



RESEARCH ARTICLE

CRIMINAL LIABILITY OF POLITICAL
PARTIES FROM THE PERSPECTIVE OF
ANTI-MONEY LAUNDERING ACT

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ABSTRACT

This research addresses the questions on, among other things, criminal liability of political parties from the perspective of the Law on the Prevention and Eradication of Criminal Acts of Money Laundering and the models of criminal liability of political parties with respect to criminal acts of money laundering. The juridical-normative research method used shows that political parties have met the criteria as corporations, being groups of people or assets to which the corporate criminal liability system applies. The fault of a political party in criminal acts of money laundering can be viewed through the

actions of its administrators being a systemically integral part of the party as they have been given the roles by the party for the benefit of the party. The first conclusion is that a political party can be held criminally liable for criminal acts of money laundering. Secondly, the models of criminal liability of a political party in criminal acts of money laundering comprise (1) the model of criminal liability under Law No. 8 of 2010 concerning the Prevention and Eradication of Criminal Acts of Money Laundering. (2) Administrative model guided by the principle of *systematische specialiteit* and the method of economic analysis of law approach through the Political Party Law. (3) Restorative justice model in the form of dual track system. This model is the alternative companion to the penal justice system, namely the criminal model and administrative model.

Keywords: Criminal Liability, Money Laundering, Political Parties, Criminal Act

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INTRODUCTION

THIS STUDY is intended for studying criminal liability of political parties from the perspective of the Law on the Prevention and Eradication of Criminal Acts of Money Laundering. The Indonesian Financial Transactions and Analysis Center (hereinafter as PPATK RI) has developed the *Politically Exposed Persons* (PEP) application. PEP is defined as a person possessing or once possessing public authority, such as a state administrator. The persons included in PEP are state administrators and/or persons recorded or once recorded as members of political parties having influence on the policies and operations of political parties, whether of Indonesian or foreign nationality. The provisions on PEP are regulated in the Regulation of PPATK Head Number per-02/1.02/PPATK/02/15 concerning the Categories of Service Users with the Potential to Commit Criminal Acts of Money Laundering. Article 5 of this Regulation of PPATK Head states that the persons potentially exposed to the high risk of committing criminal acts of money laundering are, among others, administrators, or members of political parties. The great number of political party members holding positions in the government surely leads to the alertness regarding their behavior which may lead to Criminal Acts of Money Laundering as they are also included in the PEP list.¹

¹ Lolita Fitriyana, *Pertanggungjawaban Pidana Partai Politik dalam Tindak Pidana Pencucian Uang*, 2 JURISDICTION 1319-1338 (2019). A politically exposed person is an individual with a high profile political role, or someone who has been entrusted with a prominent public function. These individuals present a higher risk of involvement in money laundering and/or terrorist financing because of the position they hold. For further comparison cases, *please also see* Kim-Kwang Raymond Choo, *Challenges in dealing with politically exposed persons*, 386 TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE 1-6 (2010); Maulana Bryantonio, 2 UNNES LAW JOURNAL: JURNAL HUKUM UNIVERSITAS NEGERI SEMARANG 20-26

The *Politically Exposed Persons* (PEP) application launched by PPATK in 2015 has not reached political parties as corporations at all. This can be found in the 2020 Annual Report of PPATK reporting 523 analysis results, 457 information items and 25 results of examination of criminal acts of money laundering and other financial criminal acts, as presented in the following table²:

TABLE 1. Money Laundering and Other Financial Crimes in Indonesia

No	Type of Crimes	Amount
1	Corruption	206
2	Taxation	126
3	Financing of terrorism	39
4	Drugs	30
5	Fraud	29
6	Fraud and/or embezzlement	28
7	Embezzlement	19
8	Banking	8
9	Excise	6
10	Forgery	6
11	Customs	3
12	Fraud and/or forgery	3
13	Criminal Acts of Money Laundering (TPPU)	3
14	Customs and/or excise	2
15	Theft	2
16	Human trafficking and/or human trading	2
17	Trading and/or fraud	2
18	Gambling	2

(2013); Idrus Salam and Satria Unggul Wicaksana Prakasa, *Corporate Legal Liability for Corruption in the Private Sector*, 2 *INDONESIAN JOURNAL OF LAW AND SOCIETY* 235-258 (2021).

² PPATK, "PPATK Annual Report Year 2020, retrieved from <https://www.ppatk.go.id/backend/assets/images/publikasi/1621565512_.pdf> at. 8.

No	Type of Crimes	Amount
19	Fund transfer	1
20	ITE	1
21	Transfer of assets of Foundations	1
22	Smuggling of animals	1
23	Trading and/or smuggling of animals	1
24	Trading and/or banking	1
25	Provocation and spreading of hoaxes	1
Total Cases		457

Source: PPATK Annual Report Year 2020

Based on the table above, all the Reports on Analysis Results or *Laporan Hasil Analisis* (LHA) and information have been submitted to the law enforcement agencies such as the Police of the Republic of Indonesia (198 LHAs and 56 Information items), the Directorate General of Taxation (125 LHAs and 64 Information items), the Corruption Eradication Commission (99 LHAs and 34 Information items), the State Attorney (81 LHAs & 9 Information items), the Directorate General of Customs and Excise (11 LHAs), and the National Narcotics Board (9 LHAs). Furthermore, 25 Reports on Examination Results or *Laporan Hasil Pemeriksaan* (LHP) of PPATK have been submitted to the Corruption Eradication Commission (8 LHPs), the State Attorney of the Republic of Indonesia (4), the Police of the Republic of Indonesia (4), the National Narcotics Board (2), the Directorate General of Customs and Excise (2), the Directorate General of Taxation (1), and PPATK data base (1). Such LHPs are related, among other things, to criminal acts of corruption, criminal acts of taxation, drugs-related criminal acts, customs-related criminal acts and criminal acts of fraud³.

³ *Id.* In fact, in a further context, related to money laundering, it is also emphasized that the Indonesian monetary system, which adheres to a free foreign exchange system, allows for free transactions in unlimited amounts,

Scrutinizing the reports of PPATK RI above, the criminal liability for criminal acts of money laundering is still limited to the individuals of political party members and administrators, not yet reaching the political parties. In her study, Nani Mulyati (2018) states that political parties play important roles in the constitution, but they can still be imposed with criminal liability. If political parties are to be granted with immunity, they will only be subject to imposition of a sanction since they cannot be subject to forced dissolution.

