

Research Article

Action Criminal Corporation In Criminal Law Formulation Policy Perspective

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Abstract. The role of corporations dominates everyday life, let alone increased privatization. It is no longer the country that provides the needs, but the corporation. Corporations can increase state and labor wealth, but the revolution of economic and political structures has grown large corporate corporations too dependent on corporations so that countries can be dictated to their interests. Based on the above background, then the problem arises how the current criminal law policy formulation in the face of corporate crime, then how the application of criminal law enforcement for this against corporations that conduct criminal acts and how the policy of criminal law formulation in the face of corporate criminal acts in the future which will come. The research method used in this thesis is normative juridical by using secondary data. Data collection is done by collect and analyzing library materials and related documents. Furthermore, the data are analyzed normatively qualitatively by way of interpreting and constructing statements contained in documents and legislation. The conclusion of this study is that the regulation of corporate criminal sanctions contained in the four laws is inconsistent. The inconsistency in the determination or imposition of the maximum penalty punished on corporations are also the absence of uniformity in determine when a corporation can be said to commit a criminal offense, uniformity in the arrangement of who May be accountable or prosecuted and convicted, US well as the formulation of a criminal type that May be punished on corporation that commits a crime.

Keywords: Corporation Criminal Action, Formulation Policy, Criminal Law.

1. Introduction

Corporations have been known in the business world for centuries. Initially, corporations only is a receptacle cooperation from a number of person Which have capital, to gain mutual benefit, and not as exclusive as today's corporations. The emergence of the revolution industry has push the more development corporation as body law And economic body . Perhaps the VOC, which was founded by the Dutch in 1, can be seen as a pioneer corporation (business) modern Which built with capital share Which still. 1

Corporation Lots give contribution development a country, especially in economic field , for example income country in form tax and also foreign exchange, so that impact corporations seem very positive. But on the other hand, corporations also not seldom create impact negative, such as pollution, depletion of natural resources, unfair competition, tax manipulation, exploitation of workers, producing products that are harmful to users, and fraud against consumers. 2

Corporations can increase a country's wealth and workforce, but a revolution in economic structure And political has grow strength corporation Which big causecountry too dependent on corporations so that the country can be dictated according to its interests. Giant companies No just own the wealth that thus the size, but Also own strength social and political in such a way that the operations or activities of these companies greatly affect the lives of every person from birth to death. Work life and health And security from part big resident controlled Good in a way direct or indirectly by these large companies. It has been proven that multinational corporations have exercised political influence over the government. in domestic and also in outside country in where company That operating. 3

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Loss consequence crime corporation often difficult estimated Because consequence Which the consequences are manifold, while the penalties of imprisonment or confinement and court fines often do not reflect the severity of their crimes. Some data can illustrate this. The FBI estimates loss Because theft And robbery in American average.8 billion dollar per year, temporary crime corporation range 200-5 billion dollar (among others) 100-4 billion crime dollar medical, 4 billion dollar in field automotive, 1 billion dollar fraud securities). Between 1992 until with year 2, Commission Securities US only succeed punish case from cases Which brought to court. Punishment confinement average perpetrator crime corporation only months, much smaller than the average sentence of months for first-time non-violent criminals (drunkenness, theft, etc.). 4

Corporate crimes, which are usually in the form of white collar crimes , are generally carried out by a company or legal entity engaged in business with various actions that are contrary to applicable criminal law. Based on the experience of various developed countries, it can be stated that the identification of these crimes

monopoly laws , fraud through computer, payment tax and excise, violation provision price, production goods which endanger health, corruption, bribery, administrative violations, labor, and environmental pollution.

The topic of corporate crime is indeed important to discuss, especially in relation to reform. Criminal Code Which Now script the last one Already until in office president. No It is undeniable that the role of corporations is currently very important. The role of corporations dominates everyday life, especially with the increasing privatization. It is no longer the state that provides needs, but corporations. Corporations can increase the wealth of the country and the workforce, but the revolution in economic and political structures has given rise to great corporate power so that the country too depends corporation so that country can dictated in accordance its interests. Because it's a corporation must own not quite enough answer. Various business For demand not quite enough answer corporations continue to be carried out, but are full of obstacles, some of them are not touched by the law. So that the weaknesses of the legal apparatus are not repeated, it is necessary to create comprehensive corporate accountability rules that cover all crimes.

