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REDESIGNING THE REGULATION OF THE ABSOLUTE JURISDICTION OF COMMERCIAL COURTS IN HANDLING CORPORATE CRIMES

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Abstract
This study aimed to analyze the current regulation of the absolute jurisdiction of the Commercial Court and to redesign its authority in handling corporate crimes. The study was motivated by the increasing complexity of corporate crimes that has not been accompanied by the readiness of an adequate judicial institutional design, particularly regarding the absolute jurisdiction of the Commercial Court. Employing a normative legal research method with statutory and conceptual approaches, the research examined the legal framework governing commercial matters, including the prevailing regulations that define the scope and limits of the Commercial Court's authority. The results indicated that the current regulation of the Commercial Court's absolute jurisdiction remains sectoral, fragmented, and lacks a strong constitutional foundation, resulting in overlapping authority, legal uncertainty, and institutional weakness in adjudicating complex corporate crimes. The study concluded that it is necessary to establish a special law on the Commercial Court to reformulate the definition of commercial matters and expand its authority as an integrated commercial court that also adjudicates corporate crimes. These findings implied that judicial institutional reform, anchored in a comprehensive statutory framework, is essential to strengthen the Commercial Court's capacity to address contemporary corporate crismes and to ensure legal certainty, coherence, and effective enforcement within Indonesia's commercial justice system. The study contributes to the development of legal scholarship on judicial jurisdiction and corporate criminal liability, as well as to policy discourse on institutional redesign of specialized courts in Indonesia.

Keywords: Commercial Court, Absolute Jurisdiction, Corporate Crime

1. Introduction

The development of business in the digital and global era has brought significant changes to the national legal system, including law enforcement against crimes committed by corporations (Hidayat & Kholik, 2024). Crimes committed by corporations are characterized as business penal law conducted within business activities to obtain illegal financial gain, both for the corporation itself and for individuals acting on behalf of the corporation. Recent corporate crime cases that have drawn public attention include the tin commodity trade corruption involving several companies, namely PT Refined Bangka Tin (RBT), PT Sariwiguna Bina Sentosa (SBS), PT Stanindo Inti Perkasa (SIP), PT Tinindo Inter Nusa (TIN), and CV Venus Inti Perkasa (VIP) (Tsalsabillah Rokhmah Utami & Sri Isnani Setiyaningsih, 2024).

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Juridically and formally, corporations have been recognized as subjects of criminal law as regulated in several laws, including Law No. 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law No. 20 of 2001, Law No. 32 of 2009 concerning Environmental Protection and Management, Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, and Law No. 7 of 2014 concerning Trade (Sugianto et al., 2025).

The existence of corporations as criminal law subjects is further strengthened through Law Number 1 of 2023 concerning the Criminal Code (National Criminal Code). Book I of the National Criminal Code regulates corporate criminal liability, while the provisions of Article 45 paragraph (1) of the National Criminal Code establish corporations as criminal subjects. Thus, corporations can be subject to criminal sanctions based on specific rules (lex specialis) outside the National Criminal Code as well as criminal sanctions regulated within the National Criminal Code (lex generalis) (Hanifah, 2024).

The National Criminal Code positions the actions and will of administrators, employees, or authorized parties as a representation of the corporation's own actions; therefore, acts committed within the scope of duty or for the benefit of the corporation can lead to criminal liability for that entity (Muh Adhitya Miratama, 2025). The National Criminal Code also expands the variety of criminal sanctions against corporations, such as large-scale fines, forfeiture of profits, compensation for losses, freezing of business activities, revocation of licenses, and the obligation to fulfill certain actions (Kurniawan, 2023). Consequently, the existence of corporations as criminal subjects in the National Criminal Code shows an important shift in Indonesian criminal law toward a more responsive and modern system capable of facing complex corporate crimes with broad impacts on society and the state. The recognition of corporations as legal subjects marks a paradigm shift from a classic criminal law system focused on individual liability toward a more modern system involving business entities.

Although the substantive aspects of criminal law have adapted to modern economic realities, the judicial institutional aspect is still lagging, particularly regarding the authority to adjudicate or the absolute jurisdiction of the Commercial Court, which does not yet include the handling of corporate crimes. Normatively, the Commercial Court is a judicial body under the Supreme Court established within the District Court. The Commercial Court was first formed based on Government Regulation in Lieu of Law (Perpu) No. 1 of 1998, which was subsequently passed into Law Number 4 of 1998 concerning Bankruptcy and Suspension of Debt Payment Obligations (Bankruptcy & PKPU Law). Referring to the Bankruptcy & PKPU Law, the absolute jurisdiction of the Commercial Court includes bankruptcy and PKPU cases. In its development, the Commercial Court's absolute jurisdiction was expanded to include Copyright disputes based on Law No. 28 of 2014, disputes in the liquidation process, and claims for the annulment of bank legal acts through Law No. 24 of 2004 concerning the Deposit Insurance Corporation. Finally, after the enactment of Law Number 11 of 2020 concerning Job Creation, the jurisdiction was expanded to include business competition cases (Hamdan et al., 2023).

