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CORPORATE CRIMINAL LIABILITY FOR INTERNATIONAL CRIMES: ADDRESSING THE ACCOUNTABILITY GAP IN INTERNATIONAL CRIMINAL LAW

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ABSTRACT

As transnational firms gain greater prominence in the global economy and politics, the likelihood and seriousness of their involvement in international crimes such as genocide, crimes against humanity, war crime, and ecological destruction raises further concerns. There is mounting evidence of criminal involvement by corporations in such violations, especially in the case of armed conflicts, the extractive sector, and supply chains. However, international criminal law has not provided the necessary tools to hold such corporations accountable. With respect to the Rome Statute of the International Criminal Court (ICC), the current international legal framework refers to only individuals as being criminally liable before ICC. This exclusion is a significant accountability gap, leaving unexamined corporate culpability of the corporations in international crime, while only individual directors may be liable. This research focuses on the conceptual and legal foundations concerning corporate criminal accountability and analyzes the international criminal prosecution of corporations perpetrating transnational crimes. It analyzes the evolution of the debates on accountability of corporations including the discussions on the drafting of the Rome Statute & Nuremberg Trials. It further examines recent instances of international crimes and evaluates domestic legal developments of those jurisdictions that recognize the criminal liability of corporations. It also analyzes the implications of the absence of international criminal law on the deterrent effects and on the provision of remedy to the victims & the realities of contemporary transnational corporate activity.

Keywords: Business and Human Rights, Complicity, Corporate Criminal Liability, Crimes Against Humanity, Human Rights Abuses, International Criminal Court, International Legal Personality, Rome Statute; Transnational Corporations, War Crimes

I. INTRODUCTION

The development of multinational enterprises (MNEs) has altered the configuration of the global economy. MNEs possess the greatest financial, technological, and political resources, and their operations sometimes result in benefits for all parties. However, MNEs have also been implicated in serious human rights abuses and international crimes, such as the exploitation of slave labor, the financing of warring factions, the facilitation of conflict-related resource extraction, and large-scale environmental destruction affecting people.[1]

International criminal law has focused on the individual, and not the corporation, for the most part. This was the case for the post-World War II Nuremberg Trials, where political and military leaders were prosecuted for genocide and crimes against humanity. Although a number of corporations were linked to the Nazi war efforts, prosecution was focused solely on the individual defendants, and not on the corporate defendants. This individual-centred approach later became a defining characteristic of international criminal law.

Significant growth in the realm of international criminal justice occurred with the adoption of the Rome Statute of the ICC, 1998; however, the Rome Statute in Art. 25, limits the court's jurisdiction to natural persons, meaning that in the case of international crimes, ICC cannot prosecute an entity that is a corporation, regardless of the extent of their involvement.[2]

The challenges presented by the globalization of markets and corporate crime are a notable legal issue. Corporations have the ability to circumvent criminal liability by using transnational supply chains in which the crime could occur in multiple jurisdictions, & individual criminals can evade the jurisdictions. In a large number of situations, international crimes are made possible by corporate crime through policy, financing, or structural manipulation of the organization.

The fact that international criminal law has no means of addressing corporate crime creates a significant gap in accountability that international law can provide. Barriers to justice for

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[1] Fanema Anugerah and Evita Israhadi, 'Criminal Legal Liability Against Corporate Crimes From the Limited Liability Company Law', *Proceedings of the First Multidiscipline International Conference, MIC 2021, October 30 2021, Jakarta, Indonesia* (EAI 2022) <http://dx.doi.org/10.4108/eai.30-10-2021.2315769> accessed 6 March 2026.

[2] T. Riza Zarzani, Ismaidar Ismaidar and Mula Sihombing, 'Corporate Criminal Liability In Environmental Pollution Crimes' (2024) 1(3) International Journal of Sociology and Law 31, <http://dx.doi.org/10.62951/ijsl.v1i3.101> accessed 6 March 2026.

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victims of crimes perpetrated by corporations are caused by a lack of available jurisdiction, difficulty in establishing the necessary elements of a case, and inefficient law enforcement. Because of this, there have been numerous publications on the need to reform international law to include corporate liability.

