3 paragraph (2) of the UUPT provides an exception whereby limited liability is removed if certain conditions are met, such as bad faith in using the company for personal gain or the involvement of shareholders in unlawful acts committed by the company (Setiawan & others, 2024).

The application of this principle in civil law aims to uphold justice for third parties, especially creditors and consumers, who are harmed by the abuse of authority or the commingling of personal assets with company assets. In practice, civil courts use this doctrine to ensure that legal entity status is not used as a tool to avoid contractual obligations or other legal obligations. However, the effectiveness of this doctrine in civil law is often limited to individual recovery of losses, while the sociological impact of corporate crime on consumers is often massive and requires criminal law intervention, which has stronger coercive power and deterrent effects (Jennings, 2023).

Criteria for Piercing the Corporate Veil Based on Article 3 Paragraph (2) of the UUPT	Penjelasan Yuridis
Legal Entity Status Not Yet Fulfilled	The company has not yet obtained approval from the competent authority but has already taken legal action.
Bad Faith	Shareholders exploit the company solely for personal gain, to the detriment of others.
Unlawful Acts (PMH)	Shareholders are directly involved in the company's actions that violate applicable laws.
Use of Wealth Against the Law	Shareholders used the company's assets unlawfully, resulting in insufficient assets to pay off debts.

The extension of this doctrine to the criminal sphere is crucial given the organized and structured nature of corporate crime. In many cases, the formal directors listed in the articles of association are merely figureheads with no real authority, while the strategic policies that lead to criminal acts are determined by the controlling shareholders or beneficial owners. Without extending the doctrine of piercing the corporate veil into criminal law, these controllers can continue to repeat their actions by establishing new entities after the old entities have been sanctioned or declared bankrupt. This is the basis for the urgency of regulating the liability of controllers in the new Criminal Code in order to provide comprehensive protection for consumers in Indonesia (S. Ali dkk., 2024).

The enactment of Law No. 1 of 2023 on the Criminal Code (KUHP) marks a shift from criminal law oriented towards individual acts to criminal law capable of reaching organizational entities. Article 45 of the new KUHP explicitly states that corporations are subjects of criminal acts, including legal entities such as limited

liability companies, foundations, cooperatives, and unincorporated associations such as firms and limited partnerships. This regulation provides a strong legal basis for law enforcement to prosecute corporations as independent perpetrators, without always having to rely on the separate mistakes of their individual managers (Auriol dkk., 2023).

The most fundamental provisions related to the extension of the doctrine of piercing the corporate veil are found in Articles 48 and 49 of the new Criminal Code. Article 48 sets out the criteria for when a criminal act can be attributed to a corporation, namely if the act falls within the scope of the corporation's business, benefits the corporation unlawfully, or is accepted as corporate policy. In addition, corporate negligence in allowing a criminal act to occur or failure to take preventive measures (due diligence) also forms the basis for prosecution. This shows that the state requires corporations to have an active culture of legal compliance, rather than merely passively following administrative procedures (Shaikh & Siponen, 2023).

Aspects of Responsibility	Provisions of Article 48 of Law No. 1/2023	Implications for Consumer Protection
Business Scope	The act was committed in the course of corporate business activities	Guarantees the company's liability for defective products or services.
Illegal Profits	Corporations derive financial benefits from criminal acts.	Targeting the economic motives behind investment fraud or market manipulation.
Corporate Policy	Such actions represent the will of the organization.	Punish systemic practices that harm consumers on a mass scale.
Neglect & Prevention	Systemic failure to prevent impacts or ensure compliance.	Promoting the implementation of risk management and customer data protection systems.

Furthermore, Article 49 of the new Criminal Code revolutionarily expands the subject of liability not only to functional managers, but also to those who give orders, those who exercise control, and beneficial owners. This expansion is a direct manifestation of the extension of the piercing the corporate veil doctrine into the criminal realm. With this provision, the legal veil that has protected controlling shareholders outside the formal organizational structure can be pierced if it is proven that they have real control over corporate policies that violate consumer rights. This is particularly relevant in dealing with fraudulent investment syndicates, where the main perpetrators often hide their identities through layers of complex share ownership (Gilbert & Levi, 2025).

