

The Juridical Analysis of Corporate Crimes Accountability in the Indonesian Penal System



Dadang Kurniawan Winjaya¹, Pujiyono²

^{1,2} Master of Law, Faculty of Law, Diponegoro University, Indonesia

ABSTRACT: Evil grows as society progresses, not only to the types and methods of evil, but also to the subject or perpetrator themselves. Corporate acceptance as a subject of criminal action, which leads to criminal law enforcement problems in corporate criminal liability. Whereas law enforcement doesn't recognize corporations as the subject of law, allowing people to exploit their legal loopholes. As for the rules governing corporate accountability that exist up until now are considered less effective and efficient. The clear corporate policy is still at the stage of criminal design that has been fully regulated and firm as the subject of criminal law and is accountable in criminal law and receives absolute criminal accountability and replacement crimes, even with the exception of solving the difficulties of proving an element of wrongdoing committed by a corporation. Research methods used are normative law research methods with law enforcement approaches, comparisons and concept analysis of the law.

KEYWORDS: corporate policy, criminal wrongdoing, and accountability

INTRODUCTION

Progress from a country can be It looks like one of the buildings The economy did. This economic development can Of infrastructure development, Infrastructure, public property, and miscellaneous.¹ Not only in economics but also in social and political terms. The degree of public welfare affects the growth rate or rate of a country's progress. Furthermore, progress from a country is certainly aligned with regulations that go hand in hand with activities carried out.² Between deed and rule must go straight in line For the sake of achieving a good and righteous goal. In achieving a goal, in this case what one wants to achieve is something greater, it is more efficient and effective when it is done It is carried out in groups, and it is corporations, not individuals³.

The etymological corporation, the Dutch *corporatie*, which is called the corporation in English, as well as the Latin corporation, which is defined in a narrow sense as a legal entity that is authorized to do something about it.⁴ The existence of these corporations benefited the nation's economic development.⁵ Where corporations are at critical control, for example, in raising tax revenues by the state, opening jobs, technology and so on, so to speak, corporations are a pillar of the nation's economy. But with the development of the ages and sophistication of the technology, it sparked the emergence of crimes committed by corporations. This could happen because of the weak organizational arrangements Criminal corporation in Indonesia⁶

It is not static but is extremely dynamic, which means that crime is developing in accordance with people's development. While the nature of evil has long been and remains the same, it is not the same as harming the interests and harm that has been meted out. Crimes of conventional nature, both the perpetrators, the *modus operandi*, and the rewards are not equal to the risks committed by the perpetrators, and the bias of the law.

¹ Nurisman, E., & Sandy, D. M. (2017). *Penerapan Sanksi Perdata terhadap Korporasi dalam Sengketa Lingkungan Hidup*. Journal of Judicial Review, 18(1), 70-83. Hal, 73

² Sanjaya, B., Muladi, M., Sari, R. K., & Disemadi, H. S. (2020). *Inkonsistensi Pertanggungjawaban Pidana Korporasi dalam Peraturan Perundang-undangan di Luar KUHP*. Pandecta Reseach Law Journal, 15(2), 218-227. Hal, 219

³ Disemadi, H. S., & Jaya, N. S. P. (2019). *Perkembangan Pengaturan Korporasi Sebagai Subjek Hukum Pidana Di Indonesia*. Jurnal Hukum Media Bhakti, 3(2), 118-127. Hal, 119.

⁴ Retnowinarni, R. (2019). *Pertanggungjawaban Pidana Terhadap Korporasi Di Indonesia*. Perspektif Hukum, 19(1), 82- 104. Hal. 87

⁵ Tantimin, T. (2018). *Pertanggungjawaban Korporasi terhadap Pencemaran Lingkungan Hidup: Studi Pada Pt Horizon Bandar Bahru di Batam*. Journal of Judicial Review, 19(2), 190-206. Hlm. 191.

