

The nature of corporate crime in law enforcement of the criminal justice system in Indonesia

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Abstract

Law in its nature is not only used to control conduct that already occurs in society and sustain established behaviors patterns, but the law often contributes to its use as a means. The study revealed 1). Corporate Criminal Liability was an attempt to put the company in the sense of Equality Under the law with a view to achieving legal certainty, fairness and usefulness, 2) Control of corporate criminal penalties was implemented in several laws through a common formulation of the key criminal fines, 3) law enforcement against corporate crime can be achieved through a Normative Approach. Therefore, it is required that the state will specifically articulate the responsibility for corporate criminal liability through legislative and executive agencies and what kind of liability can be formally demanded of the corporation as the object of criminal liability (legal policy), since the assessment of corporate errors is the basis of material for the demand of corporate criminals.

Keywords: *Corporate Criminal Liability, Corporate Criminal Sanctions, Corporate Criminal Justice System*

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1. Introduction

Corporate is a term commonly used by criminal law and criminologists to refer to what in other legal fields, specifically the field of civil law as a legal entity, or in Dutch is called *rechtspersoon* or in English with the term legal person or legal body (Andrew & David, 2007). Understanding the legal subject is essentially human and everything that is based on the demands of community needs, which by law is recognized as supporting rights and obligations. The second understanding is in the opinion of the author who is called a legal entity. According to the terminology of Criminal Law, Corporations are entities or businesses that have their own identities, their own wealth is separated from the wealth of members (Ali, 2004). r.

Interpretation of the Corporation as a legal subject in the field of civil law has long been recognized that a legal entity (as an independent legal subject; *persona standi in judicio*) can commit acts against the law (Amrullah, 2006; J.E, 1994; Kristian, n.d.; Muladi & Dwidja, 1991). This interpretation is carried out through the principles of propriety (*doelmatigheid*) and justice (*bilijkheid*). Therefore, in civil law a legal person can be considered guilty of committing an act against the law, besides members of the board of directors as natural persons .

Unlike the criminal law field, a description of the perpetrators of a crime (crime) is still often associated with acts that are physically carried out by the perpetrators (*fysieke dader*) . Meanwhile, corporate actions are always realized through human actions (directors; management).

According to Bismar Nasution (2006) In the beginning, there were many legal practitioners who did not support the view that a legal entity as a corporation (company) whose appearance was pseudo can commit a crime and have a criminal intent that gave birth to criminal liability. In addition, it is impossible to be able to present a corporation with an actual physical presence in the courtroom and sit on the defendant's seat to undergo the judicial process. Moreover, the regulation regarding criminal punishment of legal entities as legal subjects cannot be found in the Criminal Code.

In the context of corporate crime, studies relating to white collar crime itself began to be popularized by Edwin H. Sutherland in 1939, while speaking before the 34th annual American Sociological Society meeting in Philadelphia on December 27, which he termed as a crime by people honored and has a high status and is associated with his work *Corporate crime in Indonesia* continues to develop along with the economic and technological developments that occur that affect both those from within and outside the country (Intansasmita, 2015). This crime is rooted in forms such as defrauding stockholders, defrauding the public, defrauding the government, endangering the public welfare, endangering employees, and illegal intervention in political processes .

Corporate crime is a crime committed by a collective or group of individuals with different fields (jobs). In essence, to be called a corporate crime if the official or management of a corporation violates the law for the benefit of the corporation .

Criminal liability does not only mean 'rightfully sentenced' but also 'rightfully accused'. Criminal liability is first of all the state that is in the creator when committing a crime. Then criminal liability also means linking the circumstances of the maker with the actions and sanctions that are duly imposed (Muladi & Dwidja, 1991). Thus, the assessment is conducted in two directions. First, criminal liability is placed in context as a factual condition (conditioning facts) of punishment, thus carrying out preventive aspects. Second, criminal liability is a legal consequence (legal consequences) of the existence of these factual conditions, so it is part of the repressive aspects of criminal law.

