



## Corporate crime liability in corruption crimes based on justice values

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### Abstract

A corporation is an organized collection of people and / or assets, whether legal entities or non-legal entities.

The corporation is a legal subject whose shares are referred to its members. Corporations operates based its responsibility of the purpose of the establishment of the corporation.

There are three problems discussed in this research, in which are: (1) How is the corporation's crime liability in the current corruption crime law; (2) The weaknesses of current corporate crime liability law; and (3) Reconstruction of corporate crime liability in corruption based on three values of justice. To analyze the problem, the authors use a method of socio-legal research that is a law research studies with non-positivist paradigm. That legal research with philosophical hermeneutics (constructivism), and paradigms Critical theory (Critical Theory) through interpretative view / verstehen. Some theories used in this research are; Theory of Justice, Theory of Justice in Philosophy of Islamic Law, Pancasila Justice Theory, Theory of State of Law, Progressive Law Theory, Theory of the working of the Law.

The research objectives are (1) Analyzing corporate crime liability in the current corruption crime law. (2) to analyze the weaknesses of corporate crime liability in corruption currentl. (3) Reconstruct the corporate crime liability in corruption based on values of justice. From the research findings, shows that corporations are to be recommended as a "legal subjects" in the crime act of corruption regulated in Law no. 31 of 1999 as amended by Law no. 20 Year 2001 on the Eradication of Corruption. In relation to corporate crime liability in the crime act of corruption, the main principle that applies is that there must be a schuld to the perpetrator.

In addition to the weaknesses in the formulation of crime regulation (crime responsibility) of corporation in corruption at the top, it turns out there is also a general weakness in the formulation UUPTPK affecting corporate crime liability in corruption, namely: (a) the exclusion of the notion conspiracy by UUPTPK. (B) Unregulated conditions of repetition of corruption according to UUPTPK. (C) Of KUHAP Article 143 paragraph 2 letter a only accommodates the identity of the person as a legal subject in a crime act, has not set the corporation status as a suspect or defendant.

**Keywords:** corporate, crime liability, corruption, values of justice

### 1. Introduction

As Law no. 31 Year 1999 concerning the Eradication of Corruption has included corporate responsibility, then If an act of corruption is committed by a corporation, crime prosecution and improper can be committed against the corporation and / or its management <sup>[1]</sup>.

A corporation is an organized collection of people and / or assets, whether legal entities or non-legal entities <sup>[2]</sup>.

In the United States, the Securities Act of 1993 provides that a corporation is a legal subject that can prosecute in court (may sue and be sued) and there is a clear separation between company property and shareholders. Furthermore, the law also allows shareholders to sue the corporation and transfer ownership of its shares. Status as a legal subject owned by a corporation, making him unaffected by the death of his shareholder <sup>[3]</sup>.

The above explanation is in fact sufficient enough to describe the corporation in its position as a legal subject. However, there is often confusion in society that distinguishes between corporations and other similar bodies. For example, if a foundation is a corporation because it is founded by a group of people for a specific purpose. Or is a corporation only related to a commercial company. Therefore, the experts sparked characteristics that can be used to determine whether a body is a corporation or not. These characteristics includes: most of which will be easily reconnected to people familiar with business affairs: they are legal personality, limited liability on transferable shares, delegated management under a board structure, and investor ownership <sup>[4]</sup>.

Corruption is committed by any corporation if the offense is committed by a corporation or by persons, whether based on employment or other relations, acting within the corporate environment, either alone or jointly <sup>[5]</sup>. If a crime charge is committed against a corporation, then the corporation is represented by the board.

<sup>1</sup> Pasal 20 ayat ( 1 ) UU Nomer 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi, Richard A. Ponsner, *Economic Analysis of law ( A division Of Aspen Publishers INC )*, 1998, h. 463.

<sup>2</sup>H. Juni Sjafrien Jahja, Prinsip Kehati-hatian dalam Memberantas Manajemen Koruptif Pada Pemerintahan Dan Korporasi, Jagakarsa, Jakarta, 2013.