Constitution the Then followed by Constitution others such as Law no. 7/Drt. 1 concerning Economic Crimes, Law no. 5 of 1 concerning Industry, Law no. 6 of 1 concerning Post, Law no. 9 of 1 concerning Fisheries as amended by Law no. 3 of 2, Law No. 7 Year 1 about Banking as Which has changed with Constitution No. 1 Year 1, Constitution No. 8 Year 1 about Market Capital, Law No. 1 of 1 concerning Customs, Law No. 5 of 1 concerning Psychotropics, Law No. 2 of 1 concerning Narcotics as amended by Law No. Number Year 2, Constitution No. 2 Year 1 about Management Environment as has changed with Constitution Number Year 2 about Protection and Management Environment Life, Constitution No. 5 Year 1 about Prohibition Monopoly and Unfair Business Competition, Law No. 8 of 1 concerning Consumer Protection, Law No. 3 of 1 concerning the Eradication of Criminal Acts of Corruption as has changed with Constitution No. 2 Year 2, Constitution No. 8 Year 2 about Prevention And Eradication Action Criminal Washing Money. Constitution special in outside Criminal Code Which arrange about accountability criminal corporation aiming so that corporations can be accountable his actions Which cause loss (crime corporation).

The rules in the above laws and regulations are formulated in such a way that can to ensnare corporation Which do act criminal, However provision criminal in legislation has so far been placed as ultimum remidium . But at the practical level, it is not on level policy. The problem is If criminal placed as ultimum remidium at a practical level, discrimination can easily occur in law enforcement so that even if it is proven to have violated a statutory regulation, criminal penalties will be imposed on corporations can ignored If decision court state field law other functioning more better than criminal law. 8 Corporations as non-state actors have also enjoyed impunity , namely immunity law on various crime Which done so that although corporation has

do crime, No There is business For process it in a way max.

Whatever type of crime is committed, it is the victim who always suffers the loss due to the crime that occurs. The victim also continues to grow along with the development of the crime. Thus also crime Which done by corporation Which cause victim crime corporations that suffer losses. The losses suffered by victims of corporate crime are difficult to detect. in a way direct like crime conventional on generally. According to Clinard And Yeager, in crimes normal, victim to know that Which concerned has become victim, but on crime corporation victim often No know that they has become victims of these crimes. 10

Victims of corporate crime, both directly and indirectly, need special attention from all parties involved in law enforcement efforts, especially those involving corporation. Matter This Because crime corporation very difficult For detected so that in its law enforcement is big

will likely experience obstacles. In addition, according to Arief Amrullah, the consequences that caused by crime corporation Far more awesome than consequence Which caused by conventional crimes, namely death or injury as a result of defective car production, determination price by corporation, And Still Lots victim other consequence crime corporation.

His stuttering apparatus enforcer law in take action firm to various the crime that done by corporation This very worrying Because impact crime Which caused by corporation very big. By Because That, effort Which done by team update Criminal Code Currently, it is emphasized that the perpetrators of crimes are not only people (naturalijk person), but also legal entities (recht person) which should be welcomed with joy. Through the renewal of the Criminal Code, the opportunity is opened For expand type crime Which is crime Which Also can carried out by corporations, ensuring who is responsible for the criminal acts of a corporation in a way criminal, as well as choose types criminalization Which most appropriate for corporation so that can provide a sense of justice for victims and create a deterrent effect . 12

Based on description in on, there is problems Which regarding with corporate crime , so the author tries to analyze it in the form of research with the title "Corporate Crime". Criminal Corporation In Perspective Policy Formulation Law Criminal ”

Based on the description above, the following research problem formulation is proposed: What is the current criminal law formulation policy in dealing with corporate crimes? ? How implementation of enforcement law criminal during this is against corporations that commit crimes? and How is the criminal law formulation policy in dealing with corporate crimes in the future?

2. Method Study

Method Approach

This research uses a normative legal approach which is of a library nature namely by take inventory And to study or analyze data secondary Which in the form of ingredients

law primary And material law secondary with understand law as device regulation or positive norms in the legal system that regulates human life. Besides That Also used approach comparative that used as consideration in determining the direction of future policy formulation.