In Indonesia, corporate responsibility as a legal subject is actually regulated in legislation, including:

1. Law Number 38 of 2009 concerning Post, Article 1 number (2)
2. Law Number 5 of 1984 concerning Industry, article 1 number (7)
3. Law Number 35 of 2009 concerning Narcotics, Article 1 number (10) and (11)
4. Law Number 10 of 1998 concerning Banking, Article 1 number (2)
5. Law Number 8 of 1995 concerning the Capital Market, Article 1 numbers (1) and (20)
6. Law Number 32 of 2009 concerning the Environment, Article 1 number (32)
7. Law Number 8 of 1999 concerning Consumer Protection, Article 1 number (3)
8. Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Act Number 20 of 2001 concerning Corruption, Article 1 number (1).
9. Law No.8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes, Article 1 number (9)

10. Law No.18 of 2013 concerning Prevention and Eradication of Forest Destruction, Article 1 number (21)

Law in its development is not only used to regulate the behavior that already exists in society and maintain existing patterns of habits, but the law also leads to its use as a means (Aristo, 2018). To carry out a purpose that has been chosen and determined it is necessary to have some means so that it can be realized in society. One of the policies that is sufficient is the law in various forms of legislation. Thus, "law effectively legitimates policy", or in other words, "proper attention to the use of law in effective" .

Based on the facts, that Law Number 8 of 1981 concerning the Criminal Procedure Code / KUHAP does not clearly describe how and what the prosecution and conviction process can be imposed on corporations as subjects of criminal law, underlies the need to conduct a series of research to answer that.

2. Method

This type of research is normative legal research or can be said to have similarities with doctrinal research (doctrinal research), which in legal research like this does not recognize field research (Burhan, 2001). This type of research was chosen based on an argumentative foothold that normative legal research has a unique way of working, which is *sui generis*, in helping to solve the legal problems facing society. This type of research is deliberately chosen based on research topics that seek to get answers to the justification of the application of law based on legal concepts and doctrines, where it is indicated that the science of law is understood as the science of rules (norms)

The approach followed is the statute approach, which is an approach carried out by reviewing both the rules and regulations relevant to the legal problems being addressed, and the litigation approach (The Court Approach), which is a method carried out by analyzing cases pertaining to the problem at hand and have been court rulings of lasting legal effect.

The data collection technique used in this legal research is an inventory of secondary data in the form of existing legal materials.

Data analysis techniques used in this study are using the principle of deduction logic that is drawing conclusions from a problem that is general to the concrete problems faced. The data obtained in this study are in the form of data derived from literature studies on primary, secondary and tertiary legal materials, analyzed by deduction logic, taking into account legal concepts as positive norms in the national legislative system..

3. Corporate Criminal Liability

Looking closely at history, the recognition of corporations as subjects of criminal law is considered to be able to carry out criminal acts and can be held accountable since 1653. The recognition of corporations as subjects of criminal law began when the legal system in England recognized that corporations could be held criminally responsible but only limited on minor offenses.

If we compare it with the legal system in the United States, the existence of a corporation as a subject of criminal law which is recognized as being able to commit a crime and can be held criminally liable is recognized in 1909 through a court decision.

In its decision, the American Supreme Court explicitly explained that corporate responsibility is based on the responsibility and control of the company on the country's economy. Where the company benefits from profitable transactions and the state is the injured party .

In further developments, the existence of corporate criminal liability in which corporations are judged to be able to carry out criminal acts and criminal liability is requested also develops in several countries such as the Netherlands, Italy, France, Canada, Australia, Switzerland, and several European countries which in turn are also developing in Indonesia.

In the Anglo-Saxon countries, corporate criminal arrangements in the United States refer to the Penal Code Model, the Official Draft and Explanatory Notes, issued in 1985 by The American Law Institutes. In 1909 in the case of *New York Central and Hudson River Railroad v. United States* , corporations have been accepted as subjects of criminal law. At the New York State Court using the doctrine of respondeat superior, namely that the corporation can be held liable if one of its employees commits a crime in the scope of work and the crime is committed for the benefit of the corporation.

