RECONSTRUCTION OF CORPORATE LIABILITY LAW IN THE PROVISION OF CONSTRUCTION SERVICES

Agustina, Triono Eddy, Adi Mansar, Muhammad Arifin, Ida Hanifah, Sagita Purnomo

ABSTRACT

Objective: This research aims to discuss in depth the form of corporate legal liability in construction work and discuss comprehensively the concept of legal reconstruction of corporate liability in construction work that is worth justice, certainty and legal benefit.

Theoretical framework: That the vacuum of criminal law results in uncertainty and disparity in law enforcement of building failures and construction accidents in the Construction Services Law Number: 2 Year 2017, this problem can be overcome by harmonisation or legal reconstruction to harmonise construction services laws with other laws in the field of construction in order to provide justice, certainty and legal benefits for the community.

Method: This type of research is normative juridical with a descriptive-analytical approach, discussing existing legal symptoms and problems and testing them based on legislation and legal norms.

Result and conclusion: The results of this study indicate that corporate liability in construction work is divided into three namely administrative, civil and criminal liability. The concept of legal reconstruction of corporate liability in construction work is: setting criminal sanctions for construction accidents and building failures, restructuring the form of administrative sanctions for work safety violations into criminal sanctions, as well as setting general provisions on the definition of construction accidents, construction safety and construction work failures. That legal reconstruction is needed as an effort to overcome the emptiness and disparity of criminal law enforcement of construction accidents and building failures in Law Number: 2 of 2017 concerning Construction Services, in the form of criminal sanction arrangements, regulating general provisions regarding the definition of construction accidents, construction safety and construction work failures, and revitalising administrative sanctions against K4 violations.

Originality/Value: This research is conducted with case studies of building failures and construction accidents in construction work. This research discusses comprehensively how the form of corporate liability for building failures or construction accidents. Novelty in this

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research is original because it offers a reconstruction concept of corporate legal liability in construction work based on fairness and legal certainty.

**Keywords:** building, construction services, corporation, infrastructure, legal reconstruction.

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RECONSTITUIÇÃO DO DIREITO DE RESPONSABILIDADE DAS EMPRESAS NA PRESTAÇÃO DE SERVIÇOS DE CONSTRUÇÃO

**RESUMO**

**Objetivo:** Esta pesquisa visa discutir em profundidade a forma de responsabilidade jurídica corporativa em obras de construção e discutir de forma abrangente o conceito de reconstrução jurídica da responsabilidade corporativa em obras de construção que vale a pena justiça, certeza e benefício jurídico.

**Quadro teórico:** que o vazio do direito penal resulta em incerteza e disparidade na aplicação da lei de falhas de construção e acidentes de construção na Lei de Serviços de Construção Número: 2 Ano 2017, este problema pode ser superado por harmonização ou reconstrução legal para harmonizar as leis de serviços de construção com outras leis no campo da construção, a fim de proporcionar justiça, segurança e benefícios legais para a comunidade.

**Método:** Este tipo de pesquisa é jurídica normativa com uma abordagem descritivo-analítica, discutindo sintomas e problemas legais existentes e testando-os com base na legislação e normas legais.

**Resultado e conclusão:** Os resultados deste estudo indicam que a responsabilidade das empresas no trabalho de construção está dividida em três: responsabilidade administrativa, civil e criminal. O conceito de reconstrução jurídica da responsabilidade das empresas no trabalho de construção é: estabelecer sanções penais para acidentes de construção e falhas de construção, reestruturar a forma de sanções administrativas para violações da segurança no trabalho em sanções penais, bem como estabelecer disposições gerais sobre a definição de acidentes de construção, segurança de construção e falhas no trabalho de construção. Essa reconstrução legal é necessária como um esforço para superar o vazio e a disparidade da aplicação da lei penal de acidentes de construção e falhas de construção na Lei Número: 2 de 2017 relativa a Serviços de Construção, na forma de acordos de sanções penais, regulando disposições gerais relativas à definição de acidentes de construção, falhas de segurança de construção e de trabalho de construção, e revitalizando sanções administrativas contra violações K4.