In their research, Andreas Nathaniel Marbun and Revi Laracaka propose some considerations for political parties to be subject to criminal liability using the corporate liability theory, namely as follows⁴: a) many criminal acts committed by political party administrators for the interest of the political party in gaining extra money meet the criteria for *vicarious liability*; b) many criminal acts

including through national banking and strict bank secrecy provisions are factors that give rise to opportunities for money laundering in Indonesia. Money laundering is closely related to criminal acts/crimes, therefore its eradication also means tackling the underlying crimes, especially against organized crimes, such as provisions for other criminal acts, such as: corruption, bribery, smuggling of goods, labor smuggling, smuggling. immigrants, banking, capital markets, insurance, narcotics, psychotropics, human trafficking, illicit arms trade, terrorism, kidnapping, theft, embezzlement, fraud, counterfeiting money, gambling, prostitution, taxation, forestry and the environment. *See also* Muhammad Ali Zaidan, 1 THE INDONESIAN JOURNAL OF INTERNATIONAL CLINICAL LEGAL EDUCATION 3-18 (2019); Maghfur Ahmad, *Fiqh Anti-Korupsi Mazhab Negara: Memadu Hukum Islam dan Hukum Nasional*, 12 JURNAL HUKUM ISLAM (2014); Suramin Suramin, *Indonesian Anti-Corruption Law Enforcement: Current Problems and Challenges*, 2 JOURNAL OF LAW AND LEGAL REFORM 225-242 (2021); Ivan Muhammad Fakhriy, *Combating Corruption: Problems and Challenges in Indonesia*, 7 LAW RESEARCH REVIEW QUARTERLY 487-504 (2021); Indra Yuliawan, *Law Enforcement of Political Corruption as a Form of Abuse of Political Power*, 4 LAW RESEARCH REVIEW QUARTERLY 879-898 (2018).

⁴ Andreas Nathaniel Marbun and Revi Laracaka, *Analisa Ekonomi Terhadap Hukum dalam Pendanaan Partai Politik melalui Pertanggungjawaban Korporasi dalam Tindak Pidana Korupsi*, 5 INTEGRITAS: JURNAL ANTI KORUPSI 143-150 (2019).

committed by political party core administrators meet the criteria of identification theory; c) many such criminal acts have been committed under a silent order from the political party system with no strict supervision of the sources of fund received from party administrators committing such criminal acts. Political parties even give rewards to those giving quite a lot of contributions to the parties while knowing that such funds are proceeds of criminal acts of corruption by the administrators, thus fulfilling the theory of organizational liability.

The norms for imposing criminal liability on a political party in criminal acts of money laundering are formulated in Article 6 of Law No. 8 of 2010 concerning the Prevention and Eradication of Criminal Acts of Money Laundering. The norm formulation states that corporations, including political parties, can be held liable for a criminal act of money laundering if: a). it has been committed or ordered by the corporation's controlling personnel; b). it has been committed to fulfill the purpose and objectives of the corporation; c). it has been committed in accordance with the duties and functions of the perpetrator or the one giving the order; and d). it has been committed to benefit the corporation.

The authentic understanding of such norm formulation is that a political party which has met the criteria as a corporation can be held criminally liable for a criminal act of money laundering if it has been committed or ordered by the corporation's controlling personnel or if it has been committed in accordance with the duties and functions of the perpetrator or the ones giving the order. This refers to those having authority under the Articles of Association/By laws of the political party. A political party can also be held criminally liable if a criminal act of money laundering has been committed in the interest (purpose and objectives) of the political parties and the criminal act even provides some benefit or advantages to the political party.

Nyoman Serikat Putra Jaya states that there are two requirements for imposing corporate liability, namely⁵ a) the unlawful act is committed by a person having work relationship or other relationship with the legal entity/corporation; b) the unlawful act is committed or intended for the benefit of corporate development. Based on the two requirements proposed by Nyoman Serikat Putra Jaya, a political party may be held criminally liable for a criminal act of money laundering. This research employs the method of jurical-normative research or doctrinal research. According to Soetandyo Wignyosoebroto, doctrinal research conceptualizes law as a norm having the scope of *ius constituendum*, *ius constitutum* and law *in concreto*⁶. This research addresses the issue of criminal liability of

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- ⁵ NYOMAN SERIKAT PUTRA JAYA, HUKUM PIDANA KHUSUS (Semarang: Badan Penerbit Universitas Diponegoro, 2016) at. 10. Please also compare with Ikka Puspitasari and Erdiana Devintawati, *Urgensi Pengaturan Kejahatan Korporasi dalam Pertanggungjawaban Tindak Pidana Korporasi Menurut KUHP*, 20 KANUN JURNAL ILMU HUKUM 243-244 (2018). In fact, various problems in various cases of money theft have not yet found an effective solution, for example how to confiscate assets in cases of corruption committed by political parties, the form of accountability of political parties which is equated with corporations, to various cases of abuse of power in political parties. For further discussion, please see Sugeng Wahyudi, *Penal Policy on Assets Recovery on Corruption Cases in Indonesia*, 4 JILS (JOURNAL OF INDONESIAN LEGAL STUDIES) 45-72 (2019); Indra Yuliawan, *Law Enforcement of Political Corruption as a Form of Abuse of Political Power*, 4 LAW RESEARCH REVIEW QUARTERLY 879-898 (2018); Redentor G A Obe and Indah Sri Utari, *Criminal Accountability for Corruption Actors in the Form of Concursus Realist*, 1 JOURNAL OF LAW AND LEGAL REFORM 325-332 (2020); Yeni Lestari, *Political Cartel and Political Corruption in Indonesia*, 2 LAW RESEARCH REVIEW QUARTERLY 407-420 (2016); Muhtar Hadi Wibowo, *Corporate Responsibility in Money Laundering Crime (Perspective Criminal Law Policy in Crime of Corruption in Indonesia)*, 3 JILS (JOURNAL OF INDONESIAN LEGAL STUDIES) 213-236 (2018); Shubhan Noor Hidayat, Lego Karjoko, and Supto Hermawan, *Discourse on Legal Expression in Arrangements of Corruption Eradication in Indonesia*, 5 JILS (JOURNAL OF INDONESIAN LEGAL STUDIES) 391-418 (2020).
- ⁶ SOETANDYO WIGNYOSOEBROTO, HUKUM PARADIGMA, METODE DAN DINAMIKA MASALAHNYA, (eLSAM & Huma, Jakarta, 2022) at. 147-162.

political parties from the perspective of the Law on the Prevention and Eradication of Criminal Acts of Money Laundering. The other question concerns the models of criminal liability of political parties in criminal acts of money laundering.

CRIMINAL LIABILITY OF POLITICAL PARTIES: THEORIES & PRACTICES

BARDA NAWAWI states that criminal liability contains a meaning of blameworthiness of the perpetrator (legal subject) for the criminal act he/she has committed.⁷ Barda further confirms that criminal liability contains objective blameworthiness and subjective blameworthiness. Objective blame worthiness means that the perpetrator has committed a criminal act (prohibited/unlawful act), while subjective blameworthiness means that the perpetrator should be blamed or held responsible for the criminal act, he has committed which should be subject to criminalization.⁸

The concept of liability of Roscoe Pound as quoted by Romli Atmasasmita is based on the mutually philosophical and legal perspectives⁹. For that purpose, Pound expressly and systematically describes the concept of liability as shown on Figure 1¹⁰:

⁷ BARDA NAWAWI ARIEF, *TINDAK PIDANA MAYANTARA PERKEMBANGAN KAJIAN CYBER CRIME DI INDONESIA*, (Rajagrafindo, Jakarta, 2006) at. 73.

⁸ *Id.*

⁹ ROSCOE POUND, *PENGANTAR FILSAFAT HUKUM*, TRANSLATED BY MOHAMAD RADJAB, (Bhrataara, Jakarta, 1996) at. 80-81. Please also compare with ROMLI ATMASASMITA, *ASAS-ASAS PERBANDINGAN HUKUM PIDANA*, (Yayasan Lembaga Bantuan Hukum Indonesia, Jakarta, 1989) at. 79.

