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Criminal Liability Following Corporate Mergers: A Comparative Analysis of Arab Legal Systems, French Law, and Common Law

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Abstract: Corporate mergers constitute a significant mechanism of economic restructuring, yet they raise complex questions concerning the continuity of criminal liability when an offending corporation is dissolved, absorbed, or transformed into a new legal entity. Although existing scholarship has extensively examined corporate criminal liability and merger regulation, limited comparative attention has been devoted to determining whether criminal responsibility survives corporate transformation, particularly across Arab, French, and common law jurisdictions. This study examines how selected legal systems regulate the continuity, transfer, or extinction of corporate criminal liability following mergers and identifies the legal principles that prevent corporate restructuring from becoming a means of evading accountability. The study employs a qualitative methodology combining doctrinal, comparative, and institutional legal analysis of legislation, judicial decisions, and regulatory practices in Jordan, Egypt, Morocco, France, the United Kingdom, and the United States. The analysis focuses on four dimensions: the legal effects of mergers on corporate personality; statutory rules governing successor liability; the relevance of economic and organizational continuity in attributing criminal responsibility; and judicial or regulatory mechanisms designed to prevent liability avoidance. The findings demonstrate that the examined jurisdictions cannot be adequately categorized within a simple formalistic–functional dichotomy. The legal frameworks of Jordan, Egypt, and Morocco remain comparatively more dependent on the continuity or termination of the predecessor corporation's legal personality. By contrast, French and common law jurisdictions demonstrate more flexible approaches that combine statutory provisions, judicial doctrines, economic continuity, and successor liability principles. The study contributes to comparative corporate criminal law by proposing a hybrid accountability model that recognizes functional continuity in mergers and strengthens criminal liability despite changes in legal personality.

Keywords: Corporate Accountability; Criminal Liability; Institutional Transformation; Regulatory Governance; Successor Liability.

INTRODUCTION

Corporate mergers are pursued for many objectives, including improved operational performance, increased competitive position, expansion of their market shares, and reorganization of their corporate structure. The legal and institutional changes that have developed in recent years view mergers as being more than simply financial transactions or business deals.[1] Mergers often result in the creation of new institutional forms through the alteration of a firm's organizational form, governing bodies, legal identity, and accountability systems. Therefore, a merger results in an institutional transformation (i.e., a change in the formal identity of the firm), although a great deal of the firm's previous economic activities continue to be carried out within the same organization that existed at the time the merger occurred.

Perhaps the greatest legal challenge to emerge as a result of this type of transformation relates to issues surrounding continuity of criminal liability as it applies to crimes that were committed prior to the occurrence of the merger. If the merged company is subsequently dissolved and ceases to exist legally, it then becomes unclear as to whether the successor company should continue to bear the costs and liabilities associated with previous offenses. The question at hand thus exemplifies a larger conflict between a long-standing principle of law (personal criminal liability) and a more contemporary reality of how corporate functions, resources, personnel, etc., are maintained when a firm's legal status changes.[2,3]

Increasingly complex corporate structures, particularly in international Mergers and Acquisitions (M & A), increase the likelihood of legal liability fragmentation or obscuration. Research on corporate restructuring has demonstrated a decrease in enforcement where the applicable legal structure does not provide clear direction as to how liabilities previously associated with an acquiring company are transferred to, or remain collectible by creditors from, the post-merger entity.[4] These risks hold particular significance in regulated domains

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[1] Patrick Actis Perinetto and Giacomo Grechi, "Antitrust Liability, Corporate Groups and M&A Transactions: A Tale of Undertakings, Economic Continuity and Effectiveness of EU Competition Law," *European Competition Journal* 20, no. 1 (2024): 147–192, https://doi.org/10.1080/17441056.2023.2263262; Marcel Michaelis et al., "Compliance Standards in Continental Europe – Same, Same but Different!?," *European Journal of Comparative Law and Governance* 10, no. 2 (2023): 206–22, https://doi.org/10.1163/22134514-bja10052.

[2] Julisa Aprilia Kaluku et al., "Juvenile Criminal Responsibility in Muslim-Majority States: Between Sharia, State Law, and Restorative Justice," *De Jure: Jurnal Hukum Dan Syar'iah* 18, no. 1 (2026): 191–210, https://doi.org/10.18860/j-fsh.v18i1.32848.

[3] Samuel W. Buell, "Criminal Liability," *SSRN Electronic Journal*, ahead of print, 2022, https://doi.org/10.2139/ssrn.4059481; Penny Crofts, "Ensuring Corporate Criminal Responsibility in the 21st Century," *Courts of Conscience* 18 (2024): 105–111.

[4] Michaelis et al., "Compliance Standards in Continental Europe – Same, Same but Different!?," 2023; R. A. Gordillo, "Déficits Del Enfoque Sistémico de Responsabilidad Penal de

like financial reporting, anti-corruption, data protection, and cybersecurity, where corporate responsibilities might persist despite alterations in organizational structure.[5] These risks are especially important in regulated areas like financial reporting, anti-corruption, data protection, and cybersecurity, where corporate responsibilities frequently persist despite alterations in organizational structure. Comparative legal research demonstrates that variations in procedure, institutions, and legal doctrine greatly influence the efficacy of mechanisms for corporate accountability.[6]

Legal systems cannot be clearly categorized into entirely formalistic and entirely functional approaches. In Jordan, Egypt, and Morocco, corporate succession, asset and obligation transfers, and the dissolution of the merged entity are primarily regulated by merger legislation—legal ramifications stemming from a merger face less clear-cut oversight. In contrast, France, the United Kingdom, the United States, and European regulatory law have established diverse and changing methods via legislation, judicial interpretation, successor-liability principles, and economic-continuity doctrines.[7] The lack of defined regulations creates a risk that companies may use formal alterations in legal identity to evade responsibility for past wrongdoing. The problem goes beyond the technical connection between merger legislation and criminal law. It also concerns the capacity of legal institutions to adapt to shifts in collective organization. Liability based solely on an enterprise's continuing existence may be weakened by corporate restructuring and negatively affect the public's perception of enforcement effectiveness.[8]

La Persona Jurídica: Inimputabilidad y Contagio Penal En Operaciones de M&A," *Revista Electrónica de Ciencia Penal y Criminología* 25 (2023): 1–30; S. Shirley, *Crime and Punishment: Corporate Criminal Prosecution and Corporate Misconduct*, Working paper (The Pennsylvania State University, 2023), https://business.columbia.edu/sites/default/files-efs/imce-uploads/Burton%202023/Crime%20and%20Punishment%20-%20Corporate%20Criminal%20Prosecution%20and%20Corporate%20Misconduct.pdf.

[5] E. W. Smith, "Purchasing Pandora's Box: The Impact of Strict Liability for Subsidiary Violations of the FCPA Accounting Provisions on M&A Transactions" (Seton Hall University School of Law, 2022), https://scholarship.shu.edu/student_scholarship; Farrhah Khan, "Key Data Protection and Cybersecurity Considerations in the Mergers and Acquisitions Context through the Lens of Regulatory and Judicial Enforcement," *Journal of Data Protection & Privacy* 7, no. 1 (2024): 80, https://doi.org/10.69554/AWRJ3093.

[6] Katri Havu, "Liability for Competition Restrictions: EU Law Developments," *Journal of European Tort Law* 13, no. 2 (2022): 103–131, https://doi.org/10.1515/jetl-2022-0007.

[7] Actis Perinetto and Grechi, "Antitrust Liability, Corporate Groups and M&A Transactions"; Havu, "Liability for Competition Restrictions"; Marco Pasqua, "The Liability of Corporate Groups for Violation of EU Competition Law," *Journal of European Competition Law & Practice* 14, no. 4 (2023): 235–253, https://doi.org/10.1093/jeclap/lpad024.