**Originalidade/valor:** Esta pesquisa é realizada com estudos de caso de falhas de construção e acidentes de construção em obras. Esta pesquisa discute de forma abrangente como a forma de responsabilidade corporativa para falhas de construção ou acidentes de construção. A novidade nesta pesquisa é original porque oferece um conceito de reconstrução de responsabilidade legal corporativa em obras de construção com base na equidade e segurança jurídica.

**Palavras-chave:** construção civil, serviços de construção civil, corporação, infraestrutura, reconstrução jurídica.
1 INTRODUCTION

Article 1 Paragraph (3) of Law Number: 2 Year 2017 on Construction Services states that construction work is the whole or part of activities including the construction, operation, maintenance, demolition and rebuilding of a building. To ensure the smooth running of construction work, owners and users of construction services must pay attention to security, safety, health and sustainability (K4) standards (Liao and Hsieh 2022). In addition, the implementation of construction work is carried out based on the agreed work contract (Safnul et al. 2020).

Construction services activities are never free from disputes (A Kassem, Khoiry, and Hamzah 2020). Potential conflicts arise from users, service providers and third parties in interpreting work agreements (Haloush 2021). Therefore, Law Number: 2 Year 2017 on Construction Services as a legal umbrella for the implementation of national construction services, must be able to accommodate various interests (Yuspin et al. 2020). The final delivery of construction work has many problems, especially related to the condition of the building that is not functioning in whole or in part, technical problems, aspects of benefits, occupational safety and health, or public safety (Willar et al. 2021) which leads to the failure of construction work (Egwunatum et al. 2022).

Prior to the enactment of Law Number: 2 Year 2017, the legal basis of construction services was regulated in Law Number: 18 Year 1999. Construction Services Law Number: 18 Year 1999, has a stricter scope of regulation for service providers and users in the implementation of construction, one of which is the threat of punishment for building failures or construction accidents that result in casualties and material losses (Arashpour et al. 2014). Unfortunately, this criminal provision is no longer adopted in Law Number: 2 Year 2017 on Construction Services.

The elimination of criminal sanctions in Law Number: 2 Year 2017 on Construction Services has indirectly triggered the rise of legal issues especially related to construction accidents and building failures in the implementation of construction services (Bucha, Onyango, and Okello 2020). Based on the search results, sanctions for building failure in Indonesia are regulated in the 1999 Construction Services Law and the 2017 Construction Services Law. The new Construction Services Law 2017 has removed criminal sanctions for construction service providers (Agustina and Purnomo 2023).

However, service providers are still liable for building failures and must compensate or repair the building. It also provides administrative sanctions for violations
and irregularities, such as written warnings, administrative fines, temporary suspension of construction services, blacklisting, licence revocation, and licence suspension (Liao and Hsieh 2022). Therefore, there are no criminal sanctions for building failures in Indonesia (Diamantis and Laufer 2019).

For example, in a government building project, there was a building collapse (construction accident) caused by technical factors or negligence that caused casualties (Bucha et al. 2020). This event is absolutely a construction criminal offence previously regulated in Article 43 of Law Number: 18 of 1999 concerning Construction Services, but this criminal provision has been deleted in Law Number 2 of 2017. On the other hand, building demolition or construction accidents that cause losses to people and objects can be subject to criminal sanctions as regulated in Article 46 and Article 47 of Law Number: 28 of 2002 concerning Buildings and Buildings, but due to the lack of understanding of construction law, law enforcement (Hutchinson 2022) is more emphasised on formal criminal elements than material construction crimes (Adygezalova et al. 2022).

Companies that use good corporate governance will generate a good relationship between corporate management and shareholders, resulting in a balance in company operations (Oktarina 2017). That to fill the void and disparity in criminal law enforcement for building failures and construction accidents in the Construction Services Law Number: 2 Year 2017, harmonisation and legal reconstruction are needed to harmonise the construction services law with other laws in the field of construction to provide justice, certainty and legal benefits for the community (Sugita, Abdullah, and Djajaputra 2020). That the formulation of the problem in this study is first, how is corporate liability in construction work? Second, how is the Reconstruction of Construction Services Law with Justice, Certainty and Benefit?

