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Corporate criminal responsibility in corruption crimes

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Abstract
This study aims to explain corporate responsibility in criminal acts and corporate criminal responsibility in acts of corruption. The type of research that the author uses is normative juridical, normative juridical research where law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate. Corporations can be said to carry out the criminal act of corruption as stipulated in Article 2 paragraph (1) of the PTPK Law if people in a corporation, either management or employees of the corporation, or other people based on power or delegation of authority from the corporation, either alone or jointly carry out corporate activities have unlawfully enriched the corporation itself or other individuals or corporations where such actions could be detrimental to the country's finances or economy. In the event that corruption is committed by and on behalf of a corporation, there should only be two alternatives that can be made accused or those that can be prosecuted and sentenced, namely the corporation or the management representing the corporation. Corruption crimes committed by or on behalf of corporations can only be subject to fines. Based on this, the formulation of Article 2 paragraph (1) which states "everyone" in this case an individual or corporation can be sentenced to imprisonment and a fine is not appropriate.

Keywords: corruption, corporations, crime

Introduction

Corporations as subjects of criminal law are regulated in laws outside the Criminal Code or in special criminal laws. The acceptance of corporations as subjects of criminal acts in Indonesia was first stated by Emergency Law Number 17 of 1951 concerning Hoarding of Goods, which in Article 11 of the Law explains that legal entities can be punished separately from their management. Corporations as subjects of criminal law were then strengthened by the issuance of Emergency Law Number 7 of 1955 concerning Investigation, Prosecution of Economic Crimes (hereinafter abbreviated as UUTPE), which in Article 15 of the Law explains that legal entities, corporations, associations of people or foundations are subjects. penal law.

The emergence of the concept of corporate criminal responsibility (the corporation as the perpetrator of a crime), was triggered by the increasing number of incidents that caused disaster for society because of the actions of corporations through the actions of the corporation's controlling personnel. In fact, the disaster that occurred was not only limited to local communities but also to the detriment of the international community.

The intended corporate criminal responsibility is the corporation as the maker and the party that benefits from the crimes committed. This conception must be distinguished from the perpetrators of criminal acts outside the corporation, and the corporation is only a means of committing crimes, and the proceeds of crime obtained are in accordance with the role of the perpetrators (criminal corporation) or criminal acts committed by management, employees or employees of the corporation against the corporation itself. , so that the corporation is an object of crime (crime against corporation).

Based on the conception of corporate criminal responsibility, it is the corporation as the perpetrator of the crime and who benefits from the crime committed by the corporation itself, it is necessary to transfer the mistakes and criminal acts of the management, employees or employees of the corporation to become the mistakes and criminal acts of the corporation.

Basically, corporate crime is commonly identified with various kinds of crime terminology, such as occupational crime, organized crime, professional crime, crime against corporations, and corporations. as a means to commit crimes (criminal corporation).

Corporate crime is an organizational crime. So wide, the distribution of responsibilities and the hierarchical structure of large corporations can help develop conditions that are conducive to corporate crime. The very complex anatomy of corporate crime and the wide spread of responsibility lead to economic motives, which are reflected in corporate goals (organizational goals) and contradictions between corporate goals and the interests of various parties, such as compatriots (competitors), laborers, consumers, society and the state. Based on these motives, the victims of corporate crime are on a very broad spectrum (Lilik Mulyadi, 2013).

Based on the various explanations above, in short a corporation can be held accountable under the Corruption Crime Law if it fulfills the appropriate stages. The first stage is the fulfillment of the requirements for a criminal act of corruption which is considered to have been committed by a corporation in accordance with Article 20 paragraph (2) of the Corruption Law and the fulfillment of the offense in accordance with the article used. Second, the fulfillment of the requirements that the criminal act of corruption is a criminal act that is included in the scope of a criminal act that can be committed and held responsible for corporate crime and there is no reason to write off the crime. Third, the fulfillment of proof of guilt through the attribution of mens rea from a person who has a work relationship or other

relationship commits a crime as referred to in the second stage above becomes a mens rea corporation with a form of error in accordance with the offense committed provided that the mens rea can indeed be attributed as mens rea corporation.