[8] Wardah Nuroniyah et al., "Assessing Indonesia and Malaysia's Legal Responsiveness to Domestic Violence Victims within Islamic Law Framework," *Al-Manahij: Jurnal Kajian Hukum Islam*, October 24, 2025, 247–270, https://doi.org/10.24090/mnh.v19i2.13736.

Researchers have also analyzed the regulatory and compliance risks linked to mergers and acquisitions.[9,10] Corporate criminal liability has evolved from a debated concept into a key element of contemporary regulatory frameworks.[11,12] Previous objections were primarily based on the personal aspect of criminal responsibility and the belief that corporations did not possess the necessary mental element for criminal offenses. Contemporary approaches increasingly attribute liability through corporate decision-making structures, senior management conduct, organizational culture, and collective action.[13] Recent scholarship has therefore shifted from a strictly individualistic conception of corporate crime toward institutional and functional approaches. Toan, for example, situates corporate criminal liability within the broader organizational system in which corporate actors make decisions and produce harmful conduct.[14] This perspective corresponds with institutional theory, which considers corporations as organized systems of power, management, and shared decision-making. Simultaneously, broadening criminal responsibility from one corporate organization to another presents considerable issues. Gordillo points out flaws in the methods used to establish when criminal liability ought to shift from one corporation to another.[15] Stănilă also raises the issue of whether broadening corporate liability aligns with the principle of individual criminal responsibility.[16]

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[9] James Gobert and Maurice Punch, *Rethinking Corporate Crime* (Cambridge University Press, 2003), https://www.cambridge.org/ag/universitypress/subjects/law/law-general-interest/rethinking-corporate-crime-1?format=PB&isbn=9780521606073; Trinh Quoc Toan, "Corporate Criminal Liability under the United States Criminal Law," *VNU Journal of Science: Legal Studies* 41, no. 4 (2025), https://doi.org/10.25073/2588-1167/vnuls.4816.

[10] Michaelis et al., "Compliance Standards in Continental Europe – Same, Same but Different!?," 2023; V. Švestka and L. Srbecký, "Contractual Approaches to Environmental Liability in Asset Deals," in *Perspectives of Law in Business and Finance* (2023).

[11] Handoyo Prasetyo et al., "From Individual to Corporate Criminal Liability : An Islamic Criminal Law Analysis of Anamnesis Inaccuracy and Misdiagnosis in Telemedicine," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 13, no. 1 (2026): 96, https://doi.org/10.29300/mzn.v13i1.9065.

[12] Jeremy Horder, "Corporate Criminal Liability under the Economic Crime and Corporate Transparency Act 2023," *Legal Studies* 45, no. 1 (2025): 133–148, https://doi.org/10.1017/lst.2024.46.

[13] Buell, "Criminal Liability"; Gobert and Punch, *Rethinking Corporate Crime*.

[14] Toan, "Corporate Criminal Liability under the United States Criminal Law."

[15] R. A. Gordillo, "Weaknesses in Spanish Jurisprudence on the Criminal Liability of Legal Entities: Non-Imputability of Certain Legal Entities and Lack of Methodology When Applying the Transfer of Criminal Liability Between Corporations," *Eucrim: The European Criminal Law Associations' Forum*, no. 3 (2023): 293–299.

[16] Laura Stănilă, "Articolul 151 Cod Penal – O Încălcare a Principiului Personalității Răspunderii Penale?," *Analele Ştiinţifice Ale Universităţii „Alexandru Ioan Cuza" Din Iaşi (Serie Nouă). ŞTIINŢE JURIDICE* 68, no. 2 (2022): 211–238, https://doi.org/10.47743/jss-2022-68-3-13.

These arguments illustrate a continuing conflict between formal legal certainty and practical accountability.[17] The structure of merger transactions illustrates the potential for this conflict to be particularly acute. Corporate restructuring typically results in the substitution of the legal entity that carries on a particular activity with a new legal entity while leaving unchanged the basic nature of the operation, including its employees, physical plant, products, and customer base. Jennings describes how corporate structures provide a means of distributing risk among the various corporate entities involved in the business so as to limit criminal liability for each of those entities.[18] Shirley also contends that deterrence diminishes when enforcement mechanisms do not adequately adapt to shifts in corporate structure.[19] Studies on regulatory risks linked to mergers indicate that acquiring companies frequently take on considerable legal liabilities. Smith explores this topic within the framework of financial reporting and anti-corruption regulation.[20] Khan, on the other hand, underscores the ongoing responsibilities for data protection and cybersecurity that emerge during merger and acquisition deals.[21] These studies illustrate the necessity for legal accountability to be reviewed in response to changes to an organization after a merger. Comparative restructuring scholarship similarly indicates that legal consequences should account for the substantive circumstances surrounding organizational or financial restructuring rather than depend exclusively on its formal characterization.[22] One of the major issues left unanswered is how post-merger accountability should be defined (succession of the entities involved, transfer of liability, or continuation of responsibility by reason of the continued economic activity. Vives illustrates the lack of clarity with respect to each form

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[17] Ariefulloh Ariefulloh et al., "Restorative Justice-Based Criminal Case Resolution in Salatiga, Indonesia: Islamic Law Perspective and Legal Objectives," *Ijtihad : Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (2023): 19–36, https://doi.org/10.18326/ijtihad.v23i1.19-36.

[18] Andrew Jennings, "The Market for Corporate Criminals," *SSRN Electronic Journal*, ahead of print, 2022, https://doi.org/10.2139/ssrn.4195093; A. K. Jennings, "Criminal Subsidiaries," *Fordham Law Review* 92, no. 5 (2024): 2013–2076.

[19] Shirley, *Crime and Punishment: Corporate Criminal Prosecution and Corporate Misconduct*.

[20] Smith, "Purchasing Pandora's Box: The Impact of Strict Liability for Subsidiary Violations of the FCPA Accounting Provisions on M&A Transactions" (Seton Hall University School of Law, 2022).

[21] Khan, "Key Data Protection and Cybersecurity Considerations in the Mergers and Acquisitions Context through the Lens of Regulatory and Judicial Enforcement."

[22] Muhammad Fitratallah Dahlan et al., "Reassessing Creditor-Initiated Debt Restructuring in Indonesia through the Islamic Law Concept of Taʿassur," *Al-Muamalat Jurnal Ekonomi Syariah* 13, no. 1 (2026): 186–206, https://doi.org/10.15575/am.v13i1.54578; Marwah Marwah et al., "Good Faith in Successive Credit and Sharia Financing Restructuring: Comparative Regulatory Approaches in Indonesia and Japan," *Justicia Islamica* 23, no. 2 (2026): 569–596, https://doi.org/10.21154/justicia.v23i2.13337.

of succession.[23] Gordillo additionally notes that legal systems frequently do not have a consistent approach for deciding when a successor corporation should be held criminally responsible.[24] Comparative research also shows differences among jurisdictions regarding the importance given to formal legal personality and substantial economic continuity. More broadly, legal-pluralism scholarship demonstrates that similar legal concepts and principles may operate differently according to their institutional, normative, and social contexts.[25,26]

One of the most important developments in this area is the continuity doctrine, especially in European competition law. Rather than relying solely on the identity of the legal person, this doctrine examines whether the same undertaking continues through another corporate entity. Actis Perinetto and Grechi explain how this approach prevents restructuring of corporations from weakening enforcement efforts.[27] Havu, together with Kalliokoski and Havu, examines the increasing application of the economic-unit concept to attribute accountability beyond formal corporate boundaries.[28] In this functional perspective, a corporation's legal structure is not definitive. Courts and regulators look at whether the successor maintains the predecessor's economic operations, resources, leadership, staff, business roles, or status within a corporate structure. This method is also evident in research on corporate groups and interrelated companies. Pasqua and Osmanovic examine the circumstances in which liability extends across formally separate entities operating as part of a single economic undertaking.[29] Rantanen examines the expansion of the economic-entity concept following recent judicial developments.[30] Kalliokoski and Havu, as well as

[23] Borja Goena Vives, "Sanción Penal y Reestructuraciones Societarias: ¿responsabilidad Por Sucesión o Sucesión de Responsabilidad?," *InDret: Revista Para El Análisis Del Derecho*, no. 1 (2022): 230–264.