"In *New York Central*, the court upheld the constitutionality of the Elkins Act, a federal statute regulating railway rates that imposed in sweeping language, the court rejected the corporation's contention that, as an entity, it could not commit a crime, finding congress had expansionary power to regulate interstate commerce that includes the authority to impose criminal sanctions. The court was untroubled by the legal fiction that an entity could not take criminal action nor possess criminal intent. Instead, the court adopted the civil law doctrine of respondeat superior, holding that corporations could constitutionally be convicted of crime when one of its agents had committed criminal act (1) within the scope of his or her employment, and (2) for the benefit of the corporation. That standard remains good law to this day.

The court in the United States believes that a corporation cannot commit a crime and is accountable for its actions criminally because the corporation has no malicious intent to commit the crime, but on the other hand the court also adopts the doctrine of respondeat superior to the civil law legal system which states that a corporation is Constitutionally liable criminal liability if one of the agents has committed a criminal act. The criteria for corporate crime are:

1. Criminal acts are carried out within the scope of their duties or work, This implies that the work carried out by such agents is a manifestation or manifestation of corporate actions;
2. The criminal acts committed by these agents provide benefits for the corporation.

In Indonesia, in addition to the non-stipulation of corporate criminal acts in the Penal Code, it is also found that the regulation of criminal liability towards corporations is also not yet fully regulated. In my opinion, the Criminal Code that we use today is a legacy of the Dutch colonial government that adheres to the Continental European system (civil law) so that in terms of regulating corporations as subjects of criminal law is somewhat behind compared to Common law countries.

In article 59 of the Criminal Code, criminal liability is very clear only regulates the subject of law in a natural sense. . In articles 398-399 of the Criminal Code , corporate responsibility is asked of the commissioners who had previously stated that the corporation was in a state of bankruptcy. From this statement, the acknowledgment

of corporate responsibility has not yet been fully regulated, regarding actions, responsibilities and how those responsibilities can be requested.

Because it has not yet been regulated on how corporate criminal acts and in what way corporate responsibility can be requested, this is a problem in the context of law enforcement itself, especially in terms of providing protection to the public. This is based on the large number of victims of these corporate criminal acts.

Basically the discussion related to corporate responsibility can be divided into three issues, as the opinion expressed by Christina de Maglie, namely:

"Corporate criminal liability currently exists in many legal systems, including the United States, England, Australia, Canada, Finland, Denmark, France, and in the European Corpus Juris. But these systems use models of corporate criminal liability that differ in three important respects:

- a. The choice of organizations is criminally liable;
- b. The typology of the offenses is attributed to corporate entities;
- c. The criteria for attributing responsibility to corporations "

In many legal systems in the world, such as those used by the United States, Britain, Australia, Canada, Finland, Denmark, France and other western European countries. The responsibility that is requested from the corporation comes from 3 (three) criteria, namely:

- a. Discussion on determining what kind of organization that can be held accountable;

To explain this, by using Christina de Maglie's ideas, the approach to thinking of the perpetrators does not distinguish between natural legal subjects and business organizations that are both legal and non-legal entities). In this approach all organizations can be held criminally responsible. There are no restrictions on what kind of organization can be held responsible. According to the author of the principle that encompasses this idea is *Geen Straf Zonder Schuld*, or no criminal without error (note article 41 (1) of Law Number 23 of 1997 concerning Environmental Management):

"Anyone who unlawfully intentionally commits acts that result in environmental pollution and / or damage, is threatened with a maximum prison sentence of ten years and a maximum fine of Rp. 500,000,000 (Five Hundred Million Rupiah) "

- b. What types of crimes are considered to be carried out by corporations;