<sup>3</sup>*Corporation An overview*, diakses di

http://www.lawcornell.edu/wex/corporation, pada tanggal 1 Juli 2015

<sup>4</sup>John Armour, Henry Hansmann, Reinier Kraakman, 2009, *The Essential Elements Of Corporate Law What Is Corporate Law?*, Center For Law, Economic and Business Harvard University, h. 2.

<sup>5</sup>Pasal 20 ayat 3 UU Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi.

Jan Rummelink <sup>[6]</sup> argues that corporate behavior will always be a functional act when actors act in the context of a series of collaborations between people, in casu through a particular organization. Such action shall enter within the power span or the power environment (*machtssfeer*) and in the usual he accepts or approves the action.

Further Robert Cooter <sup>[7]</sup> states that the making of the company's board contains elements of *mens rea*, which contains elements of error or crime intent.

Etymologically speaking, corruption means: rottenness, ugliness, depravity, dishonesty, bribery, immorality, deviation from sanctity, and insulting or slanderous words <sup>[8]</sup>. As for *corrupt* means: (i) *practicing or marked by the dishonest and improper use of one's power or position*; (ii) *morally wicked*; (iii) *to cause to become morally bad, change from good to bad*; (iv) *to change the original form of*, <sup>[9]</sup> (v) *(of people) Willing to use their power to do dishonest or illegal things in return for money or to get an advantage*; (vi) *(of behavior) dishonest or immoral or dishonest way* <sup>[10]</sup> (vii) *to have a bad effect and make them be have in an immoral or dishonest way* <sup>[11]</sup> (viii) *immoral perverted, depraved*; (ix) *marked by venality and dishonesty*; (x) *decaying, putrid*; (xi) *impure, contaminated, unclean*. (xii) *containing errors or alterations* <sup>[12]</sup>.

There is an injustice in the current corruption crime responsibility as up to now, the handling of corporate crime responsibility forms against corruption is often imposed on the management of the corporation. Even if the crime act of corruption is imposed on the corporation, the principal crimety that can be imposed on the corporation is only a fine, with the maximum crimety added 1/3 (one (Article 20 paragraph (7) of Law No. 19 of 1999 in conjunction with Law No. 20 Year 2001 on the Eradication of Corruption, has not imposed a total or partial closure of all or part of the company for a maximum period of 1 (one) year and revocation of all or part of Certain rights or the removal of all or any of the particular benefits which the Government may or may have provided to the convicted person. Based on the description, the issue to be studied is about how corporate crime liability in the current corruption crime.

## 2. Method of Research

This research uses a descriptive analysis because the research will be conducted with aim to find the data needed to answer the problems which will then be described or presented to provide a comprehensive picture of the answer to the issues raised in this research.

<sup>6</sup> Jan Rummelink, *Hukum Pidana, Komentar atas Pasal-Pasal terpenting dari kitab Undang-Undang Hukum Pidana Belanda dan padanannya dalam kitab Undang-Undang Hukum Pidana*, (Jakarta Penerbit PT. Gramedia Pustaka Utama), 2003, h. 107.

<sup>7</sup> Robert Cooter, dkk, *Law Economics* (Addison-Wesley, An imprint of Addison Wesley Longman, Inc), 3 Edition, 2000, h. 437)

<sup>8</sup> <http://antikorupsi.org/indo/content/view/386/6/> diunduh tanggal 30 juni 2015.

<sup>9</sup> Longman, *Longman Dictionary of English Language and Culture*, Longman Group UK Limited, Harlow, 1992, h. 287.

<sup>10</sup> AS. Homby, *Oxford Advanced Learner's Dictionary of Current English*, Oxford University Press, New York, 1974, h. 281.

<sup>11</sup> William Morris ( ED ), *Of. Cit.*, h. 299-300.

<sup>12</sup> John M. Echols dan Hasan Sadily, *Kamus Inggris Indonesia*, PT Gramedia Pustaka Utama, Jakarta Utama, Jakarta, 2007, h. 149.