[24] Gordillo, "Weaknesses in Spanish Jurisprudence on the Criminal Liability of Legal Entities: Non-Imputability of Certain Legal Entities and Lack of Methodology When Applying the Transfer of Criminal Liability Between Corporations," 2023.

[25] Hamda Sulfinadia et al., "Negotiating Islamic Inheritance and Customary Law: Functional Legal Pluralism and Matrilineal *Pusako Randah* in Minangkabau," *Journal of Islamic Law* 7, no. 1 (2026): 1–30, https://doi.org/10.24260/jil.v7i1.3743.

[26] Havu, "Liability for Competition Restrictions."

[27] Actis Perinetto and Grechi, "Antitrust Liability, Corporate Groups and M&A Transactions."

[28] Havu, "Liability for Competition Restrictions"; T. Kalliokoski and K. Havu, "Single Infringements of Competition Law: Who Is Liable for What?," *Common Market Law Review* 61 (2024): 417–448.

[29] Pasqua, "The Liability of Corporate Groups for Violation of EU Competition Law"; D. Osmanovic, *One Undertaking, Multiple Entities: The Evolving Legal Framework of Corporate Group Liability in EU Competition Law*, Student paper (Lund University, 2025), http://lup.lub.lu.se/student-papers/record/9200001.

[30] L. Rantanen, "The Scope of Economic Entity and Imputation of Liability Post Sumal" (Master's thesis, Hanken School of Economics, 2023), http://hdl.handle.net/10227/541843.

Aalbers and Adriaanse, demonstrate the application of this concept in competition law and state-aid regulation.[31] These advancements signify a wider transition to substance-oriented enforcement, simultaneously raising issues related to predictability, legal clarity, and the undue expansion of liability. Corporate accountability relies additionally on the interplay between legal principles, compliance frameworks, and regulatory practices.[32] Michaelis et al. demonstrate that compliance standards and their execution differ markedly between jurisdictions.[33]

Silveira analyzes the influence of compliance programs on prosecutorial and sentencing choices.[34] Crofts and Silveira, on the other hand, highlight the wider preventive function of compliance programs in corporate criminal accountability.[35] Corporate compliance mechanisms are insufficient to address continuity of liability with respect to mergers which alter or extinguish the original corporate entities. In addition, the global nature of corporate wrongdoing necessitates an internationally coordinated system of accountability. Rossi and Van Nguyen demonstrate that enhanced corporate responsibility will be realized through harmonized regulation and enforcement among nations.[36] Existing research has failed to integrate all of these elements into one comparative lens; this study will address that void with an institutional transformation approach, which treats a corporate merger as such, while treating the extinction of the predecessor corporation (or its automatic continuation) as two distinct options. The analysis applies four indicators: the legal effect of the merger on corporate personality, the statutory treatment of pre-merger criminal liability, the relevance of continuing economic activity, assets, management,

[31] Kalliokoski and Havu, "Single Infringements of Competition Law: Who Is Liable for What?"; M. Aalbers and P. C. Adriaanse, "Recovery of Unlawful Aid," in *EU State Aids*, ed. Leigh Hancher et al. (Sweet & Maxwell, 2021), https://hdl.handle.net/1887/3278513.

[32] Yoghi Arief Susanto and Yeti Sumiyati, "Pelanggaran Prinsip Tanggungjawab Perusahaan Asuransi Investasi Perspektif Perundang-Undangan Dan Hukum Ekonomi Syariah," *Asy-Syari'ah* 22, no. 2 (2021): 313–336, https://doi.org/10.15575/as.v22i2.9707.

[33] Michaelis et al., "Compliance Standards in Continental Europe – Same, Same but Different!?," 2023.

[34] A. Silveira, "The Effect of Compliance Programs on Corporate Criminal Liability Under U.S. Federal Law: From Charging, to Trial to Sentencing" (Master's thesis, Lund University, 2024), http://lup.lub.lu.se/student-papers/record/9158735.

[35] Crofts, "Ensuring Corporate Criminal Responsibility in the 21st Century," 2024; Silveira, "The Effect of Compliance Programs on Corporate Criminal Liability Under U.S. Federal Law: From Charging, to Trial to Sentencing" (Lund University, 2024).

[36] Francesco Rossi, "'Sanctions Compliance', Corporate Liability and Confiscation for Violations of EU Restrictive Measures: A Double-Edged Sword," *European Criminal Law Review* 15, no. 1 (2025): 76–103, https://doi.org/10.5771/2193-5505-2025-1-76; K. Van Nguyen, "Confronting Transnational Corporate Crimes: Urgent Global Measures," *Access to Justice in Eastern Europe* 7, no. 4 (2024): 421–446, https://doi.org/10.33327/AJEE-18-7.4-a000106.

personnel, and organizational functions, and the judicial and regulatory safeguards designed to prevent liability evasion and unjustified successor liability.

There are three dimensions to the research gap. Firstly, most scholarly work divides the areas of corporate criminal liability and merger regulation into separate fields of law, leaving the legal implications of how they interact with each other unexplored. Secondly, much existing scholarship focuses on individual jurisdictions or specific fields, such as European competition law, and does not apply a common comparative framework across the selected Arab, French, and common law jurisdictions. Thirdly, there is no comparative framework that balances the concepts of continuous organization and economy in preserving liability with those of legality, foreseeability, and personal responsibility. This study uses purposive comparative case selection to examine six countries: Jordan, Egypt, Morocco, France, the United Kingdom, and the United States.

Jordan, Egypt, and Morocco represent three distinct approaches within Arab corporate-law systems, providing a useful comparative basis for examining the treatment of corporate criminal liability in the context of mergers. A comparison of the six countries selected in this study (France, Germany, UK, USA) highlights the significant difference in focus regarding legislative treatments of mergers. In contrast, all of them have focused primarily on the treatment of civil and commercial aspects of mergers; they have provided much less clear guidance on the criminal implications of such actions. In addition, two additional areas merit specific attention. First, France has adopted a civil law approach that incorporates both European and judicially derived interpretations of corporate criminal liability, specifically concerning the question of whether there is continuity of liability for existing criminal offenses when a company undergoes structural change.

Second, the UK and the USA offer common law perspectives on these same issues but differ significantly with respect to the relative importance of judicial doctrines, prosecutorial policy, regulatory enforcement, and successor liability doctrine. These countries were chosen to highlight the contrast among common law jurisdictions rather than to be representative of any larger geographic region. Given this backdrop of international legal diversity, the primary focus of this dissertation will be to examine how legal systems may best continue corporate criminal liability after a merger while preserving the fundamental principles of legality and economic viability. In addition to addressing the above issue directly, several subsidiary questions will also be addressed, including (1) How are existing crimes of a predecessor corporation treated in each country in connection with a merger? (2) What criteria (statutory/regulatory/judicial) exist to determine if an existing crime of the predecessor corporation is carried over into the successor corporation? (3) To what extent does the continuity of organization influence the

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determination of who shall bear the post-merger criminal responsibility? (4) Which legal safeguards can be employed to prevent companies from avoiding their obligation to respond criminally for past acts via structuring their organizational activity through mergers while at the same time avoiding having automatic retroactive criminal responsibility imposed on successor entities?

