



Implementation of Corporate Criminal Accountability in Indonesian National Economic Crime

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Abstract: Corporations as legal entities have become an integral part of the national economic system. However, behind its contribution to economic growth, not a few corporations are involved in economic crimes such as corruption, tax evasion, money laundering, to monopoly and cartel practices. These corporate crimes have a broad and systemic impact, not only harming the state from a financial perspective, but also damaging a healthy economic order and creating social injustice. In the context of Indonesian criminal law, the implementation of accountability for corporations as perpetrators of criminal acts still faces various challenges, both in terms of regulations, technical law enforcement, and understanding of law enforcement officials. This research aims to evaluate the extent to which the implementation of criminal liability against corporations in cases of national economic crimes as well as identify relevant obstacles and solutions. The method used is a normative juridical approach by examining various laws and regulations, jurisprudence case studies, and related scientific literature. The results show that although the recognition of corporations as subjects of criminal law has been contained in several sectoral laws, its implementation is still partial and has not touched the root of the problem, especially in proving structural corporate guilt. Therefore, there is a need for regulatory reform, strengthening the capacity of law enforcement institutions, and integrating a multidisciplinary approach in dealing with corporate crime. By strengthening criminal accountability towards corporations, it is hoped that the Indonesian criminal law system will be able to provide a deterrent effect while maintaining national economic integrity.

Keywords: Criminal Accountability, Corporations, Economic Crime.

1. BACKGROUND

The development of Indonesia's national economy in the era of globalization is marked by the increasing participation of business entities, including corporations, in various strategic sectors. Corporations, whether in the form of Limited Liability Companies (PT), State-Owned Enterprises (BUMN), or other legal forms, have become the main subject in the rotation of the economy. However, behind their dominant role, corporations are often involved in economic crimes that are structured, systematic, and involve power and financial networks. Crimes committed by corporations not only have an impact on material losses to the state, but also cause social inequality, damage public trust in business institutions, and decrease the integrity of the legal system. Corporate crimes such as tax evasion, money laundering, trade cartels, illegal exploitation of natural resources, and corrupt practices involving officials and big business actors have harmed the principles of economic justice.

In the context of classical criminal law, law enforcement in Indonesia is still oriented towards individual responsibility (natural person) as the perpetrator of criminal acts. The concept that only humans can commit crimes and be held accountable has long been the

foundation of the national criminal law system. However, the complexity of modern corporate structures demands a paradigm shift. Crimes committed on behalf of or within the scope of corporate activities often involve collective decisions and institutional mechanisms, making it difficult to trace specific individual perpetrators. As a result, even though there are clear crimes committed by a corporation, law enforcement is often unable to reach corporate actors as legal entities. This creates a legal vacuum in the provision of criminal sanctions against entities that should be held directly accountable.

In response to these challenges, several sectoral regulations have begun to include corporations as subjects of criminal law, such as in the Corruption Act, Consumer Protection Act, and Money Laundering Act. Even so, its application in the field still encounters many obstacles, including the limited capacity of law enforcement officials, the absence of standardized technical guidelines, and the difficulty in proving the element of guilt (*mens rea*) in the corporate structure. On the other hand, economic crimes by corporations tend to increase and become more complex. Therefore, it is important to examine how the implementation of criminal accountability against corporations in Indonesia in the context of national economic crime prevention and identify concrete obstacles in its implementation. This study becomes relevant in supporting a fair legal system that is responsive to modern legal challenges.

2. THEORETICAL STUDY

Corporate criminal liability is a development of the concept of criminal law that originally only recognized individuals as legal subjects, becoming broader by including legal entities or corporations as perpetrators of criminal acts. Theoretically, the recognition of corporations as subjects of criminal law is based on the fact that in practice, many economic crimes are committed through corporate structures and mechanisms, which are sometimes even more difficult to trace than individual actions. This idea gave birth to the doctrine of corporate criminal liability that has long developed in common law countries, and began to be adopted by civil law countries including Indonesia. The application of this doctrine shows that a corporation can be subject to criminal liability if there is an unlawful act committed by its management in the capacity and for the benefit of the corporation.

In criminal law studies, there are three main approaches in explaining corporate criminal liability, namely identification theory, aggregation theory, and vicarious liability theory. Identification theory states that the actions and evil intentions (*mens rea*) committed by people who occupy managerial or decision-making positions in the corporation can be considered as the corporation's own actions. Meanwhile, the aggregation theory views that the

elements of criminal acts can be collected from the actions of a number of individuals in the corporation to form a single offense that can be held accountable. The theory of vicarious liability emphasizes that the corporation is responsible for unlawful acts committed by its agents or employees as long as the actions are carried out in the context of the duties assigned by the corporation.

In Indonesia, the regulation on corporate criminal liability has not been thoroughly regulated in the Criminal Code (KUHP), but has been accommodated in a number of sectoral laws and regulations. For example, Law No. 31 of 1999 on the Eradication of Corruption and Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering have stipulated that corporations can be subject to criminal sanctions, in the form of fines, revocation of business licenses, suspension of activities, and dissolution. However, there is no standardized national standard in determining how criminal elements against corporations are systematically proven, resulting in inconsistencies in law enforcement practices.