The urgency of applying the doctrine of piercing the corporate veil in criminal law cannot be separated from actual data on the losses suffered by the public as a result of corporate-based crimes. The consumer protection sector in Indonesia, particularly in the field of financial services and investment, faces very serious challenges. Based on reports from the Financial Services Authority (OJK) and the

PASTI Task Force, the value of public losses due to illegal investments peaked in 2022 with a staggering figure of Rp120.79 trillion. This figure is the highest in the last decade and shows how fragile the consumer protection system is if it relies solely on conventional legal instruments (Cindy Mutia Annur, 2024).

Illegal investment crimes often use corporate entities that appear legal on the surface but engage in predatory operations. Common *modus operandi* include promising unreasonable profits in a short period of time, using public figures to attract interest, and often not having business licenses that are appropriate for the activities being carried out. In cases such as the Indosurya Cooperative, one of the largest financial scandals in Indonesia, total losses are estimated at Rp106 trillion. The handling of this case shows how difficult it is to recover assets if the focus of accountability stops at corporate entities whose assets have been deliberately emptied by their controllers (Jennings, 2025).

The extension of the piercing the corporate veil doctrine to the criminal sphere is also closely related to the application of the identification doctrine. According to this doctrine, corporate wrongdoing is determined based on the actions and intentions of individuals who play an important role in controlling the corporation, often referred to as the directing mind and will of the organization. In the context of Law No. 1 of 2023, individuals who are the “masterminds” of corporations are no longer limited to formal directors or commissioners, but include anyone who actually has the power to influence corporate policy (Lay & Purwatiningsih, 2025).

Determining the controlling subject in criminal law is a significant evidentiary challenge. Supreme Court Regulation No. 13 of 2016 provides initial guidance that judges can assess corporate wrongdoing if the management or controllers have a relationship that allows them to direct the corporation's actions. More specifically, the criteria for beneficial owners as stipulated in Presidential Regulation No. 13 of 2018 are an important instrument for investigators. These criteria include ownership of more than 25% of shares, the right to appoint or dismiss directors, and the power to control the corporation's financial transactions without the authorization of other parties. By integrating these criteria into the criminal process, prosecutors can prove that corporate actions that harm consumers are actually a representation of the malicious intent of the controller (Möller, 2023).

The application of this doctrine of identification allows law enforcement officials to attribute the *mens rea* of the controlling individual to the corporation, so that the corporation can be subject to basic penalties in the form of fines and other additional penalties. However, the essence of the extension of the doctrine of piercing the corporate veil is that this responsibility does not stop at the corporation. Instead, it paves the way for imposing cumulative or alternative criminal liability on the controller itself as an individual legal subject using the

corporation as an instrument (instrumentality rule). This creates a multi-layered liability system that is indispensable for dealing with complex consumer crimes (Bhatt, 2025).

A valuable lesson regarding the need to pierce the corporate veil in criminal law can be seen from the dynamics of the cases involving PT First Anugerah Karya Wisata (First Travel) and Koperasi Simpan Pinjam Indosurya. In the First Travel case, a legal controversy initially arose when the company's assets, which came from the funds of tens of thousands of prospective Umrah pilgrims, were declared confiscated by the state. This ruling was considered unfair to consumers because the state seemed to be profiting from a crime that befell its own citizens. However, through a lengthy legal process, the Supreme Court, in its 2022 review decision, finally ruled that the assets must be returned to the victims. This case demonstrates a paradigm shift from retributive criminal law to criminal law that prioritizes the restoration of victims' losses (restorative justice) (Gour, 2026).

On the other hand, the KSP Indosurya case provides a clear illustration of the role of beneficial owners in corporate crime. Henry Surya, as the controlling shareholder, was sentenced to 18 years in prison in the court of cassation after previously being acquitted in the court of first instance. The successful prosecution of Henry Surya is a concrete example of the application of the piercing the corporate veil doctrine, whereby the court looked beyond the legal status of the cooperative to identify the main actor controlling the flow of funds amounting to Rp16 trillion. In this case, the LPSK assisted 978 victims in filing restitution claims, a crucial step to ensure that the assets seized from the controller are actually allocated to compensate consumers.