1. Specification Study

Specification This research is analytical descriptive research that is study to describe And analyze problem Which There is And including in type study library research which will be presented descriptively.

Writing descriptive analytical This intended For to describe, describe, discuss and describe precisely and clearly regarding corporate crimes. A research that is descriptive mean to For

give data Which as thorough as possible Possible about man, other conditions or symptoms with the main aim of confirming hypotheses so that can help in strengthening old theories or in formulating new theories then interpreting and analyzing the collected data in order to find answers to the problems being researched.

2. Source Material Law

Study This including study law normative, so type data Which used is secondary data . The secondary data studied are as follows:

a. Material law primary namely material law Which tie.

Material law primary This consists of from regulation legislation in the form of law. This legal material is needed to obtain a legal basis or foundation to answer the problems being studied. Primary legal material Which used among others:

- 1) Book Constitution Law Criminal (Criminal Code);
- 2) Law Number of 1 concerning Environmental Management as amended by Law Number of 2 concerning Environmental Protection and Management;
- 3) Constitution Number Year 1 about Protection Consumer.
- 4) Law No. 3 of 1 in conjunction with Law No. 2 of 2 concerning the Eradication of Criminal Acts of Corruption;
- 5) Law No. 8 of 2 concerning the Prevention and Eradication of Money Laundering Crimes.

b. Material law secondary

Secondary legal materials are materials that provide explanations regarding legal materials. law primary. No tie, However can used as support from Which primary. These secondary legal materials are such as books, articles in papers or newspapers, magazines, internet media, and research results, works from legal circles on corporate crimes, especially the draft of the Criminal Code (RUU KUHP). Material law secondary This required use to obtain framework theoretical and conceptual framework of the problem being researched.

c. Material law tertiary give explanation more in depth about material law Primary and secondary legal materials include:

- 1) Encyclopedia Indonesia;
- 2) Dictionary law;
- 3) Dictionary Language English – Indonesia;
- 4) Dictionary big Language Indonesia.

3. Method Collection Data

In accordance with the data sources that use secondary data in this study, the data collection method is carried out through literature studies and document studies by collecting and analyzing library materials and related documents. Data good secondary ones concerning legal materials primary, secondary And tertiary obtained from literature studies and document studies.

4. Method Analysis Data

Data analysis in this study was carried out qualitatively, namely a research method that produces descriptive analysis data, namely what is stated by respondents in writing or verbally. oral And Also his behavior Which real investigated And studied as a Which intact.

The meaning of analysis here is intended as an explanation and interpretation . logical, systematic, logical systematically shows method think deductive-inductive And follow the rules orderly in writing scientific research reports. After research analysis finished, then the result is will served in a way descriptive, namely with to say And to illustrate What there is appropriate with problem Which researched. 1 From results the Then withdrawn a the conclusion that is answer on problem Which lifted in study This.

5. Validation Data

Validation in this study will use a triangulation approach, the research method with the triangulation technique is used with two assumptions, namely, first, at the approach level, the triangulation technique is used because of the desire to conduct research using two methods at once, namely, quantitative research methods and qualitative research methods. This is based on the fact that each method has certain advantages and disadvantages, and has different opinions and assumptions in viewing and responding to a problem. A problem when viewed using a method will be very different when viewed using a method that Therefore, it would be very useful if both different points of view were used together in responding to a problem. so that expected can produce Which more complete And perfect. The assumption that second underlying use technique triangulation namely, on level collection analysis data. In research using triangulation, researchers can emphasize qualitative methods, quantitative methods or can also emphasize both methods, if researchers emphasize qualitative methods, then quantitative research methods can be used as facilitators in helping to facilitate research activities and vice versa if using quantitative methods.

3. Discussion

1. Policy Formulation Law Criminal Moment This In Face Action Criminal Corporation

On part beginning from writing This has put forward that Criminal Code Which There is Now This not adhering to or confess corporation as subject act criminal, However development law in outside the Criminal Code in the form of Constitution act criminal special has adhere to principle corporation as subject of the crime.