METHOD

In this study, a qualitative doctrinal and comparative legal methodology will be used to assess whether there is continuity in, transfer of, or loss of corporate criminal liability when companies merge. The research will take a post-positivistic perspective, and it will treat legislation not as separate legal texts but as part of a wider legal framework consisting of judicial, regulatory, functional, and institutional factors. In addition to a focus on Jordan, Egypt, Morocco, France, the UK, and the US (selected for analytical purposes to allow for comparisons across Arab states, civil law states, and common law states), data collection will consist of a systematic documentary research process including primary and secondary legal source documents. Primary sources include statutes and regulations affecting businesses and commerce, criminal codes, executive orders and regulations, court judgments and decisions, and government-issued publicly accessible regulatory material. Secondary sources include articles published by peers in professional journals, books written by scholars relating to corporate criminal liability, merger law, successor liability, continuity of economic activity/organization, compliance and regulatory governance, etc., comparative legal studies, reports issued by institutions involved in business regulation and policy-making, working papers, and doctoral dissertations concerned with corporate criminal liability. The analysis will be based on mergers only, and other types of business restructuring may be considered if they offer useful information about either successor liability or economic activity. Relevant material will be chosen based on its legal standing as valid in law, the extent to which it addresses issues related to the merger process and pre-merger criminal liability of predecessor firms, the degree to which it relates to comparative criteria, how recently it has been prepared, and how easily it can be verified.

The analysis of data will be conducted using doctrinal interpretation, within-jurisdiction analysis, and cross-jurisdiction comparison utilizing four analytical aspects typically found in analyses of corporate crime: (1) whether the acquisition of one firm by another results in the continuation of the legal identity of the acquiring or target firm; (2) statutory treatment of criminal responsibility for conduct preceding acquisition; (3) relevance of continuing elements of business operations, including assets, activities, management, staff, personnel, control, commercial functions, and economic benefits of the pre-acquisition firm post-merger; and (4) judicial or regulatory safeguards preventing both evading criminal liability following acquisition and unjustly attributing criminal responsibility to post-acquisition entities. The analytical process will be carried out in four interrelated stages: identifying and classifying the legal frameworks of each jurisdiction; examining how courts/judges/administrators/regulators have interpreted the application of rules identified; assessing how normative standards relating to corporations/criminal justice/regulatory practices function together in each system; and conducting comparative synthesis of convergent/divergent patterns/gaps in regulation/areas for development of hybrid accountability models. For analytical purposes, formalism and functionalism will be used as reference points rather than as categorical labels, recognizing that no state utilizes only one of these approaches exclusively. Validity was enhanced by employing consistent comparative criteria across all jurisdictions studied, triangulating statutory provisions with judicial decisions/regulatory materials/scholarly interpretations, and differentiating between enacted law/judicial decision/material/commentary. Additionally, uncertainty regarding doctrine, differences in access to judicial material/linguistic/archival limitations, and the risk of comparative bias arising from concepts that may appear terminologically similar but function differently across jurisdictions are acknowledged. Therefore, findings are presented as a systematic doctrinal and comparative synthesis rather than an empirical assessment of how judges/courts, prosecutors, regulators, or companies apply merger-related criminal liability rules in individual cases.

RESULTS AND DISCUSSION

Comparative Legal Treatment of Pre-Merger Criminal Liability

The comparative study revealed significant differences in how the chosen jurisdictions tackle corporate criminal liability after a merger. These distinctions do not justify a strict separation between formal, functional, and hybrid legal systems.[37] Instead, the examined frameworks combine the indicators in different ways: the effect of the merger on the legal personality of the predecessor company, existence of express rules governing criminal liability before the merger, relevance of continuity economically or organizationally, and role of judicial and regulatory safeguards. Analysis of Jordan Law No. 22 of 1997 and Egyptian Law No. 159 of 1981, together with their relevant implementing provisions, showed that merger rules principally regulate the termination of the merged entity's separate legal personality, corporate succession, and the transfer of assets, rights, and obligations.[38]

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[37] Dahlan et al., "Reassessing Creditor-Initiated Debt Restructuring in Indonesia through the Islamic Law Concept of Taʿassur."

[38] Companies Law No. 22 of 1997, Official Gazette No. 4204 (1997), https://natlex.ilo.org/dyn/natlex2/natlex2/files/download/48327/JOR48327.pdf; Decree No. 96 of 1982 Promulgating the Executive Regulations of Law No. 159 of 1981 on Joint Stock

The reviewed provisions do not establish an equally clear framework for continuation of criminal proceedings or attribution of pre-merger criminal liability to the successor company. Responsibility for criminal matters therefore largely depends on general principles of personality law, legality of criminal law and personal responsibility. Moroccan company law analysis also revealed a similar issue. Merger rules mainly deal with succession for corporations and commerce, but criminal consequences resulting from predecessor companies disappearing lack a comprehensive successor liability framework. This finding does not mean that Jordanian, Egyptian, and Moroccan law produces identical results. Rather, lack of detailed statutory rules introduces uncertainty about continuation of criminal accountability for conduct prior to the merger. The French framework revealed a more complex interaction among corporate personality and principles of criminal law, judicial interpretation, and doctrines of economic continuity. Materials do not support classifying France as functioning uniformly; they show an evolving approach where formal legal identity retains significance while organizational or economic continuity influences treatment of liability in specific legal and regulatory contexts. The materials concerning the United Kingdom and the United States also show no single common law model; approaches vary according to applicable offense, transaction structure, statutory regime, prosecutorial practice, and doctrine of successor liability. Legal scholarship indicates that judicial reasoning and regulatory enforcement may preserve accountability in restructuring contexts. However, liability is not transferred uniformly and cannot be determined solely by economic continuity.[39]

Formal Legal Personality and Statutory Gaps

The initial comparative measure assessed the legal impact of a merger on the original corporation. In situations where the combined company no longer exists and criminal accountability is still tied to its distinct legal identity, lacking a clear

Companies, Partnerships Limited by Shares and Limited Liability Companies (1982), https://dspace.id.com.eg/items/ec86c280-f792-4410-a27a-f55d4f2b8c1d/full; Law No. 159 of 1981 Promulgating the Law of Joint Stock Companies, Partnerships Limited by Shares and Limited Liability Companies (1981), https://www.gafi.gov.eg/English/StartaBusiness/Laws-and-Regulations/Documents/Lawno159oftheyear1981.pdf.

[39] Patrick Actis Perinetto and Giacomo Grechi, "Antitrust Liability, Corporate Groups and M&A Transactions: A Tale of Undertakings, Economic Continuity and Effectiveness of EU Competition Law," *European Competition Journal* 20, no. 1 (2024): 147–92, https://doi.org/10.1080/17441056.2023.2263262; Borja Goena Vives, "Sanción Penal y Reestructuraciones Societarias: ¿responsabilidad Por Sucesión o Sucesión de Responsabilidad?," *InDret: Revista Para El Análisis Del Derecho*, no. 1 (2022): 230–264; R. A. Gordillo, "Weaknesses in Spanish Jurisprudence on the Criminal Liability of Legal Entities: Non-Imputability of Certain Legal Entities and Lack of Methodology When Applying the Transfer of Criminal Liability Between Corporations," *Eucrim: The European Criminal Law Associations' Forum*, no. 3 (2023): 293–299.

continuation rule may disrupt legal actions or lead to ambiguity regarding enforcement against the successor organization. This problem was particularly evident in the frameworks of Jordan and Egypt. Their corporate regulations acknowledge the transfer of assets and liabilities; however, the amended legislation materials do not establish a corresponding general rule governing pre-merger criminal responsibility. This legislative gap does not establish automatic extinction of liability in every case. Instead, the outcome depends on the interpretation of general criminal-law principles and the existence of sector-specific provisions. Formal legal personality therefore serves as both a safeguard and a constraint. It protects legality, foreseeability, and the principle that criminal responsibility requires a sufficient legal basis. Exclusive reliance on formal identity, though, risks weakening enforcement where the successor retains the predecessor's business, assets, management, or economic benefits.[40]