2 THEORETICAL FRAMEWORK

The theoretical framework is a thought or point of opinion, a theory about a problem case that becomes a comparison material, a theoretical guide. The theoretical framework generally contains principles that influence the discussion. These principles are useful to help illustrate and work steps. The theoretical framework will help the author in discussing the problem and will describe the interior of the writing. The existing legal framework in a country is instrumental in mitigating cases of collapsed buildings. Poor
enforcement of rules and regulations governing the construction industry is one of the main reasons for building failures and accidents (Bucha et al. 2020).

That this study uses the Theory of Legal Certainty, which according to Utrecht contains two meanings, namely: first the existence of general rules makes individuals know what actions can and cannot be done. The second is in the form of legal security for individuals from government arbitrariness against general rules so that individuals can know what the state may impose or do on individuals. Without legal certainty, people do not know what to do, causing uncertainty, in the end, it will cause violence (chaos) because of the indecision of the legal system. That legal certainty refers to the application of clear, fixed and consistent laws where their implementation cannot be influenced by subjective circumstances (Julyano, 2019).

That the vacuum of criminal law results in uncertainty and disparity in law enforcement of building failures and construction accidents in the Construction Services Law Number: 2 Year 2017, this problem can be overcome by harmonisation or legal reconstruction to harmonise construction services laws with other laws in the field of construction to provide justice, certainty and legal benefits for the community.

The study of legal responsibility according to Hans Kelsen, is called the traditional theory. In the traditional theory, responsibility is divided into two types, namely responsibility based on fault and absolute responsibility. Fault-based responsibility is the responsibility imposed on the legal subject or perpetrator who commits an unlawful act or criminal act due to his/her mistake or negligence. Negligence is a situation where the legal subject or perpetrator is careless, lacks caution, does not heed his obligations or forgets to carry out his obligations. That corporate responsibility for building failure in construction work is divided into criminal, civil and administrative liability (Guiney 2019).

3 RESEARCH METHOD

In accordance with the subject matter, the type of legal research conducted is normative juridical research or research that analyses written law, jurisprudence and norms that live in society. The descriptive analytical approach aims to collect data systematically, factually and accurately on a problem based on applicable laws and legal norms (Stanisz et al. 2022). Data collection techniques are carried out through literature studies, namely to obtain data by examining library materials or secondary data which
include primary legal materials, secondary legal materials in the form of laws and regulations, books and other scientific works or journals and tertiary legal materials such as dictionaries, magazines, newspapers and articles.

4 RESULTS AND DISCUSSION

4.1 CORPORATE LEGAL RESPONSIBILITY IN CONSTRUCTION WORK

Liability is a consequence of an act committed, in general, the principles of liability in law are divided into: liability based on fault, presumption of liability principle, presumption of nonliability principle, strict liability and limitation of liability principle (Berman and Zarsky 2022). The corporation as a legal subject can be liable from legislation or other general provisions (Adygezalova et al. 2022) for the acts or omissions of its directors, workers or agents (Auer and Papp 2022). However, it cannot be concluded that the liability of a director is fully delegated to his corporation because in general, the form of offence by the corporation must first be found and then the person who committed the error or negligence must be held liable (Shadnam, Crane, and Lawrence 2018).