Furthermore, for criminal acts that place the corporation as a legal subject for the perpetrators of corruption and have criminal responsibility and for that they can be prosecuted and sentenced under the provisions of Article 20 paragraph (7) of the Corruption Crime Act, the main punishment that can be imposed is in the form of fines with the maximum penalty for fines is increased by 1/3 (one-third) and can be subject to additional punishment based on the provisions of Article 18 paragraph (1) and paragraph (2) of the Corruption Law, namely in the form of:

a. Confiscation of tangible or intangible movable property or immovable property used for or obtained from criminal acts of corruption;
b. Payment of replacement money in the same amount as the assets obtained from the crime of corruption;
c. Closure of all or part of the company for a maximum period of 1 (one) year;
d. Revocation of all or part of certain rights or elimination of all or part of certain benefits which have been or may be given by the government to convicts.

Thus, the punishment of corporations as legal subjects for perpetrators of corruption is the main punishment in the form of fines which are aggravated by adding 1/3 (one third) of the maximum threat of fines and additional penalties in accordance with the provisions of Article 18 paragraph (1) and paragraph (2). Corruption Crime Act. The problem that arises is what if the convicted corporation does not want to pay the principal sentence in the form of fines based on the judge's decision.

As explained above in Law Number 31 of 1999 concerning the Eradication of Corruption Crimes which has been amended by Law no. 20 of 2001 only regulates the main punishment against corporate actors in the form of fines and there is no further regulation in the law if the convicted corporation does not want to pay the fine. This is different from the criminal formulation in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes which also regulates criminal acts committed by corporations and the main criminal threat is also in the form of fines, but in the law on money laundering regulates further if the fine is not paid by the convicted corporation, so that the regulation of criminal sanctions is clearer

This research is very important to do because there is still very little material for discussion that focuses on the subject matter of corporate law as a subject of criminal law in Indonesia which generally discusses theories which in practice are no longer relevant in accordance with the development and complexity of problems related to the corporation. This research will discuss theories relating to the subject of corporate law and will conduct a study of who the legal subjects are meant by a corporation which is defined as "an organized collection of people and/or wealth both incorporated and not incorporated." Next, an analysis will be carried out regarding the implementation of corporate criminal responsibility both in laws and regulations and in court decisions, and how the ideal model of corporate responsibility as perpetrators of corruption should be because talking about criminal responsibility is the heart of criminal law.

Research Menthod

The type of research that the author uses is normative juridical, normative juridical research where law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as rules or norms which are benchmarks for human behavior that are considered appropriate (Amiruddin & Zainal Asikin , 2012). In normative legal research includes research on legal principles, research on legal systematics, research on the level of legal synchronization, research on legal history and research on comparative law (Soerjono Soekanto, 2012). According to Peter Mahmud Marzuki, there are 5 (five) approaches that can be used in legal research, namely:

a. The case approach;
b. Statutory approach;
c. Historical approach (historical approach);
d. Comparative approach;
e. Conceptual approach (conceptual approach)

The approach used to answer the problems in this writing includes the statutory approach, which will be seen in practice the regulations governing corporate crime and how it is held accountable. Besides using the statutory regulation approach, this research also uses a case approach. This case approach is needed to see the implementation of legal norms and rules in real legal practice contained in court decisions or jurisprudence.

Sources of research data are generally distinguished between data obtained directly from the public (primary data) and from library materials (secondary data). Normative research methods only recognize secondary data. The secondary data consists of primary legal materials, secondary legal materials, and tertiary legal materials (Harry Arfham Mohd. Din, 2019).

Result and Discussion

A. Corporate Responsibility in Criminal Acts

Discussing the issue of corporate criminal responsibility cannot be separated from criminal acts. In the science of criminal law there are two streams that discuss between criminal acts and criminal responsibility. The first stream is the monoistic school which views that criminal acts also contain accountability. One of the adherents of this flow is Simons. Simons formulated a crime (strafbaar feit) in the sense of "een strafbaar gestelde, onrechtmatige met schuld verband staande handeling van een toerekeningsvatbaat person", whose elements are: 1). Human action (positive or negative; doing or not doing or allowing); 2). Threatened with criminal (strafbaar gesteld); 3). Against the law (onrechmatig); 4). Done with error (met schuld in verband staand); 5). By a person who is capable of being responsible (toerekeningsvatbaar person);

From the definition of a crime put forward by Simons, it can be seen that the formulation of a crime already contains the problem of criminal liability. The second flow is the dualistic flow. Followers of the dualistic school understand that in the sense of a crime it does not include the issue of accountability, because a crime only refers to the prohibition of an act (Dwidja Priyanto, 2004). One of the adherents of this dualism is Moeljatno who separates the notion of a criminal act from criminal responsibility or criminal liability (Sudarto, 1990).

