



## Construction of the Responsibility of Pharmaceutical Corporation Directors in the Distribution of Narcotics Precursor Deviations

Tri Andika Syam\*, Faisal Santiago

Universitas Borobudur, Indonesia

Email: triandikasyam@gmail.com\*, faisalsantiago@borobudur.ac.id

---

### Keywords:

Directors' Accountability;  
Pharmaceutical Corporations;  
Narcotics Precursors; Corporate  
Crime; Legal Reconstruction.

---

### ABSTRACT

The management of narcotics precursors places pharmaceutical corporations in a strategic position, given the legal authority to produce and distribute substances with a high risk of abuse. Law enforcement practices demonstrate that deviations in precursor distribution are often understood as technical violations or the actions of operational-level individuals, while the role of directors as strategic policymakers is rarely addressed by criminal liability. This situation creates a gap between the corporate control structure and the construction of legal accountability applied. This study aims to analyze the accountability practices of pharmaceutical corporation directors in deviations in the distribution of narcotics precursors and to formulate a more accountable and prevention-oriented legal reconstruction. The method used was normative legal research with a statutory and conceptual approach, accompanied by an analysis of the doctrine of corporate criminal liability, fiduciary duty, and corporate governance. The results show that normative weaknesses, the dominance of conventional evidentiary approaches, and excessive protection of business decisions have created room for impunity for directors. The proposed reconstruction positions directors as subjects of structural accountability through the recognition of active and passive responsibility, the use of objective parameters of error, and the affirmation of compliance system failures as the basis for criminal liability. This construction is expected to strengthen the effectiveness of narcotics law enforcement, increase compliance of pharmaceutical corporations, and provide more optimal protection for public health and security interests.

---

### INTRODUCTION

Pharmaceutical corporations occupy a strategic position because they are legally authorized to manage, produce, and distribute narcotics precursors for medical and industrial purposes (Sari, 2025). This authority is not merely administrative but is also inherent in the state's trust in the corporation's integrity and responsibility (Rizki, 2025). Narcotics precursors have a dual nature: on the one hand, they are legally required, but on the other, they have the potential to be misused for illicit narcotics production (Sulastiana, 2021). This situation places pharmaceutical corporations at high legal risk. Any minor lapse in governance can have serious implications for public safety and health (Zihranastiar, 2025).

The phenomenon of irregularities in the distribution of narcotics precursors demonstrates that legal channels are often exploited as entry points for organized drug crime (Ristanti, 2025). Law enforcement data shows that precursors that should be used for legitimate purposes are instead diverted to the black market. These irregularities do not always occur through the actions of lower-level individuals (Marune, 2023). Recurring patterns indicate structural

problems within the distribution system. This reality demonstrates that corporations can become effective vehicles for crime when internal oversight is weak (MULADI, 2023).

The nature of precursor distribution irregularities cannot be understood as merely incidental events. These practices are often linked to managerial policies, distribution targets, and internal reporting mechanisms designed by company leadership. Strategic decisions regarding production and distribution volumes rest with the board of directors (Amalina, 2024). This situation places the board of directors as key actors with significant control over the direction of corporate policy. Ongoing irregularities reflect systemic failures, not simply technical procedural violations (Scheppele et al., 2020).

Law enforcement in cases of precursor distribution irregularities has tended to focus on field implementers such as pharmacists, warehouse staff, or distributors (Yovia, 2021). Directors are often not held criminally accountable despite their strategic authority. This pattern of law enforcement creates inequality in sentencing (Krismen, 2014). Responsibility seems to stop at the operational level. This situation creates room for impunity for top decision-makers within corporations.

The urgency of studying director accountability is increasingly relevant because corporate-based drug crimes have widespread and long-term impacts. Pharmaceutical corporations are not simply economic entities, but part of the public health protection system. When directors are not held accountable proportionately, crime prevention becomes ineffective. The corporate crime perspective demands a rethinking of who should be held accountable (Pravifjayanto, 2025). This study seeks to position directors as legal subjects with criminal responsibility for the policies they adopt.

