



THE CORPORATE CRIMES IN DRUG MONEY LAUNDERING: CHASING PROFITS, EVADING JUSTICE?

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ABSTRACT

The corporations can now be considered as subjects of criminal law in Indonesia, there is still a lack of clarity in the concept of corporate criminal liability and limited regulations governing the separation of responsibilities between corporations and their managers in criminal cases, including narcotics. The purpose of writing this research is to analyze the position of corporations as subjects of money laundering crimes in Indonesia and to analyze the criminal responsibility of corporations in money laundering crimes from the sale of narcotics. This research is legal research using normative legal research methods. The crime of money laundering in Indonesia, including that derived from the sale of narcotics, can be committed not only by individuals but also by corporations, as regulated in Law No. 8 of 2010 and Law No. 35 of 2009. Although corporations have been recognized as subjects of criminal law, there are differences in the regulations of the two laws, especially in the formulation of sanctions and the clarity of norms regarding criminal liability of corporations in cases of money laundering in the narcotics sector. The novelty of this analysis lies in the identification of regulatory differences in Law No. 8 of 2010 and Law No. 35 of 2009 regarding corporate criminal liability in cases of money laundering from the proceeds of narcotics crimes. In addition, this study highlights weaknesses in the separation of responsibilities between corporations and their managers, which have the potential to hinder the effectiveness of law enforcement.

A. INTRODUCTION

The economic life between one country and another is increasingly dependent, so that legal provisions in the field of international trade and transnational business are increasingly needed. In the past, there was a kind of adage that stated that the poorer a nation was, the higher the crime rate that occurred. Now this adage only applies to conventional crimes such as robbery, theft, fraud, embezzlement, and others.¹

Soedjono Dirdjosisworo stated that: *"Today's crime shows that economic progress gives rise to new forms of crime that are no less dangerous and have a large number of victims. Indonesia today has been hit by contemporary crime that is quite threatening to the environment, energy sources, and patterns of crime in the economic sector such as bank crime, computer crime, consumer fraud in the form of low-quality products that are beautifully packaged and sold through large-scale advertising, and various patterns of corporate crime that operate through penetration and disguise."*²

The welfare of the people as aspired to in the Preamble to the 1945 Constitution implies that welfare is closely related to the condition of economic life. Therefore, various regulations are drawn up whose purpose is to provide legal protection in the economic field so that welfare can be achieved without anyone having to violate the provisions of the law. One way to achieve people's welfare is through the birth of companies engaged in the economic field, such as banking, factories, capital markets and so on. These companies are then known as corporations.

Corporation is a term often used to refer to a company. However, not all companies can be called corporations. This is because corporations have a number of main characteristics. In the Great Dictionary of the Indonesian Language, the definition of a corporation is divided into two types. First, a corporation is defined as a legitimate business entity or legal entity. Second, a corporation is a very large company or business entity or several companies that are managed and run as one large company. From the explanations above, it can be assessed that a corporation is a business entity or legal entity, be it a large company that is officially registered and in accordance with applicable regulations, so that other parties can be involved in the business.³

Corporations make a large contribution to the development of a country, especially in the economic sector, for example state income in the form of taxes and foreign exchange,⁴ so that the impact of corporations seems very positive. But on the other hand, corporations also often create

1 Marco Parasian Tambunan., Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Pencucian Uang, dalam Mimbar Keadilan, *Jurnal Ilmu Hukum*, (June 2016): 100.

2 Muladi dan Dwidja Priyatno, *Pertanggungjawaban Pidana Korporasi*, (Jakarta: Kencana, 2010): 3.

3 Mardian Putra Frans (etc)., Pertanggungjawaban Pidana Korporasi Marketplace Online Pada Tindak Pidana Narkotika, *Rio Law Jurnal* 5, No. 1 (February-July 2024): 69-80

4 Paulus Aluk Fajar Dwi Santo., Tinjauan Tentang Subjek Hukum Korporasi Dan Formulasi Pertanggungjawaban Dalam Tindak Pidana, *Humaniora* 3, No. 2 (October 2012): 422-437

negative impacts, such as pollution, depletion of natural resources, unfair competition, tax manipulation, exploitation of workers, producing products that endanger their users, and fraud against consumers.⁵