From the formulation above, it can be seen that in criminal liability there is something that is important to prove, namely the existence of a fault in the person who committed the act or crime, thus in the context of accepting the corporation as a legal subject in criminal law which according to Mardjono Reskodipuro is an extension of the notion who is the perpetrator of the crime (dader).

Basically, from the perspective of criminal law and criminology, the perspective of corporate crime in general can take the form of, First, crimes are committed for the benefit of the corporation itself and not the other way around (crimes for corporation). Second, it is carried out by employees of the corporation where they work (crimes against corporation/employeers crimes). Third, corporations are deliberately formed, established and controlled as a means of committing crimes (criminal corporation/criminal organization).

Corruption is also a crime that does not only occur in the public sector. However, it also occurs in the private sector. Unlawful acts committed by employees, directors, commissioners, shareholders, and/or parties affiliated with banks that cause state financial losses are grounds for imposition of criminal acts of corruption (Syahril, Mohd.Din, 2017).

From the perspective of Indonesian positive law regulations (ius constitutum/ius operatum), especially in the context of the Criminal Code (KUHP), there is no known dimension of corporate crime as a legal subject because it adheres to the principle of "universitas delinquere non potest" or "societies delinquere non potest". where this principle was put forward by Poppe Inocent IV, namely a legal entity (rechtperson) cannot commit a crime. These aspects and dimensions are a reaction to the practice of absolute power before the French Revolution where "collective responsibility" for one's mistakes is possible. The logical consequence is that the regulation is outside the Criminal Code as part of a special crime. background on the principle of legal entities cannot be punished because corporations do not have a heart and are not in the form of a human body so that it is impossible to act and cannot make mistakes. In the official explanation (memorie van toelichting) the provisions of Article 59 of the Criminal Code stated that a crime can only be realized by humans, and fiction about legal entities does not apply in criminal law. Therefore, the perpetrators of crimes that can be held accountable only to humans/persons (natuurlijke persoon), because corporations cannot do anything, except by their management as in the Latin adage which reads "corporatio non dicitur aliquid facere nisi id sit collegialiter deliberari, etiamsi major pars id fasciat.". However, from provisions outside the Criminal Code in caqu specific criminal acts already regulate the existence of corporations as perpetrators of criminal acts.

Romli Atmasasmita stated that the responsibility of a corporation as the subject of a crime and can be held accountable criminally is based on abstraction-logical thinking referring to empirical experience that corporations have been used as a means to carry out a crime or used as a means to accommodate the results of a crime and corporations are considered has benefited from an act that has harmed the interests of other people or other corporations. The development of such thinking simultaneously sets aside the classical doctrine, "societas delinquere non potest", and reinforces the theory of identification or the theory of functional actors (functionale dader).

Furthermore, in determining who is responsible for corruption crimes committed by corporations, whether directors, or other management, because not all crimes committed by corporations can be held accountable to corporations unless there is an order or are carried out by the directing mind of the corporation and must meet several criteria, namely (Linda Ulfa, Mohd. Din: 2017):

1. Commission or commission crimes committed by corporate personnel or within the corporate structure must act as a directing mind.
2. The crime was committed within the framework of the purposes and objectives of the corporation.
3. There is an order in the context of duties in running the corporation.
4. Criminal acts are committed with the intention of providing benefits to the corporation.
5. There is no justification for the perpetrator as a directing mind.

In reality it is known that corporations are run by humans or in other words the actions or actions of corporations are manifested by humans (Management or other people). So the first question is how is the legal construction that actions committed by management or other people can be declared as corporate actions against criminal law? The second question is how is the legal construction that corporations can be declared to have made mistakes and therefore can be held accountable and punished? This is because in Indonesian criminal law it is known that the principle cannot be punished if there is no mistake (Mordjono Resodipuro, 1994). The corporate accountability system contained in several laws and regulations consists of the corporate management as the maker and the administrator who is responsible, the corporation as the maker and as the responsible person.

1. Corporate Managers As Responsible Makers and Managers

This system is in line with the development of corporations as subjects of phase I criminal law, where legal experts still agree on the principle of "universitas delinquere non protest" (legal entities cannot commit crimes). This principle has long been in force throughout Continental Europe, as have many individual criminal law opinions of the classical school in force at that time. That only those who are subject to criminal acts as explained in Memorie van Toelichting (MvT)'s explanation of Article 59 of the Criminal Code which reads "a crime can only be committed by humans.