Economic and Organizational Continuity

The second and third comparative indicators examined statutory successor liability and substantive continuity. The analysis of European competition-law scholarship showed that the concepts of the economic unit and economic continuity allow decision-makers, within defined regulatory contexts, to look beyond changes in corporate form and assess whether the same undertaking continues through another legal entity. The continuity factors identified in the reviewed materials included the transfer of business activities, assets, personnel, management, control, commercial functions, and economic benefits. These factors offer a clearer basis for functional analysis than broadly describing a legal system as "functional." Their legal significance still differs across jurisdictions and fields of law. The reviewed materials did not support the automatic transfer of criminal liability based on economic continuity. Instead, they indicated that continuity provides a basis for preserving accountability where legislation, established judicial doctrine, or clearly foreseeable regulatory rules support such an outcome. In the absence of these protections, assigning liability merely because the successor maintains the same economic activity may undermine legality and individual criminal accountability.[41]

[40] Gordillo, "Weaknesses in Spanish Jurisprudence on the Criminal Liability of Legal Entities: Non-Imputability of Certain Legal Entities and Lack of Methodology When Applying the Transfer of Criminal Liability Between Corporations," 2023.

[41] Borja Goena Vives, "Sanción Penal y Reestructuraciones Societarias: ¿responsabilidad Por Sucesión o Sucesión de Responsabilidad?," *InDret: Revista Para El Análisis Del Derecho*, no. 1 (2022): 230–64; Laura Stănilă, "Articolul 151 Cod Penal – O Încălcare a Principiului Personalității Răspunderii Penale?," *analele științifice ale universității „alexandru ioan cuza" din iași (serie nouă). Științe juridice* 68, no. 2 (2022): 211–238, https://doi.org/10.47743/jss-2022-68-3-13; R. A. Gordillo, "Weaknesses in Spanish Jurisprudence on the Criminal Liability of Legal Entities: Non-Imputability of Certain Legal Entities and Lack of Methodology When Applying the Transfer of

Judicial, Regulatory, and Governance Safeguards

The fourth indicator concerns safeguards against liability evasion and the unjustified attribution of responsibility to a successor. It has been shown, via scholarship concerning France and other common law jurisdictions, that judicial decision-making, prosecutorial enforcement, regulatory enforcement, and reporting obligations (as required) have generally provided additional guidance where there is insufficient legislative basis for these processes. Due diligence and compliance were identified as significant preventive mechanisms during the comparative analysis. An acquiring company can significantly reduce its potential liability through the implementation of effective investigative practices regarding unresolved issues of criminal exposure; preservation of all relevant evidence; reporting of any wrongdoing uncovered through investigations; and reforming internal compliance procedures that may be inadequate. While a company's governance structure does not determine its criminal liability, it facilitates the process of enforcement and minimizes the risk of regulatory evasion.[42]

Comparative Evidence Matrix

Table 1 summarizes the findings according to the four indicators applied throughout the analysis. The descriptors reflect the dominant features identified in the reviewed materials rather than placing each jurisdiction within a fixed legal category.

Table 1. Comparative Evidence Matrix for Criminal Liability Following Corporate Mergers

Jurisdiction	Effect of merger on legal personality	Express treatment of pre-merger criminal liability	Relevance of continuity	Judicial and regulatory safeguards	Evidentiary conclusion
Jordan	The merged entity generally loses its separate personality	No comprehensive general successor-criminal-liability rule	Limited express recognition in the reviewed	Dependence on general criminal-law principles and any	Statutory uncertainty regarding post-merger criminal

Criminal Liability Between Corporations," *Eucrim: The European Criminal Law Associations' Forum*, no. 3 (2023): 293–299.

[42] A. Silveira, "The Effect of Compliance Programs on Corporate Criminal Liability Under U.S. Federal Law: From Charging, to Trial to Sentencing" (Master's thesis, Lund University, 2024), http://lup.lub.lu.se/student-papers/record/9158735; Penny Crofts, "Ensuring Corporate Criminal Responsibility in the 21st Century," *Courts of Conscience* 18 (2024): 105–11; Marcel Michaelis et al., "Compliance Standards in Continental Europe – Same, Same but Different!?," *European Journal of Comparative Law and Governance* 10, no. 2 (2023): 206–222, https://doi.org/10.1163/22134514-bja10052.

	through merger	was identified in the reviewed Companies Law framework	merger provisions	applicable sector-specific rules	accountability
Egypt	Merger produces corporate succession and dissolution effects	Law No. 159 of 1981 principally addresses corporate and commercial effects rather than a comprehensive transfer of criminal liability	Not established as a general criminal-liability standard in the reviewed provisions	Interpretation depends on general legal principles and applicable regulatory rules	Potential accountability gap requiring express clarification
Morocco	Merger legislation principally addresses corporate succession and restructuring	No comprehensive general mechanism was identified in the reviewed materials	May be relevant indirectly, but is not presented as a general rule	Treatment depends on the applicable legal and institutional context	Similar statutory ambiguity, without assuming identity with Jordan or Egypt
France	Formal legal identity remains relevant, but the legal position is evolving	Liability depends on the applicable statutory and judicial context	Economic and organizational continuity may be considered in defined contexts	Judicial interpretation and European regulatory principles have significant but context-dependent roles	Mixed and evolving approach rather than a fixed functional model
United Kingdom	Consequences vary according to the offence, transaction,	No single rule governs every form of successor	Organizational continuity may be relevant	Judicial reasoning, prosecutorial policy, compliance,	Context-dependent common law and

	and applicable statute	criminal liability	under particular statutory, judicial, or prosecutorial approaches	and regulatory enforcement are important	statutory approach
United States	Successor consequences depend on transaction structure and the applicable federal or state regime	Sector-specific statutory and enforcement mechanisms may apply	Continuity, control, acquired operations, and assumed liabilities may influence exposure	Prosecutorial discretion, regulatory enforcement, due diligence, and compliance are important	Plural and transaction-specific approach rather than an automatic transfer model

Source: Authors' comparative synthesis based on Jordan Companies Law No. 22 of 1997; Egypt Law No. 159 of 1981 and its Executive Regulations; Morocco Law No. 17-95; relevant French, UK, and U.S. legal authorities; and the comparative literature cited in the text.

The analysis produced four principal findings. Firstly, criminal liability is not dependent on the formal dissolution of the predecessor corporation alone. Secondly, legislative silence creates an uncertain legal environment; however, it does not automatically extinguish all criminal liabilities upon each and every merger. Thirdly, a corporate entity's economic and organizational continuity supports its accountability for past wrongdoing only when means of reasonable and foreseeable legal criteria and adequate procedural protections measure these. Lastly, criminal liability (and the resultant post-merger accountability) in such cases is directly dependent on how effectively five interrelated sets of mechanisms operate together - namely company law, criminal law, judicial interpretation, regulatory compliance, and internal corporate governance.