Development the Also influential to development accountability corporate crime in terms of corporate crimes. Legislation that adheres to the corporate principle as subject act criminal among them there are in Constitution No. 7/Drt. 1 about Action Criminal Economy, Constitution No. 5 Year 1 about Industry, Constitution No. 6 Year 1 about Post, Constitution No. 9 Year 1 about Fishery

as Which has changed with Constitution No. 3 Year 2, Constitution No. 7 Years 1 about Banking as Which has changed with Constitution No. 1 In 1, Constitution No. 8 Year 1 about Market Capital, Constitution No. 1 Year 1 about Customs, Constitution No. 5 Year 1 about Psychotropics, Constitution No. 2 of 1 concerning Narcotics as amended by Law Number of 2, Constitution No. 2 years 1 about Environmental Management Life as has been amended by Law Number of 2 concerning Environmental Protection and Management, ... No. 5 of 1 concerning the Prohibition of Monopolies and Unfair Business Competition, Law No. 8 of 1 concerning Consumer Protection, Law No. No. 3 Year 1 about Eradication Action Criminal Corruption as has changed with Constitution No. 2 Year 2, Constitution No. 8 Year 2 about Prevention and Eradication of Money Laundering Crimes. Special laws outside the Criminal Code above regulate corporate criminal liability with the aim of making corporations accountable. his actions Which cause loss (crime corporation). 16

This of course has the consequence that the corporation may be held criminally responsible for this. victim crime corporation. From a number of regulation legislation Which

make a corporation as subject law act criminal, Writer focus study on Law No. 2 Year 1 about Management Environment Life as has changed with Law Number of 2 concerning Environmental Protection and Management, Law Number of 1 concerning Consumer Protection, Law Number of 1 in conjunction with Law Number of 2 concerning the Eradication of Criminal Acts of Corruption and Law Number of 2 concerning the Protection of the Environment and the Protection of the Environment. No.8 Year 2 about Prevention And Eradication Action Criminal Washing Money.

a. Law No. 2 of 1 concerning Environmental Management as amended by Law No. 3 of 2 concerning Environmental Protection and Management

Formulation corporation as subject act criminal there is on Chapter, Which reads :

(1) If an environmental crime is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions will be imposed on:

a. Body business; and/or

b. The person who gives the order to commit the crime or the person who acts as the leader of the activities in the crime.

(2) If act criminal environment life as meant in paragraph (1) done by persons, based on employment relationships or based on other relationships acting within the scope Work body business, sanctions criminal dropped to give order or leader in the crime without considering whether the crime was committed alone or together.

In the formulation of the provisions above, it can be seen that the term corporation is used to refer to a business entity, whether in the form of a legal entity or not, a limited liability company, association, foundation or other organization.

b. Constitution No. 8 Year 1 about Protection Consumer

Constitution Protection Consumer on in essence is form protection to consumer user product goods And service Which produced corporation, Which can become victims of crimes committed by corporations. The term perpetrator of a crime in this law is used to refer to the perpetrator of a crime, as stated in Article number which reads:

"Perpetrator business is every person individual or body effort, good which is shaped body

law and also No body law Which founded And domiciled or do activities in region law Country Republic Indonesia, Good Alone and also together by agreement to organize activity business in various field economy".

More carry on in Chapter determined that : "Prosecution criminal can done against business actors and/or their managers". From these provisions it can be seen that the Law on the Protection of Consumer has determine that corporation as subject act criminal. Constitution This provides guidelines for consumers and businessmen to be created a the relationship that walk with Good And each other profitable between perpetrator business with corporation. Therefore, Chapter III regulates the rights and obligations of consumers (Articles and) and business actors. business (Article and), which the complete formula as follows :

Chapter 4

Right consumer is :

a. right on comfort, security, And safety in consume goods and/or service;

b. the right to choose goods and/or services and to obtain said goods and/or services in accordance with the exchange value and conditions and guarantees promised;

- c. right on information Which Correct, clear, And Honest about condition And guarantee goods and/or service;
- d. right For heard opinion And his complaint on goods and/or service Which used;
- e. the right to receive advocacy, protection and appropriate efforts to resolve consumer protection disputes;
- f. right For get coaching And education consumer;
- g. right For treated or served in a way Correct And Honest as well as No discriminatory;
- h. right For get compensation, change make a loss and/or replacement, if goods and/or services that accepted No in accordance with agreement or No as should be;
- i. rights Which set up in provision regulation legislation other;

Chapter 5

Obligation consumer is :

- a. read or follow the information instructions and procedures for using or utilizing goods and/or services, for safety and security;
- b. in good faith Good in do transaction purchase goods and/or service;
- c. pay in accordance with mark swap Which has agreed;
- d. follow effort settlement law dispute protection
- a. consumer in a way appropriate.