The mechanism of restitution for victims of consumer protection crimes through the doctrine of piercing the corporate veil is highly dependent on the effectiveness of asset seizure from the investigation stage. In the new Criminal Code, judges are given the authority to impose additional penalties in the form of compensation payments. However, the sociological challenge is that corporate assets are often transferred before a final and binding decision is made. Therefore, the extension of the PCV doctrine must be accompanied by the ability of law enforcement to trace assets to the personal property of controllers and affiliated parties who receive the proceeds of crime (Haryadi dkk., 2025).

Although Law No. 1 of 2023 has provided a clearer legal framework, major challenges remain at the enforcement stage, particularly with regard to criminal fines against corporations. In many cases of corruption and consumer fraud, corporations often have no intention of paying criminal fines, especially if the amount exceeds the company's remaining assets. Before the new Criminal Code, there was a normative vacuum regarding what action should be taken if a

corporation failed to pay fines, given that corporations cannot be subject to substitute imprisonment as humans can. The new Criminal Code addresses this challenge through Article 120, which regulates various additional penalties and actions for corporations. If a corporation does not carry out additional penalties in the form of compensation or fines, the corporation's assets or income can be confiscated and auctioned by the prosecutor to fulfill these obligations. More extreme still, the court has the authority to close all or part of a business until the corporation is dissolved. These sanctions are designed to provide a real deterrent effect and prevent corporations from being used again as instruments of crime (Simpson & Evens, 2024).

However, the effectiveness of these fines depends heavily on transparency of ownership. In many cases of consumer protection crimes, perpetrators deliberately strip assets or empty company assets shortly after their fraudulent actions are detected. This is where the doctrine of piercing the corporate veil plays a vital role in the execution stage. If the fine cannot be paid from corporate assets due to unlawful asset stripping by the controller, then based on Article 49 of the new Criminal Code, liability can be transferred to the controller. This ensures that the state does not lose its right to collect fines and victims do not lose their right to compensation simply because of administrative manipulation of legal entities (Rashid dkk., 2022).

The implementation of corporate criminal liability through piercing the corporate veil must also be synchronized with Law No. 8 of 1999 concerning Consumer Protection (UUPK). Article 62 of the UUPK actually regulates criminal sanctions for business actors who violate consumer rights, including administrative sanctions and criminal fines for corporations. However, the UUPK is still very limited in reaching the beneficial owners behind corporate structures. With the enactment of the new Criminal Code as a codification of national criminal law, the provisions regarding controlling subjects in Article 49 of Law No. 1/2023 can be a crucial complement to the enforcement of consumer protection laws. Consumer protection laws in Indonesia aim to promote a healthy and balanced business climate. Business actors who only pursue profits while neglecting product quality or customer fund security are committing serious violations that can result in imprisonment for management and criminal fines for corporations. The presence of the doctrine of piercing the corporate veil in the criminal sphere sends a strong message to the business world that integrity is an absolute requirement for doing business in Indonesia. Corporations can no longer be used as a "shield" to protect individual greed from the reach of criminal law (Friedman & Clarke, 2022).

Furthermore, the role of supervisory agencies such as the OJK and Satgas PASTI must be strengthened with the authority to detect indications of corporate structure abuse at an early stage. Beneficial ownership transparency must be

integrated into the business licensing system so that in the event of a crime, law enforcement agencies will no longer have difficulty identifying the actual controllers behind the entities concerned. This is in line with the government's efforts to create legal certainty and increase investor and consumer confidence in the national economic ecosystem (Spamann, 2022).

In the discourse on corporate criminal law, there are two major theories that are often debated, namely vicarious liability and the identification doctrine. Vicarious liability emphasizes that corporations can be held liable for the actions of their employees as long as those actions are carried out within the scope of their work and for the benefit of the corporation. Conversely, the identification doctrine requires the involvement of the highest organ or controller of the corporation in order to prosecute the corporation. The new Criminal Code appears to adopt elements of both theories in a hybrid form. Article 48, which refers to acts within the "scope of business," reflects the aspect of vicarious liability, whereby the actions of field staff can become the responsibility of the company if there is no adequate supervisory system in place. On the other hand, Article 49, which targets "controllers" and "persons giving orders," is an adoption of the expanded identification doctrine. This combination is very effective in prosecuting consumer protection crimes, which often involve systemic errors at the operational level as well as malicious directives from the strategic level. In addition, there is also the aggregation theory, which is beginning to gain ground in criminal law analysis. This theory states that corporate wrongdoing can be assessed by adding up minor wrongdoings at various levels of the organization, which when combined become a serious systemic failure. In the context of consumer protection, this theory is particularly relevant for punishing corporations that consciously allow their product safety standards to decline for the sake of cost efficiency, even though no individual specifically intended to harm consumers. The judge's assessment of "preventive measures" in Article 48 letter d of the new Criminal Code implicitly accommodates the logic of this aggregation theory.