II. FOUNDATIONAL PRINCIPLES OF ACCOUNTABILITY OF CORPORATIONS FOR CRIMINAL CONDUCT

Corporate criminal liability is the legal concept which, due to the fiction of the law that considers corporations to be legal people, provides for the criminal liability of a corporation for the unlawful acts of its representatives, employees, or agents during the time of a corporate activity. The scope of recognition of corporate criminal liability is quite broad, but most jurisdictions have created a means for attributing a mental state and criminal liability to a corporate body.

The primary basis for the liability of a corporation for the commission of a crime is that the law views a corporation as a body that has a separate legal personality, which functions through a system of collective decision making. The actions and attitudes of the employees & executive directors are heavily influenced by the policies of the corporation, its organizational culture, and incentives created by the corporation. Hence, corporate crime is often not the result of the actions of a single person.[3] There are a number of legal principles that have been developed to implement the criminal liability of corporations under the domestic legal systems. One of the most common principles is the doctrine of identification, which has the effect that the acts and state of mind of the senior officers of a corporation are attributed to the corporation itself. The doctrine of vicarious liability is another principle, and under this principle, a corporation is liable for the acts of its employees done in the course of their employment.

In the past few decades, scholars have constructed the theory of corporate culture liability. Under this theory, a corporation’s liability can be based on the organisation’s structure, policies, or culture that promote or allow unlawful behaviour. At a minimum, these approaches show that the law can be used to assign criminal responsibility to a corporation. This is,

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[3] Suryani Alawiyah, Bambang Waluyo and Irwan Triadi, ‘Criminal Liability of Corporate Shareholders in Environmental Crimes’ (2025) 08(04) International Journal of Social Science and Human Research <https://doi.org/10.47191/ijsshr/v8-i4-43> accessed 6 March 2026.

however, less so in the context of international criminal law.[4]

III. THE EVOLUTION OF CORPORATE ACCOUNTABILITY IN INTERNATIONAL CRIMINAL LAW

The liability of corporations for international crimes can be traced back to the end of World War II. The Nuremberg Trials involved some of the major German corporations, in particular the industrial companies that funded the Nazi regime, which were described as war criminals and perpetrators of crimes against humanity. While some corporate leaders were tried, the companies themselves were not. However, the Nuremberg Trials did establish an important principle of law, which is that representatives of a corporation can be criminally liable for international crimes. This is one of the most important contributions to the development of international criminal law.

While corporations were not prosecuted as legal persons after World War II, the Nuremberg Trial's Industrialist Trial's outlined the significance of corporate participants in international crime. In IG Farben Trial, several executives of the chemical conglomerate were prosecuted. The Krupp Trial also dealt with the role of business leaders in the abusive use of forced labor and war production. While there were no convictions for the corporations, these instances showed that business executives can be criminally liable for international crimes.[5].The the rome statute final text exclude legal entities in the jurisdiction of the ICC art 25,in conjuction with its provision ,as to the modes of liablity ,on the the exclusivity of the criminal responsibility to natural persons ,closes any chances of the Court prosecuting any transational crimes committeed by the corporations.

While drafting the Rome Statute of the ICC in the 1990s, a few states suggested that corporate criminal responsibility be included in the ICC's jurisdiction. Notably, France proposed the possibility of prosecuting legal entities. However, most states whose domestic legal systems were firm in the absence of corporate liability resisted such suggestions.[6] Consequently, the

[4] Lynn Verrydt, 'Corporate Involvement in International Crimes: An Analysis of the Hypothetical Extension of the International Criminal Court's Mandate to Include Legal Persons', *Regulating Corporate Criminal Liability* (Springer International Publishing 2014) <http://dx.doi.org/10.1007/978-3-319-05993-8_23> accessed 6 March 2026.

[5] 'The Subsequent Nuremberg Trials' (*The Holocaust Explained*) <www.theholocaustexplained.org/survival-and-legacy/postwar-trials-and-denazification/subsequent-nuremberg-trials/> accessed 9 March 2026.