Law No. 48 of 2009 concerning Judicial Power regulates the division of judicial jurisdiction within the Indonesian legal system. Currently, corporate criminal cases fall under the absolute jurisdiction of the District Court. However, in practice, there is an intersection between the resolution of commercial disputes through civil lawsuits in the Commercial Court and the District Court's role in adjudicating crimes. For example, a corporation involved in PKPU/Bankruptcy proceedings may simultaneously be under

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investigation for Money Laundering (TPPU) or corruption. Another example is the resolution of trademark ownership disputes, which are generally filed through the Commercial Court. Nevertheless, Law No. 20 of 2016 concerning Trademarks and Geographical Indications also contains penal provisions, specifically in Article 100 paragraphs (1) and (2). Cases such as the trademark dispute between “Gudang Garam” and “Gudang Baru” registered as case number 119PK/Pdt.Sus-HKI/2017 for civil aspects and 104PK/Pid.Sus/2015 for criminal aspects highlight this issue (Wardhana, 2024). This condition causes overlapping jurisdiction between the Commercial Court and the general court (District Court), implying inefficiency and uncertainty in law enforcement.

The Commercial Court possesses advantages in the technical expertise of its judges in understanding business transactions and corporate structures but lacks the authority to impose criminal sanctions. Conversely, the District Court has the authority to adjudicate criminal cases but often lacks the understanding of the economic context and business technicalities that are the root of corporate problems. As a result, law enforcement against corporate crimes becomes ineffective and often ignores corporate crime characteristics that require special judicial expertise. Furthermore, corporations committing crimes do not receive legal consequences proportional to the damage caused.

The division of jurisdiction should ideally be based on the principles of efficiency, specialization, and effectiveness. The Indonesian legal system faces a normative "gap" because there is no regulation integrating the Commercial Court's absolute jurisdiction with the handling of corporate crimes. Some countries have adopted a dual jurisdiction concept, merging the authority to resolve business cases and economic crimes simultaneously. This gap drives the need for a redesign of the Commercial Court's absolute jurisdiction to handle corporate crimes more effectively and consistently. This redesign is vital for national economic law reform, which demands expertise-based adjudication and the integration of the business justice system.

A relevant theory in this research is the legal system theory by Lawrence M. Friedman, which states that law enforcement effectiveness is determined by legal substance, structure, and culture (Magna & Karisma, 2025). In this context, the legal substance the regulation of the Commercial Court's absolute jurisdiction continues to develop but has not yet accommodated corporate crimes. Therefore, this research aims to analyze the current regulation and to redesign the Commercial Court's absolute jurisdiction to handle corporate crimes.

Previous research has dominantly examined the Commercial Court from the perspectives of PKPU and bankruptcy but has not comprehensively discussed a redesign covering corporate crime. Studies by Nadjematul Faizah and Difla Azzahra (Nadjematul Faizah & Difla Azzahra, 2022), Putu Eka Trisna Dewi (Putu Eka Trisna Dewi, 2023), and Asep Iwan Iriawan (Iriawan, 2024) have highlighted various civil and institutional aspects but did not reach the dimension of corporate criminal law as a potential part of a rearranged authority. This study offers novelty by expanding the scope of the Commercial Court beyond special civil cases. It offers a normative redesign regarding the expansion of absolute jurisdiction to include corporate crimes to align with the development of corporate criminal law.

Currently, the Commercial Court's authority is limited to bankruptcy, PKPU, IPR, bank liquidation, and KPPU objections. Corporate crimes rooted in business activities remain outside its domain, leading to jurisdictional fragmentation and legal uncertainty. Thus, this research is a strategic step in building an economic judicial system responsive

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to corporate crime while strengthening consistency between substantive criminal law and the procedural law of the Commercial Court in Indonesia.

2. Theoretical Background

2.1 Legal System Theory

The effectiveness of law enforcement within a state is significantly determined by three primary elements of the legal system: legal substance, legal structure, and legal culture (E. S. Nasution et al., 2023). In the context of this research, the primary emphasis is placed on the substance and structure aspects. Legal substance pertains to the regulations concerning the absolute jurisdiction of the Commercial Court, which currently remain sectorally dispersed and have yet to accommodate corporate crimes. Meanwhile, legal structure refers to the judicial institutions that experience jurisdictional fragmentation between the Commercial Court and the District Court. The imbalance between the development of substantive criminal law and the readiness of the judicial structure prevents the legal system from functionally responding to the complexities of modern economic crimes.

2.2 Corporate Criminal Liability Theory

Corporate crimes are characterized as business penal law conducted within the scope of business activities for illegal financial gain (Albanese, 2021). The paradigm of criminal law has shifted from a focus on individual liability (societas delinquere non potest) toward the recognition of corporations as legal subjects capable of independent accountability (Mashuril Anwar et al., 2023). Identity theory (identification theory) positions the actions and will of administrators or authorized parties as a direct representation of the corporation's own intent. Consequently, the sanctions imposed must not only be retributive but should also encompass economic dimensions, such as the forfeiture of profits, restoration of losses, and the freezing of business licenses.

2.3 Concept of Absolute Jurisdiction and Specialized Courts

Absolute jurisdiction is defined as the authority of a judicial body to adjudicate a case based on the specific material or object of the dispute, which is exclusive in nature (Baude, 2018). The establishment of specialized courts is based on the need for specialization, efficiency, and speed in resolving cases that require specific technical expertise (Hovell, 2018). Theoretically, commercial matters possess economic characteristics distinct from general civil cases; thus, grouping business disputes within general courts is considered inappropriate from both legal theory and modern practical perspectives. Specialized courts must have jurisdictional boundaries that are strictly formulated through specific legislation to ensure legal certainty.