⁶ Puspitasari, I., & Devintawati, E. (2018). *Urgensi Pengaturan Kejahatan Korporasi dalam Pertanggungjawaban Tindak Pidana Korporasi Menurut RKUHP*. Kanun Jurnal Ilmu Hukum, 20(2), 237-254. Hal. 239

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The damage to corporate crime is often hard to estimate as to the consequences to which it beholds multiple, while prison or prison and court penalties often do not reflect the degree of crime they have committed. Corporate crimes usually white-collar crime (white collar crime), primarily by a firm or firm engaged in business activities that conflict with the current criminal law. Based on experiences from developed countries, it may be suggested that identification of corporate crimes may include criminal ACTS such as violations of monopoly laws, computer fraud, tax and excise payments, violations of price restrictions, production of goods that harm the health of corruption, bribery, administrative breach, labor, and environmental pollution.⁷ Corporations can increase the wealth of nations and labor, but the revolution of economic and political structures has grown immense corporate power so that countries are overdependent corporations that they can be disciplined accordingly His interests. Therefore corporate must have responsibility. Efforts to hold corporate responsibility continued, but were hampered, among them untouched by the law. To prevent the weaknesses of the device from repeating itself, comprehensive corporate accountability rules must be established and include all crime.

In Indonesia criminal law policies in criminal liability to the corporation should be viewed through the book criminal law and the rule of law outside the law. The fact is that criminal accounting of corporate crimes as subject to law is not strictly regulated in criminal law, as national penal laws are designed to deal with individual human behavior (natuurlijk persoon). The criminal code is based on the effect that only humans can be prosecuted asa maker or perpetrator (dader) held accountable for a delic of both evil and transgression. They can be seen through the chapters of the criminal code, among other things:

1. An elaborate form of delic that begins with the word "whom" in general is intended or referred to by person or human
2. These adopted criminal systems, especially those of crime, lost freedom that can be imposed on humans alone and impossible on corporations;
3. According to the azas of Indonesia's criminal law, that corporations cannot obtain delic because Indonesian criminal laws are set up by individual error; and
4. There are no special procedures in criminal proceedings for Corporate.

There are no special procedures in criminal events for the corporation. Some legislation outside the law has established criminal accountability to perpetrators of corporate crimes, but it is still partial and inconsistent, making it very difficult to implement in a justice practice in Indonesia, such as legislation 1955 emergency number one on felony economics.

Considering the criminal liability policy of the corporation in the above regulation of legislation, there are, in fact, many crimes that are no longer carried out by natural man (natuurlijk persoon) but by corporations or corporations (recht persoon) that can do very much damage to society's activities/actions, There is good reason, therefore, that special attention is directed to increase corporate accountability by using criminal law, as forms of lawlessness carried out in corporate activities including public welfare offences have become a quality.

Given the economic and commercial advancements, the subject of criminal law could not be confined to the natural man but also include the legal person (juridical person) commonly called a corporation, since a particular crime can be committed by a corporation.

The corporation understands that corporations are subject to law, meaning that corporations as a corporation must account for its actions on their own. Moreover, there is still a possibility of accountability Shared by corporations and stewards or only stewards. The purpose of this study is not to describe and decrypt the current policy of criminal law in corporate criminal liability, as well as policy Criminal law in ius constituendum and its relevance of acceptance of criminal liability Corporate in Indonesia.

FORMULATION OF THE PROBLEM

Based on the above background, the problem with this research is how a criminal law policy ACTS in criminal liability Corporate criminal in the penal system at Indonesian?

RESEARCH METHODS

The method used in this study is normative-research, a study of the law done by examining the library material, learning and examining the principles of law and positive law codes derived from literature and law laws. As for the approach to the problem, the legal approach (approach), which leads to a formulation of criminal law that approaches the subject of equal and higher legislation, The comparative approach (of approach) is to find and compare the root norms of criminal law (corporation) relevant to the subject and legal analytical and conceptual approach (analytical and conceptual approach), which is to find a new classification of criminal law (corporations) that developed under equal or higher legislation regulations that could make legal concepts relevant to the subject.