[6] Yudan Tan, 'Withdrawal from the Rome Statute' [2024] Journal of International Criminal Justice <http://dx.doi.org/10.1093/jicj/mqae022> accessed 6 March 2026.

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Rome Statute's final text excludes legal entities in the jurisdiction of the ICC. Art. 25, in conjunction with its provision, as to Modes of Liability, on the exclusivity of criminal responsibility to natural persons, closes any chances of the Court prosecuting any transnational crimes committed by corporations.

This has drawn criticism from a good number of scholars and advocates of human rights. Corporations, in contemporary warfare, finance armed interventions, logistically support them, and feebly exploit natural resources. In most instances, they contribute to the violence and instability of a region. However, the international legal regime presents no means to directly sanction them.[7]

This, in part, explains the intensified international legal development directed towards corporate accountability. Within the frameworks of the UN on business and human rights, proposed drafts of international legal instruments that align with the violation of human rights by corporations, & emerging focus on encroaching corporate crime on human rights.

IV. CORPORATE INVOLVEMENT IN VIOLATIONS OF INTERNATIONAL LAW

In recent years, the potential of corporate involvement in the breach of international law has attracted the attention of academics and international institutions. Multinational corporations are known to establish themselves in politically volatile or conflict prone locations with little or no governance. In such situations, corporate operations, especially in the mining, energy, and construction industries, may have dealings with state authorities, military personnel, or other non-state combatants.

Despite international criminal law having traditionally focused on the culpability of individuals, several lawsuits have posed the challenge of whether the corporate world should be considered an actor in international humanitarian or human rights law violations. One often mentioned example involves the lawsuits involving Royal Dutch Shell and their operations in the Niger Delta region of Nigeria.[8]

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[7] Rama Kusuma Irjananta and Firman Akbar Anshari, 'Corporate Liability and International Criminal Law' [2025] Journal of Criminal Justice Education 1, <https://doi.org/10.1080/10511253.2025.2485965> accessed 6 March 2026.

[8] Ken Roberts, 'Corporate Liability and Complicity in International Crimes' in Sebastien Jodoin and Marie-Claire Cordonier Segger (eds), *Sustainable Development, International Criminal Justice, and Treaty Implementation*

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There were concerns from some environmental advocacy organizations and local community groups about the adverse environmental and human rights impacts of the company's security response to protest activities. Jurisdictional lawsuits such as *Kiobel v. Royal Dutch Petroleum Co.*[9] attempted to address these issues in US courts via the Alien Tort Claims Act. This brought the case to the US' Supreme Court, which sought to restrict the overseas application of the statute and, therefore, the ability of international claimants to sue such defendants in US' courts.

The case involving the French multinational corporation Lafarge also received a lot of attention for its actions in Syria during the armed conflict from 2012 to 2014. Reports indicated that the local subsidiary of the company made some payments to armed groups in the area to keep the cement plant operating. In 2022, Lafarge made a plea deal with the US government and agreed to pay about $777.8 million, becoming one of the largest enforcement actions against a multinational corporation in an area of active conflict.[10]

More litigation has emerged on similar allegations concerning the interplay of private companies and state officials who control the security perimeter of industrial sites. In *Bowoto v. Chevron Corp.*,[11] for instance, constituents of a community from Nigeria alleged that the protection of oil facilities resulted in the breach of their human rights. The case resulted in no corporate liability, yet it demonstrates the litigation trend aimed at holding liability to a multinational company for its involvement in the so-called 'dirty games' of state and local community interactions.