2.4 Concept of the Integrated Commercial Court

Global trends in economic law reform point toward the establishment of an integrated commercial court or an integrated economic judicial system (Dimitropoulos, 2021). This concept adopts a dual jurisdiction system that merges the authority to resolve commercial civil disputes and economic crimes within a single judicial forum (Ermakova et al., 2021). This model aims to address the jurisdictional gap and ensure that judges with technical expertise in commercial transaction analysis can handle corporate cases holistically ranging from the determination of guilt to asset recovery mechanisms.

3. Methods

3.1 Research Design

This research is conducted using a normative legal research method, specifically focusing on the analysis of positive legal norms, legal principles, and doctrines related to the absolute jurisdiction of judicial institutions. The selection of this method is necessitated by the need to evaluate the consistency of current Commercial Court regulations against constitutional mandates and the evolving landscape of corporate criminal liability in Indonesia. The normative legal research design is considered appropriate because the study aims to examine the systematic coherence of legal norms, identify normative gaps, and formulate prescriptive solutions for institutional reform within the existing legal framework. The research is prescriptive in nature, as it moves beyond describing current legal conditions toward offering a redesign of judicial authority based on normative legal reasoning.

3.2 Scope and Object of Research

The scope of this research focuses on the absolute jurisdiction of the Commercial Court within the Indonesian judicial system and its authority in adjudicating corporate crimes. The object of the research encompasses primary legal norms governing judicial power, the Commercial Court, and corporate criminal liability, as well as the underlying legal principles and doctrines that shape the interpretation of "commercial matters." The research examines the hierarchy and synchronization of regulations ranging from the 1945 Constitution to various sectoral laws, including the National Criminal Code (Law No. 1/2023) and the Law on Judicial Power. In dissecting these issues, the researcher employs two primary approaches: a statutory approach to examine the hierarchy and synchronization of regulations, and a conceptual approach to construct a new framework regarding the definition of "commercial matters" and the "integrated commercial court" model relevant to modern economic needs.

3.3 Data Collection Techniques

The data used in this study are derived from primary, secondary, and tertiary legal materials collected through library research techniques. Primary legal materials include authoritative regulations such as the 1945 Constitution, the National Criminal Code (Law No. 1/2023), the Law on Judicial Power, and other sectoral laws relevant to the Commercial Court's jurisdiction. Secondary materials comprise legal literature, academic journals, legal commentaries, and court decisions that provide interpretations of business disputes and corporate crimes. Tertiary materials include legal dictionaries, encyclopedias, and other reference sources that support the understanding of legal concepts and terminology. The library research technique was selected because the study relies exclusively on documentary legal sources, which are the primary instruments for analyzing positive legal norms and doctrines in normative legal research.

3.4 Operational Definition of Legal Concepts

The operational definitions of the key legal concepts examined in this study are presented in Table 1.

Table 1. Operational Definition of Legal Concepts

Legal Concept	Type	Definition	Analytical Focus	References
Absolute Jurisdiction	Core Concept	The authority of a court to examine and	Scope and limits of the Commercial	Indonesian Procedural

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Legal Concept	Type	Definition	Analytical Focus	References
		adjudicate a case based on the subject matter of the dispute, which cannot be transferred or delegated to another court	Court's authority over commercial matters	Law; Law on Judicial Power
Commercial Matters	Core Concept	Legal matters classified as commercial in nature, including bankruptcy, intellectual property, and banking disputes, as defined by prevailing regulations	Consistency, coherence, and constitutional foundation of the definition across sectoral laws	Law No. 37/2004; Law No. 30/2000; Sectoral Regulations
Corporate Crime	Core Concept	Criminal acts committed by corporations or by individuals on behalf of corporations within the scope of their business activities	Jurisdictional gap between general criminal courts and the Commercial Court	National Criminal Code (Law No. 1/2023)
Integrated Commercial Court	Reform Concept	A redesigned judicial institution that consolidates civil, commercial, and corporate criminal jurisdiction within a single specialized court	Institutional design, authority expansion, and procedural integration	Legal Doctrine; Comparative Judicial Studies

Source: Developed for this research (2026)

3.5 Data Analysis Techniques

All collected legal materials are then analyzed using a descriptive-analytical method. In the descriptive stage, the researcher maps out the current jurisdictional framework of the Commercial Court in detail to provide a complete overview of the prevailing legal conditions (legal dogmatics). This stage involves systematically organizing and presenting the relevant legal norms, principles, and doctrines that define the current scope of the Commercial Court's absolute jurisdiction. Subsequently, in the analytical stage, a critical examination is performed to identify the normative gaps between existing regulations and the practical requirements for enforcing law against corporate crimes. The analysis evaluates the constitutional foundation of the Commercial Court's authority, the coherence of the definition of "commercial matters" across sectoral laws, and the institutional capacity of the Commercial Court to adjudicate complex corporate crimes. Through this synthesis process, the research goes beyond merely outlining problems to provide prescriptive solutions in the form of a more integrative and effective redesign of judicial authority. The prescriptive analysis is conducted by applying the statutory and conceptual approaches in an integrated manner, resulting in normative recommendations for the establishment of a special law on the Commercial Court and the reformulation of the definition of "commercial matters" to accommodate corporate criminal jurisdiction within an integrated commercial court model.