3. RESEARCH METHOD

This research uses a normative juridical approach, which is an approach that relies on the analysis of the applicable written legal norms as the main reference in examining legal issues. This approach aims to examine how laws and regulations in Indonesia regulate the criminal liability of corporations in economic crimes, as well as how these norms are implemented in practice. The main source of data comes from laws and regulations such as the Criminal Code, the Corruption Act, the Prevention and Eradication of Money Laundering Act, as well as technical regulations and related jurisprudence.

In addition to the normative approach, this research is also complemented by limited empirical juridical analysis through a review of several court decisions and concrete case studies involving corporate crime. Secondary data is collected from legal documents, scientific articles, legal journals, and reports of official institutions such as the Corruption Eradication Commission (KPK), the Supreme Court, and the Financial Transaction Reports and Analysis Center (PPATK). The data obtained was analyzed qualitatively, with the aim of describing the extent to which the effectiveness of the implementation of corporate criminal accountability in Indonesia as well as to identify the obstacles faced in the practice of enforcement.

4. RESULT AND DISCUSSION

The regulation of criminal accountability of corporations in the Indonesian legal system has experienced significant development in the last two decades. Although the Criminal Code

(KUHP) has not explicitly mentioned corporations as subjects of criminal law, various sectoral laws have accommodated the possibility of criminal liability of corporations. Some of them are Law No. 31 Year 1999 jo. Law No. 20 Year 2001 on the Eradication of Corruption, Law No. 8 Year 2010 on the Prevention and Eradication of Money Laundering, and Law No. 5 Year 1999 on the Prohibition of Monopolistic Practices and Unfair Business Competition. In these regulations, corporations can be subject to criminal sanctions in the form of fines, suspension of activities, and revocation of business licenses. However, these regulations are still fragmented and have not formed a complete system, given the lack of harmonization between applicable regulations. Even in a number of cases, there is a legal vacuum when it comes to proving the elements of corporate misconduct structurally, especially in determining who can be considered as a representative of the "will" of the corporation.

In terms of implementation, the practice of law enforcement against corporations as perpetrators of economic crimes is still very limited and inconsistent. Data from several major cases such as banking crimes, strategic commodity smuggling, and corporate corruption show that law enforcement officers tend to focus on certain individuals in the corporate structure (directors, commissioners, or managers), without attracting the corporation as a subject of criminal law. This is largely due to the lack of understanding of law enforcement officials regarding the doctrine of corporate criminal liability, as well as the absence of operational technical guidelines in investigating and proving criminal acts by legal entities. On the other hand, the criminal procedure law system used in Indonesia is still designed for individual legal subjects, so that when facing legal entities such as corporations, many legal loopholes and procedural weaknesses are difficult to bridge. When law enforcement officials do not have clear guidelines, it is very possible to avoid criminal responsibility by corporations through legal maneuvers that are formally valid but contrary to the principles of substantive justice.

Another obstacle is the weak legal infrastructure that supports the application of criminal accountability against corporations. For example, in terms of proving corporate guilt, it is not uncommon for there to be difficulties in linking collective corporate decisions with elements of criminal guilt (*mens rea*), because criminal acts are often wrapped in the form of business decisions. In addition, many large corporations have political influence or power connections, so the law enforcement process can be hampered by external intervention or corruption in the legal system itself. Not only that, law enforcement agencies such as the Police, the Attorney General's Office, and the Corruption Eradication Commission do not yet have special units or investigators who focus on corporate crime. On the other hand, the public still views that criminal offenses are the business of individuals, not business entities. The

government's ability to pass public laws is rooted in its unique powers. This is in contrast to government action. This action takes the form of regulatory policy. The latter cannot be scrutinised. The reason for this is that it does not provide a legal foundation for the decisions that the policy is designed to regulate. This view also slows down the paradigm shift in the national legal system, as corporate accountability is considered secondary and less urgent.

However, there are several reform efforts that should be appreciated. One of them is the draft of the new Criminal Code (RKUHP) which began to explicitly include provisions on corporate criminal liability, on the basis that corporations can be subject to criminal liability if proven to have committed criminal acts that harm the public interest or violate applicable laws. The RKUHP also regulates the criminal sanctions that can be imposed on corporations, such as fines, supervision, repair of criminal offenses, and even dissolution of the corporation. Although not yet fully enacted, the Criminal Code shows progress in Indonesia's criminal law framework. Going forward, there is a need to synergize regulatory reform with capacity building of law enforcement officials and the preparation of technical guidelines on how to criminally charge corporations. Consistent and equitable law enforcement against corporate crime is not only a matter of providing a deterrent effect, but also ensuring economic justice and protection of the wider public interest.

5. CONCLUSION

The implementation of criminal accountability against corporations in Indonesia's national economic crime still faces various challenges, both normatively and practically. Although several regulations have recognized corporations as subjects of criminal law, the enforcement is still weak due to the absence of a comprehensive legal system and clear technical guidelines. Therefore, it is recommended that the government immediately harmonize regulations, accelerate the ratification of the Criminal Code which contains provisions on corporate liability, and increase the capacity of law enforcement officials in handling criminal acts involving legal entities in a professional and accountable manner.

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