¹⁰ *Id.*

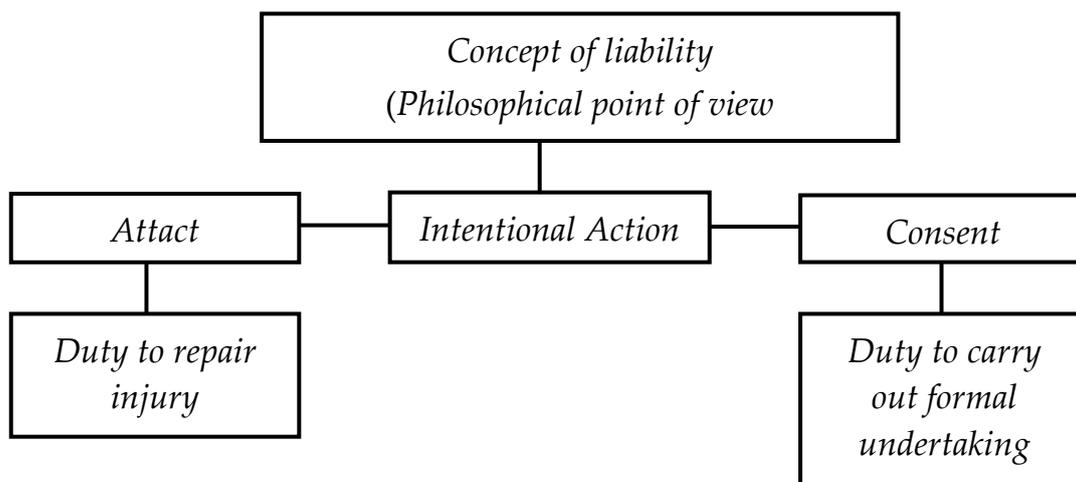


FIGURE 1. Concept of Liability

Examining the Figure 1, the concept of liability is interpreted as the duty to bear the vengeance for the act committed by the perpetrator against a person who has been harmed. The increasingly effective protection by the law of the social interests for peace and order, and the belief that vengeance as the facility to tackle then the position of the payment of compensation has been shifted from initially being a “privilege” into a “duty”. The measure of such compensation is assessed not only based on vengeance which must be bought but from the viewpoint of harm or pain caused by the act of the perpetrator concerned. Therefore, the concept of liability is interpreted as “*reparation*” so that the concept of liability has shifted from being the “*composition for vengeance*” to being “*reparation for injury*”. The change in the form of compensation in money into the imposition of punishment has been the origin of liability¹¹.

Liability in criminal law is a central concept, as known by the doctrine of fault. According to Sudarto, fault can, in the widest sense of the term, be equated to the definition of liability, which contains blameworthiness (*verwijtbaarheid*) of the perpetrator because of his

¹¹ *Id.*

act¹². Fault is known as *mens rea*, namely that a person's act unless he has an evil mind¹³. In English, we know the formulation that *an act does not make a person guilty, unless the mind is legally blameworthy*¹⁴. Based on the principle, there two requirements which must be met to criminalize a person, namely the existence of a physical act which is prohibited/criminal act (*actus reus*) and an evil/blameworthy intent (*mens rea*).¹⁵

Chairul Huda states that the basis for the existence of a criminal act is the principle of legality, while the basis for criminalizing the perpetrator is the principle of fault. This means that a criminal act can only be subject to criminalization if there is a fault in perpetrating such an act¹⁶. For that purpose, whether a person is said to have a fault concern with the issue of criminal liability. Therefore, criminal liability refers to a person's liability for a criminal act he has perpetrated. Chairul further states that the person's liability is for the criminal act he has perpetrated. Criminal liability exists because there has been a criminal act perpetrated by a person¹⁷. In fact, criminal liability constitutes a mechanism developed by criminal law to respond to any violation on the basis of an agreement to reject a certain act.

¹² SUDARTO SUDARTO, HUKUM PIDANA I (Yayasan Sudarto, Semarang, 2018) at.115.

¹³ MAHRUS ALI, ASAS-ASAS HUKUM PIDANA KORPORASI (Rajagrafindo Persada, Jakarta, 2015), at. 93.

¹⁴ HANAFI AMRANI AND MAHRUS ALI, SISTEM PERTANGGUNGJAWABAN PIDANA PERKEMBANGAN DAN PENERAPAN (Rajagrafindo Persada, Jakarta, 2015), at. 21-22.

¹⁵ *Id.*

¹⁶ CHAIRUL HUDA, DARI TIADA PIDANA TANPA KESALAHAN MENUJU KEPADA TIADA PERTANGGUNGJAWABAN PIDANA TANPA KESALAHAN (Kencana, Jakarta, 2006) at. 68.

¹⁷ *Id.*

Sudarto states that a person has an aspect of criminal liability in the sense that for the perpetrator to be criminalized, a number of criteria must be met, namely¹⁸:

1. Existence of a criminal act committed by the perpetrator;
2. Existence of the element of fault in the form of deliberate intent or omission;
3. Existence of the perpetrator capable of taking the responsibility;
4. There is no excuse

Muladi and Dwidja confirms that if a legal entity is charged of having committed a criminal act with deliberate intent or omission, there will be a question on how a legal entity having no human psyche (*menselijke psyche*) and psychological elements (*de psychische bestandellen*) can meet the elements of deliberate intent or “*opzet*” (omission)¹⁹? D. Schaffmeister, in Muladi and Dwidja, states that it is extremely hard to determine when a legal entity possesses the so-called intent²⁰. Intent is there with the legal entity if, first, it is actually there in the politics of the company or under an actual circumstance of a certain company. D. Schaffmeister further adds the solution to the issue with the liability construction (*toerekeningsconstructie*), intent of natural persons (*natuurlijk person*) acting on behalf of an association/legal entity, which may give rise to intent of the legal entity²¹.

According to Remmelink, common knowledge of the majority of the directors can be considered as an intent of the legal entity, maybe a conditional intent and that minor fault of any person acting for the corporation which will, if accumulated, constitute a major fault

¹⁸ SUDARTO, *supra* note 12., at. 117.

¹⁹ MULADI MULADI AND DWIDJA PRIYATNO, *PERTANGGUNGJAWABAN KORPORASI DALAM HUKUM PIDANA* (Sekolah Tinggi Hukum Bandung, Bandung, 1991), at. 102.

²⁰ *Id.*

²¹ *Id.*

of the corporation itself.²² The makers of the 1881 Criminal Code Law did not provide the definition of intent. The *Memorie Van Toelichting* (Memorandum of Elucidation), however, presents the definition of *delliberate* as the will to do or not to do any act which is prohibited or ordered by the law²³.