To determine the types of criminal acts committed by corporations, then the types of criminal actions that will be held accountable are formulated in positive norms (statutory regulations). In this second approach, only organizations specifically specified in the legislation can bear criminal responsibility. This approach is in the opinion of the author in harmony with the sound of article 1 paragraph (1) of the Criminal Code: "An act cannot be convicted, except based on the strength of existing criminal law provisions (the principle of legality, *Nullum delictum noella poena sine praevia lege poenali*), where the corporation mentioned as a legal subject in Article 1 Paragraph (24) of Law No.23 of 1997 which explains that:

"People are individuals, and / or groups of people, and / or legal entities".

- c. What criteria are needed to attribute (attach) criminal liability to the corporation.

Attributing personal actions to corporations actually according to the author is an attempt to ascertain what corporate form (legal entity or not) stated in the statutory

regulations (legal formal) can be held responsible, this is an attempt (the state) to avoid confusion over responsibility distribution. criminal sanctions to corporations so that it becomes clear and clear that corporations are responsible for these criminal acts. Christina de Maglie, emphasized that France and Denmark are examples of countries that embrace this approach where only corporations with legal entities can be held to account.

3.1. The Nature of Corporate Liability in Criminal Law

In state administrative law, corporate recognition as a legal subject is evident in the granting of business licenses, which are scattered in many relevant laws and regulations, which in some cases determine the conditions for business licenses can only be granted if the applicant is a legal entity or a limited liability company, for example In Law Number 4 of 2009 concerning Mineral and Coal Mining, regulates corporate criminal liability in the mining sector. Where in Law Number 4 of 2009 regulates criminal acts in the mining sector, the perpetrators of which are business entities are the Regulations stated in Article 163 Paragraphs (1) and (2), the article reads:

- (1) In the case of a criminal offense as referred to in this chapter is carried out by a legal entity, in addition to imprisonment and fines against its management, the penalties that can be imposed on such legal entities are criminal fines with weights plus 1/3 (one third) of the maximum criminal provisions fines imposed.
- (2) In addition to criminal fines as referred to in paragraph (1), legal entities may be subject to additional penalties in the form of:
 - a. revocation of business license; and / or
 - b. revocation of legal entity status.

While those relating to business licenses can be found in Article 38 which reads:

IUP is given to:

- a. business entity;
- b. cooperative; and
- c. individual.

Expansion of corporations as legal subjects will also be found in Act No. 8 of 2010 concerning Prevention and Eradication of Money Laundering, which in this Law Corporations as legal subjects can be found in Article 1 numbers 9 and 10 which read:

- "9. Everyone is an individual or a corporation.
- 10 Corporations are organized groups of people and / or assets, both legal entities and non-legal entities. "

The form of criminal liability from the Corporation according to Law Number 8 of 2010 is as follows:

Article 6

- (1) In the event of the crime of Money Laundering as referred to in Article 3, Article 4, and Article 5 is committed by the Corporation, the crime is imposed on the Corporation and / or Corporate Control Personnel.
- (2) Criminal charges against the Corporation if the crime of Money Laundering:
 - a. performed or ordered by Corporate Control Personnel;

- b. conducted in the context of fulfilling the aims and objectives of the Corporation;
- c. performed in accordance with the duties and functions of the offender or the giver of the order; and
- d. done with the intention of providing benefits to the Corporation.

Article 7

- (1) The principal crime imposed on the Corporation is a criminal fine of no more than Rp 100,000,000,000 (one hundred billion rupiah).
- (2) In addition to criminal fines as referred to in paragraph (1), additional corporations may also be imposed with penalties in the form of:
 - a. announcement of the judge's decision;
 - b. freezing some or all of the Corporation's business activities;
 - c. revocation of business license;
 - d. dissolution and / or prohibition of Corporations;
 - e. confiscation of Corporate assets for the state; and / or
 - f. Corporate takeovers by the state.