4. Results and Discussion

4.1 Current Regulation of the Absolute Jurisdiction of the Commercial Court

Absolute jurisdiction in this article is defined as the authority of the Commercial Court to adjudicate a case based on its subject matter according to the judicial division of power (Ramadhan, 2024). The regulation of the Commercial Court's absolute jurisdiction was initially based on Government Regulation in Lieu of Law (Perpu) No. 1 of 1998, later enacted as Law No. 4 of 1998 concerning Bankruptcy and Suspension of Debt Payment Obligations (PKPU). This existence was further strengthened through Law No. 37 of 2004, explicitly establishing its exclusive absolute jurisdiction over bankruptcy and PKPU cases.

In line with its development, the absolute jurisdiction of the Commercial Court has undergone substantial expansion. The first expansion pertains to the authority of the Commercial Court to resolve Intellectual Property Rights (IPR) disputes, as regulated by several laws, such as Law Number 20 of 2016 concerning Marks and Geographical Indications, Law Number 65 of 2024 concerning the Third Amendment to Law Number 13 of 2016 concerning Patents, and Law Number 28 of 2014 concerning Copyright (Sufiarina, 2014).

The subsequent expansion of absolute jurisdiction was established through Law Number 24 of 2004 concerning the Deposit Insurance Corporation (LPS), which grants the Commercial Court the authority to resolve disputes within the bank liquidation process, including claims for the annulment of legal actions taken by a bank that result in asset reduction or increased liabilities within a one-year period prior to the revocation of its business license. Following the enactment of Law Number 11 of 2020 concerning Job Creation (the Job Creation Law), the Commercial Court was further authorized to adjudicate objections against decisions made by the Business Competition Supervisory Commission (KPPU). This policy is based on the arguments presented in the academic draft of the Job Creation Law, which asserts that Commercial Court judges possess the necessary capacity to handle commercial disputes, making them better suited to adjudicate business competition cases (Willa Wahyuni, 2025).

Factually, the expansion of the Commercial Court's absolute jurisdiction continues to occur due to the absence of a normative definition of the term 'commerce' (niaga) within Indonesian legislation. This stands in contrast to the Industrial Relations Court, which possesses comprehensive regulations under Law Number 2 of 2004, as well as a definition of 'industrial relations' formulated in Article 1 point 16 of Law Number 3 of 2003.

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The lack of clarity regarding the definition of ‘commerce’ has caused the absolute jurisdiction of the Commercial Court to develop sporadically through various sectoral laws without a unified conceptual framework. Theoretically, according to Black's Law Dictionary, the definition of 'commerce' encompasses all aspects of trade and other activities with commercial value (Ayu Isti Prabandari, 2024). If this definition were applied within the Indonesian context, then the entire substance originating from the Wetboek van Koophandel (WvK) or the Indonesian Commercial Code (KUHD), along with its derivative regulations, should fall under the absolute jurisdiction of the Commercial Court.

Rutten’s classical thought asserts that commercial cases possess distinct characteristics compared to general civil cases (Sudikno Mertokusumo, 2005). Consequently, categorizing business disputes under the general civil court system is erroneous from both a legal theory perspective and the practical needs of modern business. Therefore, Rutten’s perspective serves as a historical foundation for the concept of separation or the establishment of specialized commercial courts, which prioritize speed, certainty, and professionalism in resolving business disputes.

Another problematic issue is that the current absolute jurisdiction of the Commercial Court is granted through various separate special regulations (lex specialis), rather than through a single legal instrument specifically governing its institutional structure and authority as is the case with the Religious Courts, Military Courts, Administrative Courts, Tax Courts, Human Rights Courts, and Juvenile Courts. This systemic misalignment results in the institutional structure and absolute jurisdiction of the Commercial Court lacking a solid and comprehensive legal foundation within the Indonesian judicial system.

The establishment of the Commercial Court has thus far only referred to a mandate within a single article of the Bankruptcy Law, placing it in a weak constitutional position. In fact, Article 24A paragraph (5) of the 1945 Constitution explicitly asserts that the structure, status, membership, and procedural law of the Supreme Court and its subordinate judicial bodies must be regulated by law. Through the Constitutional Court Decision Number 012-016-019/PUU-IV/2006, the Court interpreted the phrase ‘by’ (dengan) in said article as a requirement for a standalone law, rather than merely embedding provisions for the establishment of a specialized court within sectoral legislation. Consequently, the basis for establishing the Commercial Court by 'entrusting' authority within the Bankruptcy Law fails to meet the standards for forming a specialized judicial institution according to the 1945 Constitution and, theoretically, may give rise to issues of constitutionality.

The implications of these provisions and decisions are highly significant: first, the Commercial Court currently lacks adequate structural legitimacy as a specialized court; second, any attempt to expand its absolute jurisdiction including the authority to handle corporate crimes potentially conflicts with constitutional principles if not preceded by the enactment of a dedicated Commercial Court Law; and third, the fragmented normative construction found across the Bankruptcy Law, Intellectual Property Laws, the Deposit Insurance Corporation Law, and the Job Creation Law contradicts the principle of legality regarding the establishment of judicial bodies as stipulated in Article 24A paragraph (5) of the 1945 Constitution.