## 3. Research Result and Discussion

### 1. The Current Corporate Crime Responsibilities Law System

Law Number 31 Year 1999 Jo. Law 20 Year 2001 on Corruption Eradication is expected to be in accordance with the development of legal needs in the community, which is expected to be more effective in preventing and combating corruption. In Law Number 31 Year 1999 Jo. Law 20 Year 2001, there are some formulation of corruption offenses, formally formulated. This is very important as solid evidence in the court. With a formulation formally embraced in this law, although the corruption result has been returned to the state, the perpetrators of corruption will still be brought to justice and remain convicted.

For a number of reasons, the question of corporate liability for actions that may be involved in an international crime commission has been obtained prominently in recent years. Whereas initiatives on what is broadly described as business and human rights should be welcomed, this sometimes gets distracted. From the existing system of accountability, especially when such actions, are likely to occur. Discussed as a violation of human rights, equality is a crime. While not all crime jurisdictions are extended to legal entities, crime codes like the Norwegian Crime Code does so. The authors analyzes that the provisions of the Norwegian Crime Code, based on amendments made to it in 2008 to include international crimes in it, with the effect of expanding them. In Crime against corporations on the first article discusses on how the personal, material, temporal, and geographic coverage of the crime law. It then discusses the potential consequences of the implementation of jurisdiction in light of the only recent case in Norway it deals explicitly with potential corporates accountability for war crimes. The article then discusses three additional issues regarding the provisions on engagement, Intention, and defense under the Norwegian Crime Code, before concluding with some reflection on the possible future effects of this law and the possibility that it would inspire development on other places <sup>[13]</sup>.

Corporations as "legal subjects" in the Indonesian's crime act of corruption are regulated in Law no. 31 of 1999 as amended by Law no. 20 Year 2001 on the Eradication of Corruption. With regard to crime liability, the main principle that applies is to have a mistake (*schuld*) on the perpetrator. This is known as the principle of "*geen straf zonder schuld*" ie no crime without error, where the error has a condition: there is a crime committed, with intent or negligence, the ability to be responsible, and no excuses. In the account of the crime law, there are 3 (three) systems of corporate status as the maker and accountability of corporations in crime law according to B. Mardjono Reksodiputro, namely <sup>[14]</sup>

1. Corporate management as responsible maker and board
2. Corporations as responsible makers and managers
3. Corporations as makers and responsible

In a crime act of corruption, the corporation, in accordance with the doctrine of crime law, may be subject to crime liability. In this case, since corporations are not *natuurlijke* person, the punishment that can be imposed on corporations is

<sup>13</sup> Simon O'Connor, Corporation, *International crimes and national courts: a Norwegian view*, University of Oxford, 2011

<sup>14</sup> B. Mardjono Reksodiputro, *Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Korporasi*, Semarang, FH UNDIP, 1989, h. 9.

more concerned with the fines and other non-conventional sanctions described above

Crime liability corporations in corruption crime has been identified as follows:

1. Strict Liability Theory (absolute responsibility) is a crime responsibility that must be done without having to prove the element of error
2. The theory of vicarious liability is a crime liability imposed on a person for the actions of others.
3. The doctrine of delegation theory is the theory that justifies the burden of crime responsibility committed by corporate employees, with the delegation of authority to a person to represent the interests of the company.
4. The theory of identification is the theory used to justify corporal crime responsibility, although in reality corporations are not self-serving and can not have mens rea for lack of physical bodies, meaning corporations can commit crime acts directly through people who have Close relationship with corporations.
5. The theory of corporate organs, that is, a theory refers to those who exercise authority and control within a body of law, in other words, the person who directs and is responsible for all movements of the legal entity, the person who establishes the corporate policy, and the person who is the brain And the nerve center of the corporation thus the corporate brain is an important organ of the corporation so it can be demanded of corporate crime liability.

In addition to, according to ultra vires doctrine, the one who is responsible is the directorship in person or together with other directors, and the company is not responsible ([http // www.wikipediaindonesia.mnt](http://www.wikipediaindonesia.mnt), 2012).