⁷ Gobert dan Punch, Rethinking The Corporate Crime, <http://maswig.blogspot.com>

DISCUSSION

1. The Arrangement In The Penal Code

The book of criminal law (criminal law) as a institutionalizing of the country's formal social reactions to criminal or criminal ACTS cannot engage corporations as subject to law, since our criminal laws are designed to deal with individual human behavior (natuurlijke persoon). It is based on the principle that only human can be required as the maker (dader) of a delict, either of evil, or of transgression. It can be seen from among other things:

- a. How delict formulates always begin with the word "whosoever is wretched" Which in general is intended or referred to a person or a human being. Other formulations include: a mother (chapters 341, 342), woman (chapters 346), teacher (chapter 294), clergy (article 350), skipper (chapters 93, 325), physician (article 267), merchant (392, 397), company steward or commissioner (chapters 398, 399, 403), a subcontractor (section 387), a military commander (section 413), a civil servant (chapters 414- 419), a judge (chapters 420), a pimp or pimp (section 506). So all those formulations are, in effect, not legal entities;
- b. Adopted criminal systems, especially criminal ones, lose freedoms that can be imposed on humans alone and cannot possibly be imposed on the animal law;
- c. According to principles of Indonesian criminal law the corporation cannot realize delict. Hoofgerechtshof van n.i. was in its arrest. August 5, 1925 affirmed it by reason that Indonesian criminal laws were established on the basis of the teaching of individual error. The Indonesian penal system did not allow the penal system to impose a penalty on the corporation, since the convicted criminal was given a choice to replace it with criminal imprisonment (article 30 verses (2), (3) and (4) criminal law; and
- d. There are no special procedures in criminal events for the corporation. Actually, the code contained several chapters involving corporations as subject to the law, but its threats to individuals rather than corporations, for example: article 169 of the criminal code on participating in the forbidden association, and section 398-399 about Bank Indonesia by governor burhanuddin abdullah said here on Tuesday. Indonesian airlines or corporations declared under bankruptcy conditions are damaging to their companies.

So there is no indication here whatsoever that the steward should be the commander-giver or the leader in the deed. Thus "the principle of no criminal without error" that is the basis for or lack of criminal accountability is exempt. Compared with the world's most advanced countries in idling the corporation, such as Australia, Britain, and the United States, limited to agents, representatives, power or corporate employees who have committed crimes in carrying out corporate affairs.

2. The Arrangement In The Legislation Is Outside The Statute Of Criminal Law

In an effort to learn about the holding of criminal actions of the Indonesian regulatory laws, it was found that corporations could perform a criminal development in development in legislation outside the book of criminal law known since 1951 and became widely known in 1955, with the release of the 1955 Number. 7 DRT on criminal crime. Some legislation that makes seagal corporation the subject Criminal law, among other things:

- a. The 1951 - year bill on the valid work act no.12 in 1948 from the republic of Indonesia (chapter 19);
- b. The 1951 act number 2 about the 1947 statute of no. 3 years has passed from the republic of Indonesia to all of Indonesia (chapter 30);
- c. The 1951 act number 3 The valid statement of the 1948 statute 23 on the Labour control of the republic of Indonesia for all of Indonesia (chapter 7);
- d. The 1951 DRT act number 12 on firearms and explosives (chapter 4);
- e. 1955 DRT law number 7 on trespass, prosecution, and judicial action of economic criminal (article 15);
- f. Act number 22 of 1957 1958 statute number 3 on foreign power placement (chapter 13);
- g. Legislation number 38 in 1960 on the appropriation of specific land areas (chapter 4); 1964's article 32 - year law on passenger regulation (section 25);
- h. Act number 2 in 1981 on legal metrology (article 34);
- i. Law number 7 in 1981 on employment reports in the company (article 11);
- j. The 1982 rule number 3 on obligatory company lists (section 35);
- k. Act number 14 in 1984 on the outbreak of contagion Contagious (chapter 15);
- l. Act number 7, 1992, act number 10, 1998, on banking (section 46);
- m. 1997 environmental management act 23 (section 45.46);
- n. 1997 law on psychotropika (chapter 70);
- o. The 1997 penal code (section 80);
- p. 1999 law number 5 on the ban on monopoly practices and unhealthy business competition (chapter 1);
- q. The 1999 statute number 8 on consumer protection (section 61);
- r. Act number 31 of 1999 Jo act number 20 in 2001 on felony violation