Chapter 6

Right perpetrator business is :

- a. right For accept payment Which in accordance with agreement about condition And mark exchange traded goods and/or services;
- b. right For get protection law from action consumer
- a. Which in good faith No Good;
- b. right For do defense self duly in in settlement law dispute consumer;
- c. the right to rehabilitation Name good if proven in a way law that loss consumer not caused by the goods and/or services traded;
- d. rights Which set up in provision regulation legislation other.

Chapter 7

Obligation perpetrator business is :

- a. in good faith Good in do activity his efforts;
- b. give information Which Correct, clear And Honest about condition And guarantee goods and/or services as well as give explanation of use, repair and maintenance;
- c. treat or serve consumer in a way Correct And Honest as well as No discriminatory;
- d. guarantee the quality of goods and/or services produced and/or traded based on applicable goods and/or services quality standards;
- e. provide consumers with the opportunity to test and/or try certain goods and/or services and provide guarantees and/or warranties for goods manufactured and/or traded;
- f. give compensation, change make a loss and/or replacement on loss due to use, use and utilization of traded goods and/or services.
- g. Give compensation, change make a loss and/or replacement if goods and/or service Which received or utilized not in accordance with the agreement.

c. Law No. 3 of 1 in conjunction with Law No. 2 of 2 concerning the Eradication of Criminal Acts of Corruption

In the considerations section of the Corruption Crime Law, it has been stated that criminal acts of corruption are very detrimental to state finances or the state economy and hinder national development, as well as hindering the growth and continuity of national development which demands high efficiency so that it must be eradicated in order to realize public fair And prosperous based on Pancasila And UUD 1945. By Because Therefore, the law on the eradication of criminal acts of corruption continues to be updated so that it can be applied in a way effective in prevention And eradication act criminal corruption.

In Law no. 3 of 1 Jo. Law no. 2 of 2 which replaced it Constitution No. 3 Year 1 about Eradication Action Criminal Corruption contains new provisions that were not previously regulated in previous laws, including :

- 1) Subject act criminal in the form of corporation as set up in Chapter paragraph (1).
- 2) With the burden of proof reversed, the accused has the right to prove that he did not do act criminal corruption, as set up in Chapter Which sounds :
 - (1) Defendant have right to prove that he No do criminal acts of corruption.
 - (2) In right defendant can prove that He No do act criminal corruption, then proof the used by court as the basis For stated that the charges were not proven.
- 3) The threat of heavier criminal sanctions in the form of life imprisonment and/or a maximum fine Rp. 1,000,000,000 (One billion rupiah), as set up in Chapter, which sounds : "Criminally convicted with criminal prison lifelong life or criminal prison most short (four) years and a maximum of (twenty) years and a fine of at least Rp. 200,000,000 (two hundred million rupiah) And most Lots Rp.1,000,000,000 (One billion rupiah)"
- 4) Gratification as act criminal, as set up in Chapter 12B paragraph (1) Which sounds : "Every gratification to employee country or organizer country considered accept bribe, if "

The definition of a corporation is contained in Article number which reads: "A corporation is a group of people and/or assets that are organized, whether they are a legal entity or not.

body law". Formulation corporation as subject act criminal set up in a way firm in Article paragraph (1), in where determined that : "In matter act criminal corruption done by or

on Name a corporation, so demands And the fall criminal can done to corporation and/or its management". From these provisions It is clear that corporations can be prosecuted and sentenced to criminal penalties if they are proven to have committed a criminal act of corruption.

Constitution Eradication Action Criminal Corruption in a way firm has determine criminal acts that can be said to be criminal acts committed by corporations. This is regulated in Article paragraph (2), which reads:

"Act criminal corruption done by corporation if act criminal the done by people based on employment relationships or other relationships, acting in the corporate environment either alone or together".

