

Authority of Police Investigations in Corporate Corruption Cases in Indonesia

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Abstract: *This study examines the role and authority of the Indonesian National Police in enforcing laws against corporations involved in corruption. Despite their legal mandate, police investigators rarely handle corporate corruption cases due to procedural and competency challenges. Using a normative qualitative approach, the research analyzes the gaps in law enforcement and recommends adopting procedural reforms, such as aligning police regulations with Supreme Court guidelines. The study emphasizes the need for enhancing the capacity of police investigators to tackle corruption crimes involving corporations. This research employs a positivist paradigm and a sociological juridical approach, and a descriptive research type. Types and sources of data use secondary materials in the form of primary legal materials, secondary legal materials and tertiary legal materials. Data collection methods use literature and qualitative analysis methods. The conclusion of this research is that the research highlights the gaps in law enforcement against corporate corruption in Indonesia, particularly the limited role of the National Police. Despite their legal authority, police investigators rarely tackle corporate corruption due to a lack of clear procedures and insufficient training. The study suggests procedural reforms, such as adopting Supreme Court regulations and providing specialized training for investigators, to enhance their capacity in handling corporate crimes.*

Keywords: Law enforcement, corporate corruption, police investigations, criminal procedure, Indonesia

1. Introduction

Corruption committed by corporations can bring disaster to poor and developing countries by generously handing over bribes. In line with this opinion, **Simon**¹ stated that corruption involving countries is an effort made by giant corporations in an effort to bribe involving many figures or rulers. So it can be said that corruption committed by corporations is like a cancer that if not treated early, will damage the framework and structure of society.

Corruption has resulted in huge material losses to state finances. Referring to the provisions of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 concerning the Eradication of Criminal Acts of Corruption, one of the criminal sanctions that can be imposed is a fine. The imposition of a fine on State - Owned Enterprises (BUMN) as perpetrators of corporate crimes that harm state finances is a problem. Although BUMN are included in the legal subjects of Corporations that can be held criminally accountable in Corruption Crimes, the existence of state money in the BUMN creates a technical dilemma, because before determining whether or not there is an element of state loss, it requires legal clarity first regarding what is meant by the definition of finance.

Corruption crimes involving corporations must be handled seriously by all authorized law enforcement officers (APH), namely the Police, the Prosecutor's Office and the Corruption Eradication Committee (KPK). However, in reality, law enforcement against corporate corruption is very rarely found in disclosures by law enforcers, most of the perpetrators

processed are individual perpetrators. The APH that rarely handles corporations is the police, unlike the other two APHs that have taken action against Corporations. An example is a case of corruption involving corporations as suspects/defendants/convicts, namely: PT. Giri Jaladhi Wana; PT. Duta Graha Indah/PT. Nusa Konstruksi Enjiniring; PT. and PT. Putra Ramadhan. One disclosure from the Criminal Investigation Unit of the Indonesian National Police with suspect PT. Offistarindo Adhiprima (PT. OA) in the case of procurement of Uninterruptible Power Supply (UPS) for schools in West Jakarta and Central Jakarta in the 2014 Revised Budget of DKI Jakarta with state losses of Rp130 billion, of which Rp61 billion went to PT. OA. However, the case with the suspect Corporation has not been declared complete.

In fact, based on the Police Law, the police are tasked with investigating and prosecuting all criminal acts in accordance with criminal procedure law and other laws and regulations. This means that the police have the authority to investigate and prosecute corruption cases under the Criminal Procedure Law. The police as law enforcement officers are required to play a role in efforts to prevent corruption, including their efforts in enforcing the law related to accountability for corruption crimes involving corporations. Until now, the police have not handled this crime. However, it is different from environmental crimes, where police investigators are often involved in investigations and investigations. Perpetrators of environmental crimes are sometimes carried out by corporations, where corporations often pursue profits, for example by easily burning land.

Therefore, based on the background description above, it can be seen that the handling of corruption crimes by the police

¹ Satria, H. (2018). Pembuktian Kesalahan Korporasi dalam Tindak Pidana Korupsi. *Integritas*, 4(2).

involving corporations has not been carried out optimally, even though the Police have work units throughout Indonesia with special tasks for investigating corruption crimes. This study is significant as it highlights the challenges faced by police investigators in handling corporate corruption cases, which have profound impacts on both economic and legal systems in Indonesia. The article aims to evaluate the role of the Indonesian National Police in enforcing laws against corporate corruption and to suggest procedural reforms for improving their effectiveness.

2. Method

This legal research uses a normative qualitative approach which aims to understand the phenomena experienced by the research subjects. This method prioritizes research on secondary data, such as primary, secondary or tertiary legal materials.

3. Discussion

1) The Indonesian National Police as one of the elements in the Criminal Justice System has the authority to investigate criminal acts of corruption committed by corporations.

The Indonesian National Police is one of the elements in the Criminal Justice System (SPP). The word "System" can be interpreted as a series of interrelated elements to achieve a certain goal. Muladi said that the concept of a system must be seen based on context, namely as a physical system or a set of elements that work together to achieve a goal, and as an abstract system or ideas that are a regular arrangement between each other and interdependence².

