

Turning Point for National Criminal Law: Why Corporations Must Understand Indonesia's New Criminal Code (KUHP 2026)

Indonesia's New Criminal Code (KUHP), enacted in January 2023, will officially come into force in January 2026. This three-year transition period was intentionally designed to give law-enforcement institutions, legal practitioners, and-critically-business entities sufficient time to understand and prepare for the major shifts introduced by the new law. For corporations, the new KUHP is not merely a regulatory update; it represents a fundamental restructuring of Indonesia's criminal-law philosophy, enforcement architecture, and accountability framework.

While corporate criminal liability was not entirely unfamiliar to Indonesia's legal system, the new KUHP consolidates, clarifies, and significantly expands the concept. Corporations are now firmly established as independent subjects of criminal law, capable of being held responsible for a broader array of offences, including those committed by individuals who act within or even outside the corporation's formal structure. This marks a clear departure from past reliance on sectoral laws, which often varied in scope and fragmented compliance obligations.

Legal scholars widely regard the new KUHP as a reflection of Indonesia's evolving legal paradigm. The Code moves away from a predominantly retributive model-one focused on punishment-and towards a framework that prioritises humanitarian values, restorative justice, and substantive fairness. This philosophical shift is inseparable from the new rules on corporate liability, which emphasise not only the punishment of harmful acts but also the cultivation of a culture of prevention, responsible governance, and sustainable compliance across organisations.

For corporate actors, understanding these changes is no longer optional. The new KUHP reshapes how corporations must manage internal controls, risk governance, documentation, and mechanisms for preventing, detecting, and responding to unlawful conduct. In a business environment increasingly driven by ESG expectations and closer regulatory scrutiny, the KUHP should be viewed as a strategic compliance priority, not simply a legal formality.

A central component of the new framework lies in the broadened definition of who may be considered the actor behind a corporate crime. The KUHP recognises that misconduct may be orchestrated or sanctioned by individuals far beyond the visible organisational chart. It expressly states that criminal acts attributable to a corporation may be committed by those who give orders, hold control, or enjoy beneficial ownership, even if they do not occupy formal positions. In other words, individuals who wield influence, exercise effective control, or serve as ultimate beneficial owners may trigger corporate criminal liability. This recognition closes longstanding gaps in enforcement, ensuring that those who operate behind corporate veils remain within prosecutorial reach.

Equally important is the KUHP's articulation of when a corporation can be held accountable. Corporate liability may arise when an offence falls within the corporation's sphere of business or activities as outlined in its governing documents; when the conduct unlawfully benefits the corporation; when the criminal act is accepted as corporate policy; when the corporation fails to take necessary steps to implement preventive measures, minimise consequences, or ensure compliance with applicable laws; or when it knowingly allows an offence to occur. These criteria collectively move the legal system towards a model that emphasises oversight, responsibility, and regulatory diligence. The focus is no longer solely on whether an act occurred, but also on whether the corporation created an environment that allowed the act to take place.

Under this framework, silence, omission, or passive tolerance may expose a corporation to liability. This represents a critical departure from earlier approaches, which tended to require a clearer link between individual misconduct and corporate instruction. Now, corporate leadership must demonstrate that adequate controls, training, and monitoring efforts are in place. Good-faith efforts alone may no longer suffice; systemic, auditable mechanisms are expected.

This modernised model aligns Indonesia with global trends in corporate criminal liability. Jurisdictions across Asia, Europe, and North America have for decades applied similar standards-many of which evaluate not only harmful acts themselves but also the robustness of corporate governance systems. In this respect, the KUHP strengthens Indonesia's legal framework and establishes clearer expectations for multinational companies operating within the country.

The implications for corporate risk management are substantial. Compliance functions, traditionally focused on sector-specific regulations, must now integrate criminal-law considerations into everyday processes. Internal investigations, whistleblowing systems, due-diligence protocols, and documentation practices must evolve accordingly. Corporations may also need to revisit delegation of authority, board oversight mechanisms, and cross-border risk assessments, especially when dealing with affiliated entities, suppliers, or beneficial owners located abroad.

Timing makes preparation all the more critical. With the KUHP becoming fully effective in January 2026, companies now face a narrow window to conduct gap analyses, strengthen compliance structures, and educate internal stakeholders. Many organisations may underestimate the internal adjustments needed to ensure readiness. Yet delaying these steps increases exposure to enforcement risks and undermines a corporation's ability to demonstrate good-faith compliance should issues arise later.

From a strategic standpoint, corporations should treat this transition period not as a passive countdown but as an opportunity to recalibrate internal systems. Training programmes, internal guidance, and collaboration between legal, compliance, audit, and risk-management teams will be essential. Proactively adapting to the KUHP will not only reduce legal exposure but may also enhance organisational credibility and governance quality - a competitive advantage in an increasingly regulated marketplace.

Ultimately, the new KUHP signals Indonesia's ambition to build a legal environment that is modern, principled, and aligned with international standards. Its enhanced provisions on corporate criminal liability reflect a recognition that corporations play a central role in economic life and must be held to appropriate standards of accountability. Though philosophical in nature, this shift towards more humane and substantively just criminal law carries highly practical consequences for how companies must operate and govern themselves.

As Indonesia approaches 2026, corporations should view this legal transition as a call to strengthen compliance structures, reinforce ethical culture, and adopt governance frameworks that meet the expectations of the new legal order. Early preparation may determine not only legal resilience but long-term organisational sustainability.

If your company requires assistance in assessing internal gaps or strengthening compliance systems ahead of the New KUHP's implementation, our firm stands ready to support you.

Further Information and Assistance

For more detailed advice or assistance, please contact our legal team:



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