Corporations can be charged with criminal responsibility if the individual who committed the crime of corruption has an employment relationship or a relationship other than an employment relationship with the corporation. Regarding the criminal penalty that can be imposed on the corporation itself, it is in the form of a fine as regulated in Article paragraph (7), which reads: "The main criminal penalty that can be imposed on the corporation itself is ... can dropped to corporation only criminal with fine, with provision maximum penalty plus 1/3 (one third)".

Besides That, corporation Also can sentenced criminal addition as set up in Chapter which includes:

- 1) robbery goods move Which tangible or Which No tangible or goods No moving that used And obtained from act criminal corruption, including company owned by the place where the crime of corruption was committed, as well as the price of the goods replacing the goods;
- 2) payment of compensation in the maximum amount of assets obtained from criminal acts of corruption;
- 3) closing business or part company For time most long (One) year;
- 4) revocation of all or part of certain rights or elimination of part of certain benefits, Which has or can given by government to convict.

d. Constitution No.8 Year 2 about Prevention and Eradication of Money Laundering Crimes

The formulation of corporations as subjects of criminal acts is contained in Article paragraph (1), which reads: : "In matter act criminal Washing Money as meant in Chapter, Chapter, and Article are committed by a Corporation, criminal penalties shall be imposed on the Corporation and/or Controlling Personnel. Corporation." Provision it shows that Law-Invite Action Crime of Money Laundering Money has determine corporation as subject act criminal And can sentenced criminal sanctions.

Constitution This Also has determine When a act criminal can it is said as a follow up criminal Which done by corporation. Provision This set up in Chapter paragraph (2), in where it is determined that:

"Criminal dropped to Corporation if act criminal Washing Money :

- 1) done or ordered by Personnel Controller Corporation;

- 2) done in frame fulfillment Meaning And objective Corporation;
- 3) done in accordance with task And function perpetrator or giver command; or
- 4) done with Meaning give benefit for Corporation.”

With thus, corporation new can burdened accountability criminal if The crime of money laundering committed by the management is within the scope of its business, in accordance with the corporation's articles of association.

The principal criminal penalties that can be imposed on corporations that carry out money laundering activities are regulated in Article of the Law on the Crime of Money Laundering, which is formulated as follows:

complete as following :

(1) Criminal main Which dropped to corporation is criminal fine most many Rp. 1,0,0,0.0 (one hundred billion rupiah).

(2) In addition to the criminal fines referred to in paragraph (1), corporations may also be subject to: additional penalties are imposed in the form of:

- a. announcement decision judge;
- b. freezing part or all over activity business corporation;
- c. revocation permission business;
- d. dissolution corporation and/or prohibition Corporation;
- e. robbery asset Corporation For country, and/or
- f. takeover Corporation by country.

In revision Constitution This, criminal main in the form of criminal fine has arranged regarding alternatives criminal if criminal fine No implemented by personnel controller corporation. Matter This is stated in Article which states that: "In the event that the convict's assets are not sufficient to pay the fine criminal fine as meant in Chapter, Chapter, And Chapter, criminal the fine replaced with criminal confinement most long (One) year (four month)."

Meanwhile, if the corporation does not carry out the criminal fine as an alternative, then according to the provisions of Article, the corporation may be subject to:

(1) In the event that the Corporation is unable to pay the criminal fine as referred to in referred to in Article paragraph (1), criminal fine the replaced with robbery Treasure Riches owned by Corporation or Corporate Controlling Personnel with a value equal to the criminal fine imposed.

(2) In matter sale Treasure Riches owned by Corporation Which seized as referred to in paragraph No sufficient, criminal confinement replacement penalty dropped to Corporate Control Personnel with taking into account the fines has paid.

2. Implementation Law enforcement Criminal During This Against Corporations Who Commits a Crime

The principle of no punishment without fault does not need to be applied too rigidly in accountability. corporation remember aspect victimologist crime corporation Which so widespread. Rigid application of criminal liability for corporations can be a criminogenic factor that will increase the prevalence of corporate crime.

