




CORPORATE CRIMINAL LIABILITY IN THE COLLAPSE OF BANK CENTURY IN INDONESIA

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ABSTRACT

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This research aims to determine the form of criminal responsibility corporate banking should bear, having particular reference to the case of the Bank Century. It also seeks to understand the form of legal proceedings used against victims of banking crime in that case. The concept of corporate criminal liability is well established, and can apply both to the corporation and/or the board of directors. However, in the Bank Century case difficulties in conducting the prosecution arose because criminal sanctions against corporations were not included in Law no. 10 of 1998 which regulates banking. Secondly, the form of legal protection for the victims consists of two forms: preventative; and repressive. Indonesian regulators remain reluctant to recognize corporate criminal liability. Cultural change among regulators is required to ensure corporations in the banking sector are subject to criminal prosecution where appropriate.

Contribution/Originality: This is one of very few studies to have investigated corporate criminal liability as a legal subject. The academic debate over Bank Century has been minimal to date, and this research seeks to remediate that situation.

1. INTRODUCTION

The advance of human civilization and culture, in science and technology, particularly information, communication, and sophisticated transportation has resulted in more diverse community needs. These fulfillment of these needs by corporations makes their role within society a necessary one. This tends to foster dependency by the populace and the state on corporate entities. Brian Roach wrote: “some people perceive the ascendancy of global corporations as a positive force, bringing economic growth, jobs, lower prices, and quality products to an expanding share of the world’s population” (Roach, 2007). However, not all corporations live up to this standard, and criminal behaviour by them can adversely impact individuals, communities, and the state. Australian Criminologist, Braithwaite (2008) defined corporate crime as “the conduct of a corporation or employees acting on behalf of a corporation, which is proscribed and punishable by law”. It is noteworthy that corporate crime often entails deceit, misrepresentation, concealment of facts, manipulation, breaches of trust, subterfuge and attempts to circumvent the law (Atmasasmita, 2003).

The recognition of corporations as being subject to criminal law is not new, nor is debate among academics and legal practitioners. In the absence of a breakthrough related to categorization of corporations as perpetrators of crime (Sepinwall, 2011) a demand for imposing criminal responsibility on corporations arises. The importance of the imposition of criminal responsibility on corporations has been recognized in some other countries, including France. Article 121-2 of the *Code Pénal Français*; provides that: “Legal persons, to the exclusion of the State, are criminally responsible, according to the distinctions of articles 121-4 to 121-7, of offenses committed, on their behalf, by their organs or representatives ...”

Theoretically, however, corporations are exempted from crimes that can only be committed by an individual (natural persons): “In theory, a corporate entity can commit any offence except for offences which, by their very nature, can only be committed by natural persons (Hasnas, 2009).” Banks are often cited as examples of corporations that commit criminal practice. A bank is a lawful organization (Chidoko and Mashavira, 2014) which accepts deposits that can be withdrawn on demand. It can also lend money to individuals and businesses. Banks also render many other useful services, such as the collection of bills, payment of foreign bills, safe-keeping of jewelry and certifying the credit-worthiness of a business (Saunders and Thomas, 1997). Banking is defined “as an activity [that] involves [the] acceptance of deposits [and the] lending or investment of money. Banks facilitate business activity by providing money and services that help in the exchange of goods and services. Therefore, banking is an important auxiliary to trade. It not only provides money for the production of goods and services but also facilitates their exchange between buyer and seller (Rochet, 2009).

The robbery of customer money in Bank Century, Indonesia actually is a form of corporate crime. This case began when customer funds that could not be paid by Bank Century on November 18, 2008. The cause is poor management and many moral hazards (Ulum, 2009):

1. Customer fund corruption of up to IDR 2.8 trillion (IDR 1.4 trillion for Bank Century customers and 1.4 trillion for Antaboga Deltas Sekuritas Indonesia customers).
2. Sale of fictitious security products by Antaboga Deltas Sekuritas in which the product was not licensed by Bank Central (Bank Indonesia) and Bappepam LK (Capital Market Supervisor).