Judicial processes involving the Alien Tort Statute (ATS) have also dealt with corporate liability for the breach of international law. In *Jesner v. Arab Bank*,[12] court ruled that there was no possibility of suing foreign companies under the ATS, thereby determining its focus. Subsequently, in *Nestle USA, Inc. v. Doe*,[13] the Court refused to acknowledge claims of child slavery and alleged corporate crime in the cocoa supply chain, on the basis that the wrongdoing

(Cambridge University Press) <http://dx.doi.org/10.1017/cbo9781139507561.014> accessed 6 March 2026.
[9] 569 U.S. 108.
[10] 'Lafarge Pleads Guilty to Conspiring to Provide Material Support to Foreign Terrorist Organizations' (*Department of Justice*, 2022) <www.justice.gov/archives/opa/pr/lafarge-pleads-guilty-conspiring-provide-material-support-foreign-terrorist-organizations> accessed 6 March 2026.
[11] 3:99-cv-02506, (N.D. Cal.).
[12] 584 U.S. 241.
[13] 593 U. S. 628.

in question must, to a great extent, take place in the US. These rulings have reduced the possibility of holding companies liable to ATS litigation, and therefore corporate accountability.

These cases exemplify the difficulty in regulating the 'irresponsible' behavior of companies in multiple jurisdictions where illicit corporate activities collude with elements of state control and fragile governance. They also showcase the shortcomings of international law in addressing the 'corporate complicity' in the breach of international law.

Table 1 - Selected Legal Proceedings Involving Corporate Activities in Conflict-Affected or High-Risk Areas[14]

Year	Corporation	Region	Nature of Allegations	Legal Outcome
2013	Royal Dutch Shell	Nigeria	Environmental harm and alleged involvement in security operations related to protests	Civil litigation in multiple jurisdictions
2013	Chevron Corporation	Nigeria	Allegations relating to corporate interaction with security forces protecting oil installations	Case heard in U.S. courts (Bowoto v. Chevron Corp.)
2022	Lafarge S.A.	Syria	Payments made to armed groups to maintain business operations	Settlement and penalty of $777.8 million
2018	Eni and Shell	Nigeria	Allegations of corruption relating to oil block transaction valued at $1.1 billion	Trial proceedings in Italian courts
2021	TotalEnergies	Mozambique	Complaint regarding corporate responsibility for	Investigation initiated in France

[14] Michael Elliot and Felix Lüth, 'Corporate Liability for Economic Crimes', *Histories of Transnational Criminal Law* (Oxford University Press 2021) <http://dx.doi.org/10.1093/oso/9780192845702.003.0016> accessed 6 March 2026.

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			impacts linked to energy infrastructure security operations	

V. STRUCTURAL LIMITATIONS IN INTERNATIONAL CRIMINAL LAW

While there has been growing focus on defining corporate accountability, a number of structural challenges remain in international criminal law relating to corporate accountability for international law violations. One of the most notable consequences of Art. 25 of the Rome Statute is that it places criminal liability on natural persons only. Although corporations as legal entities cannot currently be prosecuted before the ICC, the actions of corporate actors may still fall within the Court's jurisdiction through individual criminal responsibility. Under Art. 25 of Rome Statute of the ICC, natural people, including corporate executives, directors, or managers, can be held liable if they contribute to the commission of international crimes. This includes conduct such as aiding and abetting, complicity, or otherwise facilitating the commission of crimes within the Court's jurisdiction. Consequently, corporate officials who knowingly provide financial support, logistical assistance, or essential resources to perpetrators of atrocities may incur criminal responsibility even though the corporation itself cannot be prosecuted.

Thus, it follows that the ICC does not have the jurisdiction to consider the criminality of international corporations. This is indicative of the evolution of international criminal law, which began with the Nuremberg Trials, focusing on the prosecution of political and military leaders. For the most part international crimes were, and still are, considered the realm of state actors. The structure of economic activity has changed dramatically with globalization. Today, multinational corporations control global supply chains and have state-like economic power. Corporate actions such as disinvesting, resource extraction, or partnering with state actors, can have far-reaching impacts on unstable political territories.[15]

A related doctrinal pathway involves participation in collective criminal structures, sometimes described in scholarship as joint criminal enterprise–type arrangements. While the Rome

[15] Markus Wagner, 'Corporate Criminal Liability – National and International Responses' [1999] SSRN Electronic Journal <http://dx.doi.org/10.2139/ssrn.3415253> accessed 6 March 2026.