Table 2. Weaknesses in the Current Regulation of the Commercial Court's Absolute Jurisdiction

Aspect	Weakness	Implications
Constitutional Basis	It is inconsistent with Article 24A paragraph (5) of the 1945 Constitution, which requires that the establishment of a court be regulated by a standalone law.	Weak constitutional foundation; expansion of jurisdiction is susceptible to judicial review by the Constitutional Court; and unstable legitimacy of the specialized court.
Normative Definition	The absolute jurisdiction lacks a conceptual foundation, and the interpretation of 'commerce' becomes either narrow or broad without legal guidelines.	It gives rise to legal uncertainty and creates a vulnerability to jurisdictional overlaps with general courts, administrative courts (PTUN), and quasi-judicial institutions.
Absolute Competency Model	Fragmented and patchwork in nature; and does not reflect the design of a modern commercial judiciary.	Unresponsive to economic developments; and many modern business disputes remain unaccommodated.
Jurisdictional Scope	Does not encompass corporate crimes.	A jurisdictional gap occurs, where complex commercial disputes are adjudicated by non-specialized general courts.
Coherence with the Economic Legal System	There is a lack of synchronization between economic regulations and corporate criminal regulations.	The enforcement of economic law becomes fragmented across several courts.
Procedural Law Gap	Absence of case management, discovery, summary judgment, e-evidence provisions, or procedures for complex financial matters.	The process is lengthy, inefficient, and does not align with international commercial court standards.

Source: Analysis of Commercial Court Regulations (2025)

The table above illustrates that the weaknesses in the absolute jurisdiction of the Commercial Court lie not only in its scope of authority but also in its constitutional foundation, institutional quality, and procedural law design. This condition renders the Commercial Court incapable of functioning as a modern economic court and leaves it ill-equipped to accommodate complex corporate crimes.

The current regulation of the Commercial Court's absolute jurisdiction exhibits an unsystematic and sectoral evolutionary character. Furthermore, these regulations have yet to address the needs of the business sector, particularly in handling commercial cases that encompass criminal aspects, such as corporate crimes in finance, capital markets, and business competition.

The regulatory structure of the Commercial Court's absolute jurisdiction shows a fragmented pattern and is not built upon a comprehensive legislative framework. The gradual expansion of this jurisdiction through various laws has created inconsistencies in the granting of judicial authority, as well as disharmony between judicial power and the increasingly complex developmental needs of the business sector.

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Commercial cases possess economic characteristics that require handling with specialized substantive competence (Murdock et al., 2022). Consequently, limiting the absolute jurisdiction of the Commercial Court solely to bankruptcy and Suspension of Debt Payment Obligations (PKPU), bank liquidation, Intellectual Property Rights (IPR), and business competition is becoming increasingly irrelevant given the rise of corporate crimes in the financial, capital market, and banking sectors, as well as competition crimes in the digital era.

The current regulation of the Commercial Court's absolute jurisdiction reflects an inconsistency in the application of the lex specialis principle within the Indonesian judicial system. The Commercial Court, which was originally established as a specialized forum for bankruptcy resolution prioritizing fast, simple procedures and economic certainty has instead evolved into a multi-functional institution handling diverse commercial disputes without clear and integrated procedural guidelines. The implication is a fragmentation in the handling of commercial disputes, where the boundaries between the absolute jurisdiction of the Commercial Court and other courts have become blurred. A clear example is Sharia banking disputes, which should fall under the domain of the Religious Courts based on the Law on Religious Judicature, yet in certain situations may be "drawn" into the Commercial Court through an expanded interpretation of "commercial matters." This not only has the potential to create jurisdictional conflicts but also risks diminishing the effectiveness and speed of dispute resolution, which were the primary objectives for establishing the Commercial Court.

Consequently, the current regulation of the Commercial Court's absolute jurisdiction is deemed non-comprehensive and tends to be reactive toward developments in specific legal sectors, lacking a holistic policy framework. Harmonization and codification through a dedicated law are required to explicitly define the scope of authority, institutional relationships, and the procedural law of the Commercial Court. Without clear boundaries, the Commercial Court risks becoming a 'super-special' forum that could inadvertently weaken the coherence of the Indonesian judicial system and undermine the principle of legal certainty, which serves as the foundation of a constitutional state (rechtsstaat).

4.2 Designing the Absolute Jurisdiction of the Commercial Court in Handling Future Corporate Crimes

The general courts, which have traditionally handled corporate criminal cases, represent a subsystem that is largely incompatible with the characteristics and dynamics of modern economic crimes, which are highly technical, structured, and cross-jurisdictional (Liu, 2021). Consequently, a reform of the judicial subsystem specifically the Commercial Court is required to effectively respond to such complexities. In other words, the transformation of the Commercial Court is not merely a procedural policy; it is a systemic necessity within the framework of systems theory to ensure the functionality of law in modern society.

One of the primary weaknesses of the current system is the inability to achieve optimal state financial recovery, as the handling of corporate criminal cases is often detached from asset recovery efforts. Criminal proceedings in general courts typically focus on proving guilt and imposing sanctions, lacking an integrated mechanism to recover economic losses through civil or administrative approaches (Ariyanny et al., 2023). The future Commercial Court can fill this void through a design of absolute jurisdiction that enables integrated resolution within a single forum adjudicating corporate criminal cases while simultaneously ordering restitution, damages, and cross-border asset recovery.