The writers observe that the Law on the Prevention and Eradication of Criminal Acts of Money Laundering has contained the formulation to impose criminal liability on political parties as corporations. This has been supported with the issuance of Supreme Court Regulation No. 13 Year 2016 concerning the Procedures for Handling Criminal Acts by Corporations. In the context of rule-of-law state, the regulation serves as the law of procedures in order to impose criminal liability on political parties as corporations²⁴. A political party meets the criteria as a corporation, being a group of people or assets. To both, the criminal liability system, namely *corporate criminal liability, applies*.²⁵ Therefore, the corporate criminal liability system which also applies to political parties can be applied in the Hambalang case of criminal act of corruption.

The member of the People's Legislative Assembly of the Republic of Indonesia, sitting as head of the Democratic Party faction, Anas Urbaningrum, was charged with committing a criminal act of

²² JAN REMMELINK, HUKUM PIDANA KOMENTAR ATAS PASAL-PASAL TERPENTING DARI KITAB UNDANG-UNDANG HUKUM PIDANA BELANDA DAN PADANANNYA DALAM KITAB UNDANG-UNDANG HUKUM PIDANA INDONESIA (Gramedia Pustaka Utama, Jakarta, 2003). Please also compare with J. M. VAN BEMMELEN, HUKUM PIDANA I HUKUM PIDANA MATERIL BAGIAN UMUM (Binacipta, Jakarta, 1984), at. 234.

²³ *Id.*

²⁴ Sabungan Sibarani and Faisal Santiago, *Pertanggungjawaban Terhadap Korporasi Berdasarkan UU No. 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi*, 7 LEX LIBRUM: JURNAL ILMU HUKUM 129 (2021).

²⁵ HASBULLAH F. SJAWIE, PERTANGGUNGJAWABAN PIDANA KORPORASI PADA TINDAK PIDANA KORUPSI (Kencana, Jakarta, 2015), at. 178.

corruption and a criminal act of money laundering in the Hambalang project with Verdict on Case Number 1261K/Pid.Sus/2015. The legal fact in this verdict explains that all the funds received from the projects financed by the State Revenues and Expenditures Budget have been used not only for personal interests of Anas Urbaningrum but they also gave benefits before, during and after the congress of the Democratic Party in Bandung in 2010.²⁶ The juridical facts found in the indictment were the mention of the personal status of the accused Anas Urbaningrum as head of the Democratic Party Faction and the mention of persons of the heads of Branch Executive Council (DPC), Regional Executive Council (DPD) of the Democratic Party throughout Indonesia²⁷.

The criminal acts of corruption in the Hambalang project indicate that the criminal conduct or act of corruption were not physically perpetrated by the political parties, but they were perpetrated by the party administrators or officials in performing the duties and authorities provided for in the Articles of Association and Bylaws (AD/ART) of the political party. The criminal law recognizes the so-called evil intent (*mens rea*) and evil deed (*actus reus*) on the part of the administrators of political parties listed in the structure in the Articles of Association and Bylaws (AD/ART) of the political party²⁸.

²⁶ Maria Silvy. E. Wangga, Barda Nawawi Arief, and Pujiyono Pujiyono, *When Criminal Liability Leads to Political Parties in Criminal Acts of Corruption in Indonesia*, 14 INTERNATIONAL JOURNAL OF INNOVATION, CREATIVITY AND CHANGE 474-476 (2020).

²⁷ *Id.* at. 479-480. Also compare with Maria Silvy. E. Wangga, 2021. *Pertanggungjawaban Pidana Partai Politik dalam Tindak Pidana Korupsi*, DISSERTATION (Universitas Diponegoro, Semarang, 2021), at. 260.

²⁸ Chairul Huda, *Pertanggungjawaban Partai Politik Sebagai Korporasi Dalam Sistem Hukum Pidana Indonesia*, STADIUM GENERALE (Universitas Islam Yogyakarta, Yogyakarta, 2019). Retrieved from <https://law.uui.ac.id/wp-content/uploads/2019/07/2019-07-11-Pertanggung-jawaban-pidana-partai-politik-chairul-huda-fh-UUI-Jogja_compressed.pdf>

The organic theory proposed by Otto Van Gierke states that a legal entity is like a natural person, having the same personality as a natural person with the rights and obligations in legal association²⁹. Political parties serve as organs, being related to the parts such as DPP, DPC, faction heads and commission heads, etc³⁰. Any part of each function contributes to the ongoing operation in other organs. Observing the organic theory to determine criminal liability (fault) of a political party in a criminal act of money laundering, it can be seen through the acts of the administrators because their actions reflect not only the actions for their individual benefits, but they need to be considered integral to the system of the party as they have obtained their roles from the party so as to benefit the party³¹.

MODELS OF CRIMINAL LIABILITY OF POLITICAL PARTIES IN CRIMINAL ACTS OF MONEY LAUNDERING

POLITICAL PARTIES can be categorized into corporation, being a group of people or assets. As a group of people and assets, the model offered by the authors for imposing criminal liability on political parties for criminal acts of money laundering has three (3) forms, namely criminal model, administrative model and restorative justice model. The authors offered three (3) models of criminal liability for

²⁹ MUNIR FUADY, DOKTRIN-DOKTRIN MODERN DALAM CORPORATE LAW DAN EKSISTENSINYA DALAM HUKUM INDONESIA (Citra Aditya Bakti, Bandung, 2014), at. p.4.

³⁰ Maria Silvya. E. Wangga, *Supra* note 26, at. 85.

³¹ *Id.*

viewing law as responsive law in the viewpoint of Philip Nonet & Philippe Selznick, who position law as public facility and aspiration.³²

Nonet-Selznick confirm that the responsive law contrasts the other two models, namely repressive law and autonomous law. Repressive law is the law serving as the instrument of repressive power. This law is aimed at maintaining the *status quo* of the ruler which is often applied with the excuse of guaranteeing order. In conclusion, this law has been formulated in detail to bind any person except for the ruler/law maker. Meanwhile, autonomous law serves as a norm which keeps the autonomy of the law itself. Therefore, due to its autonomous nature, the emphasis is the strict separation between power and law. Legitimacy of law rests on the virtue of legal procedure which is free from political influence through the limitation of the already established procedures³³. The efforts of developing and maintaining social order are collective duty of the community, political parties, including law-enforcement apparatuses as well institutions.³⁴

Criminal liability of political parties refers to the autonomous law placing law as public facility and aspiration. Borrowing the idea that if a corporation (political party) is sued as the perpetrator of a criminal act, the corporation (political party) will be imposed with liability under the following conditions³⁵:

³² PHILIP NONET AND PHILIPPE SELZNICK, HUKUM RESPONSIF, RAISUL MUTTAQIEN (TRANSL) (Nusa Media, Bandung, 1978), at. 52-89. Please also compare with BERNARD L. TANYA, YOAN N. SIMANJUNTAK AND MARKUS Y. HAGE TEORI HUKUM STRATEGI TERTIB MANUSIA LINTAS RUANG DAN GENERASI (CV. Kita, Surabaya, 2013), at. 169-172.

³³ *Id.*

³⁴ Maria Silvya E. Wangga, Barda Nawawi Arief & Pujiyono, *Revocation of Political Rights of the Perpetrators of Criminal acts of Corruption*, 4 JILS (JOURNAL OF INDONESIAN LEGAL STUDIES) 282 (2019).

³⁵ HASBULLAH F. SYAWIE, *Supra* note 25, at. 178.