The extension of the piercing the corporate veil doctrine to the criminal sphere through Law Number 1 of 2023 is an important milestone for law enforcement in Indonesia. This demonstrates the maturity of national law in responding to the evolution of crime, which is no longer committed in a conventional manner, but rather through the manipulation of business entities and financial sophistication. For consumers, this regulation offers new hope that their rights will be protected more substantially, rather than merely formally (Dupuy dkk., 2022).

Going forward, the key to the success of law enforcement lies in inter-agency synergy. The police, prosecutors, OJK, and the Financial Transaction Reports and Analysis Center (PPATK) must work together to identify the risk profiles of corporations and their beneficial owners. In addition, public involvement in

reporting business practices that harm consumers must be encouraged through an effective witness protection system. By piercing the corporate veil, we are not only punishing the perpetrators, but also restoring public trust in the integrity of the business world in Indonesia. This transformation also requires corporations to carry out internal reforms. Companies can no longer consider legal compliance as a cost burden, but rather as a strategic investment to maintain business sustainability. The implementation of compliance programs that include consumer data protection, cost transparency, and credible complaint systems will determine whether a corporation can avoid criminal liability in the event of future violations. Ultimately, the extension of this veil-piercing doctrine aims to create a fair balance between freedom of enterprise and corporate social responsibility towards consumers and the wider community (Singh & Turaga, 2024).

3.2. Implications of the Application of Criminal PCV on the Model of Punishment and Compensation for Victims (Restitution)

One of the shipping companies in Batam-Riau Islands realizes the importance of an organization for first-hand handling of cases of violations of work contracts in the shipping company environment that we often hear with the term SATGAS PPKK (Task Force for Handling and Prevention of Violations of Work Contracts). This organization receives full support from internal institutions of the shipping company such as from the owner and his staff. In addition to preventing and handling cases of violations of work contracts in the shipping company environment, it also serves as a legal umbrella for the victims and the shipping company community.

A fundamental transformation in Indonesia's criminal justice system has reached its culmination with the enactment of Law No. 1 of 2023 on the Criminal Code (Law 1/2023), which radically changes the landscape of corporate criminal liability. For decades, criminal law enforcement in Indonesia has been shackled by colonial doctrine that only recognizes natural persons as legal subjects, while corporations are often used as shields to commit complex economic crimes without being subject to adequate criminal sanctions. This new paradigm establishes corporations as legal subjects equal to humans, covering legal entities such as limited liability companies, foundations, and cooperatives, as well as non-legal entities such as firms and limited partnerships. The urgency of this change is rooted in the sociological and economic reality where corporations, in carrying out their functions in the consumer market, often engage in fraudulent business practices that have a massive impact, but hide behind the principle of limited liability. The application of the Piercing the Corporate Veil (PCV) doctrine in the criminal sphere through Law 1/2023 is the answer to the legal impasse in reaching the intellectual actors or controllers behind the corporate veil who actually direct consumer protection crimes.

The model of punishment in Law 1/2023 shifts from a retributive approach that solely emphasizes punishment of perpetrators to an integrative theory that prioritizes restorative, corrective, and rehabilitative justice. In the context of consumer protection crimes, this shift has profound implications because the main focus of law enforcement is now not merely to punish corporate entities with fines, but to ensure the restoration of the rights of consumers who have suffered material and immaterial losses. The doctrine of criminal PCV allows courts to pierce the veil between corporate assets and the personal assets of managers, controllers, and beneficial owners, which pragmatically ensures that restitution obligations will not be hampered by bankruptcy or the deliberate emptying of corporate assets by perpetrators of crime. This urgency is even more apparent when considering data on the escalating losses suffered by the public as a result of illegal investments and consumer fraud, which amount to trillions of rupiah each year, where conventional civil mechanisms often fail to provide quick and effective recovery.