After failure of payment, customers of Bank Century could make banking transaction in either cash or non-cash. The customers of Bank Century could not withdraw cash money from automatic teller machines (ATM). Customers then visited Bank Century offices seeking clarification from staff who refused to guarantee that funds would be available from ATMs in the immediate future. This led to customers taking legal measures against Bank Century as a corporation to access their funds and for compensation. In its judgment, the court sentenced Bank Century administrators to imprisonment and fines. The Bank Century corporation was also fined, but not found to be criminally responsible. Therefore, the author wants to discuss further the status of Bank Century as corporation in the case enticing it and how the form of responsibility is in that case.

In Indonesia, Studies on corporate responsibility have been done but not widely. Several previous studies on Bank Century examined more in terms of the economy, for example (Sari *et al.*, 2018) who mentioned the bail out policy of 6, 7 trillion rupiah from the government to save Bank Century (Von Luebke, 2010). Talked more about the political aspects, including the popular book of the time by Aditjondro (2010): *Membongkar Gurita Cikeas: di balik skandal Bank Century*. The legal studies that took place were as the subject of media discussion, but they were not made into complete academic studies, including the absence of legal studies that reached out to involve corporations as legal subjects who had to be responsible in the Bank Century case. Thus, the presence of this research is important to answer the existing vacancies of the study.

This research focuses on the subject to be studied further, as the author will choose Bank Century as the subject of research, and focus on how corporation can be decided as guilty and determined as the perpetrator of crime. Therefore, the author chooses the title “Criminal Responsibility of Banking Corporation (A Case Study on Bank Century)”.

2. RESEARCH METHOD

This research was conducted over eight months from January to August, 2018. This study was a normative doctrinal law research that is prescriptive and applied in social. The approaches used in this research were statute approach, case approach and conceptual approaches (Marzuki, 2014). This research employed primary and secondary law materials. Primary law materials used included: Banking Law, Penal Code, and Corporation Law. Meanwhile, the secondary law material used included journals related to the topic of research. Technique of analyzing data used was deductive syllogism one.

After the legal material has been collected, verification of legal material is carried out by validating the source with document verification. The results of verification of documents will invalidate invalid legal materials. After that, validation is done again by testing the results of the legal material through a Focus Group Discussion (FGD). The FGD was conducted not only to test the validity of the source but also to confirm the legal materials and discuss the results of the research method. From the process of that research method, the data analysis technique can be described as follows.