Von Savigny, the proponent of fiction theory, stated that corporations are legal subjects, but this was not recognized in the field of criminal law, because at that time the Dutch government was not willing to adopt the teachings of civil law into criminal law (Hatrick Hamzah, 2012).

If the Criminal Code in force in Indonesia is considered, it can be seen that Indonesia follows the principle of society/university delinquere non protest, this can be found in the provisions of Article 59 of the Criminal Code. interfering with an offense is not punished.

2. Corporations are responsible as creators and administrators

In criminal law that is spread outside the Criminal Code, it is regulated that corporations can commit criminal acts, but the responsibility for this is borne by the management. This can be seen in Article 35 of Law no. 3 of 1982 concerning Compulsory Company Registration. Article 35 paragraph (1) confirms:

"If the criminal act referred to in Articles 32, 33 and 34 of this Law is committed by a legal entity, criminal prosecution is imposed and punishment is imposed on the management or power of attorney of that legal entity." Paragraph (2) Provisions in paragraph (1) of this article are treated equally to a legal entity that acts as or holds the power of attorney from another legal entity.

UU no. 3 of 1982 expressly imposes criminal responsibility committed by corporations to management/holders of power from legal entities, thus administrators who do not participate must also be responsible for all criminal acts committed by corporations. Apart from administrators, those who can be held accountable for crimes committed by corporations are those who give orders and or those who act as leaders, this can be found in the provisions of Article 4 paragraph (1) of Law no. 38 of 1960 concerning the Use and Determination of Land Areas for Certain Plants, besides that in Law no. 2 of 1981 concerning Legal Metrology, known for the existence of corporate criminal liability by management, legal entities, active partners, foundation managers, representatives or proxies in Indonesia from companies domiciled outside the territory of Indonesia.

Thus it can be seen that in several laws and regulations outside the provisions of the Criminal Code, there are known corporate crimes, but these rules impose criminal liability on administrators, power holders from legal entities, active partners and representative bodies or power of attorney.

3. Corporations As Makers and Also As Responsible

In connection with the acceptance of corporations as perpetrators of criminal acts and can be accounted for in several laws, related to corporate criminal responsibility several doctrines emerged regarding corporate criminal responsibility, including: 1. The Doctrine of Identification, 2. The Doctrine of Vicarious Liability, and 3 The doctrine of strict liability according to law (strict liability).

In the doctrine of Identification. This responsibility is known in Anglo Saxon countries such as England. This responsibility concept is known as direct corporate criminal liability. The principle of 'mens rea' according to this doctrine cannot be ruled out, the inner attitude or actions of a senior corporate official who has a directing mind can be considered as a corporate attitude. This means that the inner attitude can be identified as a corporation, thus the corporation can be held directly responsible.

The bigger and more business fields of a company, the more likely the company will avoid responsibility. For example, the Tesco case, which has more than 800 branches, was charged with committing a crime under “the Trade Description Act 1968” which was committed by the store branch manager. In this case the House of Lords decided that the branch manager is another person who is the hands and not the brains of the company, there has been no delegation by the directors in the form of delegation of their managerial functions in connection with the company's affairs with the branch manager. He has to comply with the general rules of the company and take orders from his superiors at the regional and district level, therefore his acts or omissions are not the fault of the company.

That the company is only responsible if the person is identified with the company, namely himself, who is individually responsible because he has the "mens rea" to commit a crime. If there are several "superior officers" involved, then each of them may not have the level of knowledge required to constitute the "mens rea" of the crime. Can the company be held responsible if what is known jointly by the officials of the company is sufficient to constitute a "mens rea".

In this doctrine, what is considered to represent the corporation is the executor of "the directing mind and will of the company. Hakim Reid referred to as senior officials consisting of the board of directors, managing directors and other high-ranking officials who carry out management functions and speak and act for the company (Barda Nawawi Arief, 2002).

The Doctrine of Vicarious Liability. Substitute liability is a person's liability without personal fault, but being liable for someone else's fault. This doctrine states that a person can be held accountable for the actions and mistakes of others. This responsibility is almost entirely aimed at the offense of law.