The application of corporate criminal liability in Law 1/2023 is based on strict but progressive parameters as stipulated in Article 48, whereby a corporation may be criminally liable if its actions fall within the scope of its business, benefit the corporation unlawfully, are accepted as corporate policy, or occur due to the corporation's failure to take the necessary preventive measures. This legal construct is expanded by Article 49, which opens the door to the doctrine of criminal PCV, allowing liability to be imposed on functional managers, persons giving orders, persons in control, and even the beneficial owners of the corporation. The implication of this expansion of subjects on the punishment model is the creation of a more accountable system, where punishment is no longer single track, but targets the entire spectrum of actors involved in the chain of corporate crime. This is crucial in consumer protection crimes, which are often organizational and systemic in nature, where the decision to deceive consumers is made collectively at the managerial level but executed by field agents.

In the realm of victim compensation, Law 1/2023 places restitution as an integral part of additional penalties that can be imposed by judges. Article 120 of Law 1/2023 formulates various forms of additional penalties oriented towards remedying the consequences of criminal acts, including payment of compensation and fulfillment of neglected obligations. The existence of the PCV doctrine in this sentencing structure ensures that if a corporation does not have sufficient assets to pay restitution, the prosecutor can seize the personal assets of the corporation's controllers to fulfill the rights of consumers. This step is a major breakthrough compared to the old Criminal Code and the Consumer Protection Law (Law 8/1999), which still have weaknesses in the execution of compensation against corporations that have dissolved or transferred their assets. The synergy between Article 49 and Article 120 of Law 1/2023 creates a mechanism of

“restorative punishment,” in which the economic suffering of consumers is a major consideration in determining the severity of the sanctions imposed.

The urgency of implementing criminal PCV is also driven by systemic failures in handling large-scale consumer fraud cases such as fraudulent investment schemes and illegal online lending platforms, which are becoming increasingly prevalent. Data from the PASTI Task Force shows that public losses due to illegal investments peaked in 2022 with a staggering figure of Rp120.79 trillion. Although thousands of entities have been blocked, the rate of fund recovery for victims remains very low because most of the assets have been siphoned off by the controllers behind the scenes. Without PCV instruments that enable law enforcement to pursue the assets of beneficial owners, criminal law enforcement will only be symbolic without providing substantive justice for victims who have lost their entire savings. Therefore, the implications of applying criminal PCV in Law 1/2023 are not only about the effectiveness of sanctions, but also about the state's commitment to protecting the wider community from predatory criminal corporations.

The discussion on the implications of PCV on the criminalization model also touches on the increasingly complex aspect of evidence, where public prosecutors must now be able to identify the “directing mind and will” and the flow of funds that reflect the commingling of assets between corporations and their owners. This challenge requires a transformation in investigation methods that must be supported by accurate data from the beneficial ownership recognition system. Regulations such as Presidential Regulation No. 13 of 2018 are vital supporting instruments in proving bad faith, which is a key requirement for piercing the corporate veil in the criminal sphere. The successful application of this doctrine will change corporate behavior in the future, encouraging the creation of good corporate governance and strict internal compliance systems to avoid criminal charges that could extend to the personal assets of executives and shareholders.

The transformation of criminal law subjects in Indonesia through Law 1/2023 reflects the adaptation of national law to the increasingly sophisticated and organized nature of global economic crime. Historically, the limitation of criminal law subjects to only recognize humans has led to corporations often being used as vehicles to commit consumer protection crimes, such as the distribution of expired goods, misleading advertisements, and pyramid scheme fraud. Under the old system, when a corporation committed mass violations, law enforcement tended to target only lower-level executives, while the huge financial profits remained in the corporation's coffers or were channeled to controlling shareholders. This imbalance created a sense of injustice for consumers and provided incentives for business actors to continue corrupt practices with minimal legal risk.