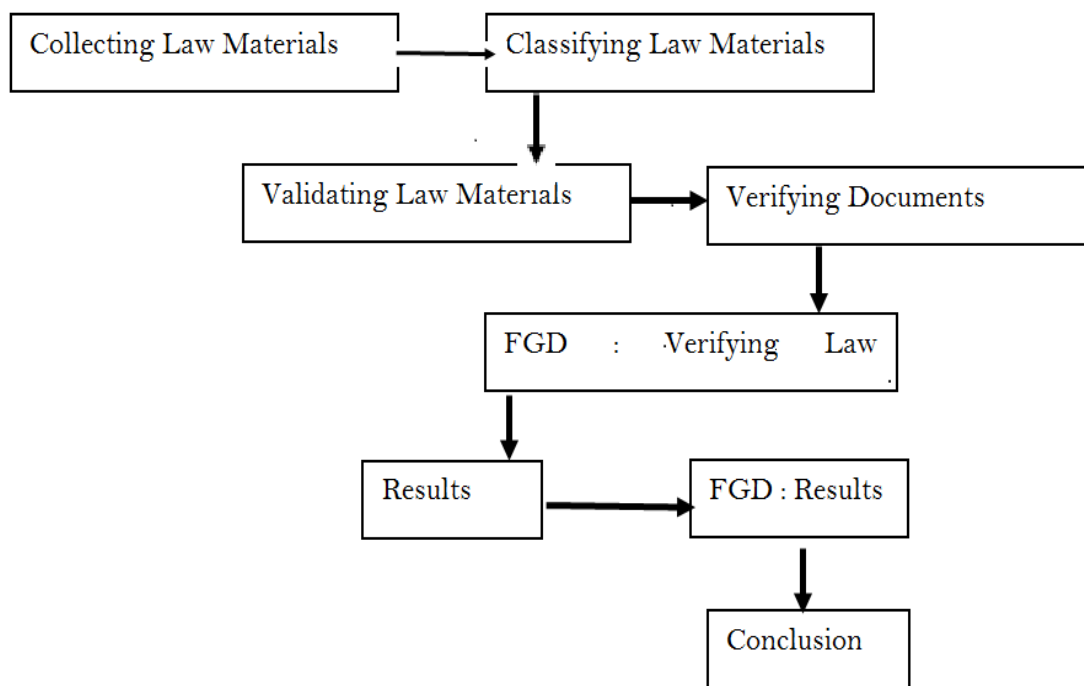


Figure-1. Data analysis technique.

3. LITERATURE REVIEW

3.1. Corporation Theory

Corporations are formed when the need for capital grows. Together capital develops legally into a person (body) that stands alone regardless of the participant capital collectors in business relations. Furthermore, Corporation will not die like the shareholders that at any time and eventually will die, this is called corporate immortality. Corporate capital is a separate capital of legal person. The corporation in the community is usually called a commercial entity with a legal entity (*rechtspersoon*). At firstly the corporation or legal entity is a subject that is only known in civil law, what is called a legal entity is actually a legal creation, namely by pointing to the existence of a body that is given the status as a legal subject, in addition to the legal subjects in the form of *natuurlijk persoon*.

According to Jowitt's Dictionary of English Law, the notion of corporation is explained as follows (Jowitt *et al.*, 1977): Corporation, a succession or collection of persons having in the estimation of the law an existence rights and duties distinct from those of the individual persons who form it to from to time. A corporation is also known as a

body politic. It has a fictitious personality distinct from that of its members. A corporation soul consists of only one member at a time, the corporate character being kept up by a succession of solitary members. A corporation aggregate consist of several members at the same time. Meanwhile, in the Black's Law Dictionary, given the following explanation of the definition of corporation (Black *et al.*, 1999). Corporation. An artificial person or legal entity created by or under the authority of the laws of a state or nation, composed, in some rare instances, of a single person and his successors, being the incumbents of a particular office, but ordinary consisting of an association of numerous individuals. According to the accepted definitions and rules, a corporation are classified as follows public and private. A public corporation is one created by the state for political purpose and to act as an agency as administration of civil government. Private corporation are those founded by and composed of private individual, for private purpose, as distinguished from governmental purpose, and having no political or governmental franchises or duties (Black *et al.*, 1999). Kenneth (2002) states that a corporation is an artificial person. It can do anything a person can do. It can buy and sell property, both real and personal, in its own name. It can sue and be sued in its own name.

Corporate is a term that commonly used by criminal law and criminology experts to refer to what in other legal fields, specifically the field of civil law as a legal entity, or in Dutch is called *rechtspersoon* or in English with the term legal person or legal body. The definition of legal subject is essentially human and everything that is based on the demands of community needs, which by law is recognized as supporting rights and obligations. The second understanding is what is called a legal entity (Setiyono, 2003).

Hamilton gives definition of corporate, i.e. (Hamilton and Freer, 1991): "Strange enough, it has not always been perceived with perfect clearness that transacting business under the forms, methods, and procedure pertaining to so-called corporation is simply another mode by which individuals or natural persons can enjoy their property and engaging in business. Just as several individuals may transact business collectively as partners, so they may as members of corporation; the corporation being nothing more than an association of such individuals".