Corporations can increase a country's wealth and workforce, but the revolution in economic and political structures has given rise to enormous corporate power, making the country too dependent on corporations to the point where they can dictate to it according to their own interests. Giant corporations not only have such enormous wealth, but also such social and political power that their operations and activities greatly affect the lives of every person from birth to death. The working lives and health and safety of the vast majority of the population are controlled either directly or indirectly by these large corporations. It has been proven that multinational corporations have exercised political influence over both domestic and foreign governments in the countries where they operate.⁶

Initially, the idea of being held accountable for criminal acts could only be done by humans who had the will or knowledge to do so. While corporations cannot act to carry out legal acts and do not have the will or knowledge to do so. This kind of thinking is still maintained, especially by thinkers of the past. However, in its development, new ideas have emerged to also be held accountable to corporations because recently in the development of criminal acts that occur in the midst of society, especially related to drugs, they are not only carried out individually, but have been organized, including by corporations.⁷

In Indonesia, corporations are known as subjects of criminal law. However, currently there is a lack of clarity regarding the concept of corporations as subjects of criminal law and what entities can be held accountable in criminal law. In addition, regulations regarding the imposition of criminal liability for corporations are still very minimal, especially regarding the separation of criminal liability of corporations and managers (human subjects) when a crime occurs within a corporation.⁸

One of the important concerns in criminal law enforcement in Indonesia today is the prevention of narcotics crimes.⁹ In Indonesian society and society in the world today are faced with a worrying situation due to the increasing use of various types of narcotics legally. Narcotics Crimes which

5 Setiyono., *Kejahatan Korporasi (Analisis Viktimologis dan Pertanggungjawaban Korporasi Dalam Hukum Pidana Indonesia)*, (Malang: Bayumedia Publishing, 2005): 1.

6 Rully Trie Prasetyo, Umar Ma'ruf, Anis Mashdurohatun., Tindak Pidana Korporasi Dalam Perspektif Kebijakan Formulasi Hukum Pidana, *Jurnal Hukum Khaira Ummah* 12, No. 4 (December 2017): 728

7 Sujasmin., Rasionalitas Penetapan Pidana Tambahan Dalam Penanggulangan Kejahatan Korporasi Di Bidang Narkoba, *Jurnal Wawasan Yuridika* 22, No. 10 (2016): 69.

8 Abdurrahman Al Hakim., Kebijakan Pertanggungjawaban Pidana Korporasi Terhadap Pemberantasan Tindak Pidana Korupsi, *Jurnal Pembangunan Hukum Indonesia* 1, No. 3 (2019): 3

9 Raja Gukguk, and Jaya., Tindak Pidana Narkotika Sebagai Transnasional Organized Crime, *Jurnal Pembangunan Hukum Indonesia* 1, No. 3 (Sep. 2019): 337-351,

are the predicate crime in money laundering crimes,¹⁰ this is seen from the relationship between money laundering crimes and the predicate crime of narcotics abuse on assets derived from a crime that has been committed in the territory of Indonesia or outside the territory of the Unitary State of the Republic of Indonesia. The crime is a money laundering crime if there is a crime that produces money or assets in the form of proceeds from a narcotics crime. In the provisions of the laws and regulations on Money Laundering in Indonesia, not only arresting perpetrators who are organized crime, narcotics abusers but also in order to trace the proceeds of narcotics crimes and to seize the assets of the perpetrators of narcotics crimes.¹¹

Narcotics and psychotropic drugs are substances commonly used in medicine, health services, health and scientific development.¹² The problem of narcotics crime has become a problem for the Indonesian nation and nations in the world that is always discussed. In determining narcotics crime as a crime and violation in special criminal law has material and formal legal implications.¹³

The Narcotics Law has been amended three times and regulates corporate liability, but then the question arises as to how a corporation can be held liable while the corporation is inanimate and cannot move, which automatically means the corporation does not have mens rea. On the other hand, it is suspected that there are still obstacles in the law enforcement process, thus causing problems in the implementation of criminal liability for corporations that commit narcotics crimes.