Therefore, the principal punishment of a corporation is the principal crime in the form of fines and additional crimes as regulated in the law governing sanctions against the corporation.

3.2. Regulation of Corporate Criminal Sanctions in the Criminal Justice System

The Criminal Code (KUHP) clearly only stipulates natural human beings who are the subject of criminal acts, so that corporations that are part of legal subjects cannot be held responsible for real. Pay attention to the provisions of article 59 of the Criminal Code which states as follows:

"In cases where a violation is determined by the criminal offense against the management, members of the board of directors or commissioners, the board, members of the board of directors or commissioners who apparently do not interfere in the violation are not convicted".

Based on article 59 of the Criminal Code, normatively the corporate error is the responsibility of its management only, and cannot be attributed to the corporation itself.

So how does the mistake of distribution become a corporate error? The following explanation can be given:

Corporate criminal liability can be found in Law No. 31 of 1999 concerning Eradication of Corruption in particular in article 20 (1) which states that:

"In the event that a criminal act of corruption is carried out by or on behalf of a corporation, criminal prosecution and enforcement can be committed against the corporation and or its management".

Base on these rules, those who can be held liable include criminal liability corporations, corporate management, or the corporation and its management. In the event that a criminal complaint is committed against a corporation, the corporation is represented by the management. Management who represents the corporation can be

represented by others. In certain cases the judge may order that the administrator be brought to court (Article 20, paragraphs 3.4 and 5 of Law No. 31 of 1999).

The formulation in each of the laws governing corporations as subject to criminal law is indeed not the same, to find out about this, the following will be presented with the criminal sanctions contained in the distribution of the law.

Table 1. Corporate Criminal Liability Disparity in various Laws

No.	Constitution	Criminal Principal	Additional Crimes and Other Sanctions
1	Law No.31 of 1999 concerning Eradication of Corruption Crimes in conjunction with Law No.20 of 2001	A maximum fine of Rp. 1 billion plus a third of the principal crime	-Possession of goods used or obtained from criminal acts of corruption- Payment money replacement - closure of all or part of the company for a maximum period of 1 year - Revocation of all or part of certain rights or removal of all or part of certain profits, which has been or can be given by the Government to the convicted
2	Law No.8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes	A maximum fine of Rp 100 billion	- Announcement of the judge's decision - Suspension of part or all of the corporate business activities - Revocation of business license - Disbursement and / or prohibition of corporations - Expropriation of corporate assets for the state - Takeover of the corporation by the state
3	Law No.18 of 2013 concerning Prevention and Eradication of Forest Destruction	A maximum fine of Rp. 1 trillion	-Closure of all or part of a company In addition to criminal sanctions may also be subject to administrative sanctions: -Forced money-Revocation of permission
4	Law No.35 of 2009 concerning Narcotics	A maximum fine of Rp. 10 billion by weighting three times the principal crime	- Revocation of business license - Revocation of legal entity status
5	Perppu No. 1 of 2002 concerning Eradication of Terrorism Crimes	A maximum fine of Rp. 1 trillion	-Corporations involved in criminal acts of terrorism can be frozen or revoked license and declared as a prohibited corporation
6	Law No.9 of 2013 concerning the Prevention and Eradication of Criminal Acts on Terrorism Funding	A maximum fine of Rp 100 billion	- Suspension of part or all of corporate activity - Revocation of business license and declared as a prohibited corporation - Dissolution of the corporation - Expropriation of corporate assets for the state - Takeover of the corporation by the state - Announcement of court decisions
7	Law No.21 of 2007 concerning Eradication of Trafficking in Persons	A maximum fine of Rp. 5 billion with a weighting of three times the basic crime	- Revocation of business license - Expropriation of assets resulting from criminal acts - Revocation of legal entity status - Dismissal of management - Prohibition to management to establish corporation in the same business field
8	Law No.23 of 2002 concerning Child Protection as amended by Law No.35 of 2014 and updated with Perppu No.1 of 2016	A maximum fine of Rp. 5 billion plus a third of the basic crime	No additional criminal provisions for the corporation

