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KEY HIGHLIGHTS OF INDONESIA'S NEW CRIMINAL CODE (KUHPIDANA)





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Overview & Introduction

The After more than a century in force in Indonesia, the *Wetboek van Strafrecht* (WvS), commonly known as the Dutch colonial Criminal Code, has officially been replaced by the New Criminal Code (*Kitab Undang-Undang Hukum Pidana* or KUHP) through the enactment of Law No. 1 of 2023 on the Criminal Code.

The new KUHP is not merely a change in terminology but a comprehensive recodification of Indonesia's criminal law, carrying substantive implications for the principles, structure, and enforcement of criminal law in the country. This transition signifies a profound philosophical shift: from a rigid and repressive colonial framework to a national system grounded in Pancasila values, prioritizing restorative justice and legal certainty. This Legal Talks will provide an overview of the key changes introduced under Law No. 1 of 2023 on the Criminal Code.

Key Takeaways from Law No. 1 of 2025

1. Structure of The Old and New Criminal Code

The structure of Indonesia's new Criminal Code (KUHP), as enacted under Law No. 1 of 2023, represents a fundamental departure from the colonial-era Criminal Code that had been in place for over a century. The old KUHP was divided into three main books:

- (i) Book I on General Provisions;
- (ii) Book II on Crimes (*misdrijven*); and
- (iii) Book III on Minor Offenses (*overtredingen*).

The new KUHP departs from this approach by streamlining and reorganizing the structure into 2 (two) codified books, reflecting a more coherent and integrated system consistent with Indonesia's contemporary legal order, while still preserving selected substantive rules carried over from the previous code.

Book One contains the general provisions of criminal law, extending beyond the traditional principles of legality, culpability, and recognition of customary law. It also regulates in detail the types of criminal sanctions, the subjects and objects of criminal liability, rules on attempt and participation, as well as sentencing guidelines. Importantly, Book One is not only the interpretive foundation for Book

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Two but also applies to criminal provisions outside the KUHP, including national legislation and regional regulations at both the provincial and municipal levels, unless otherwise stipulated by law. Substantively, Book One covers:

- (i) The scope and applicability of criminal law;
- (ii) Definitions of criminal acts and liability;
- (iii) Provisions on sentencing;
- (iv) Types of punishment; and
- (v) Diversion and alternative legal measures.

It also introduces rules on sentencing objectives and guidelines, aggravating and mitigating factors, concurrence of crimes, and extinguishment of prosecution or punishment.

Book Two of the new KUHP not only retains numerous provisions from the old code but also expands its coverage by incorporating offenses that were previously governed by separate statutes, such as money laundering, terrorism, human trafficking, and serious human rights violations. It further codifies categories absent in the colonial-era KUHP, including crimes relating to pornography, information and electronic systems, aviation, human organs and blood, as well as obstruction of justice. To enhance coherence and underline their gravity, particularly severe offenses, such as corruption, narcotics crimes, terrorism, money laundering, and gross human rights violations are consolidated into a single chapter entitled “Special Crimes” (*Bab Tindak Pidana Khusus*), reflecting both their distinctive nature and their critical importance in Indonesia’s modern criminal law system.

2. Types of Punishment under the New Criminal Code

The New Indonesian Criminal Code introduces a tripartite system of sanctions, distinguishing between principal punishments, additional punishments, and special punishments that apply only to specific crimes as expressly regulated by statute.

Principal punishments serve as the core sanctions available to judges and reflect the backbone of Indonesia’s penal system. Rather than being limited to imprisonment, the framework now provides a graded spectrum of sanctions that enable courts to impose sentences proportionate to the seriousness of the offense. The principal punishments consist of imprisonment, confinement, supervision, fines, and community service. This order is not arbitrary; it establishes a clear hierarchy of severity that guides the court in determining whether the punishment should be custodial, supervisory, financial, or restorative in nature.