According to Satjipto Rahardjo, the law enforcement process also reaches the stage of making laws. The formulation of the thoughts of the law makers will also determine how law enforcement will be carried out. This means that the failure of law enforcement can stem from the initial formulation of the formation of laws. Therefore, the form of criminal formulation in Law No. 35 of 2009 concerning Narcotics, which has been made by law makers, has a major influence on the law enforcement process in the field of narcotics crimes.¹⁴

The Fredi Budiman case is worthy of being an example of how the proceeds from drug sales are then used for money laundering.¹⁵ The

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- 10 Harry Kurniawan., Juridical Analysis of Criminal Sanctions for Narcotics Money Laundering. *LITERACY: International Scientific Journals of Social, Education, Humanities* 2, No. 1 (2023): 236–243.
 - 11 Andrika Imanuel Tarigan., Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Narkotika, *Jurnal Ilmiah Mandala Education* 6, No. 2 (2020): 146.
 - 12 Andri Winjaya Laksana (etc)., Criticism of Legal Protection for Victims of Drug Abuse: The Disharmony in Legal Substance Regulation., *Legality* 33, No. 1 (March-2025): 93-109
 - 13 Supriyadi., Penetapan Tindak Pidana Sebagai Kejahatan dan Pelanggaran Dalam Undang-Undang Pidana Khusus. *Jurnal Mimbar Hukum* XXVII, No. 3 (2015): 390-402.
 - 14 AR Sujono dan Bony Daniel., *Komentar & Pembahasan Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika*, (Jakarta Timur: Sinar Grafika, 2011): 211.
 - 15 Hendrik Khoirul Muhid, *Kilas Balik Eksekusi Mati Freddy Budiman 8 Tahun Lalu, Gembong Kelas Kakap Rombak Lapas Jadi Pabrik Narkoba*, accessed on <https://www.tempo.co/hukum/kilas-balik-eksekusi-mati-freddy-budiman-8-tahun-lalu-gembong-kelas-kakap-rombak-lapas-jadi-pabrik-narkoba--35433>

National Narcotics Agency has confiscated assets from money laundering carried out by the network of death row convict Freddy Budiman. The suspect Freddy Budiman and his colleagues used a method of establishing a fictitious company that carried out export-import expeditions. The suspect Freddy Budiman has six fictitious companies. The transactions were carried out in 2014 to 2016. During that time the company never carried out any export-import expeditions. Over the course of two years, the fictitious company has issued at least 2,136 invoices with a total transaction of Rp 6.4 trillion. The shipments were made using a number of bank accounts.

In previous research conducted by Andrika Imanuel Tarigan, it was stated that corporate responsibility for narcotics crimes is outlined in Article 130 of the Narcotics Law aimed at individuals/corporations, so that 4 (four) forms of corporate criminal responsibility can be seen, namely absolute criminal responsibility, substitute criminal responsibility, identification responsibility, and aggregate criminal responsibility which are part of criminal responsibility based on fault (liability based on fault) or in principle adhere to the principle of fault or the principle of culpability.¹⁶ Muhammad Hatta's further research stated that Corporations that distribute illegal narcotics can be punished using a variety of weighted criteria or types of punishment. Therefore, in addition to the corporation itself, individuals acting as administrators of business entities may also be subject to criminal liability.¹⁷ Himawan Aji Angga in his research stated that In the case of liability for narcotics crimes committed by organized crime, then every narcotics criminal in the organized crime shall be punished with the same punishment as the perpetrator as referred to in Law No. 35 of 2009 concerning Narcotics in Article 130.¹⁸

Based on the background explanation above, the purpose of writing this research is to analyze the position of corporations as subjects of money laundering crimes in Indonesia and to analyze the criminal responsibility of corporations in money laundering crimes from the sale of narcotics.

B. RESEARCH METHODS

This research used normative legal research methods. According to Philipus M Hadjon and Tatiek Sri Djatmiati, normative legal research departs from the essence of legal science that was a study that focuses on existing legal norms or rules, both written and unwritten. This study places more emphasis on the analysis and interpretation of legal norms to understand

16 Andrika Imanuel Tarigan., Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Narkotika, *Jurnal Ilmiah Mandala Education* 6, No. 2 (October 2020): 146-153

17 Muhammad Hatta, (etc)., Criminal Liability Towards Corporations Acting as Narcotics Traffickers In Indonesia, *INJURENS: International Journal of Law, Environment, and Natural Resources* 3, Issue. 1 (April 2023): 55-66