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- s. Corruptions (chapter 20);
- t. Statute number 36 in 1999 telecommunications (chapter 15);
- u. 2002 penal code number 15 on money laundering (chapters 1, 4, 5); (section 1, 18) of the 2013 penal code (section 1, 18)

Some of the regulatory regulations listed above appear to be a desire to place a corporation as a criminal, but the acclivity is unclear. If it's classified, it would appear there's some way the maker The act of formulating a corporation's position as the doer and the applicant is the following:

- 1) Rule of government rule no. 1 2002 law no. 2 year 2002.) Only the steward as the doer and caretaker is responsible (chapters 169, 398, 399 of the penal code of law)
- 2) A corporation is accused of criminal acts, but its commissioner is accountable to the steward (article 19 act 1 in 1951, article 30 act 2 in 1951, article 4 act no. 3 24 law number 5 in 1954, article 34 of the law number 7 in 1981, article 35 of the law number 3 in 1982, and article 15 of the law number 4 in 1984);
- 3) Corporations are expressly recognized as perpetrators of criminal ACTS and can be accountable for within Criminal law (article 15 DRT law number 7 in 1955, article 25 statute 32 in 1964, chapter 32 45 law number 23 in 1997, article 70 law number 5 in 1999, statute number 8 in 1999, article 20 verse (1) article 31 of 1999

Even though legislation outside the law of criminal law has accepted a corporation as a subject of criminal law, there is no jurisdiction over it. Its composition according to the writer lies in an uncertain formulation of some of the following:

- a) Formulating a vague formulation as to when a corporation is convicted and when a crime has been committed in the name of a corporation. It must be explicitly defined, for if the subject of the law that is called simply a corporation without any obvious specifications or identity, then the difficulty of determining who made it will always remain uncertain;
- b) formulation of works that will be uncertain Held accountable through corporate formulation as the subject of criminal wrongdoing. Example: rule 15 verse (2) the bill of information and electronic transactions that mentions: He said the rupiah was expected to strengthen to rp9,100 per dollar in the Jakarta interbank spot market on Tuesday. It doesn't matter whether the individuals are self-sufficient to commit the economic crimes or to them together there are those crimes.
- c) The formula of the chapter can be questioned as to what actions will be governed by statement: "Act in a corporation environment, on behalf of the foundation" Whether it is intended to control aberrant behavior conducted within a corporation or it is intended to control aberrant behavior conducted in the name of a corporation's interests. Technically the juridical of such a statement can give rise to a different interpretation, depending on how and how people interpret it;
- d) What kind of creeks are being used As a guide to accounting for corporations, since criminal law accountability is always associated with the problem of error and forgiving grounds;
- e) Criminal problems brought down on corporations. The criminal fines imposed on the corporation even though the amount was increased remained ineffective, since there were no specific rules governing what if the fine was not paid by the corporation. Under article 30 of the penal code code under article 100 of penal code number 22 in 1997, there would be a problem: a common rule article 30 of the penal code was addressed to the subject of human law rather than corporate. When it comes to additional criminal abuse of rights acquired by corporations, it needs to be clear so as not to give rise to interpretation. The loss of rights as a corporation is the elimination of operational licenses Corporate. That needs to be stated

3. The Arrangement In The 2014 Penal Code Of Law (Penal Code) Of 2015

In the context of the formation of the national penal code of Indonesia, special attention has been given to the protection of social activities of dissociable corporations that should make it necessary for the corporation to be defined as the doer and the responsible.