The theory of corporate criminal responsibility developed to address the complexity of modern crime, which is no longer committed by individuals (Herawati, 2025). Identification theory places the will of the corporation in the hands of individuals who function as the mastermind and controller. Directors are viewed as representatives of that will because they possess supreme decision-making authority (Dwinanda, 2022). This theory is relevant for prosecuting directors actively involved in formulating deviant policies. Its weakness lies in proving a direct link between individual will and corporate actions.

Vicarious liability extends corporate responsibility to the actions of parties acting in the company's best interests (Kurniawan, 2022). This theory is often used to implicate corporations without having to prove direct wrongdoing on the part of directors. The position of directors in this theory is de-centralized because the primary focus is on working relationships (Utama, 2023). Consequently, directors often avoid personal responsibility. This limitation indicates that vicarious liability does not fully address the need for managerial accountability.

Corporate culture theory offers a more structural approach by assessing a company's internal culture and systems (Setyawati, 2024). Corporate policies, procedures, and values form the basis for assessing culpability. Directors play a crucial role because they have the authority to shape a culture of compliance. Failure to create an adequate oversight system can be viewed as corporate misconduct (Sudarmanto, 2025). This theory provides greater scope for attributing indirect but substantial responsibility to directors. Functional perpetrator theory positions the perpetrator not solely as the physical perpetrator, but as the party controlling the function and direction of the act. Directors can be positioned as functional perpetrators because they control the distribution system. This theory is relevant for crimes committed through organizational

mechanisms (LIN, 2024). The role of directors is assessed based on their control function, not their physical presence in the act. This approach allows for criminal liability without having to prove technical involvement.

The position of directors within the corporate structure places them as strategic decision-makers who determine the direction of the company. Directors not only carry out operations but also establish policies that bind all elements of the corporation (Indrapradja, 2020). This position provides access to critical information and control over resources. The relationship between directors and commissioners and shareholders is functional and mutually supervisory. This legal implication places directors as subjects who should be held accountable for the consequences of corporate policies.

Fiduciary duty entails obligations of loyalty and prudence inherent in the position of directors. These obligations require directors to act in the interests of the corporation lawfully and responsibly (Muarif, 2024). The duty of care requires active oversight of high-risk activities such as the distribution of narcotics precursors. Good corporate governance principles emphasize compliance with the law and transparency (Njatrijani, 2019). Failure to establish a compliance system can be considered a serious error that warrants criminal liability.

The implications of the reconstruction for reforming narcotics and pharmaceutical laws are significant. Reformulated norms need to explicitly incorporate the structural responsibilities of directors. Law enforcement officers gain a stronger basis for prosecuting policymakers. Prevention of precursor diversion becomes more effective because it targets the control center. This reconstruction has the potential to strengthen public health and safety protection. The proposed reconstruction provides a comprehensive model that can be used as the basis for legislative reform, law enforcement training, and corporate compliance programs in the pharmaceutical sector.

## **METHOD**

This study employed a normative legal research method that positions law as a rule and system of norms analyzed prescriptively and critically. A statutory approach is used to examine regulations regarding narcotics, precursors, health, and the criminal liability of corporations and directors as stipulated in various interrelated regulations. It applies a conceptual approach to examine doctrines of corporate criminal liability, directors' roles, fiduciary duties, and theories of corporate crime, to develop a coherent and well-argued legal framework. It consists primarily of legal materials in the form of laws, international conventions, and implementing regulations, which are analyzed along with secondary legal materials such as scientific literature, journals, and the opinions of legal experts, as well as tertiary legal materials as supporting materials. The analysis technique is carried out qualitatively with deductive and prescriptive reasoning patterns, so that this study not only captures the weaknesses of existing laws but also formulates a reconstruction model of directors' accountability oriented towards structural accountability and the prevention of corporate crime.