18 Himawan Aji Angga., Responsibility of Corporate Crimes in Criminal Actions Of Narcotics, *The 5th International Conference and Call for Paper Faculty of Law 2019 Sultan Agung Islamic University*, Legal Reconstruction in Indonesia Based on Human Right, page.464-467

their meaning and implications.¹⁹ In line with this, Peter Mahmud Marzuki stated that Legal Research is legal research that uses a statutory approach, a conceptual approach.²⁰

C. RESULTS AND DISCUSSION

1. The Position of Corporations as Subjects of Money Laundering Crimes in Indonesia

The crime of money laundering or better known as money laundering is a term that is often heard from various mass media, therefore many definitions have developed in relation to the term money laundering. Sutan Remi Sjahdeini emphasized that today the term money laundering is commonly used to describe efforts made by a person or legal entity to legalize "dirty" money, obtained from the proceeds of crime. The term money laundering has been known since 1930 in the United States. The emergence of this term is closely related to laundry companies. This is because at that time the crime of money laundering was carried out by mafia crime organizations through the purchase of laundry companies or laundries as a place to launder money from crimes, from there the term money laundering emerged.

This money laundering crime²¹ can not only be committed by individuals but can also be committed by corporations. Indonesia as one of the developing countries in the world, greatly emphasizes its economic development and development on the private sector which is dominated by corporations. Therefore, the relationship between money laundering and corporations is very close. The rapid development of technology also has an influence on money laundering, one of which is carried out by corporations can easily occur and generate wealth in very large amounts. Corporations for lay people are only understood as companies, but actually in law, corporations have a more detailed meaning.²²

Initially, lawmakers were of the view that only humans could be the subject of criminal acts.²³ So, initially corporations could not be the subject of criminal acts. This can be seen in the history of the formulation of Article 59 of the Criminal Code, especially from the way the crime was formulated, which was always preceded by the phrase whoever. However, the facts show that there will be no regulation of the opportunity to sue corporations before a criminal court. Nevertheless, lawmakers in formulating crimes are often forced to take into account the fact that humans carry out actions within or through organizations

19 Philipus M Hadjon, T. S. D., *Argumen Hukum*. (Yogyakarta: Gadjah Mada University Press. 2016): 12

20 Peter Mahmud Marzuki., *Penelitian Hukum*. (Kencana Prenada Media Group, 2011): 2

21 Abhishek Gupta, Dwijendra Nath Dwivedi, and Jigar Shah., Overview of Money Laundering, (2023): 1–11

22 Nicholas Gilmour., Crime Scripting the Criminal Activities of Money Laundering – Holistically., *Journal of Money Laundering Control* 26, No. 3 (April 18, 2023): 594–608,.

23 Robert Leider, The Modern Common Law Of Crime., *The Journal of Criminal Law and Criminology* 111, No. 2, (Spring 2021): 407-499

that exist in civil law or outside it, appear as a unit and are therefore recognized and treated as legal entities/corporations. In the Criminal Code, lawmakers will refer to the directors or commissioners of corporations if they are faced with such a situation.

The subject of the crime of money laundering can be seen from the provisions contained in Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering.²⁴ The subject of the crime of money laundering is an individual and a corporation. An individual as a legal subject of the crime of money laundering can be understood by looking at Article 1 paragraph 9, Article 3, Article 4, Article 5, Article 10 and so on. From Article 1 paragraph 9 of Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, it is emphasized that every person consists of an individual or a corporation. Corporations as subjects of the crime of money laundering are also explained in Article 1 paragraph 9 of Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering and so on, where in Article 1 paragraph 9 it is stated that every person is an individual or a corporation. Corporations in Article 1 paragraph 1 of Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering²⁵ Crimes are groups of people and/or organized assets, whether they are legal entities or not.

2. Criminal Liability of Corporations in the Crime of Money Laundering from the Proceeds of Narcotics Sales

The Crime of Money Laundering (hereinafter referred to as the Crime of Money Laundering) today symbolizes a structured and systematic crime, until now it takes confidence and trust in eradicating the Crime of Money Laundering. On the one hand, the perpetrators have a brilliant idea in disguising their criminal proceeds with the strategy of inserting dirty money into the financial system or disguising it by changing it into physical or non-physical goods with the aim that the dirty money is not found by law enforcement and as if the money is halal money.²⁶

Criminalization of the Crime of Money Laundering began in 2002 with the formation of Law No. 15 of 2002 concerning the Crime of Money Laundering, which then underwent several changes within a year, then was amended by Law No. 25 of 2003. Furthermore, Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering (hereinafter referred to as Law No. 8 of 2010) was born as a