1. The criminal acts of the administrators are committed not in the capacity as individual persons but in connection with the performance of their functions and authority (as regulated in the Articles of Association or By-Laws of the corporation);
2. The acts of the administrators are not necessarily in the form of prohibited acts (offense of commission) but also in the form of acts in violation of legal obligations (offense of omission);
3. The criminal acts are committed for the purposes and goals of the corporation;
4. Such criminal acts are committed for the benefit of the corporation;
5. The perpetrator or the person giving the order does not have any justification or excuse for being released from criminal liability.

The authors describe the formulation of criminal liability model recognized in the Law on the Prevention and Eradication of Criminal Acts of Money Laundering with various formulations, as follows:

I. FORMULATION OF CRIMINAL LIABILITY MODELS IN ANTI-MONEY LAUNDERING ACT

1. Formulation of corporation as the subject of criminal act of money laundering

The Law on the Prevention and Eradication of Criminal Acts of Money Laundering has included corporations as legal entities which can be imposed with criminal liability. In Article 1 sub-article (10), corporation is formulated as a well-organized group of people and/or assets, whether incorporated or unincorporated.

With such formulation, corporation is viewed not only as a group of people but also as a group of assets, whether incorporated or unincorporated. Political party is formulated as a corporation for being a group of people (citizens) as Article 1 paragraph (1) of the Political Party Law states that political party is an organization of national and local nature voluntarily formed by a group of Indonesian citizens based on shared will and goals to struggle for and defend the political interests of the members, the community, the nation and the state as well as to maintain the integrity of the Unitary State of the Republic of Indonesia based on Pancasila and the 1945 Constitution of the State of the Republic of Indonesia.

The definition states that a political party is a corporation for being a group of people or citizens having certain goals (the direction to follow as set out in the party's deed of establishment) as well as assets and distinct rights and obligations. Underlying such definition, the criteria for corporations with resemblance to political parties are, among other things:

- a) having an association in the form of domicile of the party from the central level to the regional level
- b) having the status of legal entity which can be equated with a human being
- c) having certain purposes as regulated in the political party's Articles of Association/Bylaws
- d) possessing assets of the party from a number of sources, such as members' dues, third party contributions, aid funds and State Budget/Regional Budget (APBN/APBD)
- e) having duration which cannot be limited
- f) having the rights and obligations regulated in the Political Party Law and the political party's Articles of Association/Bylaws
- g) having the legal basis as regulated in the political party law
- h) having the right to prosecute and to be prosecuted legally

2. Formulation regarding when a political party commits a criminal act of money laundering

The norm formulation of Article 6 of the Law on the Prevention and Eradication of Criminal Acts of Money Laundering states that a criminal act of money laundering is committed by a corporation if

- a) It is committed or ordered by the corporation's controlling personnel.
- b) It is committed for the purpose of fulfilling the purposes and objectives of the corporation.
- c) It is committed in accordance with the duties and functions of the perpetrator or the one giving the order.
- d) It is committed for the purpose of benefiting the corporation.

The Law on the Prevention and Eradication of Criminal Acts of Money Laundering does not provide any elucidation concerning the act being committed or ordered by the corporation's controlling personnel, for the purpose of fulfilling the purposes and objectives of the corporation as well as its being committed in accordance with the duties and functions of the perpetrator or the one giving the order or being committed for the purpose of benefiting corporation. The concept under the 2019 Criminal Code (KUHP 2019) provides that for a corporation's criminal act liability can be imposed on the corporation if:

- a) it is included within the scope of business or activities as provided for in the Articles of Association or other provisions applicable to the corporation;
- b) it unlawfully benefits the corporation and;
- c) it is accepted as the corporation's policy

3. Formulation of criminal acts of money laundering committed by political parties

A political party being a corporation subject of criminal law can be imposed with criminal liability based on the norm formulation of Article 1 sub-articles (9) and (10) of Law Number 8 Year 2010 concerning the Prevention and Eradication of Criminal Acts of Money Laundering. Article 6 of the Law on the Prevention and Eradication of Criminal Acts of Money Laundering confirms the forms of criminal acts of money laundering which may be committed by a political party, namely, as follows:

- a) Any person, who places, transfers, assigns, spends, pays, grants, deposits, bring overseas, changes any form, exchanges with other currencies or other commercial papers or commits any other acts on the assets he knows or he should have known to be the proceeds of any criminal act as referred to in Article 2 paragraph (1) for the purpose of concealing or disguising the origins of such assets, shall be charged for a criminal act of money laundering (Article 3).
- b) Any person, who conceals or disguises the origin, source, location, purpose, transfer of right or true ownership of the assets he knows, or he should have known as the proceeds of any criminal acts as referred to in Article 2 paragraph (1), shall be charged for a criminal act of money laundering (Article 4)
- c) Any person, who receives or controls the placement, transfer, payment, grant, contribution, deposit, exchange or who uses the assets he knows, or he should have known to be the proceeds of any criminal acts as referred to in Article 2 paragraph (1), shall be charged for a criminal act of money laundering as referred to in Article 2 paragraph (1).

4. Formulation of the parties imposed with criminal liability

The policy in the formulation of Article 6 paragraph (1) confirms that in the event of any criminal act of money laundering as referred to in Articles 3, 4 and 5 is committed by a corporation, criminal sanction shall be imposed on the corporation, or it is controlling personnel. Elucidation of Article 6 paragraph (1) states that corporation also includes any organized group consisting of 3 (three) persons or more, existing for a definite time, and acting for the purpose of committing one or more criminal acts regulated in the Law on the Prevention and Eradication of Criminal Acts of Money Laundering for the purpose of gaining financial benefits whether directly or indirectly. Based on the norm formulations above, the parties that may be imposed with criminal liability for criminal acts of money laundering are as follows:

- a) With the political party administrators as the perpetrators, political party administrators shall be held criminally liable.
- b) With the political party as the perpetrator, political party administrators shall be held criminally liable.
- c) With the political party as the perpetrator, political party administrators shall be held criminally liable.

5. Formulation of the types of criminal sanctions threatened against political parties

The formulation regarding the types of criminal sanctions against corporations is further regulated in Article 7 paragraphs (1) and (2) of Law Number 8 Year 2010 concerning the Prevention and Eradication of Criminal Acts of Money Laundering. Criminal sanctions against corporation consist of the type of main sanctions and the type of additional sanctions. The formulation of Article 7 paragraph (1) reads:

the main criminal sanction imposed on a corporation shall only be a maximum fine of Rp100,000,000,000. - (one hundred billion rupiah)

The formulation in Law Number 8 of 2010 concerning the Prevention and Eradication of Criminal Acts of Money Laundering asserts that in the event that the accused's payment of criminal sanction of fine as referred to in Articles 3, 4 and 5 is insufficient, then the criminal sanction of fine shall be replaced with maximum imprisonment of 1 year and 4 (four) months. Article 9 paragraph (1) provides that if a corporation is not able to to pay the criminal sanction of fine as referred to in Article 7 paragraph (1), the criminal sanction of fine shall be replaced with confiscation of assets of the corporation or assets of its controlling personnel with the same value as the criminal sanction of fine imposed. Furthermore, Article 9 paragraph (2) states that in the event that the confiscated assets of the corporation as referred to in paragraph (1) are not sufficient, criminal sanction of confinement in substitution for fine shall be imposed on the corporation's controlling personnel by taking account of the fine which has been paid. The sanction with its limitation in the formulation cannot be served by political parties as corporations. The formulated sanction of confinement can only be served by humans as legal subjects.