## **RESULTS AND DISCUSSION**

### **Regulation and Practices of Illegal Distribution of Narcotic Precursors**

The concept of narcotic precursors refers to certain chemical substances that have legitimate uses in the health, pharmaceutical, and industrial sectors, but also have the potential to be used as raw materials for the manufacture of illicit narcotics and psychotropic substances. This dual nature makes precursors the subject of strict regulation within international and national narcotics legal regimes. Precursor control aims to prevent the transition from legal use to illicit narcotics production. The high risk of abuse requires a monitoring system that is not only administrative but also substantive. The inability of states and corporations to manage these risks directly contributes to the increase in illicit narcotics circulation.

The regulation of narcotic precursors in international law is primarily derived from the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances. This Convention requires participating countries to strictly monitor the substances listed in Tables I and II as precursors and essential chemicals. Article 12 of the convention emphasizes the state's obligation to prevent the misuse of precursors without impeding legitimate industrial and health interests. The principle of balance between control and the smooth flow of legal trade is the primary basis for international regulation. Implementation of this principle is highly dependent on regulatory capacity and law enforcement at the national level.

Indonesian national law adopts this international obligation through Law Number 35 of 2009 concerning Narcotics. Article 1, number 2 of the Narcotics Law defines narcotic precursors as substances or starting materials that can be used for the manufacture of narcotics. Articles 43 through 46 regulate the control of precursor production, import, export, and distribution. These norms grant the government oversight authority and establish criminal sanctions for violations. The formulation of these norms demonstrates a control orientation, but does not yet detail the structural accountability of corporate directors.

Precursor regulations also intersect closely with the health and pharmaceutical legal regime. Law Number 17 of 2023 concerning Health establishes pharmaceutical materials as objects that must be managed safely and responsibly. The Food and Drug Monitoring Agency (BPOM) regulations govern the licensing, recording, and reporting mechanisms for the distribution of certain pharmaceutical chemicals. This cross-sectoral relationship creates a complex regulatory framework. This complexity often creates gaps in coordination between regulatory agencies.

Regulatory fragmentation is evident in the separation of authority between law enforcement agencies, health regulators, and trade regulators. Each agency operates based on a different sectoral mandate. This situation results in a lack of integrated oversight of precursor distribution. Pharmaceutical corporations find themselves amidst overlapping but incompletely synchronized regulatory structures. This weakness opens a hole for irregularities that are difficult to detect early.

The precursor distribution mechanism by pharmaceutical corporations essentially follows the stages established by law. These stages include needs planning, procurement of materials, storage, distribution, and reporting of use. Each stage has strict administrative and technical requirements. Distribution is permitted only to parties with valid permits. Violations at any stage can have systemic impacts on the entire supply chain.

The role of the board of directors in the precursor distribution mechanism is strategic and decisive. The board of directors determines production policies, distribution volumes, and the selection of business partners. These decisions have direct implications for the risk level of precursor misuse. The Board of Directors also has the authority to establish an internal control system and determine compliance priorities. This position places the board of directors as a central actor in preventing and managing irregularities.

An internal monitoring and reporting system should be the primary instrument for controlling precursor distribution. The system includes recording usage, internal audits, and regular reporting to regulators. The quality of the monitoring system depends heavily on the commitment of top management. System weaknesses are often not due to the absence of regulations, but rather to poor compliance and active oversight. This situation demonstrates the close relationship between corporate governance and the potential for crime.

Vulnerable points for distribution irregularities generally arise in the reporting and stock control phases. Data manipulation, over-distribution, and diversion of goods are common practices. These practices are difficult to detect when internal audits are formalistic. Limited external oversight exacerbates the situation. This type of irregularity demonstrates that crime occurs through exploiting system weaknesses, not simply individual violations.

The pattern of precursor distribution irregularities exhibits an organized and repetitive character. The irregularities often involve collaboration between internal corporate parties and external networks. The methods used evolve in line with stricter formal regulations. The flexibility of corporate organizations provides room for adaptation to oversight. This situation reinforces the view that precursor irregularities are a complex form of corporate crime.

Policy-based and non-consensual irregularities reflect errors at the decision-making level. Aggressive distribution policies without risk mitigation open up opportunities for abuse. Tolerating minor violations normalizes deviant behavior. The accumulation of these practices results in systemic crime. Directors cannot be absolved of responsibility for this situation because they have corrective authority.