Subjective conditions in criminal responsibility will include the ability to be responsible, intent/negligence and No There is excuse for forgiveness. If This will still used, then: first, in criminal responsibility the concept of functional behavior must be accepted (functional fatherschap). Characteristics typical from behavior functional This that is action physique from Which one (the Actually do) produce action functional to Which other. In this way, the responsible capacity of people who act for and on behalf of the corporation is transferred. become ability responsible corporation as subject act criminal. Regarding the concept This, Start in a way concrete recommend For see whether action in accordance with the intention of statute company And or with policy company, And Which most important is if the action is in accordance with the scope of the company's work. In other words, if the prohibited act is liable to be borne by the company, then the act must be carried out in the context of carrying out the duties and/or achieving the goals of the company. Second, the problem of corporate intent and negligence can covered in political company or real activities of a company. It can also be explained by looking at intent or negligence from administrator corporation in political company, or is at in activity Which real from a company certain. So intentional or negligence from corporation must be detected through atmosphere

the mental attitude that applies to the corporation and to the management acting on behalf of the corporation.

Third, problem reason forgiving for corporation still applicable with adopt reason forgiving for natural person. Matter This as consequence from error administrator Which act For And on behalf of the corporation is attributed to corporate error, so that the elimination of the management's error due to forgiving reasons also becomes the elimination of the corporation's error. Meanwhile, in Article of the Draft Criminal Code (Year 2) mentioned that reason forgiving Which there is on perpetrator act criminal who acts For And on Name corporation Which his accountability charged to the corporation will to abolish accountability criminal for the perpetrator. For corporation reason forgiving also mentioned applicable throughout matter That submitted moreover formerly by corporation. Sound more Chapter The Draft Criminal Code Bills are as follows:

Excusive reasons or justification reasons that can be submitted by the maker acting for and/or on behalf of the corporation, can be submitted by the corporation as long as the reasons are directly related to the act of which the corporation is accused.

Policy legislative occupy position vital And strategic in put a sanctions for certain crimes. If legislative policies related to the imposition of certain sanctions are not carried out rationally, it will result in chaos in law enforcement practices, especially on stage application And stage execution Because policy the No oriented to the destination Which want to achieved. By therefore, placement a sanctions certain Which threatened for certain crimes must show the nature, purpose and function of the sanction so that the policy legislative will support objective Which want to achieved. In here it is importance a understanding of the system of sanctions in criminal law because only then can crimes that occur in society be overcome. 17

Barda Nawawi Arief stated that the Criminal Code currently in force uses two formulation systems. threat criminal that is system formulation single And system alternative formulation. The single formulation system, namely imprisonment is formulated as the only type of criminal sanction for the crime in question, while the alternative formulation system is a prison sentence that is formulated in a way alternative with types of sanctions criminal other based on sequence type the heaviest to the lightest sanctions. 18

3. Policy Formulation Law Criminal In Face Action Criminal Corporation In Future

Arrangement about accountability criminal corporation moment This Still is at in outside Code of Law Criminal Code (KUHP). This is because it is not adhered to the principle of corporations as subjects of criminal acts in the current Criminal Code, because the subjects of criminal acts regulated in Criminal Code Now just man or person individual. Arrangement kind of This more furthermore, it has legal consequences in the form that only individuals

can be burdened with criminal responsibility. And sentenced criminal, whereas corporation No.

Along with development public, felt very need For put corporations as subjects of criminal acts so that they can be charged with criminal responsibility if they commit crimes, so that corporation in running his business do not carry out any violating actions provision law And harm public general. By Because That, arrangement corporation as subject act criminal following accountability the crime placed in outside Criminal Code in order to accommodate the arrangements as mentioned above, and of course while still referring to the Criminal Code as a general guideline.

Several laws and regulations outside the Criminal Code have determined corporations as subjects act criminal, so that prosecution And the fall criminal can done to corporation. Some regulation legislation the between other, Constitution No. 7 Drt Year 1 on Criminal Offenses Economy, Law No. 8 of 1 concerning the Market Capital, Law No. 5 of 1 concerning Psychotropics, Law No. 2 of 1 concerning Narcotics as has changed with Constitution Number Year 2, Law No. 2 Year 1 about Management Environment Life as has changed with Law Number of 2 concerning Environmental Protection and Management, ... No. 5 Year 1 about Prohibition Monopoly And Competition Business No Healthy, Law No. 8 of 1 concerning Consumer Protection, Law No. 3 of 1 concerning Eradication Action Criminal Corruption as has changed with Law- Invite No. 2 of 2, Law no. 8 of 2 concerning Prevention and Eradication of Money Laundering Crimes.