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Statute does not explicitly codify the doctrine of joint criminal enterprise as developed in tribunals such as the International Criminal Tribunal for the Former Yugoslavia, Art. 25(3)(d) recognizes liability for individuals who contribute to crimes committed by a group acting with a common purpose. This provision allows prosecutors to pursue corporate executives when their actions substantially contribute to a collective criminal plan, even if they did not physically perpetrate the underlying crimes themselves. As a result, senior corporate actors involved in coordinated activities with state officials, armed groups, or other entities may still be prosecuted before the Court where their participation intentionally advances the commission of international crimes.[16]

Corporate actors are not unitary people. Unlike natural people, they act through a dispersed structure that includes a board of directors, a management team, and a set of subsidiaries. It is often challenging to determine which persons, among many employees, have the relevant expertise or the requisite purpose. Formulating corporate strategies may occur at the headquarters, but field or operational decisions may be made by subsidiary or local management. The fragmentation makes it difficult to apply the classical principles of criminal law that lean heavily on the subjective side of the perpetrator.

Many legal systems at the national levels have devised solutions to such problems, by developing legal principles of vicarious liability, liability of corporate culture, identification doctrine, among others. However, such principles have, as yet received no systematic attention in the realm of international criminal law. In addressing the problem of corporate misconduct, one of the options available is the domestic courts. Still, such litigations are often plagued by issues of scope. This was the case in *Kiobel v. Royal Dutch Petroleum Co.*,[17] US' Supreme Court ruled that the Alien Tort Statute has no relevance to actions taken outside US. The ruling significantly restricted the means of foreign litigants to enforce breaches of international law against other subjects of international law in the courts of the United States. A similar problem arises with international corporate entities which operate through multiple subsidiaries, leaving a large liability gap with respect to the parent companies domiciled in other countries.

While direct prosecution of companies remaining Impossible for the ICC, participants of corporate dealings may still become liable under Rome Statute of the ICC in Art. 25. Corporate

[16] *Ibid*.
[17] 569 U.S. 108.

executives or managers may incur individual criminal liability where their conduct satisfies the requirements of participation under Article 25. The command responsibility doctrine is unfortunately inapplicable to corporate entities due to the distributed nature of power within corporations' boards, executives, and sub-branches. This lack of cohesion creates a barrier to meeting the threshold of "effective control" for purposes of international criminal law.

VI. EMERGING FRAMEWORKS FOR CORPORATE ACCOUNTABILITY

International and national law acts have shown us the other side of the coin. On the other side of these challenges lies the possibility of the law recognizing the need and answering with sufficient laws of corporate accountability. Guiding the changes is the early adoption of the UN principles of Business and Human Rights which came to be in 2011. At the principles' center, there is a framework of three obligations, such as the requirement of states to ensure the protection of human rights; the need for businesses to recognize and avoid abuse of human rights; & need for affected persons to have access to effective legal remedies Due to the absence of binding legal status, guiding principles have influenced national laws & way businesses manage their operations.[18] These advances are being seen in multiple parts of the globe. There are several business laws guiding businesses to ensure due human rights diligence in their operations across the globe. The year 2017 saw the emergence of the French Law on the Corporate Duty of Vigilance, which expects large businesses to manage their due responsibilities towards human rights & environment. The same has been done in Germany via the Supply Chain Due Diligence Act. The European Union is in the process of developing a law on corporate accountability and sustainability that is expected to supplant the previous laws.[19]

Role of International Soft Law and Corporate Governance Mechanisms

International soft law, as well as differing jurisdictional approaches to corporate governance, have influenced what constitutes responsible business conduct & expectations of various stakeholders. Although these mechanisms are not formal and legally binding, they influence the expectations of businesses, the corporate governance practices of investors, & law and

[18] BEN MOXHAM, 'The UN Guiding Principles on Business and Human Rights' (2012) 19(4) International Union Rights 4, <http://dx.doi.org/10.1353/iur.2012.0012> accessed 6 March 2026.

[19] Nicolas Friedlich, 'Tempered Vigilance: Realizing Effective Remedy for Rightsholders Under the French Duty of Vigilance Law' [2025] SSRN Electronic Journal <https://doi.org/10.2139/ssrn.5130322> accessed 6 March 2026.

policy-making practices of regulators across different jurisdictions.