The economic-based harm characteristic of corporate crimes demands a resolution approach that is not only retributive but also restorative and technical. Business analysis, forensic accounting, an understanding of market structures, and financial mechanisms have become prerequisites in the judicial process (Silveira De Queirós Campos & Cesar Fabriz, 2024). General courts, lacking such specialization, often fail to meet these demands; conversely, the Commercial Court, with judges experienced in analyzing commercial transactions, can be developed into an institution capable of managing such complexities.

The current structure of the Commercial Court's absolute jurisdiction has proven to be established in a patchwork and reactive manner, with its authority scattered across various sectoral laws. This sectoral development has not been accompanied by a clear and comprehensive conceptual definition of what constitutes "commercial matters" or "commercial disputes." Consequently, this leads to jurisdictional overlaps with other courts such as the General Courts, Religious Courts, and Administrative Courts (PTUN) inconsistencies in the interpretation of authority, and ultimately, the potential for inefficiency within the dispute resolution process itself.

Therefore, the redesign of the Commercial Court's absolute jurisdiction must be viewed as a holistic necessity within the realms of both commercial civil law and economic criminal law enforcement. Moving forward, the Commercial Court needs to be transformed into an integrated economic court system capable of comprehensively, effectively, and responsively handling the entire spectrum of corporate disputes and crimes in the face of global and digital economic dynamics. In doing so, the Commercial Court will serve not only as a dispute resolution body but also as a pillar of economic recovery and sustainable corporate law enforcement (M. I. Nasution, 2019).

In response to global developments, many countries have transformed their commercial courts into an integrated commercial court model. This model is no longer limited solely to handling insolvency (bankruptcy) but also encompasses a broad spectrum of modern economic disputes, such as capital market disputes, fintech, finance and banking, business competition, international trade, and even corporate crimes. Without fundamental reforms that are both holistic and futuristic, the Indonesian Commercial Court risks becoming obsolete and irrelevant in facing the complexities of digital economic dynamics, cross-border transactions, and the rapid pace of global business changes. Therefore, redesigning the absolute jurisdiction of the Commercial Court is not merely a requirement for judicial system restructuring, but a necessity to ensure Indonesia possesses a judicial institution capable of serving as a pillar of legal certainty and international economic competitiveness.

The future design of the Commercial Court's absolute jurisdiction must be built through a more systematic and comprehensive approach, given the fundamental weaknesses in current regulations and global developments regarding commercial court models. The absolute jurisdiction of the Indonesian Commercial Court, which has evolved sectorally through various special laws, indicates that the court was not established based on a mature institutional design, but rather followed sectoral needs reactively.

Redesigning the absolute jurisdiction of the Indonesian Commercial Court can be achieved by adopting modern commercial court models such as the London Commercial Court, the Singapore International Commercial Court (SICC), or the Dubai International

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Financial Centre (DIFC) Courts. In these jurisdictions, commercial courts are designed as integrated economic judicial institutions with comprehensive jurisdiction over cross-sector business disputes, including banking, capital markets, business competition, international commercial transactions, and specific corporate crimes (Huo & Yip, 2019).

Table 3: Comparative Analysis of Commercial Courts across Jurisdictions

Aspect	Indonesia	Singapore	China	English	Dubai
Regulation	The Bankruptcy Law atau The Bankruptcy and Suspension of Obligation for Payment of Debt Law, The Intellectual Property Rights (IPR) Law, The Deposit Insurance Corporation Law, and The Job Creation Law.	Supreme Court of Judicature Act	The Supreme People's Court of China's Judicial Interpretations	Courts Act 1971 & Civil Procedure Rules (CPR).	DIFC Courts Law (No. 10/2004).
Absolute Competence	Bankruptcy cases, Suspension of Debt Payment Obligations (PKPU), Intellectual Property Rights (IPR), Deposit Insurance Corporation (LPS) matters, and objections to KPPU decisions.	International commercial disputes: contractual, financial, and corporate matters.	BRI (Belt and Road Initiative) disputes and international trade with a nexus to China.	All complex commercial cases.	Financial disputes, international business, contracts, and financial crimes.
Purpose of Establishment	Limited commercial dispute resolution.	Becoming a global hub for business dispute resolution.	Supporting the BRI (Belt and Road Initiative) and protecting national interests.	A global center for commercial law.	Establishing Dubai as an international financial hub and a global litigation forum.

Source: Zhengxin Huo and Man Yip, (2019)

The comparison in the table above illustrates that the structure, authority, and institutional design of the Indonesian Commercial Court remain significantly lagging and are not aligned with the global trend of establishing modern commercial courts. The Indonesian Commercial Court has developed sectorally and without a centralized plan,

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where its absolute jurisdiction is expanded through various special laws lacking a unifying conceptual principle of what defines "commercial" matters.

This comparison underscores that Indonesia has yet to possess a Commercial Court capable of meeting modern economic demands, particularly in handling corporate crimes that are increasingly complex, cross-sectoral, and systemically impactful on economic stability. General courts lack the technical expertise to assess financial statements, corporate fraud schemes, or capital market transactions; conversely, the Commercial Court itself has not been granted the jurisdiction to adjudicate such cases.