A corporation is a combination of people who in association with the law act together as separate legal subjects as a personification. A corporation is a business entity whose existence and legal status is equal to that of a person. In Indonesia, the corporation is regulated in various regulations. Corporation is mentioned in Article 15 paragraph (1) Emergency Law No. 7 of 1955 concerning Economic Crimes states "If an economic criminal offense is committed by or on behalf of a legal entity, a corporation, a union of other persons or a foundation, then criminal prosecution is carried out and criminal penalties and disciplinary actions are imposed, both against legal entity, company, association or foundation, both those who give orders to commit economic crime or who act as leaders in the act or negligence, or both " The mention of corporations as legal subjects is also listed in Article 1 number 1 of Law No. 31 of 1999 which has been amended by Law No. 20 of 2001 concerning Eradication of Corruption, Article 1 number 13 of Law No. 5 of 1997 concerning Psychotropics, Article 1 number 21 of Law No. 35 of 2009 concerning Narcotics, Article 1 number 10 of Law No. 8 of 2010 concerning Money Laundering Crimes, Article 1 number 6 of Law No. 21 of 2007 concerning Eradication of Trafficking in Persons, Article 1 number 15 of Law No. 31 of 2004 concerning Fisheries; "Corporations are collections of terrorization of people / or wealth, whether they are legal entities or not legal entities". In Article 1 point e of Law No. 5 of 1999 concerning Prohibition of Monopolistic Practices and Unfair Business Competition: "Business Actors are every individual or business entity, whether in the form of a legal entity or not a legal entity established and domiciled or carrying out activities within the jurisdiction of the Republic of Indonesia, both alone and together... through agreements, organizing various business activities in the economic field". Whereas in Article 1 number 23 of Law No. 23 of 2007 concerning Environmental Management: "person is an individual, and/or group of people, and / or legal entity". Article 1654 of the Civil Code states that a corporation is defined as: "a civil corporation is an agreement between two or more people, who promise to put something into the company with the intention that the profits obtained from the

company be divided between them". Whereas in the draft of the Indonesian Criminal Code, the Corporation is an organized collection of people and/or wealth, both a legal person and not a legal entity.

3.2. Corporate Crime Liability

In imposing criminal liability for corporations, there are several doctrines adhered to in the practice of legal science, namely:

3.3. Identification Theory/Direct Liability Doctrine

This doctrine can simply be interpreted that the mistakes of the members of the board of directors or company / corporation organs can be charged to the corporation. This emphasizes the intention of directing mind in running the corporation by assuming that the intention of directing mind is the same as the intention of the corporation (Gobert, 2008). The owner of directing mind is a senior official / person who has the authority to make decisions or policies in determining the direction and actions of the corporation (not ordinary employees). It means that a decision maker or policy which in this case means that members of the board of directors and manager-level employees. This doctrine is a justification for corporate criminal liability even though the corporation is not something that can stand alone. This doctrine is also called *alter ego* or organ doctrine. Corporations in principle can be accounted for the same as individuals based on this doctrine. A crime requires *mens rea* and *actus reus*.

Employee segregation that can be personified as corporate activities, actually refers to many common law systems. According to British law, corporate crimes are required to prove them, such as their intentions, carelessness and negligence. The purpose of corporate responsibility according to this doctrine is that corporate employees can be shared with those who act as 'workers' and who act as 'brains of the corporation'. Based on Corporate Crime Liability in Common Law System, has showed that:

"It was not until the 1940s that English law contemplated a form of corporate liability which could apply to serious offences such as fraud, theft and manslaughter. One of the objections to finding corporations liable for such offences was that they required proof of a mental element of intention, recklessness or negligence. For the purposes of corporate liability for this type of offence, courts developed the *alter ego*, or identification theory, under which certain key personnel are said to act as the company (rather than on behalf of it, as is the case with vicarious liability). The underlying theory is that company employees can be divided into those who act as the 'hands' and those who represent the 'brains' of the company." (OECD, 2000).

3.4. Vicarious Liability

This doctrine is based on employment principle, that states employer (higher) is who take responsibility for the labors/workers, so the servant's act is the master act in law" (Kraakman, 2009). This doctrine is known as the agency principle, that the company is liable for the wrongful acts of all its employees. Vicarious Liability commonly is defined that the legal responsibility of one person for the wrongful acts of another (Laski, 1916).

There are two conditions for the implementation of vicarious liability, namely: there has been a delegation of authority from the employer to the employee and if the act in such a way can be seen as the employer's actions or in this case the employer acts as an intellectual maker and the employee acts as a physical maker. A popular example is the case of Melkboer Arrest/Water en Melk Arrest (Landman, 2007). This doctrine was transplanted from civil law which developed into the employer's liability for its workers. In common law system, Vicarious liability, a doctrine transplanted from civil law which grew out of the development of the liability of a master (employer) for his servant (employee), facilitated the development of both the civil and criminal liability of corporations. The vicarious principle applied only to some statutory offences in the regulatory field and, by 1900, a number of regulatory provisions were construed as applying to corporations" (OECD, 2000).