Political parties can also be subject to additional sanctions under Article 7 paragraph (2) which comprise

- a. Announcement of the judge's decision
- b. Suspension of any part or all business activities of the corporation
- c. Revocation of business permit
- d. Dissolution and/or ban on the corporation
- e. Confiscation of corporate assets for the state; and/or
- f. Acquisition of the corporation by the state.

Types of criminal sanctions of structural/institutional/administrative nature are additional sanctions only. The formulation of these additional criminal sanctions has its limitations as it is highly dependent on the judge examining, hearing, and deciding upon the criminal case³⁶. The forms of penal sanction to be imposed on political parties shall be adjusted to the characteristics of political parties.

II. SOME MODELS FOR POLITICAL PARTY'S CRIMINAL LIABILITY

Observing the description above, three theories on corporate liability can be applied to political parties in criminal acts of money laundering.³⁷ *First, vicarious liability* namely that a criminal act is committed by political party administrators in the interest of the party wishing to gain extra money for the party. *Secondly*, identification theory meets the criteria of liability with many criminal acts committed by the party's core personnel. *Thirdly, the* theory of organizational model liability namely that may such criminal acts have been committed under silent order of the system of the political party having no strict supervision over the origins of the money received by party administrators from the criminal acts they have committed. Political parties even give rewards to those giving quite a lot of contributions to the parties while knowing that such funds are proceeds of criminal acts of corruption by the administrators.

³⁶ Maria Silvya E. Wangga, *Pertanggungjawaban Pidana Partai Politik Sebagai Badan Hukum Dalam Tindak Pidana Korupsi*, 4 INTEGRITAS: JURNAL ANTI KORUPSI 271 (2018).

³⁷ Andreas Nathaniel Marbun and Revi Laracaka, *Supra* note 4, at. 143-150.

The second model offered is administrative penal law with the sanction of political party dissolution.³⁸ This model is based on the norm formulation of Article 14 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption which provides that to any person violating the provisions of the law which expressly declare any violation of its provisions as a criminal act of corruption, the provisions in this law shall apply. This means that under the regulation a political party is a corporation but with respect to dogmatic partition of the *systematische specialiteit* principle and the *economic analysis of law* method approach with benefit, value and efficiency characteristics, the criminal liability of political party shall refer to the administrative law, namely the Political Party Law³⁹.

The third model is the restorative justice model as a form of political party's liability for criminal acts of money laundering through the concept of restorative justice. Albert Eglash was a psychologist who first proposed *restorative justice* in 1977⁴⁰. Eglash proposed three (3) categories of restorative justice in a criminal justice system, *The first is concerned with "retributive justice", in which the primary emphasis is on punishing offender for what they have done. The second relates to what he called "distributive justice" in which the primary emphasis is on the rehabilitation of offender. The third is concerned with "restorative justice" which he broadly equated with the principle of restitution.* Howard Zehr, known as the architect of the development of *restorative justice* suggests that *restorative justice is a process to involve the extent possible, those who have a stake in a specific offence and to collectively identify and address*

³⁸ Zainal Arifin Mochtar, *Pertanggungjawaban Partai Politik yang Melakukan Tindak Pidana Korupsi*, 31 JURNAL MIMBAR HUKUM 169 (2019).

³⁹ Maria Silvya. E. Wangga, *Supra* note 36, at. 237-238.

⁴⁰ JAMES DIGNAN, *UNDERSTANDING VICTIM AND RESTORATIVE JUSTICE* (Open University Press, New York, 2005).

*harms, needs, and obligation, in order to heal and put things as right as possible*⁴¹.

Van Ness as quoted by Pujiyono proposes 4 (four) models of restorative approach, namely⁴²; 1). *Unified system*, 2). *Dual Track System*, 3). *Safeguard system*, and 4). *Hybrid System*.

1. Unified System

This model is considered the radical one since it acquires authority for conflict resolution from the state. This model views that the state has stolen conflict from the parties and therefore, it returns the conflict to its "owners" by surrendering the efforts of justice processes to be conducted by the victim and the offender who will determine the conflict resolution results on their own. This model views that the state has no absolute right to conflict resolution so that the process of restorative approach is expected to be able to replace all this process in the criminal justice system. According to Pujiyono, this model is too radical, and it sets aside the state's role as the representative of the people.

2. Dual Track System

The restorative model as the alternative companion of the traditional process (criminal justice system). The parties to the conflict are given the opportunity to determine the method of criminal case solution; if they agree to resolve the conflict using the restorative model, then the criminal justice process will be eliminated. Conversely, if the restorative model is unsuccessful

⁴¹ MULADI MULADI AND DIAH SULISTYANI, CATATAN EMPAT DEKADE PERJUANGAN TURUT MENGAWAL TERWUJUDNYA KUHP NASIONAL (BAGIAN I, 1980-2020) (Universitas Semarang Press, Semarang, 2020) at. 78.

⁴² Van Ness in Pujiyono, *Pembaruan Pertanggungjawaban Pidana Korporasi Melalui Pendekatan Restoratif Justice dalam Model Dual Track System Selective*, INAUGURATION SPEECH, delivered during the Ceremony of Presentation of Professorship in Criminal Law Science at the Law Faculty of Diponegoro University, Semarang, December 17, 2019

then the resolution will be pursued by the criminal justice process. This model views that the restorative concept is primary or basic in nature. This model has been practiced well in Japan and it has gained full support from the justice officials (the police, prosecutors, lawyers and judges). In relation to this model, Pujiyono is of the opinion that this model is relatively ideal to apply because it does not prioritize repressive or retributive approach. However, this model has its limitation as there is no limitation or criteria regarding which cases can be settled by the restorative model.

3. Safeguard System

This model is made to handle criminal acts through the restorative concept, where restoration programs are used as the main facilities to handle criminal act issues leading to the shift from the criminal justice system to the restorative justice system. With this model, not all cases can be settled by a restorative approach since certain cases will still be settled by criminal justice. This model bears a resemblance to the *Unified System*, but this model is more moderate, and it is not radical since it still recognizes the state's roles in settling certain cases in the criminal justice system.

4. Hybrid System

According to this model, the restorative approach and the criminal justice system are normative parts of the justice system. This model emphasizes the determination or stipulation of whether a person is guilty shall be conducted in the criminal justice system, while the sanction shall be based on the restorative concept. In connection with this model, Martin Wright sets a model framework of the authoritarian and democratic restorative justice system. This model views that in the authoritarian restorative justice system, decisions are made

by two justice systems in respective courts with their own limits of authority. The democratic restorative justice system has its position outside the criminal justice system and the decision makers are the victim, the offender and community members.