Alongside principal punishments, the Code expressly provides for additional punishments, which function as complementary measures designed to achieve broader goals of deterrence and restorative justice. Article 64 paragraph (b) of the New Code confirms that additional punishments are not mere accessories but integral legal instruments to be imposed when principal punishments alone are deemed insufficient. The six categories of additional punishments include revocation of certain rights, confiscation of specified goods or claims, publication of the judgment, payment of compensation, revocation of licenses, and the fulfillment of local customary obligations. Each of these measures responds to the wider

consequences of crime: for instance, revoking professional rights in cases of abuse of office, or requiring customary restitution in crimes occurring within indigenous communities.

Finally, the New Code retains a special category of punishment reserved only for particular offenses. Pursuant to Article 67, the death penalty is formally classified as a special punishment. It is never mandatory, but always imposed as an alternative sanction, underscoring its exceptional nature within Indonesia's modern penal philosophy. By structuring punishments in this way, the New Criminal Code balances the principles of proportionality, deterrence, and recognition of local values, while preserving judicial discretion in tailoring sentences to the unique context of each case.

3. Corporate Criminal Liability under the New Criminal Code

Pursuant to Article 45 of the New Criminal Code, corporations are expressly recognized as legal subjects of criminal law. The scope of a "corporation" includes legal entities such as limited liability companies, foundations, cooperatives, state-owned enterprises (SOEs), regionally-owned enterprises (BUMD), and other equivalent entities. It also covers associations, whether incorporated or unincorporated, as well as business organizations in the form of partnerships, limited partnerships (CVs), firms, or any other entities treated similarly under prevailing laws and regulations. This expansive definition confirms that criminal liability is not confined to individuals but extends to collective legal persons.

Corporate crimes are considered to occur when offenses are committed by members of management holding functional positions within the corporate structure, or by individuals acting under an employment relationship or other arrangement, provided that their conduct is carried out for and on behalf of the corporation, or in its interest. Such acts may be attributed to the corporation itself where they are performed individually or collectively within the scope of the corporation's business or activities. The scope of liability is not limited to formal officeholders. Responsibility may also attach to those outside the corporate structure, such as persons giving instructions, ultimate controllers, or beneficial owners, where they exercise effective control over corporate decisions or operations.

Corporate liability arises when specific conditions are met, including where the act falls within the scope of the corporation's business activities as defined in its articles of association or governing rules, where the act unlawfully benefits the corporation, where the offense is accepted as corporate policy, where the corporation fails to take adequate steps to prevent the offense or mitigate its impact, or where the corporation deliberately allows the offense to occur.

Furthermore, liability may extend not only to the corporation itself but also to directors, managers, those giving instructions, controllers, and beneficial owners. In addition, justifications or excuses that may be raised by individuals in such positions can also be invoked by the corporation, provided the grounds are directly linked to its circumstances.

4. Conclusions and Takeaways

The enactment of Law No. 1 of 2023 on the Criminal Code marks a historic transition in Indonesia's legal landscape, replacing the century-old Dutch colonial WvS with a codification that reflects Indonesia's constitutional values, social realities, and aspirations for restorative justice and legal certainty. The restructuring of the KUHP into two codified books, the introduction of a modernized system of principal, additional, and special punishments, and the explicit recognition of corporate criminal liability together demonstrate a paradigm shift from a rigid, punitive framework to one that balances deterrence, proportionality, and contextual justice. This transition not only strengthens Indonesia's legal sovereignty but also provides a clearer and more coherent legal framework to guide courts, practitioners, and businesses in navigating the country's criminal justice system.

For corporations, the recognition of corporate criminal liability under Articles 45–50 of the new KUHP introduces both challenges and safeguards, requiring companies to strengthen compliance, governance, and risk management frameworks. At the same time, the reaffirmation of the business judgment rule and the separation of SOE assets from state finances reflect a broader legislative intent to align criminal accountability with modern corporate practices. Taken together, the reforms demand greater awareness and preparedness across all sectors, ensuring that both individuals and corporate entities operate within the bounds of a criminal law system that is not only punitive but also restorative and forward-looking.

Jakarta, 8 October 2025

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