24 Dadang Hartanto, Nasrullah Hidayat., Application of Reverse Evidence for The Crime of Money Laundering Based on The Origin of Narcotics, *Croatian International Relations Review* 27, No. 88 (2021): 14-33

25 Muhammad Nasir Sitompul and Ariman Sitompul., Execution Of Death Penalty In Narcotics Crime In The Perspective Of National Law In Indonesia, *International Asia Of Law and Money Laundering (IAML)* 1, No. 2 (June 4, 2022): 107-12

26 Wahyu, Gandhung dan Supriyanto, Joko., Urgensi Penanggulangan Tindak Pidana Pencucian Uang Pada Kasus Korupsi. *Jurnal Recidive* 3, No. 3 (2014): 249.

result of the continuous development of crime, especially in the field of money laundering, such as increasingly advanced techniques and use of technology.²⁷ On the other hand, Law No. 35 of 2009 concerning Narcotics (hereinafter referred to as Law No. 35 of 2009) as an administrative law that also regulates criminal provisions or is called administrative penal law in addition to formulating administrative provisions, administrative penal law also formulates criminal provisions, one of which is regarding the Crime of Money Laundering. Law No. 8 of 2010 and previous laws and also Law No. 35 of 2009 have placed corporations as legal subjects in addition to individuals. In the formulation of Article 1 number 9 of Law No. 8 of 2010, it is explained that every person includes individuals and corporations. Furthermore, the formulation of Article 1 number 10 of Law No. 8 of 2010 provides a classification that a corporation is a group of people and/or wealth that is organized in the form of a legal entity or not a legal entity. In Law No. 35 of 2009, corporations are placed as subjects of criminal acts as a result of various problems that have arisen today, especially in the economic sector. In addition, advances in science and technology have a role in the occurrence of Money Laundering. It should be remembered that Money Laundering is carried out by corporations solely to generate wealth with fantastic nominal values.²⁸

The problem related to the eradication of Money Laundering Crimes in the narcotics²⁹ sector committed by corporations in Law No. 35 of 2009 does not explicitly explain whether corporations can be held criminally responsible for money laundering when associated with Law No. 35 of 2009 because the imposition of sanctions on corporations refers to Article 137 letters (a) and (b) of Law No. 35 of 2009. Furthermore, it can also be seen in Article 130 of Law No. 35 of 2009 that the acts for which corporations can be held criminally responsible are limited. This is different from Article 6 to Article 9 of Law No. 8 of 2010 which regulates in detail the acts of corporations that can be categorized as Money Laundering Crimes and the criminal liability of corporations if proven to have committed Money Laundering Crimes. This is evident from the unclear norms in Law No. 35 of 2009 which does not classify corporations as subjects of Money Laundering Crimes in the narcotics sector.

Aspects regarding corporate criminal liability in committing Money Laundering Crimes are contained in Law No. 35 of 2009 and also Law No. 8 of 2010. Adjustments to corporate criminal liability in committing Money Laundering Crimes in Indonesia are contained in Article 1 number

27 Alkostar, Artidjo., Penerapan Undang-Undang Tindak Pidana Pencucian Uang Dalam Hubungan Dengan Predicate Crimes. *Jurnal Masalah-Masalah Hukum*, No. 1 (2013): 47-48

28 Nasution, Eva Syahfitri., Peratnggungjawaban Pidana Korporasi dalam Tindak Pidana Pencucian Uang. *Jurnal Mercatoria* 8, No. 2 (2015): 133.

29 Sukamarriko Andrikasmi, Syaifullah Yophi Ardianto, Gusliana., Application of Law Enforcement Narcotics Criminal Action with Money Laundering, *Proceedings of the 2nd Riau Annual Meeting on Law and Social Sciences* (RAMLAS 2021)

21 of Law No. 35 of 2009 in conjunction with Article 1 number 10 of Law No. 8 of 2010 which provides a classification that a corporation is a legal entity or not a legal entity operated together with a group of people and/or wealth. The formulation of Article 1 number 9 of Law No. 8 of 2010 provides the definition of "every person" as a person or corporation, while in the provisions of Law No. 35 of 2009 none explicitly provides the definition of "every person" although in the formulation of criminal provisions each article and paragraph always begins with the element "every person".