An example is the work of the Organization for Economic Co-operation and Development & OECD Guidelines for Multinational Enterprises. These guidelines suggest that international businesses should comply with certain standards of international human rights law, international environmental law, and supply chain transparency. Along with these guidelines are National Contact Points for each Member State, who provide mediation and dialogue functions for issues that arise concerning corporate accountability.[20]

Another example is the UN Global Compact. This is one of the most prominent voluntary frameworks and it encourages businesses to adopt one or more of its ten principles. These principles address issues concerning corporate governance and human rights, labor, the environment, and corruption.

Environmental, social, and governance criteria have become critical to assessing corporate performance, especially within financial institutions, stakeholders, and investors. In particular, investment and pension funds and global development banks assess whether companies are aligned with global standards on human rights and sustainability before providing funding. Therefore, the corporate adherence to these frameworks has become a reputational concern and affects the corporate bottom line from accessing global financial markets.

It is true that soft law mechanisms cannot supplant formal mechanisms of legal accountability, & same is true for the gradual impact that such mechanisms have in shaping global responsible corporate behavior. These mechanisms, over time, can shape domestic laws and international agreements, and provide a more robust legal framework on the intersection of international law and corporate behavior.

VII. A WAY FORWARD

Addressing the accountability gap in international criminal law requires a multi-layered approach that combines reforms at both the international and domestic levels. One possible avenue is the amendment of the Rome Statute of the ICC to extend the jurisdiction of the ICC to legal persons such as corporations. At present, Art. 25 of the Statute restricts the Court's jurisdiction to natural persons, thereby limiting the direct prosecution of corporate entities involved in international crimes. Amending this provision to include juridical persons could significantly strengthen the framework of international criminal accountability.

[20] Organization for Economic Co-operation and Development, *OECD Guidelines for Multinational Enterprises* (Organization for Economic Co-operation and Development (OECD) 2002).

In addition to jurisdictional reforms, the development of a coherent regime of corporate sanctions is necessary. Such measures could include monetary penalties, compliance-based obligations, reparative mechanisms for affected communities, and long-term monitoring of corporate conduct in post-conflict or post-violation settings. These measures would align corporate accountability with the broader objectives of international criminal law, including deterrence, reparative justice, and prevention of future harm.

Another significant development is the ongoing negotiation of a legally binding international instrument on business and human rights within the United Nations. If successfully concluded, such a treaty could establish clearer obligations for transnational corporations and provide mechanisms to address corporate involvement in serious human rights violations, particularly in cross-border contexts where accountability is often fragmented.

Finally, domestic legal systems remain central to closing the accountability gap. Strengthening national frameworks through the recognition of corporate criminal liability, the exercise of extraterritorial jurisdiction in appropriate cases, and improved access to remedies for victims can complement international mechanisms. A coordinated approach between international institutions and domestic jurisdictions is therefore essential to ensure that corporations involved in grave international crimes do not evade accountability.

VIII. CONCLUSION

The expanding economic and political influence of multinational corporations presents new challenges for international criminal law. The traditional architecture of international criminal accountability, which focuses almost exclusively on natural persons, increasingly appears insufficient in addressing the role that corporate actors may play in facilitating or benefiting from serious violations of international law. As global economic structures evolve, the limitations of a framework that excludes corporate entities from the jurisdictional reach of international criminal institutions become more apparent.

The continued absence of corporate criminal liability within the jurisdictional framework of the ICC reflects a structural gap in the contemporary international legal order. While many domestic legal systems have progressively recognized forms of corporate criminal liability, international criminal law has not evolved at the same pace. This disconnect highlights an enduring tension between the realities of transnational corporate power and the existing

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mechanisms of international accountability.

Bridging this accountability gap requires a more integrated approach in which international and domestic legal systems evolve in tandem. Developing clearer mechanisms to address corporate involvement in international crimes—whether through international institutional reform or strengthened domestic frameworks—would represent an important step toward ensuring that the architecture of international criminal law remains responsive to contemporary forms of harm and responsibility.

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