Corporate Mergers and the Continuity of Criminal Liability

This research investigated how legal frameworks maintain corporate criminal liability after mergers, ensuring economic efficiency, legal certainty, and individual accountability. The results indicate that the official continuation of the predecessor corporation does not alone determine the continuity of liability. A merger may extinguish the predecessor's legal personality while transferring its commercial operations, property rights, management systems, employees, and economic advantages to a successor company. Accountability will depend upon the balance by which a given jurisdiction determines whether corporate identity is maintained formally versus operationally/economically. As demonstrated by the results, the chosen jurisdictions may best be characterized as neither purely formalistic nor purely functional. Rather, they all rely on some combination of statutory regulation of mergers and acquisitions, general provisions of the criminal law, judicial interpretations of statutes and regulations, regulatory practices, and governance practices to determine responsibility for pre-merger liabilities.[43]

Legal Form and Economic Reality

The study demonstrates that there is an ongoing conflict between corporate legal personality and the economic fact of restructuring in corporations. In the Jordanian and Egyptian merger legislative framework analyzed herein, the transfer of assets, rights, obligations, and corporate succession are primarily governed by merger legislation. However, the post-merger continuation of criminal liability from the predecessor corporation appears less clearly defined or emphasized. Therefore, there exists uncertainty for successor entities where the predecessor corporation has ceased to exist; however, it continues as a successor entity to carry on the predecessor's previous activities.[44] It also illustrates Gordillo's critique of the absence of a consistent approach for deciding when criminal responsibility should be assigned from one corporate entity to another.[45] Vives similarly highlights the unresolved distinction between legal succession and the transfer of criminal responsibility.[46]

The formal legal personality serves crucial protective roles. It clarifies the theme of criminal accountability, encourages predictability, and protects against assigning liability without a definite legal foundation. A purely functional approach that disregards legal personality therefore risks conflicting with legality

[43] Marcel Michaelis et al., "Compliance Standards in Continental Europe – Same, Same but Different!?," *European Journal of Comparative Law and Governance* 10, no. 2 (2023): 206–222, https://doi.org/10.1163/22134514-bja10052; Jeremy Horder, "Corporate Criminal Liability under the Economic Crime and Corporate Transparency Act 2023," *Legal Studies* 45, no. 1 (2025): 133–48, https://doi.org/10.1017/lst.2024.46; Patrick Actis Perinetto and Giacomo Grechi, "Antitrust Liability, Corporate Groups and M&A Transactions: A Tale of Undertakings, Economic Continuity and Effectiveness of EU Competition Law," *European Competition Journal* 20, no. 1 (2024): 147–192, https://doi.org/10.1080/17441056.2023.2263262; Katri Havu, "Liability for Competition Restrictions: EU Law Developments," *Journal of European Tort Law* 13, no. 2 (2022): 103–31, https://doi.org/10.1515/jetl-2022-0007; E. W. Smith, "Purchasing Pandora's Box: The Impact of Strict Liability for Subsidiary Violations of the FCPA Accounting Provisions on M&A Transactions" (Seton Hall University School of Law, 2022), https://scholarship.shu.edu/student_scholarship.

[44] Buell, "Criminal Liability."

[45] Gordillo, "Weaknesses in Spanish Jurisprudence on the Criminal Liability of Legal Entities: Non-Imputability of Certain Legal Entities and Lack of Methodology When Applying the Transfer of Criminal Liability Between Corporations," 2023.

[46] Goena Vives, "Sanción Penal y Reestructuraciones Societarias: ¿responsabilidad Por Sucesión o Sucesión de Responsabilidad?," 2022.

and personal responsibility. Exclusive reliance on formal identity, though, risks allowing the legal consequences of misconduct to disappear while the relevant economic undertaking continues. The economic-continuity scholarship of Actis Perinetto and Grechi, together with Havu, shows how legal systems assess whether the same undertaking, activities, or organizational functions continue despite a change in corporate form.[47] Economic continuity principles developed in competition law should not be extended automatically to general criminal liability, because criminal sanctions require stronger safeguards for legality, foreseeability, culpability, and procedural fairness.

Mergers and the Risk of Liability Evasion

One principal finding is that corporate mergers create opportunities for liability evasion.[48] When the legal system does not clearly regulate the consequences of the predecessor corporation's dissolution, this finding does not suggest that all mergers seek to avoid liability. The risk arises when the predecessor disappears, no express successor-liability rule applies, and the successor retains substantial elements of the predecessor's operations, assets, or economic benefits. Jennings shows how corporate structures distribute risk and isolate related entities from criminal exposure.[49] Shirley similarly shows that corporate deterrence weakens when enforcement mechanisms fail to keep pace with changes in corporate structure.[50]

These arguments support the finding that accountability gaps arise not only from deliberate misconduct but also from legal frameworks treating organizational transformation as the complete disappearance of the responsible institution. The same risk appears in regulated fields. Smith shows that acquiring corporations often inherit exposure related to financial reporting and anti-corruption obligations. Khan highlights the continuing importance of data-protection and cybersecurity duties in merger and acquisition transactions.[51] These examples show that corporate restructuring does not necessarily eliminate the risks, obligations, or legal consequences arising from the predecessor's activities. Successor liability, however, should not arise solely because an acquiring corporation continues part of the predecessor's business. Relevant factors should include the degree of continuity in activities, assets, management,

[47] Actis Perinetto and Grechi, "Antitrust Liability, Corporate Groups and M&A Transactions"; Havu, "Liability for Competition Restrictions."

[48] Prasetyo et al., "From Individual to Corporate Criminal Liability."

[49] Jennings, "The Market for Corporate Criminals"; Jennings, "Criminal Subsidiaries."

[50] Shirley, *Crime and Punishment: Corporate Criminal Prosecution and Corporate Misconduct*.

[51] Smith, "Purchasing Pandora's Box: The Impact of Strict Liability for Subsidiary Violations of the FCPA Accounting Provisions on M&A Transactions" (Seton Hall University School of Law, 2022); Khan, "Key Data Protection and Cybersecurity Considerations in the Mergers and Acquisitions Context through the Lens of Regulatory and Judicial Enforcement."

https://doi.org/10.66325/nusantaralaw.v5i2.376

personnel, control, commercial functions, and benefits derived from the misconduct. The legal framework should also distinguish between a successor that knowingly maintains a deficient organizational system and an acquiring entity that neither participated in nor controlled the original offence and could not reasonably have identified it.

Judicial Interpretation and Its Limits

The findings indicate that judicial interpretation reduces the effects of statutory silence by adapting established legal principles to corporate restructuring. The scholarship of Kalliokoski and Havu, together with Rantanen, shows how judicial reasoning has expanded and clarified the attribution of liability among economically connected entities.[52] Pasqua and Osmanovic similarly examine corporate groups as components of a broader economic undertaking rather than as entirely separate legal persons.[53]

Crofts argues for a strong judicial role in ensuring corporate restructuring does not undermine responsibility.[54] Osemwengie likewise identifies recent developments in attributing corporate criminal liability within increasingly complex corporate structures.[55]These developments support the view that courts play an important role in preventing formal corporate restructuring from automatically defeating accountability. Although judicial interpretation does have some limits, there are limits to how far judicial interpretation can go. A court cannot create a completely new successor criminal liability system when the statute provides for no reasonably apparent or foreseeable basis. If a court's interpretation is too expansive, it may also undermine the requirement that criminal liability and its corresponding sanctions be based upon statutes which are reasonably clear in their terms. Therefore, judicial development will be most acceptable if legislation recognizes the possibility of continued criminal liability, identifies the elements which determine whether such liability continues, and directs courts as to how they are to apply those factors to the particular merger at issue.

Governance, Compliance, and Enforcement

Post-merger accountability relies on robust legal frameworks, proper institutional execution, governance systems, trust from stakeholders, and the

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[52] Kalliokoski and Havu, "Single Infringements of Competition Law: Who Is Liable for What?"; Rantanen, "The Scope of Economic Entity and Imputation of Liability Post Sumal."

[53] Pasqua, "The Liability of Corporate Groups for Violation of EU Competition Law"; Osmanovic, *One Undertaking, Multiple Entities: The Evolving Legal Framework of Corporate Group Liability in EU Competition Law*.

[54] Crofts, "Ensuring Corporate Criminal Responsibility in the 21st Century," 2024.