The police as a criminal justice subsystem have special authority as investigators as regulated in Article 15 and 16 of Law Number 2 of 2002 and in criminal procedure law regulated in Chapter VI Part One and Part Two, starting from Article 4 to Article 12 of the Criminal Procedure Code. In relation to the criminal justice system, the task of the police is to conduct investigations and inquiries, either on their own initiative or on public reports and are responsible to their own institutions. The police do not have the authority to prosecute, but have the authority to stop investigations or stop cases. "The organizational structure of the police is divided into 34 regional Police (Polda). Each Polda consists of several Resort Police (Polres), and each Polres consists of several Sector Police (Polsek).

The forms of Polri's authority in criminal proceedings are stated in more detail in Polri Law No.2 of 2002 Article 16 paragraphs (1) and (2). Meanwhile, in Law No.8 of 1981 concerning the Criminal Procedure Code, the forms of Polri's authority are stated in the authority of Investigation Article 5 a In Criminal Procedure Code (KUHP) Article 7 paragraph (2) it is stated that: Investigations as referred to in Article 6

paragraph (1) letter b have authority in accordance with the laws that are the legal basis for each and in Article 13 of Polri Law No.2 of 2002.

2) Corporate Responsibility as a Legal Entity

Corporate crime has a fairly broad dimension and has very serious consequences for society. Various published data prove that corporate crime has caused much greater financial losses than crimes committed by natural persons. In fact, corporate crime is also indicated to have resulted in the loss of life in a very large number. Braithwaite noted that there are at least ten types of corporate crime that occur in Australia. He said that corporate crime includes: 1) companies and security offenses, 2) taxation, 3) occupational health and safety, 4) environmental offenses, 5) consumer affairs, 6) restrictive trade practices, 7) food standards, 8) prudential regulation, 9) economics offenses against employees, and 10) discriminatory practices. More extreme, some parties even argue that corporations can commit all crimes as can be committed by humans (natural persons). This view may be true when associated with corporate involvement in the form of participation in crimes that are usually committed by humans, such as murder or other expressive crimes.

The concept of a legal entity (corporation) is a concept that originates from the civil law system. This concept has flourished so that in the end other legal fields outside the civil law system have been influenced to pay attention to the existence of this legal entity³. The influence of the concept of corporation can be found in constitutional law, state administrative law, and even criminal law. However, unlike civil law, the understanding of the term corporation in criminal law has experienced development and expansion of its meaning. The difference in the concept of corporation between civil law and criminal law, for example, can be found in terms of the use of the term between legal entity and corporation, and also regarding the difference in categories regarding what bodies can be said to be corporations.

Setiyono stated that the Corporation is a legal entity concept that actually originated from the concept of civil law that grew as a result of the development of society. The definition of a corporation in Indonesian criminal law is broader than the definition of a legal entity as in the concept of civil law⁴. The beginning of the birth of this corporate crime came from the opinion of Edwin Sutherland who put forward the types of crimes known as White Collar Crime. Related to white collar crime itself, Hazel Croal⁵ as quoted by Yusuf Shofie provides a definition, namely: white collar crime is often associated with various financial and business scandals and sophisticated frauds by senior executives which include what is popularly known as corporate crime⁶.

As for the criminal acts of corruption that can be committed by corporations, they are criminal acts of corruption whose subjects are formulated using the words: every person, person and contractor. The formulation of the subject of every person, if connected with the provisions of Article 1 point 3,

² Muladi, Kapita Selekt Sistem Peradilan Pidana, Semarang: Badan Penerbit Universitas Diponegoro Semarang

³ H. Setiyono, *Kejahatan Korporasi: Analisis Viktimologi dan Pertanggungjawaban Korporasi*, dalam *Hukum Pidana*, Banyumedia Publishing, Malang, 2003, hlm. 2.

⁴ Ibid hlm. 17

⁵ Firdausi, F., & Lestari, A. W. (2016). *Eksistensi 'White Collar Crime' Di Indonesia: Kajian Kriminologi Menemukan Upaya Preventif Reformasi*, 6(1)

⁶ Yusuf Shofie, "Pelaku Usaha, Konsumen dan Tindak Pidana Korporasi", (Jakarta: Ghalia Indonesia, 2002), hal. 44

then it is clear that every person has a broad meaning, including in the definition of every person according to Corruption Crime Law is: an individual or including a corporation. Thus according to Article 1 point 3 of Law No.31 of 1999 Jo Law No.20 of 2001. The formulation of the subject of the criminal act of corruption using the word "person" as regulated in Article 7 paragraph (2) can be interpreted that included in the definition of the perpetrator is a corporation.

