



## Revolutionary Transformation: Latest Analysis of Law Enforcement in Corporate Crime

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### **Abstract**

This research aims to determine how law enforcement in corporate crimes influences corruption cases in Indonesia. The research approach is a normative juridical approach. The types and sources of data used in this research are primary data produced from secondary research, namely regulations, institute decisions, reading books, and published journals, and tertiary data, namely data sources through articles and websites that are bold. The research results show that in the context of corporate crime, repressive and preventive efforts must be used together to create a more effective legal system. A repressive approach will enforce the law when violations have occurred, while a preventive approach will focus on preventing violations from an early stage.

**Keywords:** *Analysis; Law Enforcement; Corporate Crime*

### **Introduction**

Significant increase in the number and size of corporations during this century. All economic, social, and political activities are largely influenced by corporate behavior. Even though this corporate behavior is not directly visible, we can feel the consequences of their legal actions, even the actions of corporations involved in the criminal domain.

In general, the Criminal Code does not consider corporations as legal subjects. One of the reasons used is the existence of Pasal 59 Buku I Kitab Undang-Undang Hukum Perdata, which states that "In terms of determining punishment for violations against management, members, it is again important, justice must be created by creating a business environment that is fair and full of legal certainty."<sup>1</sup>

There are several State-Owned Enterprises, which are international companies or multinational companies, that have political influence on governments within and outside the countries in which they

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<sup>1</sup> Iqbal, M. (2013). Kriminalisasi Korporasi Dalam Tindak Pidana Korupsi Terkait Bumn Persero. *Jurnal Hukum dan Peradilan*, 2(2), 309-324.

operate. <sup>2</sup>White collar crime, also known as "white collar crime", is the most common type of corporate crime and is usually committed by companies or legal entities engaged in business by carrying out various actions that are contrary to applicable criminal law. Based on experience from various developed countries, it can be suggested that identification of corporate crimes can include criminal acts such as monopoly, fraud via computer, payment of taxes and excise, violation of price provisions, production of goods that endanger health, corruption, bribery, administrative violations, labor, and pollution. environment.<sup>3</sup>

In the development of criminal law, criminals are not only committed by individuals as legal subjects but also by corporations. Similar to the Draft Criminal Code which includes corporations as a subject of criminal law, the draft Indonesian criminal law also accepts and recognizes corporations as a subject of criminal law. However, the current Criminal Code may not recognize this. As subjects of criminal law, individuals and corporations can be held accountable to each other rather than the alternative. Thinking about individual criminal responsibility focuses more on individual actions that damage other people or other groups. Corporations focus more on "recovering" losses than creating a sense of justice for communities whose rights have been taken away.<sup>4</sup>

According to Moeljatno, the Indonesian Criminal Code system divides criminal acts into two categories: crimes (*misdrifven*) and violations (*overtrading*). 1. Criminal acts usually occur because of the elements of intention, and opportunity of the perpetrator and the victim, with the following formulation: If one of the elements is not present, then the criminal act will not occur.<sup>5</sup>

Corporate crime can be categorized as organized crime in the category of "white collar crime" or "white collar crime". Apart from that, there is another term that has emerged and is related to corporate crime, economic crime, and white-collar crime, namely "business crime", which according to Conklin consists of the following components of corporate crime.<sup>6</sup>

1. Acts that violate the law are threatened with criminal sanctions.
2. Committed by a person or corporation in the course of his lawful employment or the course of industrial or commercial pursuits or endeavors.
3. Aim to obtain money or wealth by avoiding payment avoiding the loss or loss of wealth, or gaining business or personal gain.

The reform of the Criminal Code provides an opportunity to expand the types of crimes that must be committed by companies, ensure for whose criminal acts the company must be criminally responsible, and choose the most appropriate type of punishment for companies to provide a sense of justice for victims and have a stopping effect. Research with the title "Enforcement of Criminal Law for Corporate Crimes by Management of State-Owned Enterprises (BUMN)" is intended to investigate problems related to corporate criminal acts based on the description above.

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<sup>2</sup> Susanto, S. (1999). *Kejahatan Korporasi*. Semarang: BP UNDIP

<sup>3</sup> Gobert, & Punch. (t.thn.). *Rethinking The Corporate*. Diambil kembali dari <http://maswig.blogspot.com>, 21, diakses tanggal 20 Oktober 2023

<sup>4</sup> Ardiansyah, I. (2019, April 1). Solusi dalam Penegakan Hukum Terhadap Tindak Pidana Korporasi Ditinjau Dari Kriteria dan Pola Pemidanaan. *Jurnal UIR Law Review*, 3.

<sup>5</sup> Moeljatno. (2008). *Asas-Asas Hukum Pidana*. Jakarta: Rineka Cipta

<sup>6</sup> Hutaeruk, R. H. (2014). *Penanggulangan Kejahatan Korporasi Melalui Pendekatan Restoratif Suatu Terobosan Hukum*. Jakarta: Sinar Grafika.

## **Method**

This research uses the normative juridical approach method. A juridical approach is used to analyze various principles and theories related to the problems studied.<sup>7</sup> The nature of the research used is prescriptive, namely legal research to discover legal rules, legal principles, and legal doctrines to answer the legal problems faced. Apart from normative research, empirical juridical research is also carried out, namely research that is also descriptive. Descriptive research usually has two objectives, namely to determine the development of certain physical facilities or the frequency of occurrence of an aspect of a certain social phenomenon and to describe in detail a certain social phenomenon.