[55] Clinton Osemwengie, "Corporate Criminal Attribution and Liability under Section 199 of the UK Economic Crime and Corporate Transparency Act," *SSRN Electronic Journal*, ahead of print, 2025, https://doi.org/10.2139/ssrn.5378191.

ability to enforce regulations.[56][57] A well-crafted legal regulation can become ineffective if regulatory bodies lack access to evidence, prosecutorial roles are ambiguous, or successor companies have no obligation to keep records and reveal significant inquiries. Research on corporate environmental crime similarly indicates that the existence of formal legal instruments does not necessarily ensure effective corporate accountability when enforcement and remedial mechanisms remain inadequate.[58] Research conducted in a specialized financial-governance context further emphasizes transparency, continuous auditing, clear allocation of responsibility, and meaningful human oversight as important components of effective regulatory compliance.[59]

These results correspond with Michaelis et al., who demonstrate notable differences in compliance standards and execution among jurisdictions. They also align with Silveira's examination of how compliance programs affect charging decisions, deferred prosecution agreements, trial results, and sentencing.[60] Criminal-liability due diligence assists in uncovering outstanding investigations, inadequate controls, ongoing misconduct, and inherited regulatory risks prior to the finalization of a merger.[61] Van Nguyen and Becker highlight the importance of international collaboration and institutional partnership when corporate wrongdoing spans several jurisdictions.[62]

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[56] Adel Salem Allouzi et al., "Assessing Stakeholder Perceptions of the Effectiveness of the UAE Arbitration Law in Resolving Off-Plan Real Estate Disputes in Dubai," *Social Sciences & Humanities Open* 12 (2025): 102090, https://doi.org/10.1016/j.ssaho.2025.102090.

[57] Tarek El Sayed Mahmod et al., "Regulatory Gaps in Digital Witness Protection for Cybercrime: Integrating International Standards, Egyptian Law, and Islamic Jurisprudence," *Al-Istinbath: Jurnal Hukum Islam* 11, no. 1 (2026): 158–192, https://doi.org/10.29240/jhi.v11i1.16326.

[58] Maria Pricilia Silviana et al., "Fiqh Al-Bīʾah and Restorative–Ecological Justice in Corporate Environmental Crimes," *JURIS (Jurnal Ilmiah Syariah)* 24, no. 2 (2025): 397–419, https://doi.org/10.31958/juris.v24i2.16415.

[59] Muhammad Azam et al., "AI-Driven Sharia Governance in Islamic Digital Payment Systems: Developing a Contemporary Islamic Law Framework for Ethical and Regulatory Compliance," *Nusantara: Journal of Law Studies* 5, no. 2 (2026): 849–880, https://doi.org/10.66325/nusantaralaw.v5i2.339.

[60] Michaelis et al., "Compliance Standards in Continental Europe – Same, Same but Different!?," 2023; Silveira, "The Effect of Compliance Programs on Corporate Criminal Liability Under U.S. Federal Law: From Charging, to Trial to Sentencing" (Lund University, 2024).

[61] Rossi, "'Sanctions Compliance', Corporate Liability and Confiscation for Violations of EU Restrictive Measures."

[62] Van Nguyen, "Confronting Transnational Corporate Crimes"; Thomas R. Becker, "Strategic Litigation for Corporate Accountability Through +(International) Criminal Law: Dutch Legal Dynamics and Litigating Civil Society Organisations," in *Corporate Accountability for Human Rights Violations*, vol. 16, ed. Raluca Grosescu and John G. Dale, Interdisciplinary Studies in Human Rights (Springer Nature Switzerland, 2026), https://doi.org/10.1007/978-3-032-05569-9_11.

Compliance and due diligence do not alone create criminal responsibility.[63] Their main roles are preventive and evidentiary;[64] they assist in recognizing inherited risks, safeguarding evidence, revealing misconduct, and addressing issues after a merger. Insufficient due diligence alone should not determine guilt, though this shortcoming is still pertinent to prosecutorial actions, regulatory measures, and the fairness of penalties.

Institutional Transformation and Theoretical Contribution

The results confirm a conceptualization of corporate criminal liability in an institutional sense. This perspective does not assign the entire responsibility for criminal actions to the legal person that is formally designated by law; instead, it looks at how wrongdoing by a corporation develops and continues as a result of structural organization, the methods used to make decisions and decisions on governance, as well as the nature of its business activity.[65] The current study builds on previous research by extending it into corporate mergers. The study demonstrates that institutional continuity can exist via continued use of transferred assets, continuation of operations, continued use of staff, control over the organization, and performance of organizational functions even after the predecessor company's formal legal existence has ended. Institutional continuity is used within this study as a prerequisite for successor liability; however, its theoretical contribution comes in establishing institutional transformation as a middle-level analytical approach between the formal extinction and automatic operational succession.

Proposed Hybrid Accountability Framework

The study supports the development of a hybrid approach to determining when a successor entity should bear criminal liability for offenses committed before the completion of a merger. Such liability should be expressly grounded in statutory provisions and determined through objective indicators of functional and organizational continuity rather than arising automatically from the legal succession created by the merger. Under this approach, a merger should not, by itself, terminate or otherwise prejudice pending criminal proceedings concerning pre-merger offenses. Statutory recognition of this principle would prevent the automatic extinction of criminal liability merely because the predecessor

[63] Ainura Mamatova et al., "Auditor Responsibility and Liability in Social Welfare Systems in the View of Islamic Jurisprudence," *Al-'Adalah* 22, no. 1 (2025): 255–292, https://doi.org/10.24042/adalah.v221.28213.

[64] Salah Eldin Ragab Semida et al., **"**From Remedial to Preventive Justice: A Contemporary Reframing of Civil Liability in Islamic and Comparative Law,**"** *MILRev: Metro Islamic Law Review* 5, no. 1 (2026): 722–752, https://doi.org/10.32332/milrev.v5i1.13126.

[65] Ignacio Adrian Lerer, "Evolutionary Genealogy of Corporate Criminal Liability: Testing Extended Phenotype Theory through Argentina's Law 27401," preprint, SSRN, 2025, https://doi.org/10.2139/ssrn.5428374.

corporation has been dissolved or ceased to exist as a separate legal person. At the same time, successor liability should not be presumed solely from the fact of a merger. Instead, it should be established through objective indicators demonstrating substantial continuity between the predecessor and successor, including the continuation of substantially all of the predecessor's business activities, retention of substantial assets or property, preservation of elements of its managerial structure, retention of a significant proportion of its employees, continued control over the predecessor's former business, continuation of its operational or management functions, and continued receipt of economic benefits derived from the predecessor's wrongful conduct.[66]

The proposed model further requires a demonstrable connection between the successor entity and the organization or wrongful conduct of the predecessor. Relevant considerations may include whether the successor was aware, or reasonably should have been aware, of the predecessor's wrongdoing; whether it deliberately continued the business activities affected by such wrongdoing; whether it maintained organizational structures or systems that contributed to the harmful conduct; whether it obtained or continued to obtain economic benefits arising from the wrongdoing; and whether it adopted reasonable remedial measures after becoming aware of the misconduct. These substantive criteria should be accompanied by procedural safeguards designed to preserve legality, fairness, and proportionality in the attribution of criminal responsibility. The prosecution should bear the burden of establishing both functional continuity and a sufficient connection between the successor and the pre-merger offense. In contrast, the successor should have a meaningful opportunity to demonstrate that it neither continued the offending conduct nor derived an unlawful benefit from it. The framework should also incorporate safeguards against double jeopardy and ensure that any criminal sanctions remain proportionate to the nature and gravity of the offense. Finally, merger regulation should require risk-based criminal-liability due diligence, including systematic documentation of ongoing investigations and potential misconduct, disclosure of material criminal or regulatory inquiries, assessment of inherited compliance