Large-scale companies are the realities and also a decisive factors behind the global World. Taking undue advantage of corporate veils created by statutory provisions, the individuals operating behind these veils often commit crimes. With this in mind, the judiciary all over worldwide has set the basis and rules for corporate crime liability. This research article is an attempt to analyze the tendency of the judiciary. In the United States, Britain and India in connection with corporate crime liability<sup>[15]</sup>.

Corporations are legally regarded as a single entities, distinct and separate from all the individuals who compose them. The company's obligation to commit crimes appears many times on the agenda in many jurisdictions as an international issue. Courts do not need to be well equipped to oversee the activities of companies and organizations may already be subject to broad regulations by government agencies. No court should be involved in overseeing changes in the organization's safety practices, for example, the settlement of corruption cases fell under the Crime Code. Therefore, its section obliges the courts to consider whether other bodies would be more appropriate to oversee the organization. The role of crime liability to companies in Indonesia starts from the issuance of the emergency law no. 7 of 1955 on Economic Crime, followed by some later. Last is Law no. 8 Year 2010 on Prevention and Eradication of Money Laundering. In the framework of national crime reform of the law and the Bill on crime code (crime code) systematically establishes corporate crime

liability, whether companies are incorporated law and corporation that is not a legal entity. Although there are laws that regulate corporate crime responsibility but still have application problems It can be seen from the lack of corporate crime who was sentenced by the court<sup>[16]</sup>.

## 2. Corporate crime responsibilities in 3 countries

### a. Corporate crime liability in the UK

1. The accountability of a copper business is applicable only to crime offenses which do not require mens rea (actus non facit reisi nisi mens sit rea);
2. In case there are 3 (three) common law crimes which does not require mens rea and that are: public nuisance, crime libel (contamination) and contempt of court Court: scandalizing the court, disobeying court order, misbehaving in court, sub-judice rule); In addition to violations and categorized as an absolute liability crime.

### b. Corporate Crime Liability in the USA

1. Includes mens rea offences
2. Applicable vicarious liability theory
3. In the US Model Crime Code (American Law Institute, To stimulate and assist legislation in making an effort to update and standardize the Law of the United States, among individual states with different jurisdictions) is proposed:
  - a) For the absolute liability of customers used the vicarious liability theory;
  - b) The application of vicarious liability includes the possibility of defense on the basis of due diligence in order to balance the possibilities as a high managerial agent to avoid crime; and
  - c) On the basis of identification theory;
  - d) The US Model Crime Code requires: "the commission of the offence was authorized, requested, commanded, performed or recklessly, tolerated by board of directors or By a high managerial agent acting in behalf of the corporations within the scope of his office or employment ";
  - e) In this case the doctrine respond at superior rule: let the master answer;
  - f) Vicarious liability when committed by an employee acting within the framework of authority and on behalf of the corporation, but may also be non-vicarious liability whenever the perpetrator of the directors and managers who represents the directing mind and will of the company and control what it does. Limitations on the basis of ultra virez doctrine (beyond the power), that is when an act is committed outside the scope of the corporate power / authority; His opponent is "intra virez (within the power);
  - g) Statutory liability of officers: if a crime occurs with the consent or cooperation or is caused by the negligence of a manager, director or other official of equal status so that such persons and corporations may be held accountable in crime law. Including "failure to supervise the subordinate appropriately (appropriate) and an omission to discharge a specific duty of affirmative performance (approved imposed on corporation by law);

<sup>15</sup> Vikrant Sopan Yadav, *Corporate crime liability: A comparative analysis of judicial trend*, International Journal of Applied Research, 2015.