Criminal offences committed by corporations are always punishable by participation and the position of the corporation is always part of the participation of the criminal offence (Januarsyah et al. 2021). A corporation can’t be the sole perpetrator of a criminal offence (Rizzuti 2022). A corporation can be a maker (dader) but cannot be the perpetrator of a criminal offence (pleger). As a supporter of rights and obligations, the corporation must be responsibility for the actions taken, especially in the implementation of construction work (Jora et al. 2020). The form of corporate legal liability in construction work is divided into:

4.1.1 Administrative Liability

That the Construction Services Law Number: 2 Year 2017 regulates administrative sanctions for users and service providers for building failures and construction accidents, which are regulated from Article 89 to Article 98 with the form of administrative sanctions in the form of written warnings, administrative fines, temporary suspension of construction service activities, inclusion in the blacklist, license suspension and or license revocation.
4.1.2 Civil Liability

The form of civil legal liability by service providers or users in construction work is compensation or repairing building failures (Strobel and Liel 2013) as stipulated in Articles 60-65 of Law Number: 2 Year 2017 concerning Construction Services. In addition, based on Article 67 of Law Number: 2 of 2017 concerning Construction Services states "Service providers and/or service users are obliged to provide compensation in the event of building failure as referred to in Article 65 Paragraphs (1), (2) and (3) which are carried out in accordance with statutory provisions".

The provision of compensation (material and immaterial) is also confirmed in Article 20 of the Regulation of the Supreme Court of the Republic of Indonesia Number: 13 of 2016 concerning Procedures for Handling Criminal Case by Corporations, namely losses suffered by victims of corporate crime can be compensated through a restitution mechanism according to statutory provisions or through a civil lawsuit mechanism. The obligation of the service provider or user to rebuild or repair the failure of the building (Liao and Hsieh 2022) is also regulated in Article 153 paragraph (2) of Law Number: 1 of 2011 concerning Housing and Settlement Areas, namely "...rebuilding housing in accordance with the criteria, specifications, requirements, infrastructure, facilities and public utilities agreed upon".

An example of the settlement of a construction dispute through a civil lawsuit in court is in Medan District Court Decision No. 408/Pdt.G/2014/PN.Mdn, between Plaintiff Andre Roland Bastiaanas, against Vista Estate Developer (Defendant I) and PT Bank CIMB Niaga (Defendant II) as the provider of the house credit facility. That Plaintiff purchased a house from Defendant I as set out in a sale and purchase agreement, but until the specified time limit Defendant I had not completed construction and handed over the house to Plaintiff, while Plaintiff's obligation to pay credit instalments to Defendant II continued.

The Medan District Court handed down a decision which read: declaring that Defendant I had committed an unlawful act against Plaintiff, ordering Plaintiff to pay compensation to Plaintiff in the amount of Rp. 232,557,295 (two hundred thirty-two million five hundred fifty-seven thousand two hundred and ninety-two rupiah) and declaring by operation of law all of Plaintiff's obligations in the form of unpaid instalments since November 2010, to Defendant II based on Credit Agreement Number: 032/PK/02/2/07/09, dated 8 July 2009 and the interest thereon to be completely removed.
4.1.3 Criminal Liability

That although the Construction Services Law Number: 2 of 2017 has removed criminal provisions, construction accidents or building failures that occur in construction work (Wahyono, Hatmoko, and Tamin 2019) can be subject to criminal sanctions, but by using other relevant statutory provisions in the field of construction such as:

4.1.4 Law Number: 1 Year 2011 on Housing and Settlement Areas

Article 151:
1) Any person organising housing development who does not build housing in accordance with the criteria, specifications, requirements, facilities and infrastructure, and public utilities promised, as referred to in Article 134, shall be punished with a maximum fine of Rp. 5,000,000,000 (five billion rupiah);
2) In addition to the punishment as stipulated in paragraph (1), the perpetrator may be sentenced to additional punishment in the form of rebuilding housing in accordance with the criteria, specifications, requirements, facilities and infrastructure, and public utilities promised.

Article 157:
Any person who intentionally builds housing, and/or settlements in places that have the potential to pose a danger to goods or persons as referred to in Article 140, shall be punished with a maximum imprisonment of 1 (one) year or a maximum fine of Rp50,000,000.00 (fifty million rupiah).

Article 163:
In the event that the acts referred to in Article 151 paragraph (1), Article 152, Article 153, Article 154, Article 156, Article 157, Article 160, or Article 161 are committed by a legal entity, then in addition to imprisonment and criminal fines against its management, criminal charges can be imposed against legal entities in the form of criminal fines with a weight of 3 (three) times the criminal fine against people.