9	Law No.31 of 2004 concerning Fisheries as amended by Law No.45 of 2009	A maximum fine of Rp. 20 billion plus a third of the basic crime	No additional criminal provisions for the corporation
10	UU no. 7 of 1992 concerning Jo Banking. UU no. 10 of 1998 Note: This law does not clearly refer to corporations but refers to the term "legal entity" article 26 paragraph (2)	A maximum fine of IDR 10 billion	Revocation of business license
11	Law No.32 of 2009 concerning Environmental Protection and Management	A maximum fine of Rp.15 billion is made up to one third of the basic crime	- Expropriation of profits from criminal acts - Closure of all or part of business premises and / or activities - Corrections due to criminal acts - Obligation to do what is neglected without rights - Placement of the company under the guideline for a maximum of three years
12	Law No.36 of 2009 concerning Health	A maximum fine of Rp 1.5 billion with a weighting of three times the basic crime	- Revocation of business license - Revocation of legal entity status
13	Law No.6 of 1983 concerning General Provisions and Procedures for Taxation as amended several times, the last being with Law No.16 of 2009 (UUKUP) Note: This law does not specifically mention corporations, but "taxpayers". Article 1 number 2 of the KUP Law: Taxpayers are individuals or entities, including taxpayers, tax collectors, and tax collectors, who have taxation rights and obligations in accordance with the provisions of tax legislation	Criminal tax provisions are regulated in Articles 38, 39, 39A, 40, 41, 41A, 41B, 41C, 42, 43, 43A Penalty penal sanctions in the UU KUP have determined the amount, some are only determined in the formulation. For example in Article 38: "Fined at least one time the amount of tax owed that is not or underpaid and a maximum of twice the amount of tax payable that is not or is not paid"	No additional criminal provisions for the corporation
14	Law No.5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition Note: This law does not specifically mention corporations, but "business actors". Article 1 number 5 of Law No.5 Year 1999: "Business Actors are every individual or business entity, etc ..."	A maximum fine of Rp 100 billion	- Revocation of business license - Prohibition of business actors that have been proven to have violated this law to occupy the position of director or commissioner for at least two years and for a period of five years. - Termination of certain activities or actions that cause harm to other parties.
15	Law No.8 of 1999	A maximum fine of Rp 2	-Possession of certain goods-

	concerning Consumer Protection Note: This law does not specifically mention corporations, but "business actors". Article 1 number 3 of Law No.8 Year 1999: "Business Actors are every individual or business entity etc."	billion	Announcement of the judge's decision- Payment of compensation-Orders to stop certain activities that cause consumer losses-Obligation to withdraw goods from circulation-Revocation of business license.
16	Law No.18 of 2012 concerning Food	The maximum fine is Rp. 100 billion with a weighting of three times the basic crime	- Revocation of certain rights - Announcement of the judge's decision
17	Law No.20 of 2002 concerning Electricity	A maximum fine of Rp. 1 billion plus a third of the principal crime	Article 62 paragraph (3) In addition to the criminal referred to in paragraph (2), holders of Electricity Supply Business Permits and Operational Permit holders are also required to provide compensation.
18	Law No.4 of 2009 concerning Mineral and Coal Mining	A maximum fine of Rp. 10 billion with weight plus one third of the basic crime	- Revocation of business license - Revocation of legal entity status - Expropriation of goods used in committing a crime - Expropriation of profits derived from a crime - Obligation to pay costs incurred due to a criminal offense
19	Law No.22 of 2001 concerning Oil and Gas	A maximum fine of Rp. 60 billion plus a third of the principal crime	- Revocation of rights or confiscation of goods used for or obtained from criminal acts in oil and gas business activities.
20	Law No.10 of 1995 concerning Customs as amended by Law No.17 of 2006	Article 108 paragraph (4) Against a legal entity, corporation or corporation, association, foundation or cooperative that is convicted with a criminal offense as referred to in this Law, the main criminal sentence imposed is always a fine of up to Rp1.5 billion if the criminal act is threatened with imprisonment, by not eliminating fines if the offense is threatened with imprisonment and fines	No additional criminal provisions for the corporation
21	Law No.11 of 2008 concerning Information and Electronic Transactions as amended by Act No.19 of 2016	A maximum fine of Rp 12 billion plus two-thirds of the basic crime	No additional criminal provisions for the corporation