3.5. Strict Liability

Criminal liability can be charged to the perpetrators of certain criminal acts, without the need to prove the existence of an element of error (both intentional and negligence), just by looking at *actus reus*, which is doing an act that is required by criminal provisions (Epstein, 1973). This doctrine in Indonesia is used in the environmental law and the consumer protection law. Strict liability or absolute liability or also called no-fault liability or liability without fault is the principle of responsibility without the need to prove the existence of errors.

4. FINDINGS AND DISCUSSION

The case of Bank Century departs from internal problem occurring in Bank Century, that was, deceit made by bank management, in relation to their client. The bank management deceived the customers in the form of customer fund corruption (misuse) up to IDR 2.8 trillion (IDR 1.4 trillion for Bank Century customers and 1.4 trillion for Antaboga Deltas Sekuritas Indonesia customer) and Fictitious security selling of Antaboga Deltas Sekuritas product. These two problems result in big loss among the customers of Bank Century. After Bank Century encountered clearing defeat, the customers of Bank Century could make banking transaction in either cash or non-cash. The customers of Bank Century could not withdraw cash money from ATM of Bank Century and ATM Bersama. The customers then came to Bank Century office to ask for clarification from the Bank officer. However, the bank officer could not guarantee that the money will be able to withdraw through ATM in the following days.

On November 13, 2008, the customers of Bank Century admitted that transaction in the form of foreign currency could not be withdrawn and even clearing and transfer could not be done. The bank management only permitted the transfer of deposit fund to dollar saving. Thus, money could not get out of the bank. Customers consider that Bank Century has trade illegal investment product. It was because, Antaboga investment marketed by Bank Century was not enlisted in Bapepam-LK. It resulted in many protests from the customers. The customers made a protest and occupied the subsidiary office of Bank Century. Even the customers reported the deceit to The Police of Republic of Indonesia and Parliament to ask them to resolve the case immediately and to return their deposit money.

4.1. Analysis on the Status of Bank Century as Corporation in Bank Century Case

Corporate crime is part of white-collar crime, but it is more specific. It is organized crime in a complex and deep relationship between an executive leader and manager in one hand. Corporate crime is part of white-collar crime, but it is more specific. Organized crime in a complex and deep relationship between an executive leader and manager in one hand (Clinard *et al.*, 1979). Sutherland (2017) gives definition of corporate crime: “*A crime committed by a person of respectability and high social status in the course of his/her occupation.*” Simpson states that corporate illegality is often attributed to greed by corporate managers and insufficient legal safeguards (Simpson *et al.*, 2013).

Corporate crime can be committed in the economic, socio-cultural fields and impact on the wider community (Sheley, 1991). In the economic field, among others; Defrauding Stockholders (example: Not reporting actual company profits), Defrauding the Public (example: fixing prices and misrepresentation products), Defrauding the Government (example: Avoiding or reducing tax payments by reporting data that does not match actual data, bribery of officials), Endangering the Public Welfare (endangering the welfare/safety of the community (environmental pollution), Endangering the Employee (example: not paying attention to work safety), Illegal Intervention in the Political Process (example: making unlawful political campaign contributions), etc. In the socio-cultural field carried out among others: crimes against labor, intellectual property right crime, narcotics crimes, while those involving the wider community include environmental crimes and crimes against consumers. The biggest problem when the law opponents corporations is the criminal justice system's failure to control corporations (Braithwaite, 1982).

The development of corporation concept as the subject of criminal law is the result of changes occurring in society in undertaking business activity. In the development process, there are some responses to the position of corporation as the criminal subject. Many arguments arise regarding the scope of crime committed by corporation as the criminal subject. For example, Kramer stated that "The Development of Idea", as cited in *Principles and Theories of Criminal Liability: Chapter 3*, states that: "the corporate crime involves: criminal acts (of omission or commission) which are the result of deliberate decision making (or culpable negligence) by persons who occupy structural positions, within the organization as corporate executives or manager. These decisions are organizational in that they organizationally based-made in accordance with the operative goals (primarily corporate profit), standard operating procedures, and cultural norms of the organization-and are intended to benefit the corporation itself" (Kramer, 1989).