According to this doctrine, employers are primarily responsible for the actions of their workers who commit acts within the scope of their duties/work. Based on the law (statute law) replacement liability is carried out in the following cases: 1). A person can be held accountable for actions committed by other people if he has delegated (the delegation principle). For example, the case of Allen V. Whitehead (1930) where X is the owner of a restaurant, and the management of the restaurant is handed over to Y (Manager). Based on a warning from the police, X had prohibited Y from allowing prostitution on the premises, which Y violated. X was held accountable under the Metropolitan Police Act 1893 Article 44. 2). An employer can be held responsible for the physical/physical actions carried out by the laborer or workers if according to the law the act of hunting is seen as an act of the employer (the servant's act is the mater's act in law) (Romli Atmasasmita, 1996).

B. Corporate Criminal Responsibility in Corruption Crimes

The legal subject in corruption is every person, everyone is defined as an individual and/or corporation (Article 1 point 3 of Law No. 31 of 1999) and civil servants. Thus, the legal subjects who can be charged as perpetrators of criminal acts of corruption are not only individuals as individuals (both in their capacities as private persons and civil servants), but also corporations.

If you look at the formulation of criminal acts regulated in the Corruption Crime Eradication Law, and related to legal subjects known in the Corruption Crime Eradication Law, then not all acts of corruption can be committed by Corporations. Corporations that can be withdrawn as subjects in the Corruption Eradication Law are at least contained in the provisions of Article 2 paragraph (1), Article 5 paragraph (1), Article 6 paragraph (1), Article 7, Article 13, Article 15, and Article 16 of the Law No. 31 of 1999 in conjunction with Law no. 20 of 2001.

The formulation of the subject of corruption by using the word "person" as stipulated in Article 7 paragraph (2) can be interpreted that included in the meaning of the perpetrator is a corporation, because the concept of person, according to Satjipto Rahardjo, in law people have a very central position, by because all other concepts such as rights, duties, tenure, legal relations and so on, are ultimately centered on the concept of person. This person is the bearer of rights and can also be subject to obligations and so on.

Corporations have the following characteristics, having their own assets separate from the assets of those who carry out the activities of these legal entities; has rights and obligations that are separate from the rights and obligations of those who carry out the activities of the legal entity; has a specific purpose; sustainable (having continuity) in the sense that its existence is not bound to certain people, because its rights and obligations still exist even though the people who carry it out change (Mochtar Kusumaatmadja, 2000).

We can see Corporate Responsibility in corruption crimes in the formulation of article 20 of the PTPK Law, there are at least 7 (seven) explanations regarding this form of accountability, namely: 1). In the event that a criminal act of corruption is committed by or on behalf of a corporation, criminal prosecution and imposition can be made against the corporation and or its management. 2). The criminal act of corruption is committed by a corporation if the crime is committed by people either based on work relations or based on other relationships, acting within the corporate environment either alone or together. 3). In the event that a criminal charge is made against a corporation, the corporation continues to be represented by the management. 4). The management representing the corporation as referred to in paragraph (3) may be represented by another person. 5). The judge can order the management of the corporation to appear before the court himself and can also order the management to be brought before the court. 6). In the event that a criminal charge is made against a corporation, the summons to appear and submission of the summons is conveyed to the management at the residence of the management or where the management has an office. 7). The principal sentence that can be imposed on a corporation is only a fine, with the maximum sentence being added 1/3 (one third).

The formulation of Article 20 of the Corruption Crime Eradication Law above, at least provides an illustration that criminal acts of corruption are carried out by corporations, if the crime is committed by people based on work relations or other relationships, acting within the corporate environment either alone or together.

The burden of corporate responsibility according to the provisions of this Article is placed on the corporation itself and/or on its management. The nature of this accountability is known as cumulative-alternative. This can be seen by the sentence "corporation and/or management" in the formulation of Article 20 paragraph (1), then to prosecute and impose a criminal case in the event that a criminal act of corruption is committed by or on behalf of a corporation according to this provision can be carried out against "corporations and administrators" or to "corporations" only or "administrators" only.

In the provisions of Article 20, especially paragraph (7) it is stated that corporations can only be subject to principal punishment in the form of fines with the maximum provision being added 1/3. In addition to criminal fines, corporations can also be subject to criminal penalties in the form of confiscation of tangible or intangible movable goods used for those obtained from criminal acts of corruption, including companies owned by convicts where criminal acts of corruption are committed, as well as from goods that replace these goods and closing a business or part of a company for a maximum period of 1 (one) year (vide Article 18 paragraph (1) letters a and c). Apart from that, it is interesting if we look back, namely the imposition of additional sanctions in Law no. 7 Drt/1955 Concerning Economic Crimes. This law recognizes the form of sanctions in the form of orderly actions, including: 1. Placement of companies under guardianship; 2. the obligation to pay a security deposit; 3. the obligation to do what is neglected without rights or negates what is done without rights; and 4. obligation to pay a sum of money as profit withdrawal.