3.2.1. Forms of Corporate Criminal Sanctions

In Perma No. 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations, relating to criminal sanctions as stipulated in article 10 of the Criminal Code, the principal forms of criminal acts against corporate crimes are in the form of additional fines and penalties. This is according to the author, the Supreme Court has considered the aspects of the legal position of the corporation as a criminal law subject, where the corporation may not be held liable for criminal acts of natural human beings such as murder, rape, which threatens criminal punishment in the form of imprisonment even if it is carried out by weighting then the threat is punishment death, which is the main criminal offense impossible to apply to the corporation. We can find this in Article 25 Perma No. 13 of 2016:

- (1) Judges impose penalties on Corporations in the form of principal and / or additional crimes.
- (2) The principal sentence which can be imposed on a Corporation as referred to in paragraph (1) is a criminal fine.
- (3) Additional penalties are imposed on the Corporation in accordance with statutory provisions.

This according to the author, corresponds to Criminal liability adopted in Article 20 paragraph (1) of the Corruption Act Number 31 of 1999 concerning Eradication of Corruption, which has been amended by Act Number 20 of 2001 is cumulative-alternative in nature, with the phrase "corporation and / or management "in the formulation of article 20 paragraph (1), then to prosecute and impose a criminal offense in the event that a criminal act of corruption is carried out by or on behalf of a corporation can be carried out against" corporation and management "or only against" corporation "or" management ".

Based on the various explanations above, a corporation can be held liable briefly based on the Corruption Act if it meets the right stages. The first stage is the fulfillment of the requirements for criminal acts of corruption deemed committed by corporations in accordance with Article 20 paragraph (2) of the Corruption Act and the fulfillment of offenses in accordance with the article used. Second, the fulfillment of the requirement that the corruption act is a crime that falls within the scope of a criminal act that can be carried out and held accountable for corporate criminal responsibility and there is no reason for a criminal offense, Third.

3.2.2. Corporate Criminal Law Enforcement

Law enforcement is not merely a logistic activity but involves humans with all its characteristics, so that it also raises certain characteristics in law enforcement because it is related to human behavior itself in understanding it.

Joseph Goldstein said that:

"The criminal law is one of many intertwined mechanisms for the social control of human behavior. It defines behavior which is deemed intolerably disturbing to or destructive of community values and prescribing sanctions which the state is authorized to impose upon person convicted or suspected of engaging in prohibited conduct " (Goldstein, 1960)

If we depart from the understanding of what is explained by Joseph Goldstein, then we will find that law enforcement involves social control and human behavior,

about what should be done by the state in upholding the values in society by placing sanctions as a controller for harmful or prohibited behavior.

Furthermore Joseph Goldstein explained that there are several concepts that can be done in law enforcement, namely:

1. Total Enforcement (Total law enforcement)

Here the law is enforced as the law says. This type of law enforcement is not possible, this is because law enforcement is limited by the provisions in criminal procedural law, ways to look for evidence, witnesses are restrictions on law enforcement. Therefore, this system is not possible. Provisions in material law also limit them, for example, the provisions regarding complaint offenses or commonly referred to as the area of no enforcement. Law enforcers are faced with a situation which makes it impossible to enforce the law as determined by law. Discretion also makes enforcement of this first type of law impossible.