Meanwhile, commercial courts in Singapore, London, and Dubai already adjudicate international fraud, market manipulation, financial crimes, and hybrid commercial-criminal disputes using modern procedural approaches and judges with commercial specialization. Consequently, a strong academic argument can be constructed that the absence of the Commercial Court's jurisdiction over corporate crimes represents a structural gap, leading to the fragmentation of economic law enforcement in Indonesia.

Furthermore, institutional design theory asserts that specialized courts should possess clearly defined jurisdictional boundaries supported by specific legislation (A & Rias, 2023). The ambiguity in defining "commerce" within the Indonesian legal system has resulted in an inorganic and non-adaptive formulation of the Commercial Court's competence regarding global developments. In the context of Niklas Luhmann's legal systems theory, this condition creates complexity overload, as the judicial subsystem fails to adapt to increasingly fragmented economic dynamics.

Effective law enforcement requires a forum equipped with high technical expertise and the capacity for in-depth assessment of business structures (Leukfeldt et al., 2017). This further reinforces the argument that the Commercial Court is the most logical forum for handling corporate crimes, as the characteristics of such offenses are intrinsically linked to business relations, commercial transactions, and market mechanisms.

Based on this comprehensive analysis, it is evident that redesigning the absolute jurisdiction of the Indonesian Commercial Court is not merely a technical necessity but a structural imperative. This is essential to prevent the nation from falling behind in the global economic legal regime, to strengthen law enforcement effectiveness against corporate crimes, and to ensure legal certainty for business actors.

The future redesign of the Commercial Court's absolute jurisdiction is aimed at establishing an integrated commercial court that covers the broad spectrum of commercial affairs. The Commercial Court must be granted explicit authority to handle commercial cases related to corporate crimes. This redesign must be codified in a specific Law on the Commercial Court, which includes a juridical definition of "commerce," clear jurisdictional boundaries, coordinative frameworks with other courts, judicial competency standards, and specialized procedural laws that prioritize speed, technology, and legal certainty.

Through this specialized law, the future absolute jurisdiction of the Commercial Court should ideally function not only as a forum for specialized civil dispute resolution but also as a venue for adjudicating corporate crimes, particularly those involving economic loss and asset recovery. This expansion aligns with global trends where commercial courts in various jurisdictions have evolved into economic crime courts handling corporate fraud, market manipulation, insider trading, and other forms of economic crimes that require deep technical understanding of the financial and corporate sectors.

The legal framework for redesigning the absolute jurisdiction of the Commercial Court must be constructed through a restructuring of the legal architecture, encompassing the regulatory framework, legal principles, specialized court theories, and comparative models from international commercial courts. This framework is necessary to ensure that the jurisdictional expansion remains consistent with the principles of legal certainty, law enforcement effectiveness, and the demands of modern economic development, as illustrated in the following table.

Table 4. Legal Framework for the Redesign of the Commercial Court's Absolute Jurisdiction

Component	Normative Examination
Purpose of the Regulation	1) Formulating a conceptual definition of "Commerce" 2) Adjudicating business-activity-based corporate crimes 3) Enhancing the effectiveness of economic law enforcement 4) Supporting the investment climate and legal certainty
Absolute Competence	Adjudicating corporate crimes arising from commercial or business relations.
Judge	1) *Commercial Judge Panel* 2) Non-career judges and international judges
Procedural Law	*Systematic case management, discovery, summary judgment, and expert testimony.*
Governance and Accountability	1) Establishing an independent and professional governance system for the Commercial Court. 2) Independent supervisory board.

Source: The Author's Proposition

The legal framework formulated in the table above demonstrates that the regulatory objectives of the Commercial Court must be redefined more progressively as a modern commercial court. Its function should encompass both the resolution of business disputes and the adjudication of corporate crimes arising from commercial activities. In the context of absolute jurisdiction, a legal definition of "commerce" must first be established to include all economic activities, trade, and commercial transactions with economic value. This ensures that the Commercial Court is granted authority over both pure commercial matters and corporate crimes that are inherently rooted in commercial or business relations.

Another crucial component within this legal framework is the inclusion of provisions regarding a Commercial Judge Panel with specialized expertise in economics and business, technical certification mechanisms, and the potential involvement of non-career judges and international judges. The reform of judicial human resources is key to ensuring that the Commercial Court possesses adequate capacity to assess corporate structures, finances, and complex transactions, which lie at the heart of modern corporate crimes.

Procedural law is the most decisive pillar for the effectiveness of the future Commercial Court. Currently, the Commercial Court remains bound by the HIR/RBg and procedural laws that were designed neither for complex commercial disputes nor for corporate crimes (Christian et al., 2025). There is a notable absence of systematic mechanisms for case management, discovery, summary judgment, or expert testimony. Under the new design, the Commercial Court's procedural law must undergo a comprehensive overhaul to accommodate modern procedures, such as active case management, the examination of electronic evidence, the use of English as a working language, and the integration of asset recovery mechanisms (disgorgement, asset freezing, and corporate compliance orders). These procedural reforms align with international commercial court standards and will enhance the court's credibility in handling corporate cases involving cross-jurisdictional transactions.