The PTPK Law normatively outlines provisions other than individuals, corporations are also legal subjects who can be charged with committing a criminal act of corruption. In the UUPTPK, it is explained in terms of how a corporation is said to have committed a criminal act of corruption. Article 20 paragraph (2) of the PTPK Law states: "Criminal acts of corruption are committed by corporations if the crime is committed by people either based on work relations or based on other relationships, acting within the corporate environment either alone or together."

When viewed further, it turns out that UU-PTPK does not provide further explanation regarding the provisions of Article 20 paragraph (2) above. In the explanation of Article 20 paragraph (2) UU-PTPK only mentions the words "clear enough". The absence of this explanation can certainly lead to problems in determining when a corporation is said to have committed a criminal act of corruption. Therefore, to answer this question, it is necessary to interpret the provisions of Article 20 paragraph (2).

As previously mentioned, Article 20 paragraph (2) of the PTPK Law states that criminal acts of corruption are committed by corporations if the crime is committed by people either based on work relations or based on other relationships, acting within the corporate environment either alone or together. The same. If this formulation is read carefully, then in the formulation there are two important elements that must be interpreted, namely the notion of "people based on work relationships" and "people based on other relationships".

From the above description, it can be concluded that the formulation of people based on work relations is related to the relationship of people who have a working relationship as administrators or employees in a corporation while people based on other relationships are related to corporate relations with other people based on power or granting of authority.

If the above is related to when a corporation is said to have committed a criminal act of corruption which is detrimental to state finances or the country's economy as referred to in Article 2 paragraph (1) of the PTPK Law, it can be concluded that a corporation can be said to have committed a criminal act of corruption as stipulated in Article 2 paragraph (1) of the PTPK Law if people in a corporation, whether management or employees of the corporation, or other people based on power or delegation of authority from

the corporation, either individually or jointly in carrying out their corporate activities, have unlawfully enriched the corporation itself or other individuals or corporations where these actions can harm the country's finances or economy.

Provisions Concerning Who Can Be Prosecuted and Sentenced to Criminal Cases in the Case of Corporations Committing Corruption Crimes as Stipulated in Article 2 Paragraph (1) of the Law on the Eradication of Corruption Crimes and Their Relation to Formulation of Corruption Crimes in Article 2 Paragraph (1) of the Law on Eradication Corruption Crime.

From the formulation of the article, normatively it can be concluded that in the case of criminal acts of corruption committed by or on behalf of corporations there are three alternatives that can be prosecuted and held accountable, namely: 1). the corporation; or 2). the administrator; or 3). Corporation and its management.

Basically a corporation is a legal entity as a supporter of rights and obligations whose activities are controlled by the management and the management is authorized to represent the corporation inside and outside the court. Based on that concept, if it is correlated with who can be brought before a trial in court in the case of a corporation committing a crime, according to the author, it is the corporation itself or the management in their capacity to represent the corporation. If this is connected with Article 20 paragraph (1) above, then there are only two alternatives that can be prosecuted and held accountable, namely the corporation or the management as a representative of the corporation.

Conclusion

1. Corporations can be said to have committed criminal acts of corruption as stipulated in Article 2 paragraph (1) of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes. Corruption is a criminal act if people in a corporation, whether management or employees of the corporation, or other people based on power or delegation of authority from the corporation, either individually or jointly in carrying out their corporate activities, have unlawfully enriched the corporation itself or other people. -Another individual or corporation where the act can be detrimental to the country's finances or economy.
2. In the event that corruption is committed by and on behalf of a corporation, there should only be two alternatives that can be used as a defendant or one that can be prosecuted and sentenced, namely the corporation or the management representing the corporation, so in this case it should be either the corporation or the management representing the corporation being charged for criminal acts of corruption committed by or on behalf of corporations, the main punishment that can be imposed is only fines. Based on this, the formulation of Article 2 paragraph (1) which states "everyone" in this case an individual or corporation can be sentenced to imprisonment and a fine is not appropriate.

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