2. Full Enforcement (Full law enforcement)

Law enforcers are limited by technical provisions, such as infrastructure, skills or various structural constraints such as a number of procedures needed to expose crime, for example there must be permission from a higher official, so even this second type of law enforcement is difficult to manifested. Full enforcement, is an excessive hope because it is impossible to realize. This is due to the blurring in the definition between crime in the sense of substance and the area of due process of law. Time limitations, personnel, and investigative devices such as facilities and infrastructure become its own constraints so that this type of law enforcement is also impossible.

3. Actual Enforcement (Actual law enforcement)

Law enforcement is actually and this is what actually happens everyday. Through the decision not to carry out full law enforcement, however the police determine the outer boundaries of actual law enforcement with full law enforcement, however it cannot be done, even inhumane in the current conditions in many cases which must be considered also concerns jurisdiction.

According to Muladi In total law enforcement, there are limitations determined by material criminal law, such as the existence of complaints from the victim in a complaint, so that these limits are called the area of no enforcement.

Total law enforcement after reducing the area of no enforcement causes full law enforcement (full enforcement), in the scope where law enforcement is expected to enforce the law to the maximum. However, this is an unrealistic expectation, because in reality there are limitations in the form of time, personal, so it is necessary to do discretion so that actual law enforcement is created as stated by Joseph Golstein above. Law enforcement is an organizational activity which is strictly determined by legal boundaries.

Law enforcement is also a systemic process, so criminal law enforcement appears as an application of criminal law (criminal law application) which involves various structural sub-systems in the form of police, prosecutors, courts and correctional institutions, including of course legal advisory institutions.

Researchers agree that the application of law must be viewed from 3 dimensions:

1. The application of law is seen as a normative system (normative system), namely the application of the whole rule of law that describes social values supported by criminal sanctions.
2. The application of law is seen as an administrative system (administrative system) which includes interactions between various law enforcement apparatuses which constitute the judicial sub-system above.
3. The application of criminal law is a social system (social system), in the sense that in defining criminal acts must also be taken into account various perspectives that exist in the strata of society

Table 2. Recapitulation of Corruption Crime Handling by the KPK 2004 – 2018

PENINDAKAN	Penyelidikan	Penyidikan	Penuntutan	Inkracht	Eksekusi
2004	23	2	2	0	0
2005	29	19	17	5	4
2006	36	27	23	14	13
2007	70	24	19	19	23
2008	70	47	35	23	24
2009	67	37	32	37	37
2010	54	40	32	34	36
2011	78	39	40	34	34
2012	77	48	36	28	32
2013	81	70	41	40	44
2014	80	56	50	40	48
2015	87	57	62	38	38
2016	96	99	76	71	81
2017	123	121	103	84	83
2018	164	199	151	106	113
Jumlah	1.135	887	719	578	610

source : <https://acch.kpk.go.id/id/statistik/tindak-pidana-korupsi>, edited

In its journey, law enforcement of corporate crime enters a new phase, where the principle of *Geen straf zonder schuld*, places various theories on corporate responsibility as its analytical tool, as a vehicle to prove corporate responsibility, which in turn will lead to equality before the law, or the principle of equality in the face of law is the basic principle used by the Corruption Eradication Committee (KPK), that is, each person (body / corporation) has the same responsibilities, rights and obligations and is equally equal before the law in the context of criminal liability.

4. Conclusion

The Essence of Corporate Crime in Law Enforcement of the Criminal Justice System is an effort to realize the legal objectives namely: 1. Certainty; 2. Justice; 3. Benefit; and 4. Guarantee / Protection. Criminal sanctions for corporations are the main criminal sanctions in the form of fines and additional penalties in the form of administrative sanctions. Enforcement of corporate criminal law can be done by utilizing abstracto legal means in the form of enrichment of rules relating to corporate responsibility in the distribution of laws governing corporate responsibility so that harmony occurs. Concreto law enforcement further empowers the legal structure (law

enforcement officers) in understanding the position of the corporation as a criminal law subject that can be held accountable.

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