

Dimensions Of Corporate Crime

T. Riza Zarzani ¹, Ismaidar ², Wildan Fahriza ³

^{1,2,3}Master of Law Study Program, Panca Budi Development University, Medan

Email: tengkuriza@dosen.pancabudi.ac.id ismaidar@dosen.pancabudi.ac.id

wildanfahrizal11@gmail.com

Abstract A corporation is a group of people and/or assets that are organized, whether legal entities or non-legal entities. Corporate crimes that occur in Indonesia are quite an important note in law enforcement in Indonesia. The discussion of corporate crime is very different from crimes that occur in general (as regulated in the Criminal Code). The problem formulation in this research is the dimensions of corporate crime. And the aim of the research based on the problem formulation above is to determine and analyze the dimensions of corporate crime. This research method is analytical descriptive research which is research to describe and analyze existing research and is included in the type of library research which will be presented descriptively. Corporate crime has special characteristics when compared to other types of crime. The general view has at least 2 (two) main characteristics, namely Non Violent (non-violent) and Corrosive effect (damaging moral standards). Corporate crime is essentially an act that is condemned by law. Its existence is an act prohibited by any law. Therefore, the understanding of corporate crime can be divided based on the understanding of corporate crime as organized crime because it involves all aspects and parts of the corporation, as transnational crime because the scope of acts carried out is not only in one country but across countries. As a white collar crime considering that corporations are parties who have an important position and have certain economic power in society.

Keywords: Dimensions, Crime, Corporation

INTRODUCTION

A corporation is an organized collection of people and/or assets, both legal entities and non-legal entities.¹ The word corporation comes from the Latin corporatus, which was adopted into the English language corporate. Corporate is relating to a large company or group: airlines are very interested in the corporate identity. It is further mentioned in relation to legal status, corporate authorized to act as a single entity and recognized as such in law: local authorities, like other corporate bodies, may reduce capital spending the rule set by the corporate organization of or shared by all the members of group: the service emphasizes the corporate responsibility of the congregation. This means that a corporation is a legal subject whose shares are referred to its members. Corporations operate to be responsible for the purposes for which the corporation was founded.

Corporate crimes that occur in Indonesia are quite an important note in law enforcement in Indonesia. Corporations have a very broad important aspect in all of society's life. Corporations have grown and operated in all fields, be it agriculture, industry, health, culture, and others. Behind the important role of corporations cannot be separated from the crimes committed by corporations

¹Juni Sjafrien Jahja, Precautionary Principles in Eradicating Corrupt Management in Government and Corporations, Jagakarsa, Jakarta, 2013.p.5.

which can be detrimental to society itself, such as poverty, environmental damage, moral decline and so on.

The discussion of corporate crime is very different from crimes that apply in general (as regulated in the Criminal Code). A basic understanding of corporate crime places more emphasis on criminals in the form of corporations, groups of people and/or assets organized to gain economic benefits. The perpetrator, who is a corporation, is a very distinctive sign of corporate crime considering that it is carried out jointly with different divisions of tasks to obtain illegal economic benefits. Sutherland stated that "(a violation of criminal law committed by people from the upper socio-economic class and carried out in the context of their work."²

The forms or types of corporate crime are increasingly sophisticated, both in terms of their modus operandi, which often exceeds national boundaries (trans border crime) and the influence of other countries as a result of the era of globalization. Corporate crime as organized crime, where the international community recognizes that organized crime and its activities such as drug trafficking, money laundering and terrorism pose a real threat to global stability. Globalization has contributed to the growth of illegal markets, and as a result transnational crime is organized and growing so fast that countries themselves are unable to cope.³

In this regard, the understanding of corporate crime must be deepened into crimes with distinctive characteristics including the nature of corporate crime, organized crime, transnational crime and white collar crime. The problem formulation in this research is the dimensions of corporate crime. And the aim of the research based on the problem formulation above is to determine and analyze the dimensions of corporate crime.