[66] R. A. Gordillo, "Weaknesses in Spanish Jurisprudence on the Criminal Liability of Legal Entities: Non-Imputability of Certain Legal Entities and Lack of Methodology When Applying the Transfer of Criminal Liability Between Corporations," *Eucrim: The European Criminal Law Associations' Forum*, no. 3 (2023): 293–99; Katri Havu, "Liability for Competition Restrictions: EU Law Developments," *Journal of European Tort Law* 13, no. 2 (2022): 103–131, https://doi.org/10.1515/jetl-2022-0007; Borja Goena Vives, "Sanción Penal y Reestructuraciones Societarias: ¿responsabilidad Por Sucesión o Sucesión de Responsabilidad?," *InDret: Revista Para El Análisis Del Derecho*, no. 1 (2022): 230–64; Patrick Actis Perinetto and Giacomo Grechi, "Antitrust Liability, Corporate Groups and M&A Transactions: A Tale of Undertakings, Economic Continuity and Effectiveness of EU Competition Law," *European Competition Journal* 20, no. 1 (2024): 147–192, https://doi.org/10.1080/17441056.2023.2263262.

risks, and appropriate post-merger remedial measures. Taken together, these elements seek to reconcile corporate restructuring and economic efficiency with the fundamental principle that corporate transformations should not be used strategically to frustrate criminal accountability.[67]

Implications for Legislative Reform

For countries such as Jordan, Egypt and Morocco, as well as other similar jurisdictions, this new model can be incorporated into law by means of an explicit provision contained within company or criminal legislation. Such provisions would need to provide that dissolution of a merged corporation does not result in automatic extinction of accountability for offenses committed prior to the time of the merger. In addition, these laws would have to outline the criteria based upon which ongoing proceedings will occur and what the conditions are regarding the application of sanctions against the successor. Separately, the legislation has to make distinctions among three different concepts: continuing proceedings; attributing responsibility; and enforcing sanctions. Continuing proceedings do not necessitate every criminal penalty previously imposed on the predecessor automatically applying to the successor. For example, financial penalties; confiscation of illegal gains; remedial orders; and requirements related to compliance must be treated differently than those penalties directly linked to culpable behavior on the part of the predecessor.[68]

This new model is designed to reflect the varying constitutional principles; corporate criminal liability rules; judicial systems; prosecutorial agencies; and regulatory institutions present in each jurisdiction. Therefore, this model reflects scholarly views that indicate legal frameworks must address changes in organizational and regulatory environments, as opposed to relying on traditional legal categorizations.[69] The Hybrid Framework Model is not intended to serve as

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[67] Cour de Cassation, Chambre Criminelle, 25 Novembre 2020, Pourvoi No. 18-86.955 (Cour de cassation November 25, 2020), https://www.legifrance.gouv.fr/juri/id/JURITEXT000042619505; United States Department of Justice and U.S. Securities and Exchange Commission, *A Resource Guide to the U.S. Foreign Corrupt Practices Act*, Second Edition (U.S. Department of Justice and U.S. Securities and Exchange Commission, 2020), https://www.justice.gov/criminal/criminal-fraud/fcpa-resource-guide.

[68] Francesco Rossi, "'Sanctions Compliance', Corporate Liability and Confiscation for Violations of EU Restrictive Measures: A Double-Edged Sword," *European Criminal Law Review* 15, no. 1 (2025): 76–103, https://doi.org/10.5771/2193-5505-2025-1-76; Cour de Cassation, Chambre Criminelle, 25 Novembre 2020, Pourvoi No. 18-86.955 (Cour de cassation November 25, 2020), https://www.legifrance.gouv.fr/juri/id/JURITEXT000042619505; Cour de Cassation, Chambre Criminelle, 22 Mai 2024, Pourvoi No. 23-83.180 (Cour de cassation May 22, 2024), https://www.legifrance.gouv.fr/juri/id/JURITEXT000049602673.

[69] Mohammad Khamaysa et al., "Redefining Subordination in the Digital Workplace: Regulation of Teleworking in the United Arab Emirates," *Jurídicas CUC* 21, no. 1 (2025): 323–335, https://doi.org/10.17981/juridcuc.21.1.2025.17.

an identical transfer model applicable uniformly throughout all jurisdictions. Rather, it serves as a legislative structure providing a template (i.e., a combination of express legal authority; defined continuity indicators; sufficient connection standards; procedural safeguards; and governance obligations) to assist legislators in establishing clear legal standards and guidelines to avoid abuse of liability avoidance while maintaining legal clarity, allowing for legitimate corporate restructuring, and protecting the rights of successor corporations.[70]

CONCLUSION

This research has demonstrated that the determination of continued corporate criminal liability after a merger may depend significantly on factors beyond the mere existence (or non-existence) of legal personhood in the predecessor company. Instead, post-merger criminal liability arises out of the interplay of statutory schemes; organizational and economic continuities; judicial interpretations; regulatory practices; and procedural safeguards. Comparative analysis of the six countries studied—Jordan, Egypt, Morocco, France, the United Kingdom, and the United States—shows considerable variation in how these factors are identified and implemented. In general, the selected Arab states have less clarity within their statutes regarding criminal liability based on pre-merger activity compared to the flexibility exhibited in the French and Anglo-American systems, where greater weight is given to functional/organizational continuities. The theory underlying this study's main academic contribution is to consider mergers as "institutional transformations," i.e., changes in legal identity do not automatically remove continuities of business operations, assets, management, personnel, control, organizational structures/functions, or economic benefits. Therefore, this approach will avoid two extremes, namely the automatic loss of criminal liability when there is a formal dissolution of one entity (predecessor), and will also reject the view that only because there is an economic continuum between predecessor and successor entities, criminal liability is to be imposed on a successor entity.

With this conclusion in mind, this study recommends a hybrid accountability model that attempts to balance the need for corporate restructuring/economic efficiencies with legality, foreseeability, proportionality, and criminal accountability. To achieve this balance, the hybrid model will require explicit legislative provision(s) that prohibit a merger from terminating all pending actions/criminal proceedings; specific and objective criteria for identifying organizational and economic continuities; a clear legal link between the successor organization and the predecessor's misconduct; and procedural safeguards that ensure that successor organizations are held criminally accountable based upon

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[70] Michaelis et al., "Compliance Standards in Continental Europe – Same, Same but Different!?," 2023.

sufficient evidence rather than simply due to being successors. Thus, each of the selected countries will likely benefit from having more clearly defined legislative and procedural vehicles to govern the continuation of ongoing criminal proceedings and successor liability determinations, but such vehicles will need to be tailored to accommodate each country's respective criminal law and justice system. Due to its comparative/doctrinal nature, the findings of this research are restricted by varying levels of access to relevant judicial decisions, regulatory documents/materials, and other legal resources, as well as a lack of empirical data regarding the manner in which prosecutors enforce laws against corporations involved in mergers. Subsequent empirical research is recommended to test the effectiveness of the hybrid model via examination of judicial decisions, prosecutorial practices, regulatory enforcement, industry-specific merger regulations, and actual merger cases. Additionally, future research can explore whether it is possible to provide consistent operational definitions of functional continuity in practice and whether the proposed framework prevents companies from escaping or being unreasonably subjected to criminal liability due to either merger avoidance or otherwise.

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AUTHOR CONTRIBUTIONS STATEMENT

MA: Conceptualization, methods, research, formal analysis, data management, writing—initial draft, writing—review and revision. AA: Oversight, verification, project management, composing—evaluation and revising. Every author has reviewed and consented to the final version of the manuscript and accepts responsibility for all elements of the work.

AI USAGE STATEMENT

The authors state that they did not use artificial intelligence (AI) in preparing, writing, analyzing, interpreting, editing, or revising this manuscript. All ideas, analyses, interpretations, and conclusions are the authors' original work. As such, all claims to accuracy and originality of the manuscript rest with the authors.

CONFLICT OF INTEREST

The authors assert that the study was carried out without any commercial or financial ties that might be seen as a possible conflict of interest.

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