The concept of corporate and corporate accountability as the subject of criminal crimes was formulated by the scripture-draft draft of the pidana2014 article 162 and article 44 to article 49. The sound of these chapters is as follows:

Chapter 162: the corporation is an organized body of people And wealth, whether it's legal or not.

Article 44: corporations are accountable in Commit a felony.

Article 45: if a crime is committed by or by a corporation, the ratios can be done to the corporation and or the warden.

Article 46: the corporation is unreliable Criminal against a deed committed for and or for a corporation, where it does not fit into the scope of its business as stipulated in the bylaws or other provisions applied to the corporations.

Article 47: criminal accountability of corporate officials is limited to those who have functional positions within the corporate organization.

Article 48

verses (1): in considering a criminal charge, it must be considered whether other sections of the law have provided more beneficial protection than Dropping a criminal against a corporation;

Verse (2): the consideration as referred to in the verse (1) must be expressed in the judgment of the judge; and

Chapter 49: excuses of forgiveness or justification that the maker who ACTS for and in the name of the corporation can be offered by the corporation as long as these reasons directly apply to the actions of the corporation

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As to the positions of perpetrators and corporate accountability is noted in the explanation chapter 46 Criminal law plan 2014-2015 As follows:

- a) the cooperative steward is the doer and therefore the caretaker is responsible;
- b) corporation as responsible maker and caretaker Answer;
- c) corporation as maker and also as responsible. Therefore, if a crime was committed by and to a corporation, then the prosecution could be committed and the donor could be dropped against the corporation itself, or its cooperative and warden only

The basic criminal that can be handed down on corporate Criminal law plan 2014-2015 Only criminal penalties with the maximum threat of criminal penalties are heavier than the criminal threat of penalties against people, which is the next higher category. The most high penalties for a corporation are those who commit crimes punishable by maximum prison sentences 7 years to 15 years is a v and criminal fine Death, life imprisonment, or prison sentences for 20 years at most are vi category fine; the minimum penalties for a corporation are an iv (4), (5), (6). It's a felony to be dropped against the corporation Of an revocation of that right Acquired corporation (84 verse (2)).⁸

In accordance with what has been formulated in the design Penal penal code of 2014-2015 on penal penal liability as subject of criminal crimes, as the corresponding item, can be seen by the formula on the penal penal code of 1985 section as follows:

- 1) A corporation may be convicted of the commission of an offense if:
 - a) the offense is a violation or the offense is defined by a statute other the Code in which a legislative purpose to impose liability on corporation plainly appears and the conduct is performed by an agent of the corporation acting in behalf of the corporation within the scope of his office or employment, except that if the law defining the offense designates the circumstances under which it is accountable, such provisions shall apply; or
 - b) the offense consists of an commission to discharge a specific duty of affirmative performance imposed on corporations by law; or
 - c) the commission of the offense was authorized, requested, commanded, performed or recklessly tolerated by the board of directors or by a high managerial agent acting in behalf of the corporation within the scope of his office or employment.
- 2) When absolute liability is imposed for the commssion of an affense, a legislative porpuse to impose liability on a corporation shall be assumed, unless the contrary plainly appears.
- 3) An unincorporated association may be convicted of the commission of an offense if:
 - a) The offense is defined by a statute other than the Code that expressly provides for the liability of such an association and the conduct is performed by an agent of the scope of this offisce or employment, except that if the law defining the offense designates the agents for whose conduct the association is accountable or the circumstances which it is accountable, such provisions shall apply; or
 - b) the offense consists of on ommission to discharge a spesipic duty of affirmative performance imposed on associations by law.
- 4) As used in this section:
 - a) "corporation" does not include an entity organized as or by governmental agency for the execution of a governmental program;
 - b) "agent" means any director, officer, servant, employee or other person authorized to act in behald ofthe corporation or association and, in the case of an unincorporated association, a member of such association.
 - c) "high managerial agent" means an officer of a corporation or an unincorporated association, or, in the case of a partnership, a partner, or any other agent of a corporation or association having duties of such responsibility that his conduct may fairly be assumed to represent the policy of the corporation or association.
- 5) In any presecution of a corporation or an unincorporated for the commission of an offense include within the terms of Subsection (1)a) or Subsection (3)a) of this Section, other than an offense for which absolute liability has been imposed, it shall be a defense if the defendant proves by apreponderance of evidence that the high managerial agent having supervisory responsibility subject matter of the offence employed due diligence to preven its commission. This pragraph shall not apply if it is plainly inconsistem with the legislative porpuse in defining the particular offense.
- 6) (a) A person is legaly accountable for any conduct he performs or causes to be performt in the name of the corporation or an unincorporated association or in its behalf to the same extent as if it performt in his own name behalf. (b) Whenever a duty to act is imposed by law upon a corporation or an unincorporated association, (Bahan any agent of the corporation association having primary responsibility for the discharge of the duty is legally accountable for a reckless ommission to perform the required act to the same extent as if the duty were imposed by law directly upon himself. (c) When a person is convicted of an offense by reason of his legal accountability for the conduct of a corporation or an unincorporatedassociation,