<sup>16</sup> Endi Arofa, Ahsan Yunus, Andi Sofyan, Anwar Borahima, *Corporate Crime Liability for Corruption Offerences in Indonesia Crime Justice System*, International Journal of Advanced Research (IJAR)

- h) Corporations in the US may be held accountable for the broadest applicable crime offenses against natural persons.
- i) Some say that aggregation theory is developing "A bit over-detering and costly" and in contrary to the traditional principle of crime law, while others say that "a wide vicarious liability model" like the US is effective in combating growing corporate crime "

### c. Corporate Crime Responsibilities in Canada

- 1) The concept of "directing mind" (identification theory) can occur at a lower level in the corporation and is not limited to "higher levels of authority" of the corporation;
- 2) In the case of "strict liability" the defendant is still given the opportunity to prove through "due diligence" (investigation / due diligence), whereas in "absolute liability" the opportunity does not exist <sup>17</sup>.

### 3. The Reconstruction of Corporate Crime Liability on Corruption Crime Based on the value of justice

The reconstruction of the corruption crime justice system is done by optimizing the three scientific approaches integrally. The three approaches are as follows. First, the scientific approach to religious juridical, and that is an oriented / guided by "science" (crime law) and "God's guidance" in enforcing the crime law this positive approach called religious juridical law science. the principle approach is emphasized in (a) of Article 2 paragraph (1) and paragraph (2) of Law no. 48 of 2009 regulating that states that the courts must be held " demi keadilan berdasarkan ketuhanan yang maha esa/ For the Justice and by The God's Will" and the state court implement and enforce the law and justice based on Pancasila; (B) Article 8 verse (3) of the Public Prosecution Service Law of 16 of 2004 mentions that "Demi keadilan dan kebenaran berdasarkan Ketuhanan Yang Maha Esa, jaksa melakukan penuntutan dengan keyakinan berdasarkan alat bukti yang sah/For the sake of justice and righteousness based on the gods will, prosecutors prosecute with convictions based on valid evidence".

Second, cultural contextual juridical approach, namely the positive crime law enforcement should be in context fit to the Indonesian's characteristics (in the context of the national legal system / national legal framework), and even in the context of national development and the development of national laws.

Third, the juridical approach is global / comparative. Approach to legal thinking oriented to global / comparative insight is generally required in the case of "legal reform" (law reform), especially in "law making" (legislative / formulation policy). The rationale for this approach is the enactment of the active national principle of Article 5 paragraph (1) of the Crime Code; there are several provisions in the law outside the territorial jurisdiction of the Crime Code which extend outside the territory of Indonesia (a.l. Article 97 of the Narcotics Act; Article 16 of Law TPK; Article 3 (1) and Article 4 of Law Terrorism; Article 7 of the Money Laundering Act.

However, in this study the researcher considers the need to reconstruct Article 20 of Law Number 31 Year 1999 on paragraph 3, paragraph 4 and paragraph 5 to clarify the understanding of the board or who the legal subject that is on the corporation. Article 20 paragraph (1) referred to as

"administrators" means as corporate organs that run corporate management, in accordance with articles of association having corporate authority.

According to Barda Nawawi Arief "the formulation of a crime act shall be conducted by a legal entity or on behalf of a legal entity if, for example, it is done by a board member, a member of the board or on behalf of the board or member of the board" <sup>18</sup>.

However, in contrast to the provisions of the Crime Procedure Code has not set the position the corporation as a suspect or defendant both in the investigation phase involves the manufacture of dossier (BAP) the suspect or the indictment concerning the identity of the defendant, in view of Article 143 paragraph (2) letter a Crime Procedure Code only accommodate the identity of the person as a legal subject in crime act.

To that end, the corporation which is seated as a suspect or defendant in a corruption crime still refers to the applicable crime procedural law with specificity that is:

1. The criteria of a corporation that can be made a suspect in a crime act of corruption is a corporation as defined in Article 1 number 1 Jo. Article 20 paragraph (2) is what if the crime is committed by persons, either based on employment relationship or based on other relations acting within the corporate environment either individually or jointly.
2. To denounce a corporation as a suspect in a crime act of corruption does not mean to abolish crime responsibility by its officer, but the crime liability of the corporation should be seen as an extension of crime liability in corruption (cf. Article 20 para (1). In filing of a corporation suspect can not be combined with a suspect person as a legal subject related to the teaching of participation, but must be split and not within the framework of the inclusion doctrine.
3. Article 20 paragraph (3) determines "in the case of crime prosecution committed against such corporation represented by the board" and paragraph (4) determines "the representative of the corporation as referred to in paragraph 3 may be represented by others.