Corporate economic gain is a primary driving factor in precursor distribution irregularities. Increasing distribution volume is directly proportional to the potential for financial gain. Economic incentives often trump legal compliance if not balanced by strict oversight. Irregularities that generate corporate profits demonstrate a direct link between business policies and crime. This characterization positions precursor irregularities as a corporate-enabled crime that exploits corporate structures and resources.

#### Critical Analysis and Reconstruction of Directors' Accountability

The practice of directors' accountability in law enforcement of narcotics precursor crimes still exhibits a limited and partial tendency. Law enforcement officials often position the corporation as an abstract subject without examining the personal role of directors. This accountability model positions the corporation as the sole actor, while individual controllers are untouched. This approach simplifies the decision-making structure within the corporation. As a result, the causal relationship between directors' policies and distribution irregularities is not revealed completely.

The pattern of legal prosecutions against individuals tends to be directed at technical implementers at the operational level. Pharmacists, warehouse staff, or distributors are more easily prosecuted because their factual involvement can be directly proven. Meanwhile,

directors are often positioned as parties distant from the criminal event. This pattern reflects a legalistic approach that emphasizes the physical perpetrators. Power structures and decision-making are not the primary focus of law enforcement.

Obstacles to proving directors' guilt are often cited as the primary reason for not pursuing criminal prosecution. Proving directors' mens rea is considered difficult due to the lack of direct involvement in distribution activities. Law enforcement officials still rely on evidence of explicit orders or active involvement. This approach ignores forms of error such as omission or failure to supervise. The narrow framework of proof makes it difficult to establish directors' responsibility.

The tendency for directors' impunity arises as a consequence of a law enforcement pattern that does not address the policy level. Directors can still hide behind organizational structures and delegations of authority. Strategic positions, in fact, serve as a shield protecting them from accountability. This type of impunity has the potential to encourage the recurrence of crimes. The legal system loses its deterrent effect against policy-based corporate crimes.

The normative weakness of directors' accountability stems from the lack of clarity in the formulation of criminal norms linking position to responsibility. The narcotics law regulates prohibitions and sanctions, but does not explicitly define directors' responsibilities. The norms still focus on the act, not the perpetrator's structural position. This gap creates limited interpretive space for law enforcement. Directors are not clearly positioned as potential subjects of criminal acts.

The dominance of the business judgment rule doctrine also strengthens directors' position against criminal prosecution. This doctrine provides protection for business decisions made in good faith. This protection is often extended to include policies that result in legal violations. Overly broad interpretations restrict accountability. The precautionary principle loses its meaning if every policy is claimed to be a purely business decision.

Structural weaknesses are also evident in the weak integration of cross-sectoral oversight. Precursor oversight involves health officials, drug regulators, and criminal law enforcement. Coordination between agencies often occurs administratively without substantive information exchange. Each agency operates within its own jurisdiction. This situation makes it difficult to fully trace managerial responsibility.

The absence of an explicit doctrine of willful blindness in law enforcement practices exacerbates the situation. Directors can claim ignorance of irregularities occurring under their authority. The claim is difficult to refute without a clear normative framework. Passive inaction is not treated as a form of wrongdoing. Consequently, failures in oversight are never classified as criminal acts.

The principle of structural accountability is the primary foundation in the reconstruction of director accountability. This principle views the office as a source of legal obligations, not merely an administrative position. Every authority gives rise to inherent responsibility. Directors are responsible for the systems they build and operate. Systemic failures must be understood as accountable structural errors.

The principle of heightened prudence demands stricter oversight standards for the management of narcotics precursors. Precursors carry a level of risk that is disproportionate to ordinary business commodities. Decision-making must be based on adequate risk mitigation. General prudential standards are no longer sufficient. Directors are required to anticipate

potential abuse from the planning stage.