The above laws and regulations have determined the corporation as the subject act criminal. However thus, whether formulation terms and conditions in inside has can be used as a basis for imposing criminal liability on corporations, especially liability corporation to victim crime corporation. Formulation Corporate criminal liability is of course not enough just by mentioning corporations as the subject of criminal acts, but must also determine the rules regarding the criminal system and its punishment, so that an effort is needed to reorient and reformulate criminal liability for victims of corporate crimes in the future.

Reorientation And reformulation accountability criminal to victim crime corporations include provisions regarding:

1. provisions regarding when a act criminal can be said as a follow up the crime that carried out by corporations;
2. Who Which can sued And sentenced criminal on crime Which done corporation;
3. types sanctions Which in accordance with subject act criminal in the form of corporation Which oriented in providing compensation to victims.

The formulation of these provisions must be strictly regulated to minimize the possibility of corporations escaping responsibility for the crimes they commit. It is impossible to provide compensation for losses suffered by victims by corporations, if the corporation in question cannot be ensnared, prosecuted, and sentenced to criminal penalties based on existing laws and regulations.

4. Closing

Conclusion

From description Which has put forward in chapters previous so can obtained conclusions regarding the following:

1. Policy formulation law criminal moment This in to uphold act criminal corporation No regulated in The Criminal Code which There is Now. Criminal Code No to adhere to or confess corporation as subject of criminal acts, but legal developments outside the Criminal Code in the form of special criminal laws have adopted the principle of corporations as subjects of criminal acts. Of the four laws and regulations that researched by the Author,

namely Law Number years 1 concerning Environmental Management as amended by Law Number of 22 about Protection And Management Environment Life, Constitution Number Years 1 about Protection Consumer, Constitution Year 1 Joe. Law No. 2 Year 2 about Eradication of Crime Criminal Corruption And Constitution No.8 Year

2 concerning the Prevention and Eradication of Money Laundering Crimes, it can be concluded that the provisions on sanctions regarding corporate crimes contained in the four laws are inconsistent.

2. The implementation of corporate criminal law enforcement so far has been that judges most often impose sentences fine, However thus policy legislative about sanctions criminal fine during This less able support implementation criminal fine That in a way effective Because in regulation legislation in outside Criminal Code there is inconsistency about amount fine Which will imposed.

3. Policy formulation law criminal in face act criminal corporation in time Which It is hoped that in the future there will be more uniformity and consistency in determining when a crime is said to be a crime committed by a corporation, who can be prosecuted and sentenced for corporate crimes, and what types of sanctions are appropriate for corporations that commit crimes. crime, as well as in frame prevention And countermeasures crime corporation itself .

Suggestion

1. Do reorientation And reformulation policy formulation in regulation legislation that there has been, good that is the Criminal Code and Draft Criminal Code as general guidelines, as well as special laws outside the Criminal Code, relating to corporate criminal liability. Reorientation and reformulation the covering provision about When a corporation can it is said to do something criminal, provision about Who Which can sued And sentenced criminal on crime committed by corporations, as well as provisions regarding the types of criminal acts that can be imposed on corporations.

2. It must be explicitly regulated in the laws and regulations that determine corporations as subjects of criminal acts regarding when a corporation can be said to have committed a crime. Likewise, the provisions regarding who can be prosecuted and sentenced to criminal penalties on the crime that done corporation must set up in a way firm, so that corporation No can avoid on crime Which he did with take shelter behind administrator corporation.

3. Types of sanctions that can be imposed on corporations in relation to criminal liability corporation to victim crime corporation must set up in a way firm And consistent. Besides that also, types of criminal sanctions must be adjusted to the corporate capacity as subject of crime No people. And that the most important thing is, the sanctions that given No only oriented towards punishment of corporate entities, but must also pay attention to fulfillment and recovery rights victim in the form of payment change loss on crime Which done by corporations. So that so that the provisions criminal can be applied to corporations that commit crimes.

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