From the provisions of Article 20 paragraphs (3) and (4) as far as possible in the process of investigating the investigation report (BAP) of the suspect may be explained by the board which obtains the power in accordance with the provisions of the articles of association of the corporation concerned. However, the existence of the suspect's BAP with a corporation suspect is not absolute, considering that:

1. Article 20 paragraph (4) allows the authorized person to be represented by another person so that the other person representing the management is not necessarily aware of the matter of the alleged incident against the corporation.
2. It is probable that both the management and others representing the corporation refuse to provide any information in the BAP, as the management or other person representing the board / corporation is not a true suspect in the case of a corporation Domiciled as a suspect.

<sup>17</sup> Muladi, Identifikasi Teoritik dan Konseptual Pertanggungjawaban Pidana Korporasi serta Kebijakan Kriminal untuk Mengatasinya, UNDIP, Semarang, 2015

<sup>18</sup> Barda Nawawi Arief, Strategi Kebijakan Penanggulangan Korupsi dan Evaluasi Terhadap Undang-Undang Pemberantasan Tindak Korupsi, Bahan Masukan untuk Tim Pakar Departemen Hukum dan Perundang-undangan, 1999

3. The possibility of a change of board or other person obtaining the power to 'represent the corporation during the preceding of the case.
4. Article 184 paragraph (1) letter e KUHP only recognizes the evidence of the defendant's information (suspect in the investigation stage) and does not recognize the evidence of corporate information or the description of the board.

In the process of an absolute investigation and should be the seizure of the articles of association / corporate budget of the suspect in order to obtain the relevant corporate identity to be included in detail in the reconstruction resume.

**Reconstruction**

Based on the research and discussion presented by the author it can then be summarized that the article in the law that should be reconstructed are as follows:

1. Article 20 paragraph 3 of Law No. 31 of 1999 as amended by Law No.20 of 2001 in the case of crime prosecution conducted against a corporation, the corporation is represented by the board by adding paragraphs "commissioners, directors, corporate organs, persons who

- are related to corporation or legal counsel Designated by the corporation.
2. Article 20 paragraph 4 of Law no. 31, 1999 as amended by Law No.20 of 2001, the board representing the corporation as referred to in paragraph (3) may be represented by another person by adding paragraphs "commissioners, directors, corporate organs, persons in connection with the corporation or The attorney appointed by the corporation.
3. Article 20 paragraph 5 of Law No.31 of 1999 as amended by Law No.20 of 2001, the Judge may order that the corporate administrator to appear to himself in court and may also order that the board be brought to court by adding a sub-paragraph may order that "commissioners, directors, corporate organs, persons affiliated with corporations or attorneys appointed by the corporation personally appear in court and may also order that" commissioners, directors, corporate organs, persons in connection with The corporation or attorney appointed by the corporation shall be brought to trial.