Meanwhile, there are some rationales of the importance of corporate responsibility: firstly, corporation is the main actor in the world economy, so that the presence of criminal law is considered as the most effective method to affect the corporation actor's rational actions (Pamela, 2007). Secondly, the profit obtained by corporation and the loss suffered from by society can be so large that it will impossibly be balanced when corporation is imposed with civil sanction only (Stephens, 2002).

Theoretically, as suggested by Sam Park and John Song, there are three basic references that can be used to determine that a corporation is responsible for illegal action committed by its administrators (Park and Song, 2013). Firstly, corporation is responsible for the crime committed by administrator if only the crime is still in the scope and basic characteristic of their job in corporation. Secondly, corporation is not responsible criminally for the crime committed by the administrators unless the crime is intended to benefit the corporation. A corporation's factual profit from the crime committed by the administrator should not be real, even the fact that the administrators deliberately give the profit to corporation is enough. Thirdly, to state that corporation is responsible for the crime committed by its administrator, the court obligatorily transfers the administrators' intentionality to corporation.

Departing from this theory, the author tries to analyze the case occurring in Bank Century.

- i. Corporation is responsible if only the crime committed by the administrators is still in the scope and basic characteristic of their job in corporation.

In the case of Bank Century, the crime committed by administrators was deceit and counterfeit security selling in the scope of their occupation as the administrators of Bank Century. On the part of shareholders, Robert Tantular using his authority, compelled managers and employees of Bank Century to sell security product from Antaboga by threatening that they will be dismissed when they refuse to do so or will not be promoted and will not be given salary increase. Another infringement committed is that shareholders transferred the customers' fund to their personal account. All of infringements committed is still in the scope of duty and authority in their occupation as the administrators of Bank Century.

- ii. Corporation is not responsible criminally for the crime committed by the administrators unless the crime is intended to benefit the corporation.

The crime committed by administrators resulted in a condition in which Bank Century was defeated in clearing, and disrupted the bank's operation. However, as a result, Bank Century got fund infusion again from Indonesian Government as much as IDR 6.7 trillion to save Bank Century. It of course benefited the Bank Century that lacked capital at that time; more over the amount of bail-out fund given by government was so large.

- iii. The court obligatorily transfers the administrators' intentionality to corporation.

In the case of Bank Century, the representatives of Bank Century Customer Forum, filed lawsuit against Bank Century to arbitrage court of Consumer Dispute Resolving Agency or BPSK of Yogyakarta. The verdict of arbitrage court stated that BPSK decided that Bank Century is guilty for marketing the counterfeit security product of PT Antaboga Delta Sekuritas Indonesia. It was based on the Bank Century's action, through its administrators,

not preventing the selling of counterfeit security product, despite their knowledge on the product not enlisted in Bapepam-LK.

Having analyzed the case of Bank Century, it is reasonable to say that in the case occurring, Bank Century as corporation deserves to be given status of actor and be imposed with responsibility.

The development of corporate responsibility problem in Indonesia so far has shown its progress. Several executive rules have been developed to facilitate the case management involving the subject of corporation law. The regulation instrument is Supreme Court's Regulation (*Perma*) No. 13 of 2016 about the Procedure of Handling Crime Committed by Corporation. The substance of *Perma* includes a number of important points: definition of corporation, scope, procedural law, and criminal punishment. Therefore, the existence of *Perma* facilitates the law enforcers to impose sanction against the criminal subject of corporation.

Corporations are naturally included as legal subjects for the following reasons: First, the corporation is the personification of *natuurlijke persoon*; Second, considering that in socio-economic life, corporations are increasingly playing an important role as well; Third, criminal law must have a function in society and enforce the norms and provisions that exist in society; Fourth, the conviction of corporations with the threat of punishment is one of the efforts to avoid criminal acts against the employees themselves; and Fifth, it turns out that the imprisonment of the management alone is not enough to hold repressive offenses that are committed by or with a corporation.