The urgency of the current issue is the ineffectiveness of the Consumer Protection Law (Law 8/1999) in providing a significant deterrent effect for large corporations, because the maximum fines stipulated are often much smaller than the illegal profits obtained from such crimes. In addition, the civil mechanism for piercing the limited liability of shareholders in Article 3 paragraph (2) of the Limited Liability Company Law is very difficult to prove in civil court due to the heavy burden of proof on the aggrieved consumer. The existence of Law 1/2023 through Articles 45 to 50 explicitly shifts this responsibility to the public sphere, where the state, through the public prosecutor, has stronger investigative instruments to prove the abuse of corporate legal personality for the personal interests of its owners.

The implication of recognizing corporations as full subjects of criminal law in Law 1/2023 is the loss of immunity for corporate controllers who have been hiding behind the legal formalities of the company. Article 49 of Law 1/2023 specifically states that criminal liability is imposed not only on corporations, but also on managers who have functional positions, those who give orders, those who exercise control, and beneficial owners. This automatically integrates the Piercing the Corporate Veil doctrine into the national criminal law system, which requires every actor within and outside the formal structure of a corporation to be responsible for any policies that harm the public. In consumer protection crimes, this means that directors or shareholders who deliberately order the production of goods that endanger public health can no longer evade liability by citing “company decisions” or “capital constraints” to avoid paying compensation.

The sentencing model in Law 1/2023 brings radical changes from the single track system, which only focuses on fines for corporations, to a more varied and functional system. This new paradigm is based on Article 51 of Law 1/2023, which mandates that the objectives of criminal punishment are to prevent crime, protect the public, restore social balance, and reconcile perpetrators with victims. In the context of consumer protection, restoring social balance means restoring the economic status of victims who have been devastated by corporate crime. The implication of this integrative paradigm is that criminal sanctions are no longer seen as a burden of suffering, but as an instrument to force corporations to make internal improvements and external compensation simultaneously.

The criminal justice system for corporations now consists of basic penalties in the form of fines and additional penalties with a very broad scope as stipulated in Articles 118 and 120 of Law 1/2023. Additional penalties such as remedial measures for criminal acts, payment of compensation (restitution), and fulfillment of neglected obligations are the main instruments for providing protection to consumers. Unlike the old system, where fines were paid to the state treasury, additional penalties in the form of compensation in Law 1/2023 are explicitly intended for the benefit of victims. This reflects a transition from public-punitive

justice to a more private-restorative justice, where the state is present to ensure the restoration of citizens' civil rights through a more efficient and coercive criminal justice system.

The application of the PCV doctrine strengthens the effectiveness of these additional sanctions by providing financial guarantees outside of corporate assets. Article 120 paragraph (3) of Law 1/2023 gives prosecutors the authority to seize and auction off corporate assets or income to fulfill additional penalties that have not been met. However, through the PCV mechanism outlined in Article 49, such confiscation can be extended to the personal assets of the controller if it is proven that the corporation is merely a tool to hide the proceeds of crime. This legal implication sends a strong message to capital owners that the corporate veil can no longer be used to avoid social and legal responsibility for the losses caused by their businesses.

This restorative paradigm is also reflected in prosecution policies that prioritize restorative justice, whereby corporations that demonstrate good faith by paying all consumer losses prior to a court ruling can receive significant leniency. This creates an economic incentive for businesses to promptly resolve disputes with consumers rather than face the risk of corporate dissolution or criminal prosecution of their directors. Thus, Law 1/2023 not only changes how judges impose penalties but also how prosecutors negotiate legal enforcement for the broader public interest.

The urgency of the Piercing the Corporate Veil doctrine in consumer protection crimes after Law 1/2023 stems from the fact that many consumer crimes are committed through undercapitalized corporations or shell companies that are specifically established to hold illegal funds. In such cases, punishing the corporation alone will not yield any results because the entity has no real assets to seize. The criminal PCV doctrine allows courts to go beyond legal formalities and impose penalties on individuals who actually benefit from the crime. Article 49 of Law 1/2023 explicitly identifies beneficial owners as subjects who can be held accountable, which is the highest legislative recognition of the PCV doctrine in the history of Indonesian criminal law.