The integration of criminal, corporate, and health law is a crucial element in the reconstruction. Precursor crimes cannot be understood solely through the lens of classical criminal law. The dimensions of public health and corporate governance are interconnected. Reconstruction demands a cross-legal regime approach. This synergy allows for a more comprehensive assessment of responsibility.

Emphasis on preventing corporate crime is the primary focus of reconstruction. Criminal liability serves not only a repressive function but also a preventative one. Directors must be encouraged to develop an effective compliance system. The threat of criminal penalties serves as an incentive for compliance. Prevention is more effective when directed at the policy-making level.

The director accountability model needs to encompass both active and passive liability. Active liability encompasses the formulation of policies that directly open up opportunities for malfeasance. Passive liability relates to failures in oversight and omission. Both forms are equally dangerous. Reconstruction must recognize omission as a form of criminally relevant wrongdoing.

Limited strict liability for directors offers a proportionate approach, retaining the element of fault while shifting the burden of proof to do care. Directors are required to demonstrate the existence of an effective compliance system. The absence of such a system is treated as a fault. This approach balances the interests of justice and the effectiveness of law enforcement.

Objective parameters for director misconduct need to be clearly formulated. These parameters include structural position, decision-making authority, access to information, and the economic benefits derived from the corporation. Assessments should no longer rely on evidence of direct orders. An objective approach provides legal certainty. Directors cannot hide behind claims of ignorance.

Failure of the compliance system must be the basis for criminal liability. The compliance system is the primary instrument for preventing precursor diversion. Directors are responsible for the design and implementation of the system. Ineffectiveness of the system reflects serious negligence. This basis broadens the scope of liability without compromising the principle of justice.

The implications of the reconstruction for reforming narcotics and pharmaceutical laws are significant. Reformulated norms need to explicitly incorporate the structural responsibilities of directors. Law enforcement officers gain a stronger basis for prosecuting policymakers. Prevention of precursor diversion becomes more effective because it targets the control center. This reconstruction has the potential to strengthen public health and safety protection.

## **CONCLUSION**

The accountability of pharmaceutical corporate directors for irregularities in the distribution of narcotic precursors has not been adequately established, both at the normative level and in law enforcement practice. The existing legal framework positions corporations as abstract subjects and technical implementers as the primary actors, while the strategic role of directors tends to be overlooked. The position of directors as policy controllers, compliance system builders, and distribution direction makers has not been explicitly translated as a basis for criminal liability. This weakness is exacerbated by the dominance of conventional

evidentiary approaches that demand direct involvement and excessive protection through the doctrine of business judgment. The suggested reconstruction emphasizes the significance of structural accountability, recognition of negligent supervision as a form of wrongdoing, and the use of objective parameters to assess the responsibility of directors in narcotic precursor-based corporate crimes. The recommendations emphasize the necessity for legal reform that explicitly regulates the accountability of directors in the management of narcotic precursors as part of the narcotics control regime and public health protection. Lawmakers should formulate norms linking positions, authorities, and supervisory obligations as a basis for criminal liability, including recognition of compliance system failures. Law enforcement officials and regulators are expected to develop a law enforcement approach that examines corporate decision-making policies and structures, rather than merely technical actions. Strengthening cross-sectoral coordination is a crucial prerequisite for effective oversight and enforcement. Further research could focus on comparative legal studies and empirical analysis of the application of director liability in pharmaceutical crimes across various jurisdictions to enrich the development of corporate criminal law doctrine in Indonesia.