4.1.5 Law Number: 28 of 2002 concerning Building

Article 46:
1) Every owner and/or user of a building that does not meet the provisions of this law, shall be threatened with imprisonment for a maximum of 3 (three) years
and/or a maximum fine of 10% (ten hundredths) of the value of the building if it results in loss of property of others;

2) Every building owner and/or user who does not meet the provisions in this law shall be threatened with imprisonment for a maximum of 4 (four) years and/or a maximum fine of 15% (fifteen hundredths) of the value of the building if it results in accidents for others resulting in lifelong disability;

3) Any owner and/or user of a building that does not meet the provisions of this law shall be threatened with imprisonment for a maximum of 5 (five) years and/or a maximum fine of 20% (twenty hundredths) of the value of the building, if it results in the loss of life of others.

Article 47:

1) Any person or entity who, due to its negligence, violates the provisions stipulated in this law, resulting in a building that is not fit for function, may be sentenced to confinement and/or fines;

2) Criminal confinement and/or fines as referred to in paragraph (1) include:
   a) imprisonment for a maximum of 1 (one) year and/or a maximum fine of 1% (one hundredth) of the building value if it results in the loss of property of others;
   b) imprisonment for a maximum of 2 (two) years and/or a maximum fine of 2% (two hundredths) of the value of the building if it causes accidents for others resulting in lifelong disability;
   c) imprisonment for a maximum of 3 (three) years and/or a maximum fine of 3% (three hundredths) of the value of the building if it results in the loss of other people's lives.

The criminalisation of corporations needs to be considered to whom the punishment is imposed person or corporation because corporations as legal entities cannot undergo corporal punishment (Ariyanny et al. 2023). The determination of the corporation as the perpetrator of the crime as well as the person responsible (Diamantis and Laufer 2019), for the motivation is for the sustainability of the corporation itself and so that the director manages his company effectively in accordance with legal norms (Auer and Papp 2022). Fraud is a monster and addressing this economic monster is a holistic response integrating fraud detection, prevention and redress, underpinned by
strong determination and understanding of corporate inherent risks (Folajimi et al. 2023). The corporate liability model is divided into:

1) The management of the corporation as the author and management is responsible
2) The corporation as the author and the management is responsible (Sy and Tinker 2019)
3) The corporation as a maker and also as a responsible person (Liao and Hsieh 2022)
4) The management and the corporation as perpetrators of criminal offences and both are responsible (Jora et al. 2020)

4.2 LEGAL RECONSTRUCTION OF CONSTRUCTION SERVICES THAT ARE FAIR, CERTAINTY AND EXPEDIENCY

As a legal product that is binding and concerns the interests of the wider community, every legislation must fulfil a sense of justice, certainty and legal expediency (Bar-Siman-Tov 2018). A good law accommodates the will and interests of the people and harmonises with other statutory provisions. The existence of disharmony between law and other laws, both at the same and different levels, will cause turmoil and legal problems (Muslih and Supeno 2022). In addition, a good law can overcome current and future problems (relevant), accommodate the interests of the wider community and fulfil the values of public justice (Yulia Dewi, 2021).

The combination of just and prosperous as the foundation of life is realised through integrated and comprehensive national development, giving birth to a prosperous Indonesian society, meaning that every citizen can achieve physical and mental well-being in accordance with their rights so that they can live safely and peacefully without disturbance (Muqsith et al. 2022). Based on this thinking, general welfare means the recognition of the human rights of all citizens (Meikle 2020). Creating laws that protect the people, fair treatment, protect and protect the rights of every citizen (Read et al. 2010) of course, there must be regulations that serve as guidelines (Gonzalez-Garcia et al. 2020). With clear rules, any drafting of regulations can be carried out in a way and method that is definite, standardised and binding on all institutions authorised to form laws and regulations (Nelson and Sondang 2021).
Legal certainty and justice are the basic values of what we want from the existence of a law (Dunbar 2021). Law with the value of its existence is to protect the values that are upheld and must complement and not exclude each other. Disharmony between these two values will result in conflict and tension that can disrupt the function of law enforcement (Latuputty 2019).