⁸ Ibid. hlm.77-79

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he is subject to the sentence authorized by law when a natural person as convicted of an offense of the grade and the degree involved.⁹

From the description above, it can be seen that there are three conditions that make corporations accountable for criminal proceedings:

- 1) The basis for accountability that arises as a result The actions of a cooperative agent acting on behalf of a cooperative within his sphere of labor;
- 2) Corporate accountability arises when such crimes have an element of negligence in performing certain obligations; and
- 3) These forms of the criminal were legalized, desired, commanded, executed or tolerated by a board of directors who acted on behalf of the company in its sphere.

The terms of absolute accountability are assumed to be applicable to the corporation unless otherwise indicated, there is a provision for the "due diligence" of the corporation on the basis of stronger evidence, so a high-level managerial agent who has a responsibility of oversight on the underlying issues of criminal ACTS intended to prevent criminal ACTS.

Besides, it is governed that a person is personally responsible for his actions on behalf of the corporation until a degree of his own making. As for a corporation agent who is primarily responsible for carrying out its corporate obligations and then for carrying out those obligations, it is individually responsible. After examining the development of penal systems and comparing its constituent's constituency guidelines as found in the law book of criminal law (2014-2015), writer saw clearly a tendency to update the system of criminal liability held by current criminal law. These are the background of the astounding social developments of both science and technology, as well as economics and commerce. The development is marked by a tendency to receive deviations or the exception principles of error.

4. It Relevance Receiving Corporate Liability Liability In Criminal Law

To address the growing complexity of these crimes, it seems that the classic criminal laws of error are no longer capable. It is therefore necessary to reform into criminal law by acknowledging that the principle of error is no longer the only applicable principle. In modern criminal law, criminal accountability can also be applied to a person, even though such a person has no faults at all. The main reason for rendering innocent criminal accountability is for the protection of the public, for certain delikdelics (such as corporate crimes) is very difficult to prove an element of wrongdoing. In this case there are three forms or models of no-fault penal systems: absolute criminal accountability, replacement accountability, and corporate accountability

a. Absolute Criminal Liability.

Absolute accountability is guiltless accountability, where a perpetrator can be convicted if he has committed a corresponding criminal act This principle is defined by the term *widen without fault*. The principal element of detection is works (*actus reus*), so the *actus reus* must prove only *actus reus*, not *mensrea*. Curzon, I.B Gives three reasons why it is anterior to mortality:

- 1) It is essential to ensure the compliance of certain essential regulations necessary for the prosperity of society;
- 2) Evidence of rhea will be difficult violations related to the prosperity of society; and
- 3) High levels of social harm are posed By the actions involved.¹⁰

b. Criminal Liability Replacement

Criminal accountability is a person without personal wrongdoing but is responsible for the actions of others (a vicarious liability is one where in one person, though without personal fault, is more liable for the conduct of another). In a criminal case, there are two critical requirements that must be met To be able to apply criminal actions with a substitute accountability, which is:

- 1) There must relationship between X and Y which is sufficient to justify the imposition of vicarious liability;
- 2) The criminal conduct committed by Y must be referable in some particular way to relationship between X and Y

Besides the above two requirements, there are two principles that must be met in applying vicvicarianism, namely, principles The penigigate and the principle of laborer is the master's act in law.

c. Corporate criminal liability.