Actually regarding the position of a legal entity / corporation as a criminal law subject, in Indonesia there has been a decision of the Supreme Court of the Republic of Indonesia dated March 1, 1969, Number 136 / Kr / 1966 in the case between PT Kosmo and PT Sinar Sahara, which states, " a legal entity cannot be confiscated." This explains that PT Kosmo and PT Sinar Sahara is not an object, because only goods / items can be confiscated, but the subject of law. The existence of the Supreme Court verdict means there is juridical recognition that the corporation as a subject of criminal law.

Anderson and Welsh (2005) state that as a matter of public policy it is of vital importance that companies comply with the legislative provisions that are the subject of this review. The question is how to best ensure that companies comply with this legislation. Can compliance be secured by placing liability on the corporation alone or it is necessary to also impose liability on the directors and managers of those corporations? If so, what type of liability should be imposed on those managers?"

4.2. The Form of Bank Century's Criminal Liability as Corporation

In relation to the acceptance of corporation to be the subject of criminal law (Arlen, 1994) it means that there has been an expansion of definition of who is the crime perpetrator (*dader*) (Rabie, 1971). The problem arising immediately is related to criminal corporate responsibility. The basic principle of criminal responsibility is that there should be guilt (*schuld*) in the perpetrator (Dubber, 2007). Because corporation cannot commit crime without its administrators' intermediary, based on functional agent theory (Kraakman and Armour, 2017); (Laski, 1916) and identification theory (Braithwaite and Fisse, 1990); (OECD, 2000) the corporation's guilt should be decided by seeing whether or not the administrators committing the crime for and on behalf of corporation are guilty. When they are guilty, corporation is stated as guilty for the crime they have committed. It is mentioned as well that the guilt existing in the corporation administrators is transferred to be the corporation's guilt itself.

Considering the analysis conducted above, when related to some legal theories related to criminal corporate responsibility (Orland, 1979) the theory embodied in the case of Bank Century is Identification theory. This theory stated that the administrators' deed is stated as corporation's deed. Similarly, in the Case of Bank Century, the administrators' deed in the form of fund misuse and counterfeit security selling resulting in loss among the customers led the Bank Century to assume the consequence in the form of paying an amount of find in addition to the imposition of responsibility against it administrators. It is because the recognition of the action is made on behalf of and for Bank Century as corporation.

The legal instrument related to corporate crime in Indonesia still has weakness. It results in some constraints in handling the case. In the case of Bank Century, the legal instrument existing is less supporting related to the recognition of corporate legal subject. However, recently Indonesian Supreme Court Regulations has been developed, governing the corporation crime. But Indonesian Supreme Court Regulations has been existing only since the case of Bank Century occurred, so that it cannot be applied to the case.

5. CONCLUSION

1. In the case of Bank Century, the status of Bank Century, as corporation, can be stated as the perpetrator of crime (*dader*), after the authentication that the administrators' action was conducted in the scope of occupation (job) in corporation; that the administrators' action benefited Bank Century as corporation; and the arbitrage court stated that Bank Century was guilty in the case of counterfeit security selling to the customers of Bank Century.
2. In relation to Bank Century Case, the form of criminal responsibility used was the imposition of criminal sanction against the administrators and fine against Bank Century. In relation to corporate responsibility doctrine, the doctrine applied to the case of Bank Century is identification theory. It is because the crime occurring not only benefited the administrators but also was committed on behalf of corporation, so that according to identification doctrine, when the administrators undertake the corporation's authority or will, the responsibility is also imposed against the corporation.

6. RECOMENDATIONS

1. The recognition of corporation as legal subject in Indonesia is still limited to certain law and has not been governed clearly in Criminal Law Codification (Penal Code), so that it often becomes the reason of avoiding corporation from legal process; therefore, there should be a reformation in Indonesian law by including the rule related to corporation law subject in both Criminal Code and relevant other laws out of Criminal Code.
2. In the case of Bank Century, there should be a reformation in the role of law enforcers in order not to see from law aspects only in dealing with the case. It should also consider the presence of relevant doctrines and theories of experts.
3. Law enforcement for corporations should be improved by imposing criminal sanctions on corporations. For this reason required a common perception among law enforcers regarding corporation conviction.

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