5. Selective Dual Track System Model

This model has its basis of considerations on the channel of settlement through a restorative approach side by side with the criminal justice system channel. The restorative approach concept is placed as the main (primary) means in a selective manner. This means that not all cases of criminal acts can follow the restorative channel, but rather, it can be conducted selectively based on clear parameters so that certain cases with special characteristics are not included in the restorative approach channel but in the criminal justice system.

The authors highlighted that criminal liability of political parties in criminal acts of money laundering has a number of models such as the criminal model and administrative model. Therefore, the restorative model which can be applied to criminal liability of political parties in criminal acts of money laundering is the *dual track system* model. This model is the alternative companion of the criminal justice system. The parties to a conflict will be given the freedom to choose the method for settling a criminal case.

CONCLUSION

THIS STUDY concluded that the Law on the Prevention and Eradication of Criminal Acts of Money Laundering has recognized corporations, including political parties, as subjects of criminal acts. With the existence of the regulation, there will be no more debate on

whether political parties are corporations or not. The action (*actus reus*) and fault (*mens rea*) of the administrator listed in the structure of the Articles of Association and Bylaws of a Political Party are the action and fault of the party so that as a corporation, the political party can be subject to criminal liability in criminal acts of money laundering. The actions of the administrators listed in the structure of the political party constitute an integral part of the party as they have gained their roles and functions from the party. The mechanism for imposing criminal liability on political parties can be performed by using three models. The *first* is the model of application of principal criminal sanction, namely the criminal sanction of fine. The application of additional criminal sanctions is highly dependent on the judges examining, hearing, and deciding upon the case concerned. The *second* is the administrative model with the principal sanction of dissolution of a political parties based on the administrative law, namely the Political Party Law. The *third* is the restorative justice model. This model requires the confession of guilt from the political parties and that it will fix the fault and that the community as the victim is willing to forgive the political party for its fault. Various existing models of criminal liability provide an offer which can be applied for the improvement of political parties as corporations.

REFERENCES

- Ahmad, Maghfur. "Fiqh Anti-Korupsi Mazhab Negara: Memadu Hukum Islam dan Hukum Nasional". *Jurnal Hukum Islam* 12, No. 1 (2014). <https://doi.org/10.28918/jhi.v12i1.526>.
- Ali, Mahrus. *Asas-Asas Hukum Pidana Korporasi*. (Jakarta: Rajagrafindo Persada, 2015).

- Amrani, Hanafi and Mahrus Ali. *Sistem Pertanggungjawaban Pidana Perkembangan dan Penerapan*. (Jakarta: Rajagrafindo Persada, 2015).
- Arief, Barda Nawawi. *Tindak Pidana Mayantara Perkembangan Kajian Cyber Crime di Indonesia*. (Jakarta: Rajagrafindo, Jakarta, 2006).
- Atmasasmita, Romli. *Asas-Asas Perbandingan Hukum Pidana*. (Jakarta: Yayasan Lembaga Bantuan Hukum Indonesia, 1989).
- Bryantonio, Maulana. "Kebijakan Formulasi Pidana Bagi Korporasi yang Tidak Membayar Denda dalam Tindak Pidana Korupsi". *Unnes Law Journal: Jurnal Hukum Universitas Negeri Semarang* 2, No. 1 (2013): 20-26. <https://doi.org/10.15294/ulj.v2i1.2900>.
- Choo, Kim-Kwang Raymond. "Challenges in dealing with politically exposed persons." *Trends and Issues in Crime and Criminal Justice* 386 (2010): 1-6.
- Court Decision Number 1261K/Pid.Sus/2015 (Verdict on the Case of Criminal Act of Corruption with the Defendant Anas Urbaningrum, General Chairman and Faction Chairman of the Democratic Party in DPR RI).
- Dignan, James. *Understanding Victim and Restorative Justice*. (New York: Open University Press, 2005).
- Fakhrizy, Ivan Muhammad. "Combating Corruption: Problems and Challenges in Indonesia". *Law Research Review Quarterly* 7, No. 4 (2021): 487-504. <https://doi.org/10.15294/lrrq.v7i4.48186>.
- Fitriyani, Lolita. "Pertanggungjawaban Pidana Partai Politik Dalam Tindak Pidana Pencucian Uang". *Jurist Diction* 2, No. 4 (2019): 1321-1332. <http://dx.doi.org/10.20473/jd.v2i4.14495>.
- Hidayat, Shubhan Noor, Lego Karjoko, and Sapto Hermawan. "Discourse on Legal Expression in Arrangements of Corruption Eradication in Indonesia". *JILS (Journal of Indonesian Legal Studies)* 5, No. 2 (2020): 391-418. <https://doi.org/10.15294/jils.v5i2.40670>.
- Huda, Chairul. "Pertanggungjawaban Partai Politik Sebagai Korporasi dalam Sistem Hukum Pidana Indonesia", *Studium Generale* (Yogyakarta: Universitas Islam Indonesia, 2019).

- Retrieved from <https://law.uui.ac.id/wp-content/uploads/2019/07/2019-07-11-Pertanggung-jawaban-pidana-partai-politik-chairul-huda-fh-UII-Jogja_compressed.pdf>
- Huda, Chairul. *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada tiada Pertanggungjawaban Pidana Tanpa Kesalahan*. (Jakarta: Kencana, 2006).
- Jaya, Nyoman Serikat Putra. *Hukum Pidana Khusus*. (Semarang: Badan Penerbit Universitas Diponegoro, 2016).
- L. Tanya, Bernard, Yoan N. Simanjuntak, and Markus Y. Hage. *Teori Hukum Strategi Tertib Manusia Lintas Ruang dan Generasi*. (Surabaya: CV. Kita, 2003).
- Lestari, Yeni. "Political Cartel and Political Corruption in Indonesia". *Law Research Review Quarterly* 2, No. 3 (2016): 407-420. <https://doi.org/10.15294/snh.v2i01.21324>.
- Mahfud M D. *Membangun Politik Hukum, Menegakkan Konstitusi*. (Jakarta: Grafindo Persada, 2011).
- Marbun, Andreas Nathaniel, and Revi Laracaka. "Analisa Ekonomi Terhadap Hukum dalam Pendanaan Partai Politik melalui Pertanggungjawaban Korporasi dalam Tindak Pidana Korupsi". *Integritas: Jurnal Anti Korupsi* 5, No.1 (2019): 143-150. <https://doi.org/10.32697/integritas.v5i1.384>.
- Mochtar, Zainal Arifin. "Pertanggungjawaban Partai Politik Yang Melakukan Tindak Pidana Korupsi." *Jurnal Mimbar Hukum* 31, No. 2 (2019): 157-173. <https://doi.org/10.22146/jmh.29199>.
- Muladi, Muladi and Diah Sulistyani. *Catatan Empat Dekade Perjuangan Turut Mengawal Terwujudnya KUHP Nasional (Bagian I, 1980-2020)*. (Universitas Semarang Press, Semarang, 2020).
- Muladi, Muladi, and Dwidja Priyatno. *Pertanggungjawaban Korporasi dalam Hukum Pidana*. (Bandung: Sekolah Tinggi Hukum Bandung, 1991).
- Mulyati, Nani. "Korporasi Sebagai Badan Hukum dan Pertanggungjawaban Pidana dalam Hukum Pidana Indonesia". *Dissertation* (Jakarta: Universitas Indonesia, 2018).