Initially people refused to take on corporate responsibility for criminal crimes. This is because corporations have no human feelings and therefore are impossible The mistake. Besides itupidana prison is not possible against corporations. However, in view of the negative effects of corporate activity, there is also a measure of accountability for corporations in criminal cases. It is said that a corporation is responsible for the actions of its members in relation To the scope of his work. Of course, crimes that can be meted out to corporations are usually punitive or other actions, such as orderly ACTS or administrative actions¹¹

There are two ways to obtain a corporation, which is (1) a corporation can be subjected to a current principle of vicarious misconduct for crimes committed by its employee, and (2) a corporation can be charged with criminal by the theory of identification. The courts acknowledge the actions of a certain member of the corporation, as long as the action relates to

⁹ Barda Nawawi Arief (penyunting), 1999, *Pertanggungjawaban Pidana Korporasi (Bahan Bacaan Kapita Selektu Hukum Pidana)*, Program S2 (Magister) Ilmu Hukum Pascasarjana Universitas Diponegoro, hlm.32.

¹⁰ Barda Nawawi Arief dan Muladi, 1992, *Teori-teori dan Kebijakan Pidana*, Alumni, Bandung, hlm.141.

¹¹ Sue Titus Reid, 1978, *Criminal Law*, 3rd Edition, Prentice Hall, New Jersey, hlm.51.

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corporate affairs, is viewed as the act of the corporation itself.¹²The identification theory is one of the theories that certify corporate accountability in criminal law. The theory states that "the act and state of mind of the person are the act and state of mind of the corporation". (the actions and will of the person are also the actions and will of corporations.) Corporations have an independent nature when it comes to criminal accountability, so corporate accountability cannot be compared to a surrogate liability model. In regard to the above, the statement that emerged is to what extent the principle of error in accountability of the criminal corporation has its relevance to implementation in Indonesia? In other words, how far is it relevant to update Indonesia's criminal law? To answer that question, there are several measurable responses that can be used as the basis for correction: (1) the basis for theoretical correction, (2) the sociological basis, and the philosophical correct.

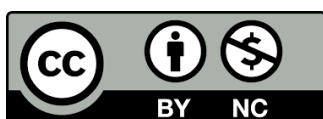
Based on the above description, there is clearly a pull between personal interests (doers of delict) and the common good. If the principle of error is maintained the interest of delict the perpetrator is first, but the common interest is sacrificed. On the other hand, if malign principles are established on all criminal ACTS, then public interest is preceded and the interests of the delict individual are sacrificed. Thus, there was taken a middle way, whereby the aberration of the principle of error was accepted, but was restricted only to the actions of certain criminal regulatory offences or lenient qualities (regulatory offences, public welfare offences, mala prohibita). When such policies are implemented, they are one of the basic principles of Pancasila, which is that there is a balance between the common good and personal interest (the monodualistic principle) being implemented. Based on the above argument, the coauthor's acceptance of the principle of error is not at odds with Pancasila's philosophy. In other words, the distortion of the principle of error has a foliomatic relevance.

CONCLUSION

The penal code does not set up a corporation as subject to the law which can be convicted, since it still adheres to the subject of the law is only natural. Whereas some of the legislation outside the law of criminal law has begun to set up a partial and inconsistent rule that corporations are the subject of criminal law and its liability issues. In the perspective of *ius constituendum* the subject of criminal crimes of corporate and its bank accountability has been firmly and elaborately formulated in the 2014 draft of the 2014 penal code of law - 2015, article 162, chapters 44 to article 49. Thus corporations have in principle been accepted as subject to law in criminal law, so that corporations can be prosecuted and sentenced

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