Overall, this legal framework underscores that the redesign of the Commercial Court cannot be carried out partially; it must be structural through the enactment of a specific Law on the Commercial Court. This law must encompass clear regulatory objectives, comprehensive boundaries for absolute jurisdiction, judicial standards tailored to modern economic needs, and innovative, efficient procedural laws. Through this approach, the Commercial Court can function as a strategic economic tribunal, similar to international commercial courts in various countries, while simultaneously serving as the primary forum for adjudicating corporate crimes in Indonesia.

5. Conclusion

This study aimed to analyze the current regulation of the absolute jurisdiction of the Commercial Court and to redesign its authority in handling corporate crimes. Using a normative legal research method with statutory and conceptual approaches, the study successfully examined the legal framework governing commercial matters, evaluated the consistency of current regulations against constitutional mandates, and formulated prescriptive solutions for institutional reform within the Indonesian judicial system.

The results indicate that the current regulation of the Commercial Court's absolute jurisdiction remains fragmentary, sectoral, and lacks an adequate constitutional foundation. The absence of a specific Law on the Commercial Court has led to a "patchwork" expansion of competence through various sectoral laws, which results in an ambiguous definition of "commerce," creates legal uncertainty, jurisdictional conflicts, and inconsistencies in applying the lex specialis principle within the judicial system. The analysis reveals that the prevailing legal framework governing commercial matters is characterized by overlapping authorities, the absence of a unified statutory basis, and weak synchronization between the Law on Judicial Power and various sectoral regulations. These conditions produce normative gaps that undermine the Commercial Court's institutional capacity to adjudicate complex corporate crimes effectively, particularly as the complexity of corporate crimes continues to increase while the judicial institutional design remains inadequate.

The future regulation of the Commercial Court's absolute jurisdiction regarding corporate crimes must be implemented through the enactment of a specific Law on the Commercial Court. Through this specialized legislation, the Commercial Court should be established as an integrated commercial court with broad jurisdiction over both commercial disputes and corporate crimes inherently arising from business activities. The integrated commercial court model is proposed as a normative solution that consolidates civil, commercial, and corporate criminal jurisdiction within a single specialized judicial institution, thereby ensuring legal certainty, coherence, and effective enforcement within Indonesia's commercial justice system. This reform would also strengthen the constitutional legitimacy of the Commercial Court by anchoring its authority in a comprehensive statutory framework that clearly defines the scope and limits of its absolute jurisdiction.

This study recommends that the Government and the House of Representatives (DPR RI) immediately draft and enact a Law on the Commercial Court to strengthen its constitutional legitimacy and to provide a clear normative basis for the expansion of its absolute jurisdiction in adjudicating corporate crimes. The enactment of this specialized legislation should include a reformulation of the definition of "commercial matters" to accommodate contemporary economic needs and an expansion of the Commercial Court's authority to adjudicate corporate crimes as part of an integrated commercial justice system. Furthermore, the legislation should address procedural integration, institutional capacity building, and the synchronization of existing sectoral regulations to eliminate jurisdictional conflicts and ensure the coherent application of the lex specialis principle.

The theoretical implications of this study contribute to the development of legal scholarship on judicial jurisdiction and corporate criminal liability, particularly in the context of specialized courts in Indonesia. The findings extend the understanding of how the absolute jurisdiction of specialized courts should be designed to address contemporary legal challenges, providing a normative framework for evaluating the constitutional foundation, coherence, and effectiveness of judicial authority. From a practical perspective, this study provides normative recommendations for policymakers, legal practitioners, and judicial institutions in designing institutional reforms that strengthen the Commercial Court's capacity to address corporate crimes and ensure legal certainty within Indonesia's commercial justice system.

This study has several limitations that should be acknowledged. First, the study relies exclusively on normative legal analysis based on documentary sources, which may not fully capture the practical implementation challenges of judicial reform. Second, the study focuses on the Indonesian legal system, which may limit the generalizability of the findings to other jurisdictions with different legal traditions and institutional structures. Third, the study does not examine comparative experiences from other countries in designing specialized commercial courts, which could provide valuable insights for institutional reform. Fourth, the study does not analyze the political and institutional factors that may influence the enactment of the proposed Law on the Commercial Court.

Future research should incorporate empirical approaches, such as interviews with judges, legal practitioners, and policymakers, to examine the practical challenges and opportunities associated with the proposed institutional reform. Researchers should conduct comparative studies of specialized commercial courts in other jurisdictions to identify best practices and lessons learned that can inform the redesign of the Commercial Court's absolute jurisdiction in Indonesia. Future studies should also examine the political and institutional dynamics that shape judicial reform, including the role of the Government, the House of Representatives, and the Supreme Court in the legislative process. Finally, future research could analyze the potential impact of the integrated commercial court model on the efficiency, effectiveness, and accessibility of commercial justice in Indonesia.

This study contributes to the growing body of legal scholarship on judicial jurisdiction and corporate criminal liability by providing a normative analysis of the Commercial Court's absolute jurisdiction and proposing a comprehensive redesign of its authority to address corporate crimes. The findings suggest that the establishment of a special law on the Commercial Court is essential to strengthen its constitutional legitimacy, reformulate the definition of commercial matters, and expand its authority as an integrated commercial court. As Indonesia continues to face increasing complexity in corporate crimes and evolving economic needs, understanding these legal and institutional challenges becomes increasingly important for developing effective strategies to strengthen the rule of law, ensure legal certainty, and promote a fair and effective commercial justice system in Indonesia.

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