Law enforcement in Gustav Radbruch’s theory must achieve three things, namely legal certainty, expediency and justice (Sugita et al. 2020). To realise these three things, law enforcement should be formulated in various rules which are then formulated in law so as not to deviate far from the efforts to achieve true justice for the sake of legal certainty and expediency. Ahmad Supardji states that a law is said to be good and ideal if it fulfils three criteria, namely:

a) The resulting law must be predictable or cover various possibilities that will occur in the future. The law must be able to overcome current and future problems so that the law remains relevant and does not change young according to the principle of legal certainty (Lifante-Vidal 2020);

b) The law must create stability or balance. The law must be able to balance the various interests of community groups and must be accommodative and aspirational to accommodate the various interests in it (Adygezalova et al. 2022);

c) The law must contain an element of fairness. A law must be able to fulfil a sense of justice for the community, in accordance with the nature of one of the objectives of law, namely justice (Meikle 2020).

That the law in which the substance or material changes and the systematics of legislation, based on Annex Number 237 of Law Number: 12 of 2011 concerning the Establishment of Laws and Regulations, it is stated that if a law causes the systematics of laws and regulations to change, the material of laws and regulations changes by more than 50% (fifty per cent) and or its essence changes, then the laws and regulations are amended. It is better to be repealed and recast in a draft or draft new regulation governing the matter (Najicha 2021).

The concept of legal reconstruction related to the form of corporate criminal liability in construction work is:

1) Restore criminal provisions as sanctions for construction accidents and/or building failures in construction work, especially those that cause injury or death, which were previously regulated by Law Number: 18 of 1999 concerning
Construction Services, and add general provisions or operational definitions of construction accidents, construction safety and construction work failure;

2) Law Number: 2 Year 2017 on Construction Services, only regulates administrative sanctions (warnings, fines to licence revocation) for work safety violations (K4). Thus the construction services law must implement and revitalise the provisions of Law Number: 1 Year 1970 concerning Work Safety, which states that laws and regulations related to work safety to regulate criminal threats for violations of work safety with a maximum imprisonment of 3 (three) months and a maximum fine of Rp. 100,000 (one hundred thousand rupiahs) and criminal provisions for construction accidents or work-related accidents;

That the form of sanctions against K4 violations and building failures in the construction services law is administrative sanctions, this is contrary to the provisions of Article 15 Paragraph (2) of Law 1 of 1970 concerning Occupational Safety, namely "The legislation referred to in Paragraph (1) may provide criminal penalties for violations of its regulations with imprisonment for up to 3 (three) months or a fine of up to Rp. 100,000 (one hundred thousand rupiahs)".

That administrative and civil sanctions for construction accidents and building failures in Law Number: 2 Year 2017 on Construction Services are also contrary to the provisions of Article 3 Paragraph (2) of Law Number: 28 Year 2002 on Building which reads: "The regulation of building buildings aims to: (2) realising the orderly implementation of building buildings that guarantee the technical reliability of building buildings in terms of safety, health, comfort, and convenience" and Article Article 46 paragraph (2) and paragraph (3) of Law Number: 28 of 2002 concerning Building Buildings. "Any owner and or user of a building that does not comply with the provisions of this law shall be punished with imprisonment of up to 5 (five) years and/or a fine of up to 20% (twenty per hundred) of the value of the building if it results in disability and loss of life of others".

In the Work Safety Law Number: 1 Year 1970, violation of work safety can be punished with imprisonment for 3 (three) months and is a form of criminal offence. Meanwhile, in the Building Law, the owner or manager of a building who is negligent and ignores the elements of safety and causes material loss, resulting in injury or death, is punishable with a maximum imprisonment of 5 (five) years.
The Construction Services Law Number: 2 Year 2017 also does not regulate general provisions on construction accidents, construction work failures and construction safety as a process or incident that is very likely to occur in construction work. In addition, construction accidents, construction safety and construction work failures also greatly affect the occurrence of building failures that have a major effect on the final result of the delivery of construction work (Bucha et al. 2020).