- Obe, Redentor G A, and Indah Sri Utari. "Criminal Accountability for Corruption Actors in the Form of Concursus Realist". *Journal of Law and Legal Reform* 1, No. 2 (2020): 325-332. <https://doi.org/10.15294/jllr.v1i2.35953>.
- Philip, Nonet, and Philippe Selznick. *Hukum Responsif*. Raisul Muttaqien (transl) (Bandung: Nusa Media, 1978).
- PPATK. *Laporan Tahunan (Annual Report) PPATK RI 2020*. Reereived online from https://www.ppatk.go.id//backend/assets/images/publikasi/1621565512_.pdf
- Pujiyono, Pujiyono, and Rahmi Dwi Susanti. "Alternatif Model Pertanggungjawaban Pidana Korporasi Melalui Pendekatan Keadilan Restoratif". *Pembaharuan Hukum Pidana* 2, No.2 (2019): 21-36. <https://ejournal.undip.ac.id/index.php/phpidana/article/view/25031>.
- Pujiyono, Pujiyono. "Corporation Criminal Responsibility Model Based on Restorative Justice Approach in Indonesia". *Diponegoro Law Review* 1, No. 1 (2016): 137-139. <https://doi.org/10.14710/dilrev.1.1.2016.127-142>.
- Pujiyono, Pujiyono. "Pembaruan Pertanggungjawaban Pidana Korporasi Melalui Pendekatan Restoratif Justice dalam Model Dual Track System Selective". *Inauguration Speech*, delivered during the Ceremony of Presentation of Professorship in Criminal Law Science at the Law Faculty of Diponegoro University (Semarang: Universitas Diponegoro, 2019).
- Remmelink, Jan. *Hukum Pidana Komentar atas Pasal-Pasal Terpenting dari Kitab Undang-Undang Hukum Pidana Belanda dan Padanannya dalam kitab Undang-Undang Hukum Pidana Indonesia*. (Jakarta: Gramedia Pustaka Utama, 2003).
- Republic of Indonesia. *Law Number 2 Year 2011 concerning Amendment to Law Number 2 Year 2008 concerning Political Parties (Official Gazette of the Republic of Indonesia Year 2011 Number 8, Supplement to State Gazette of the Republic of Indonesia Number 5189)* (Jakarta: Sekretariat Negara, 2011).

- Republic of Indonesia. *Law Number 31 Year 1999 jo Law Number 20 concerning the Eradication of Criminal Acts of Corruption (Official Gazette of the Republic of Indonesia Year 1999 Number 140, Supplement to State Gazette of the Republic of Indonesia Number 3874)* (Jakarta: Sekretariat Negara, 1999).
- Republic of Indonesia. *Law Number 8 of 2010 concerning the Prevention and Eradication of Criminal Acts of Money Laundering in State Gazette (Official Gazette of the Republic of Indonesia Year 2010 Number 122, Supplement to State Gazette of the Republic of Indonesia Number 5164)* (Jakarta: Sekretariat Negara, 2010).
- Republic of Indonesia. *Regulation of the Supreme Court of the Republic of Indonesia Number 2016 concerning the Procedures for Handling the Cases of Criminal Acts by Corporations (Official Gazette of the Republic of Indonesia Year 2016 Number 2056)* (Jakarta: Mahkamah Konstitusi, 2016).
- Ryana, Pricilia, and Aisy Idzati. "Korupsi dalam Kajian Hukum dan Hak Asasi Manusia". *Lex Scientia Law Review* 2, No. 2 (2018): 177-88. <https://doi.org/10.15294/lesrev.v2i2.27583>.
- Salam, Idrus, and Satria Unggul Wicaksana Prakasa. "Corporate Legal Liability for Corruption in the Private Sector". *Indonesian Journal of Law and Society*, 2, No. 2 (2021): 235-258. <https://doi.org/10.19184/ijls.v2i2.24146>.
- Sibarani, Sabungan, and Faisal Santiago. "Pertanggungjawaban Terhadap Korporasi Berdasarkan UU No. 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi". *Lex Librum: Jurnal Ilmu Hukum* 7, No.2 (2021): 125-138. <http://dx.doi.org/10.46839/lljih.v7i2.233>.
- Sudarto, Sudarto. *Hukum Pidana I* (Semarang: Yayasan Sudarto, 2018).
- Suramin, Suramin. "Indonesian Anti-Corruption Law Enforcement: Current Problems and Challenges". *Journal of Law and Legal Reform* 2, No. 2 (2021): 225-242. <https://doi.org/10.15294/jllr.v2i2.46612>.
- Van Bemmelen, J. M. *Hukum Pidana I Hukum Pidana Material Bagian Umum*. (Jakarta: Binacipta, 1984).

- Wahyudi, Sugeng. "Penal Policy on Assets Recovery on Corruption Cases in Indonesia". *JILS (Journal of Indonesian Legal Studies)* 4, No. 1 (2019): 45-72. <https://doi.org/10.15294/jils.v4i01.28224>.
- Wangga, Maria Silvya E. "Pertanggungjawaban Pidana Partai Politik Sebagai Badan Hukum dalam Tindak Pidana Korupsi". *Integritas: Jurnal Anti Korupsi* 4, No. 2 (2018): 255-278. <https://doi.org/10.32697/integritas.v4i2.179>.
- Wangga, Maria Silvya E. "Pertanggungjawaban Pidana Partai Politik Dalam tindak Pidana Korupsi", *Dissertation*. (Semarang: Universitas Diponegoro, 2021).
- Wangga, Maria Silvya E., Barda Nawawi Arief, and Pujiyono Pujiyono. "Revocation of Political Rights of the Perpetrators of Criminal Acts of Corruption". *JILS (Journal of Indonesian Legal Studies)* 4, No. 2 (2019): 277-298. <https://doi.org/10.15294/jils.v4i2.29689>.
- Wangga, Maria Silvya E., Barda Nawawi Arief, and Pujiyono Pujiyono. "When Criminal Liability Leads to Political Parties in Criminal Acts of Corruption in Indonesia". *International Journal of Innovation, Creativity and Change* 14, No. 1 (2020): 474-476.
- Wibowo, Muhtar Hadi. "Corporate Responsibility in Money Laundering Crime (Perspective Criminal Law Policy in Crime of Corruption in Indonesia)". *JILS (Journal of Indonesian Legal Studies)* 3, No. 2 (2018): 213-236. <https://doi.org/10.15294/jils.v3i02.22740>.
- Yuliawan, Indra. "Law Enforcement of Political Corruption as a Form of Abuse of Political Power". *Law Research Review Quarterly* 4, No. 3 (2018): 879-898. <https://doi.org/10.15294/snh.v4i03.27102>.
- Zaidan, Muhammad Ali. "Sociological Approach to Eradication Corruption in Indonesia (Alternative to Imprisonment)". *The Indonesian Journal of International Clinical Legal Education* 1, No. 1 (2019): 3-18. <https://doi.org/10.15294/iccle.v1i01.20662>.

If we elect the same corrupt politicians every time, that's an obvious message that we don't want a change.

Sukant Ratnakar, Quantraz

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