## **Analysis of Discussion Results**

Several problems in law enforcement are as follows: the first is the difference between normative law and sociological law between legal facts and existing legal rules; the second is the difference between people's behavior that should not be by existing laws; and the third is the difference between existing laws in society or their implementation in society.<sup>8</sup> Fourth, the main problem with law enforcement in developing countries-especially Indonesia is the quality of the individuals who enforce the law, not the legal system itself.

Apart from that, several factors hurt law enforcement. The first are things that occur in the legal system, such as laws, law enforcement, and law enforcement facilities. The second is things that occur outside the legal system, such as people's legal awareness. It is influenced by changes in social, political, and cultural laws.

Several factors cause problems with law enforcement, the first is the professional quality of law enforcers, the second is the lack of insight for law enforcers in understanding the law itself, the third is the lack of skills to work to meet legal needs, the fourth is low work motivation, the fifth is damage to morality. law enforcement personnel who make the law unenforceable, the sixth is the low level of legal education, the need to improve legal education from an early age, the seventh is the very small number of human resource development programs among law enforcement organizations to increase abilities in science. law.

Criminal procedural law regarding corporate crimes can generally be guided by Pasal 20 Undang-Undang Nomor 31 Tahun 1999 jo Undang-Undang Nomor 20 Tahun 2001 tentang Pemberantasan Tindak Pidana Korupsi. First, deep. matter. demands. criminal. done. to. corporation, the corporation is represented by the management. Second, the management can be represented by someone else.<sup>9</sup> Third, the judge can give an order for the corporation's management to appear in court in person and can order that the management be brought to court. Fourth, in the case of criminal charges against the corporation, the summons to appear and the submission of the summons are delivered to the management at the management's place of residence or where the management has an office. The penalties that can be imposed on corporations are usually fines and disciplinary action as additional general and specific penalties. In the end, it can be said that the truth is that corporations do not have a conscience, but a corporation led by people who are careful and always listen to their conscience is a corporation that has a conscience.<sup>10</sup>

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<sup>7</sup> Juliardi, B., Runtuuwu, Y. B., Musthofa, M. H., TL, A. D., Asriyani, A., Hazmi, R. M., ... & Samara, M. R. (2023). *Metode Penelitian Hukum*. CV. Gita Lentera.

<sup>8</sup> Ali, H. Z. (2023). *Sosiologi hukum*. Sinar Grafika.

<sup>9</sup> Amir, A., Ambarwati, A., & Aris, A. (2022). Penegakan Hukum Korupsi Dana Desa di Provinsi Sulawesi Selatan. *Jurnal Litigasi Amsir*, 9(4), 271-278.

<sup>10</sup> Muladi, & Nawawi, B. A. (1984). *Penegakan Hukum Pidana*. Jakarta: Rineka Cipta.

Currently, the doctrine of vicarious liability is the basis for the formulation of Indonesian criminal law, which means that criminal liability is only imposed on high-ranking officials or leaders of public legal entities. This results in criminal sanctions that do not focus on victims. Public corporations are not yet positioned as bearers of direct criminal responsibility for criminal acts committed by them.<sup>11</sup>

Talking about the law, we know that preventive and repressive measures can be used to enforce the law. In environmental law enforcement, repressive is taking action after an incident, while preventive is taking action before the incident occurs. Monitoring environmental crime violations is used to prevent violations.<sup>12</sup> Socialization of the importance of protecting the environment can be carried out. Law enforcement officials often take these precautions to prevent environmental pollution carried out by irresponsible individuals.<sup>13</sup> This is done by providing education to the community about the importance of the environment in their lives. To suppress or minimize violations of environmental law, law enforcers take preventive action.

future criminal law formulation policy in Indonesia, it is hoped that public corporations and their senior officials or leaders will be held directly accountable for criminal acts committed by public corporations. In addition, it is hoped that the types of criminal penalties that can be imposed on public corporations focus on the interests of victims, namely to restore victims' rights that have been violated.

## **Conclusion**

In enforcing corporate criminal law in Indonesia, several problems need to be addressed, including differences between normative law and sociological law, differences between community behavior and legal rules, as well as differences between existing laws and their implementation. Law enforcement theory emphasizes the importance of accountability, transparency, and prevention in law enforcement for corporate crimes. This involves ensuring that law violators, including corporations, are subject to appropriate sanctions. In the context of corporate crime, repressive and preventive efforts must be used together to create a more effective legal system. A repressive approach will enforce the law when violations have occurred, while a preventive approach will focus on preventing violations from an early stage. Legal reform, improving the quality of individuals who enforce the law, and increasing public legal awareness are important steps in efforts to improve corporate criminal law enforcement, with a focus on the interests of victims and the restoration of violated rights.

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<sup>11</sup> Ardiansyah, I. (2019, April 1). Solusi dalam Penegakan Hukum Terhadap Tindak Pidana Korporasi Ditinjau Dari Kriteria dan Pola Pemidanaan. *Jurnal UIR Law Review*, 3.

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<sup>13</sup> Wira Yudistiya, A. (2021). IMPLEMENTASI PENEGAKAN HUKUM TERHADAP PELAKU PENCEMARAN LINGKUNGAN (STUDI KASUS PENEGAKAN HUKUM TERHADAP PELAKU PEMBUANGAN KOTORAN SAPI DI DESA GEMAHARJO KECAMATAN TEGALOMBO KABUPATEN PACITAN) (Doctoral dissertation, Universitas Muhammadiyah Ponorogo).

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