Table 1. Concept of legal reconstruction of corporate liability in construction work

<table>
<thead>
<tr>
<th>No</th>
<th>Reconstruction</th>
<th>Provisions of Law Number: 2 Year 2017 on Construction Services</th>
<th>Provisions of the Appellant's Law</th>
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<tbody>
<tr>
<td>1</td>
<td>Restore the criminal provisions as sanctions for building failures in construction work, as well as the addition of general provisions on the definition of construction accidents, construction safety and construction work failures.</td>
<td>Article 63 Provides for civil sanctions (replacing or repairing building failures). Article 98 Regulates administrative sanctions for building failure</td>
<td>1. Article 43 of Law Number: 18 Year 1999 on Construction Services. (criminal sanctions for building failures that cause property damage and loss of life) 2. Articles 151, 157, 163, Law Number: 1 Year 2011 Concerning Housing &amp; Settlement Areas (criminal sanctions for organising housing in potentially dangerous places and building houses that do not meet the promised specifications, as well as three times the fine if the crime is committed by a legal entity) Article 47 of Law Number: 28 Year 2002 on Building Structures Contains criminal sanctions for building failures (buildings not in accordance with the agreed specifications, building collapse, building houses or buildings in places that are potentially dangerous and threaten life safety).</td>
</tr>
</tbody>
</table>
| 2  | The revitalisation of sanctions for violations of K4 (Security, Safety Health and Sustainability) Article 96 of Law Number: 2 Year 2017 on Construction Services which are administrative must follow the provisions of Law Number: 1 Year 1970 on Occupational Safety, and the provisions of Law Number: 28 Year 2002 namely imprisonment and or imprisonment. | Article 60 and Article 96 (regulates responsible parties and forms of administrative sanctions for violations of work safety, health and sustainability standards /K4) | 1. Article 15 Paragraph 2 of Law 1 of 1970 Concerning Occupational Safety, mandates safety-related legislation to regulate sanctions (criminal offences) imprisonment of up to 3 months for violations of work safety, health and security 2. Article 46 paragraphs (1, 2 and 3) of Law Number: 28 Year 2002 on Building, (regulates criminal sanctions if the owner or user of the
building ignores the provisions of this law, resulting in material losses and accidents resulting in disability or death.

Source: Prepared by the authors (2023)

5 CONCLUSION AND SUGGESTION

Legal sanctions for building failures and construction accidents in Law Number: 2 of 2017 concerning construction services are divided into administrative liability in the form of written warnings, administrative fines, temporary suspension of service activities, inclusion in the blacklist and suspension or revocation of licences (Articles 89-98), civil liability in the form of compensation regulated in Articles 60-65, and criminal liability regulated in Articles 46-47 of Law Number: 28 of 2002 concerning Building, Article 151, Article 157 and Article 163 of Law Number: 1 of 2011 concerning Housing and Settlement Areas, with sanctions of imprisonment and fines. That legal reconstruction is needed as an effort to overcome the vacuum and disparity of criminal law enforcement on construction accidents and building failures in Law Number: 2 Year 2017 on Construction Services, in the form of criminal sanction arrangements, setting general provisions on the definition of construction accidents, construction safety and failure of construction work, as well as revitalising administrative sanctions for K4 violations, following the provisions of Article 15 of Law Number: 1 Year 1970 on Work Safety.

This research proposes suggestions to overcome the vacuum and disparity of criminal law enforcement in Law Number 2 of 2017 concerning Construction Services, harmonisation between related regulations and legal reconstruction of corporate liability in construction work are needed. The existence of criminal sanctions for construction accidents and building failures will provide security and legal certainty for the community. Law enforcement officials must also master and understand construction criminal provisions such as Law Number: 28 of 2002 concerning Building and Law Number: 1 of 2011 concerning Housing and Settlement Areas, as lex specialis for construction crimes or offences, to optimise the law enforcement function.
REFERENCES