To support the implementation in ensnaring perpetrators of criminal acts committed as a result of corporate actions.³⁰ The Supreme Court issued Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases (hereinafter referred to as PERMA 13/2016) by Corporations as a result of the expansion of the subject of criminal acts. PERMA 13/2016 was made in order to regulate the process and procedures for proceedings at the level of investigation, prosecution, and up to court decisions when the subject of corporate law is suspected and found guilty of committing a crime without disregarding the Criminal Procedure Code. Based on the explanation as described in the a quo, corporations can be subjects of criminal acts other than individuals on the grounds of a paradigm shift regarding only individuals being subject to criminal liability.³¹ The development of science and technology is also the background to the occurrence of corporate crimes in Indonesia. In addition, criminal acts committed by corporations are structured and systematic with the aim of being a means for individuals so that the criminal acts committed are not detected by law enforcement. By finding various theories regarding models and regulations regarding corporate criminal liability, it is hoped that it will make it easier to carry out the ensnaring of corporate legal subjects.

The regulation regarding the legal subject of corporations in carrying out Money Laundering Crimes is contained in Article 1 number 21 of Law No. 35 of 2009 in conjunction with Article 1 number 10 of Law No. 8 of 2010 which provides a classification that a corporation is a legal entity or not a legal entity that is driven by a group of people and/or wealth. Regarding the formulation of the Crime of Money Laundering contained in Law No. 35 of 2009, it is contained in Article 137 letter a, namely as follows: "any person who places, pays or spends, deposits, exchanges, hides or disguises, invests, stores, grants, inherits, and/or transfers money, property, and objects or assets either in the form of movable or immovable objects, tangible or intangible originating from narcotics crimes and/or narcotic precursor crimes, shall be punished with

30 Ponadi., Legal Liability for Banking Criminal Actions that are not Members of the Justice Board of Commissioners, *Proceedings of the International Conference On Law, Economics, and Health*, (2023)

31 Abdul Kholiq, Gunarto., Concept of Criminal Law on Corruption of Corporate Criminal Liability System Based on Justice Value, *Jurnal Daulat Hukum* 4, No. 1, (2021): 82-90

imprisonment of at least 5 (five) years and a maximum of 15 (fifteen) years and a fine of at least IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR 10,000,000,000.00 (ten billion rupiah)".

Furthermore, letter b stipulates that: "receiving placement, payment or spending, deposit, exchange, hiding or disguising investment, savings or transfer, grant, inheritance, property or money, objects or assets in the form of movable or immovable objects, tangible or intangible which are known to originate from narcotics crimes and/or narcotics precursor crimes, shall be punished with imprisonment of at least (three) years and a maximum of 10 (ten) years and a fine of at least IDR 500,000,000.00 (five hundred million rupiah) and a maximum of IDR 5,000,000,000.00 (five billion rupiah)."

The formulation of TPPU contained in Law No. 8 of 2010³² is formulated in Article 3 to Article 5 paragraph (2). The formulation related to TPPU provisions in Law No. 35 of 2009 and Law No. 8 of 2010 have similarities, the difference lies in the formulation of criminal sanctions. In Article 137 letter b of Law No. 35 of 2009 formulates a minimum prison sentence of 5 (five) years and a maximum of 15 (fifteen) years and a minimum fine of IDR1,000,000,000.00 (one billion rupiah) and a maximum of IDR10,000,000,000.00 (ten billion rupiah), in Article 3 of Law No. 8 of 2010 formulates a maximum prison sentence of 20 (twenty) years and a maximum fine of IDR10,000,000,000.00 (ten billion rupiah). Then Article 137 letter b of Law No. 35 of 2009 formulates a minimum criminal penalty of three years and a maximum of 10 (ten) years and a minimum fine of IDR500,000,000.00 (five hundred million rupiah) and a maximum of IDR5,000,000,000.00 (five billion rupiah), while Article 5 of Law No. 8 of 2010 formulates a maximum criminal penalty of 5 (five) years and a maximum fine of IDR1,000,000,000.00 (one billion rupiah).