The implication of the implementation of criminal PCV is a much higher demand for corporate governance transparency. Every company is now required to accurately report its beneficial owners as stipulated in Presidential Regulation No. 13 of 2018 and Minister of Law and Human Rights Regulation No. 2 of 2025. Failure to report beneficial owners or providing false information not only results in administrative sanctions in the form of blocking access to SABH and OSS, but also becomes circumstantial evidence of malicious intent (*mens rea*) to hide identities behind corporate veils in order to commit criminal acts. In consumer protection

cases, non-compliance with this transparency requirement can be used by prosecutors to convince judges that the corporation is merely an alter ego or puppet of its controller. In addition, criminal PCV provides a solution to the problem of vicarious liability, whereby corporations can be punished for the actions of their employees that benefit the entity. However, through the PCV approach, if the employee's actions were informally ordered by the controlling shareholder outside the board structure, then the shareholder can no longer hide behind the principle of separation of responsibility. This is particularly relevant in the digital industry and modern financial platforms, where controllers often do not hold formal management positions but exercise absolute control through shareholder agreements or access control technology. Law 1/2023 ensures that criminal law pursues “who gives the orders” and “who receives the benefits,” not merely who signs the deed.

The application of criminal PCV also addresses the challenge of proving corporate fault. In the old legal system, proving corporate intent often failed because corporations were considered to have no mind (*mens rea*). However, by piercing the corporate veil, the intent or negligence of individuals who control the corporation is automatically considered to be the intent or negligence of the corporation itself. This is particularly important in dealing with consumer crimes involving misleading information, where directors may argue that the misinformation was the result of technical negligence on the part of marketing staff. With PCV, if it can be proven that the misleading marketing policy was designed to maximize profits for the controllers, then the malicious intent of the controllers is directly attributed to the corporate entity.

Restitution in Law No. 1/2023 is not merely an additional mechanism, but rather the heart of fair law enforcement for victims. Based on Perma No. 1 of 2022, restitution is defined as compensation for losses given to victims or their families by perpetrators of criminal acts or third parties. The main implication of integrating restitution into the criminal justice system of Law No. 1/2023 is that it now has the same enforceability as the principal criminal penalty. Whereas in the old Consumer Protection Law (Article 62) additional sanctions were optional and often not enforced due to a lack of clear guidelines, Law 1/2023, through Articles 120 and 121, mandates prosecutors to ensure that every cent of the victim's damages decided by the judge must be paid immediately.

The restitution application procedure is now easier with the role of the Witness and Victim Protection Agency (LPSK) and the Indonesia Anti-Scam Center (IASC), which can facilitate victims' applications from the investigation stage. Restitution claims can be filed before or during the trial process, where the judge is required to consider the amount of material losses, such as loss of investment funds, medical expenses due to defective products, and immaterial losses due to trauma

experienced by the victim. In corporate crimes involving thousands of consumers, judges can issue collective restitution verdicts, whereby corporations are required to provide compensation funds managed by third parties or relevant authorities to be distributed to victims. However, the biggest challenge remains in execution, especially when corporate assets have been hidden. This is where the implications of criminal PCV become a determining factor in the success of consumer rights recovery. Article 120 paragraph (3) of Law 1/2023 states that corporate assets or income may be seized and auctioned by prosecutors to fulfill additional penalties that have not been fulfilled. From a PCV perspective, the phrase “corporate assets” in the context of criminal enforcement must be interpreted broadly to include assets that are actually controlled by the controller but are in the name of the corporation, or vice versa. This prevents the phenomenon of “corporate bankruptcy but wealthy owners,” which has long hurt the public's sense of justice in cases such as First Travel and other fraudulent investment schemes.

Empirical experience in the First Travel case shows that without a strong restitution mechanism and PCV, assets seized by the state are often decided to be confiscated by the state, even though morally and legally these assets belong to the victims (congregation). Law 1/2023 attempts to correct this injustice by giving priority to the recovery of victims' losses over state revenue. If the judge's decision states that the confiscated assets are the proceeds of crimes against specific consumers, then the confiscation must be used for restitution. The future implication of this system is the creation of greater public trust in the criminal justice system, where victims no longer feel “doubly victimized” first by the fraudsters, and second by the legal system that takes their assets for the state treasury.