3) Optimizing the role of the Police in handling criminal acts of corruption involving corporations

Regarding the handling of corruption, the Police have never handled Corruption Crimes committed by Corporations. The Criminal Investigation Unit of the Police as the Supervisor of the investigation function of all criminal acts in the Police, has never enforced the law against Corporations related to corruption. Data obtained from the Criminal Investigation Unit of the Police in 2019 - 2023 regarding the handling of Corruption Crimes, there have been many cases handled, namely in 2019 as many as 1, 503 (new police report and arrears police report), in 2020 as many as 1, 441 (new police report and arrears police report), in 2021 as many as 1, 430 (new police report and arrears police report), in 2022 as many as 1, 381 (new police report and arrears) and in 2023 as many as 1, 233 (new police report and arrears).

The reasons put forward related to this constraint can be linked to the problem of law enforcement and its elements with other elements in the legal system as expressed by Lawrence M Friedman⁷ about the theory of how law works that there are three elements in the legal system, namely

structure, substance, legal culture. The elements in the legal system are very important in the implementation of law, application of law, discovery of law and law enforcement. Specifically in law enforcement, the elements in the legal system are key factors that are very important in law enforcement.

Friedman's theory serves as a benchmark for evaluating the law enforcement process in Indonesia. The police are part of a structure together with prosecutors, judges, advocates, and correctional institutions. The interaction between these law enforcement components determines the strength of the legal structure. However, the upholding of the law is not only determined by the strength of the structure, but is also related to the legal culture in society⁸. According to Soerjono Soekanto,⁹ there are several factors that influence law enforcement, namely legal factors, law enforcement factors, supporting facilities or infrastructure factors and community factors.

When compared to the Indonesian Attorney General's Office, this law enforcement institution has been taking action against corporations since 2014, even before the Supreme Court of the Republic of Indonesia Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations.

Data on handling of corruption crimes committed by corporations handled by the Indonesian Attorney General's Office from 2014 to 2023 can be seen in the table below.

Table: Corruption crimes committed by corporations handled by the Indonesian Attorney General's Office

No	Areas	Crimes	Year					
			2018	2019	2020	2021	2022	2023
1	Attorney General of the Republic of Indonesia	corruption	3	-	22	8	1	24
		Taxes	-	1	-	1	12	10
		Money laundering	-	-	-	-	8	-
2	High Prosecutor's Office Banten	corruption	-	-	-	-	-	1
		Taxes	-	-	-	-	-	1
		Money laundering	-	-	-	-	-	-
3	High Prosecutor's Office Yogyakarta	corruption	-	-	-	-	-	2
		Taxes	-	-	-	-	-	1
		Money laundering	-	-	-	-	-	-
4	High Prosecutor's Office Jabar	corruption	-	-	-	-	-	-
		Taxes	-	-	-	-	-	2
		Money laundering	-	-	-	-	-	-
5	District Attorney's Office Jakbar	Money laundering	-	-	-	-	-	1
6	High Prosecutor's Office DKI	Corruption	-	-	-	-	-	1
7	District Attorney's Office Pasaman	Corruption	-	-	-	-	-	1
8	High Prosecutor's Office Sumut	Taxes	-	-	-	-	-	1
Amount			3	1	22	9	21	45

If compared to the Indonesian Corruption Eradication Commission (KPK RI), the KPK has taken action against corporations since 2017 until now totaling 8 large corporations. There are indeed problems in taking action against corporations, but based on discussions with other law

enforcers, there are at least three main issues, namely regarding procedural law, determining corporate actions and errors, and execution. In relation to this, the Chief Justice of the Supreme Court held a meeting and asked the KPK and Supreme Court Justices Prof. Surya Jaya and Dr. Yunus

⁷ Lawrence M. Friedman, System Hukum Dalam Perspektif Ilmu Sosial, The Legal System: A Sosial Science Perspektif, Nusa Media, Bandung, 2009, hlm 16. Diterjemahkan dalam buku Lawrence M. Friedman, 1969, The Legal System: A Sosial Science Perspektif, Russel Soge Foundation, New York

⁸ Ibid, hlm. 22

⁹ Soerjono Soekanto, Faktor-Faktor yang Mempengaruhi Penegakan Hukum, (Jakarta: Raja Grafindo Persada, 2012), hlm. 5.

Husein together with the Police and the Prosecutor's Office to prepare a study on handling cases with corporate legal subjects. This study is the basis and consideration for the Supreme Court in preparing Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations (Perma 13 of 2016). This Perma has at least the following benefits:

- 1) As a reference for law enforcers including the Police
- 2) protect corporations with legal certainty so that law enforcers can treat corporations according to their rights
- 3) can encourage changes in the behavior of business actors to be more integrated so as to encourage the creation of a fair market to encourage the revival of the Indonesian economy.

In fact, with the existence of the Supreme Court Regulation or Perma Number 13 of 2016, there should be no more doubt for law enforcers to take action against corporations to be held accountable for the criminal acts they have committed.

4. Conclusion

This research highlights the gaps in law enforcement against corporate corruption in Indonesia, particularly the limited role of the National Police. Despite their legal authority, police investigators rarely tackle corporate corruption due to a lack of clear procedures and insufficient training. The study suggests procedural reforms, such as adopting Supreme Court regulations and providing specialized training for investigators, to enhance their capacity in handling corporate crimes.

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