The formulation regarding the active subject of TPPU based on Article 137 letter a of Law No. 35 of 2009 in conjunction with Article 3 of Law No. 8 of 2010, what is meant by an active subject is anyone who commits TPPU. While Article 137 letter b of Law No. 35 of 2009 in conjunction with Article 5 of Law No. 8 of 2010 is a passive subject, what is meant by a passive subject is anyone who receives the proceeds of the TPPU itself. In addition, Law No. 35 of 2009 adopts the concept of special minimum criminal sanctions, in contrast to Law No. 8 of 2010 which does not adopt the concept of special minimum criminal sanctions.

Regarding criminal liability and criminalization of corporations³³ is formulated by Article 6 to Article 9 paragraph (2) of Law No. 8 of 2010. Regarding the form of criminal liability of corporations contained in Law

32 Kiki Kristanto et al., The Effectiveness Of Implementing Parallel Investigations In Handling TPPU Cases Original From Forestry And Environmental Crimes, *International Proceeding On Religion, Culture, Law, Education, And Hindu Studies* 1 (September 14, 2024): 163–79, <https://www.prosiding.iahntp.ac.id/index.php/internasional-seminar/article/view/316>.

33 Abdul Kholiq and Gunarto Gunarto., Concept of Criminal Law on Corruption of Corporate Criminal Liability System Based on Justice Value, *Jurnal Daulat Hukum* 4, No. 1 (March 6, 2021): 82–90

No. 8 of 2010 consists of two forms. The first form is the corporation as the maker and also responsible.³⁴ This is formulated in Article 6 paragraph (1) of Law No. 8 of 2010 in essence criminal charges and sanctions can be imposed on one of them for the corporation. The second form is the corporation acts and the management is responsible. This is also regulated by the provisions of Article 6 paragraph (1) of Law No. 8 of 2010 which in essence the controlling personnel of the corporation or management can be charged with criminal liability. With the formulation of Article 6 paragraph (1) of Law No. 8 of 2010 concerning the form of criminal liability of corporations, three possibilities of criminal liability are produced. The first is the corporation as the maker and also responsible, the second is the corporation as the maker and responsible is the management, and the third is the corporation acting and responsible is the corporation and its management.

The novelty of this discussion lies in the critical comparison between Law No. 35 of 2009 on Narcotics and Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering Crimes in relation to corporate criminal liability, particularly in cases involving the laundering of drug money. While both laws acknowledge corporations as legal subjects, Law No. 35 of 2009 fails to explicitly and comprehensively regulate corporate criminal responsibility for money laundering, in contrast to the detailed provisions found in Law No. 8 of 2010. This gap highlights a legal inconsistency that potentially weakens law enforcement in holding corporations accountable for laundering proceeds from narcotics crimes. The novelty also emerges in analyzing how Supreme Court Regulation No. 13 of 2016 (PERMA 13/2016) attempts to bridge this gap by providing procedural guidelines for prosecuting corporate crime, thus marking a paradigm shift from individual-centric criminal liability toward a more systemic and structured approach in addressing corporate involvement in complex economic crimes, particularly those intertwined with narcotics networks and financial abuse.

D. CONCLUSION

Money laundering crimes in Indonesia, including those originating from the sale of narcotics, can be committed not only by individuals but also by corporations, as regulated in Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes and Law No. 35 of 2009 concerning Narcotics. Although initially only individuals were considered as subjects of criminal law, legal developments have allowed corporations to be held criminally liable. However, there are differences in the regulations of the two laws, especially in the formulation of sanctions and clarity of norms related to corporate criminal liability in money laundering crimes in the narcotics sector. PERMA Number 13 of 2016 is present as a guideline in handling criminal cases involving corporations,

34 Shannon A. Gonick., Opioid Litigation: Lessons Learned from a Retail Pharmacy Settlement, *American Journal of Law & Medicine* 48, No. 4 (December 1, 2022): 472–80

considering that these crimes are carried out in a structured and systematic manner with the aim of disguising the proceeds of crime so that they are not detected by law enforcement. With the paradigm shift and technological advances that allow corporations to be involved in financial crimes, regulations regarding corporate criminal liability are very important to ensure the effectiveness of law enforcement against money laundering crimes, including those related to narcotics trafficking. The novelty of this study lies in revealing the legal gap between Law No. 35 of 2009 and Law No. 8 of 2010 regarding the explicit regulation of corporate criminal liability in drug-related money laundering cases. It also highlights how Supreme Court Regulation No. 13 of 2016 serves as a breakthrough in providing procedural clarity for prosecuting corporations involved in structured and systematic laundering of narcotics proceeds.

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