## REFERENCES

- Amalina, R. A. (2024). Problematika jual beli obat keras golongan prekursor oleh apotek di Samarinda. *Dedikasi: Jurnal Ilmiah Sosial, Hukum, Budaya*, 25(1), 33–48.
- Dwinanda, I. A. (2022). Pertanggungjawaban pidana terhadap perusahaan ekspedisi yang melakukan pengiriman narkotika dihubungkan dengan *identification theory*. *Triwangsa Hukum*, 1(2), 137–152.
- Herawati, E. M. (2025). Analisis yuridis terhadap tanggung jawab korporasi dalam tindak pidana kejahatan luar biasa di bidang ekonomi. *Jurnal Sosial Teknologi*, 5(7), 2819–2831.
- Indrapradja, I. S. (2020). Kajian yuridis terhadap tanggung jawab direksi dan dewan komisaris pada struktur organisasi perseroan terbatas yang bersifat kolegialitas menurut Undang-Undang Nomor 40 Tahun 2007 tentang Perseroan Terbatas. *Jurnal Ilmiah Magister Ilmu Administrasi*, 13(1).
- Krismen, Y. (2014). Pertanggungjawaban pidana korporasi dalam kejahatan ekonomi. *Jurnal Ilmu Hukum Riau*, 4(1), 90.
- Kurniawan, K. D. (2022). Pertanggungjawaban pidana korporasi menurut *vicarious liability theory*. *Jurnal Hukum Ius Quia Iustum*, 29(2), 324–346.
- Lin, R. (2024). From the perpetrator criminal law to the perpetrator type: The construction of the responsibility theory. *Journal of Northeastern University (Social Science)*, 26(1), 90.
- Marune, A., & et al. (2023). Keadilan restoratif dalam penyelesaian perkara penyalahgunaan narkotika pasca Pedoman Jaksa Agung Nomor 18 Tahun 2021: Perspektif teori keadilan bermartabat. *The Prosecutor Law Review*, 1(3).
- Muarif, A. (2024). Applying the limited liability principles: Fiduciary duties and accountability of limited liability company director. *Yustisia Tirtayasa: Jurnal Tugas Akhir*, 4(3), 1–17.
- Muladi. (2023). *Pertanggungjawaban pidana korporasi (Corporate criminal responsibility)*. Alumni.
- Njatrijani, R. R. (2019). Hubungan hukum dan penerapan prinsip *good corporate governance* dalam perusahaan. *Gema Keadilan*, 6(3), 242–267.
- Pravifjayanto, M. R. (2025). Rekonstruksi sistem pertanggungjawaban pidana korporasi atas kejahatan terhadap lingkungan hidup perspektif hukum progresif. *Jurnal Hukum &*

- Pembangunan*, 55(1), 89–102.
- Ristanti, Y., & et al. (2025). Peredaran gelap narkoba perspektif *three pillars minimisation*. *Jurnal Risalah Kenotariatan*, 6(1), 118–141.
- Rizki, M. I. (2025). Kewenangan dan pertanggungjawaban notaris dalam proses pembentukan perseroan terbatas. *Jurnal Hukum, Politik dan Ilmu Sosial*, 4(3), 26–36.
- Sari, A. R. (2025). Pertanggungjawaban pidana bagi pembuat *drug design* dalam perspektif hukum narkoba. *Jurist-Diction*, 8(1).
- Scheppele, K. L., Kochenov, D. V., & Grabowska-Moroz, B. (2020). EU values are law, after all: Enforcing EU values through systemic infringement actions by the European Commission and the member states of the European Union. *Yearbook of European Law*, 39, 3–121.
- Setyawati, R. A. (2024). Penerapan budaya organisasi di perusahaan. *Jurnal Akuntansi dan Manajemen Bisnis*, 4(1), 1–5.
- Sudarmanto, E. (2025). *Corporate governance & risk management*. PT Bukuloka Literasi Bangsa.
- Sulastiana, K. P. (2021). *Mengungkap ekologi kejahatan narkoba*. PT Rayyana Komunikasindo.
- Utama, S. A. (2023). *Tata kelola korporat di Indonesia: Teori, prinsip, dan praktik*. Salemba.
- Yovia, R. A. (2021). Penyimpangan distribusi obat keras pada sarana tidak memiliki keahlian dan kewenangan melakukan praktik kefarmasian: Indonesia. *Eruditio: Indonesia Journal of Food and Drug Safety*, 2(1), 1–13.
- Zihranastiar, R. N. (2025). Analisis peran strategis manajemen risiko dalam mitigasi tanggung jawab hukum direksi dan komisaris: Studi pada PT Kalbe Farma Tbk. *Integrative Perspectives of Social and Science Journal*, 2(3), 3199–3207.