**Table 1:** Table of Reconstruction of Corporate Crime Liability on Corruption Crime Law

Previous Rules (law No.31 year 1999)	Weakness	Reconstruction
<p>Article 20 (1) In the case that a crime act of corruption is committed by or on behalf of a corporation, crime prosecution and lawsuit shall fell to the corporation and / or its officer (2) Corruption is committed by the corporation if the offense is committed by persons either based on employment or other relationship, acting within the corporate environment either alone or jointly. (3) In the case of a crime charge against a corporation, the corporation is represented by the board (4) The management representing the corporation as referred to in paragraph (3) may be represented by others. (5) A judge may order that a corporate administrator to appear to his or her own in court and may also order that the board be brought to trial (6) In case of crime prosecution is done to the corporation then the call to face and delivery of the summons is conveyed to the board in the residence of the board or at the place of the office. (7) The principal punishment that can be imposed on a corporation is only a fine, with a maximum crime provision plus 1/3 (one third)</p>	<p>In addition to the weaknesses in the formulation of crime regulation (crime responsibility) of corporation in corruption there is also a general weakness in the formulation of UUPTPK affecting corporate crime liability in corruption, namely: a. Not regulated understanding of conspiracy according to UUPTPK. b. Not regulated conditions of repetition of corruption under the UUPTPK. c. Crime Code Article 143, paragraph 2 letter a only accommodate the identity of the person as a legal subject of a crime offense, has not set the corporate position as a suspect or defendant. In formulating corporate crime liability in the future, namely in the context of updating the crime law (crime reform), the authors identify that the National legislation should formulate or formulate explicitly the following: a. Understanding or definition of the Corporation Formulation crime liability corporation in the future must be set consistently and firmly by using the term "corporation", while the definition of corporate groups of people and / or properties, either a legal entity or non-legal entity. b. Subject of Law of crime liability formulation corporation in the future must be set explicitly that the corporation is the subject of crime law that was considered to be committing a crime and accountable for their crime act (not just administrators-managers or formulated using the term "legal entity" or terms Other). c. Fundamentals of Corporate Correction According to the authors, the formulation of corporate crime liability in the future must set firmly on the basis of prosecution of a corporation. Basic sentencing a corporation in this regard is the setting explicitly in line with the doctrines that justify crime liability corporation, namely the identification theory doctrine or direct liability doctrine, strict liability or absolute liability, vicarious liability doctrine, the corporate culture models, doctrin of aggregation and reactive corporate Fault as described in chapter II of this book.</p>	<p>The Reconstructed articles are: 1. Article 20 paragraph 3 of Law no. 31 of 1999 as amended by Law No.20 of 2001 in the case of crime prosecution conducted against a corporation, the corporation is represented by the board by adding paragraphs "commissioners, directors, corporate organs, persons who are related to corporation or legal counsel Designated by the corporation. 2. Article 20 paragraph 4 of Law no. 31, 1999 as amended by Law No.20 of 2001, the board representing the corporation as referred to in paragraph (3) may be represented by another person by adding paragraphs "commissioners, directors, corporate organs, persons in connection with the corporation or The attorney appointed by the corporation. 3. Article 20 paragraph 5 of Law No.31 of 1999 as amended by Law No.20 of 2001, the Judge may order that the corporate administrator to appear in court himself and may also order that the board be brought to court by adding a sub-paragraph of Judge May order that "commissioners, directors, corporate organs, persons affiliated with corporations or attorneys appointed by the corporation personally appear in court and may also order that " commissioners, directors, corporate organs, persons in connection with Corporation or attorney appointed by the corporation is brought to trial.</p>

#### 4. Conclusion

Law Number 31 Year 1999 Jo. Law 20 Year 2001 on Corruption Eradication is expected in accordance with the development of legal needs in the community, which is expected to be more effective in preventing and combating corruption. In Law Number 31 Year 1999 Jo. Law 20 Year 2001, there are some formulation of corruption offense, formulated formally. This is very important as solid evidence in case of a lawsuit. With formulation formally embraced in this law, although the corruption result has been returned to the state, the perpetrators of corruption will still be brought to justice and remain convicted.

Corporations as "legal subjects" in the crime act of corruption are regulated in Law no. 31 of 1999 amended by Law no. 20 Year 2001 on the Eradication of Corruption. With regard to crime liability, the main principle that applies is to have a mistake (schuld) on the perpetrator. This is known as the principle of "geen straf zonder schuld" ie no crime without error, where the error has a condition: there is a crime committed, intent or negligence, the ability to be responsible, and no excuses. In the account of the crime law, there are 3 (three) systems of corporate status as the maker and accountability of corporations in crime law according to B. Mardjono Reksodiputro stated in his book *Pertanggungjawaban Pidana Korporasi dalam Tindak Pidana Korporasi*, namely:

1. Corporate management as responsible maker and board
2. Corporations as responsible makers and managers
3. Corporations as makers and responsible

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15. Pasal 20 ayat 3 UU Nomor 31 Tahun tentang Pemberantasan Tindak Pidana Korupsi, 1999.
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