The urgency of implementing a PCV-based sentencing model and restitution is driven by factual data on the scale of economic crimes targeting Indonesian consumers. Based on a report by the Financial Services Authority (OJK), the accumulated losses suffered by the public due to illegal investments during the period from 2017 to the third quarter of 2025 have reached an alarming figure of Rp142.22 trillion. This surge in losses is dominated by digital *modus operandi* such as illegal online loans, trading robots, and online *arisan* (social gatherings) that take advantage of regulatory loopholes and low financial literacy among the public. Losses of IDR 120.79 trillion in 2022 alone are clear evidence that the current administrative prevention mechanisms are insufficient without being accompanied by criminal law enforcement that is capable of tracing assets to the level of the controller.

Data from the Indonesia Anti-Scam Centre (IASC) as of May 2025 shows that of the total reported losses of Rp2.6 trillion, only Rp163.3 billion, or around 6.28%, has been successfully blocked. This low percentage indicates that most of the criminal

proceeds have been consumed, transferred to crypto assets, or laundered through layered corporate networks that are difficult to penetrate using standard seizure procedures. Without the aggressive implementation of criminal PCV, efforts to recover victims' losses will always lag far behind the speed at which perpetrators hide the proceeds of their crimes. The urgency of this problem is further exacerbated by the emergence of impersonation or the imitation of licensed institutions to deceive consumers, which shows that criminals are becoming increasingly adept at misusing legitimate corporate identities.

The domino effect of these massive financial losses not only damages the welfare of individual consumers, but also the stability of the national financial system and public confidence in the digital economy. Therefore, the implementation of Articles 48 and 49 of Law 1/2023 must be seen as part of the national defense strategy against economic crime. The legal implications for corporations involved in consumer crimes are no longer limited to administrative fines, but also include the threat of corporate dissolution and impoverishment of its controllers through aggressive restitution and asset seizure mechanisms. Synergy between law enforcement agencies (the National Police, the Attorney General's Office) and supervisory authorities (OJK, Komdigi, BSSN) is key to breaking the chain of illegal financial activities that continue to cause concern among the public.

Following the enactment of Law 1/2023, corporations in Indonesia face significant pressure to strengthen their compliance and corporate governance policies in order to avoid the risk of criminal liability that could penetrate the corporate veil. Article 48 letter d explicitly states that corporations can be criminally charged if they fail to take the necessary preventive measures to ensure compliance with applicable legal provisions. This implies that the existence of a whistleblowing system, independent internal audit procedures, and transparent decision-making documentation are no longer merely business options, but legal requirements to prove the absence of corporate fault (*mens rea*) in the event of a criminal offense.

The future of consumer protection in Indonesia will greatly depend on how effectively this criminal PCV doctrine is applied in judicial practice. The implication of applying restitution as the main additional penalty will encourage the creation of a more advanced corporate liability insurance system, in which corporations seek financial protection to cover the risk of future consumer compensation. In addition, the active role of the public in reporting corporate abuse through channels such as the IASC will provide crucial intelligence for law enforcement agencies to identify new patterns of crime that use legal entities as a cover. Overall, the application of the Piercing the Corporate Veil doctrine and the restorative punishment model in Law 1/2023 is a significant step forward in realizing justice for consumers in Indonesia. By prioritizing the recovery of victims' losses and piercing the corporate veil to prosecute controlling actors, the national

criminal justice system now has sufficient teeth to tackle the complexity of modern corporate crime. The challenge ahead is to synchronize sectoral regulations with Law No. 1/2023 and to improve the integrity of law enforcement officials so that this very powerful PCV instrument is not misused, but is truly used to protect the basic rights of consumers and create a healthy and dignified business climate in Indonesia.

4. Conclusion

The extension of the Piercing the Corporate Veil (PCV) doctrine into the criminal sphere through Law Number 1 of 2023 (New Criminal Code) represents a fundamental transformation in Indonesia's legal accountability system, shifting the paradigm from merely punishing formal entities to progressive efforts to prosecute the intellectual actors and beneficial owners behind corporate crimes. This strategic move undermines the limited liability immunity that has often been abused to conceal malicious intent and empty assets in white-collar crimes, while also becoming an essential instrument for restorative justice that focuses on the restoration of rights and restitution for victims of large-scale consumer protection crimes. Ultimately, the effectiveness of piercing the corporate veil depends heavily on cross-institutional synergy among law enforcement agencies in tracking assets, which sociologically will force the business world to internalize transparent legal compliance standards in order to create an accountable and dignified business ecosystem.

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