RESEARCH METHODS

This research method is analytical descriptive research which is research to describe and analyze existing things and is included in the type of library research which will be presented descriptively. This analytical descriptive writing is intended to describe, illustrate, discuss and explain precisely and clearly the dimensions of corporate crime. A descriptive research aims to provide data that is as thorough as possible about people, conditions or other phenomena with the

²B. Maijono Reksodiputro, SH, MA, Responsibility for Corruption in Corporate Crime, Corporate Crime Seminar paper, UNDIP, 1989, p. 3.

³Mahrus Ali, Principles of Corporate Criminal Law, Rajawali Pers, Jakarta, 2013, p.36.

main aim of confirming hypotheses so that they can help in strengthening old theories or in developing new theories.⁴

DISCUSSION

Corporate crime has special characteristics when compared to other types of crime. Corporate crime has at least 2 (two) main characteristics, namely Non Violent (non-violent) and Corrosive effect (damaging moral standards). The first characteristic is a sign that corporate crime is different from other crimes. The damage experienced by the victim is not just at the time of the crime but continues to occur depending on the level of damage experienced. The essence of corporate crime is basically a crime that is prohibited or condemned by any law. Clinard & Yeager stated that corporate crime is an act that is regulated in every applicable law. Corporate crime can be reviewed based on the model of crime committed. Understanding the nature of corporate crime according to Steven Box as quoted by Arief Amrullah can be divided into 3 (three) models, namely:⁵

1. Crimes for corporations

This first form means that the crime was committed by the corporation for the benefit of the corporation (committed for the corporation). The real perpetrator is not only the owner of the corporation but anyone who has certain conditions is seen as representing the corporation.

2. Crimes against corporations/employees crimes

In contrast to the second form, corporate crime this time is aimed more at corporations. The perpetrators are usually people who have a working relationship with the corporation or have personal interests that are related to the corporation. Here the corporation becomes the "victim" who suffers losses due to corporate crimes.

3. Criminal Corporations/organizations

This last form is quite unique because the existence of corporations is basically illegal. This can be seen from the actions carried out by corporations which are prohibited actions.

Every crime committed certainly has a characteristic that differentiates it from other crimes. Likewise, corporate crime has very significant differences when compared to crimes that have existed so far. Corporations consisting of members who are interrelated in cooperation even

⁴ Soerjono Soekanto, Introduction to Legal Research, Cet.1, (Jakarta: Univ Indonesia Press, 1984), p. 52.

⁵M. Arief Amrullah, Corporations and Exploitation of Natural Resources, Banjarmasin, 16-19 May 2016, p. 21.

though they operate in different functions apparently have the aim of obtaining mutual benefits. Corporate crime as organized crime refers to the understanding of the corporation itself as a collection of people and/or assets organized in such a way. This means that every part of the corporation has important duties and functions to ensure profits for the corporation.

Since the industrial revolution began in 1880 until now, business activities have experienced very rapid development both in terms of production processes and the business strategies used. In the beginning, corporations were always considered as groups of people or natural humans who worked together to produce a product that could later be valued in money. This in turn creates a saturated atmosphere in business activities in an area that extends to larger areas and even within a country. This point ultimately allows the development of new strategies in business by expanding production areas in other countries.

If observed, the *modus operandi* of crime always develops along with changes in society itself. Crime is always present in every area of life, especially business. It seems that business actors who are oriented towards economic profit are increasingly out of control when the atmosphere of business competition is so tight and natural resources are so limited. Corporate crime can be called white collar crime, which is actually based on the basic understanding that these crimes are committed by extraordinary perpetrators. The understanding of "extraordinary" itself must be understood as an actor who has differentiating powers or characteristics compared to actors in general who are natural humans or individuals.

The special factor of corporate criminals is none other than corporations as criminals who have a high position in both society and the economy. Understanding white collar crime itself must refer to criminological theory as put forward by Edward Ross who put forward the term "criminaloid", namely crimes committed by parties who appear respectable in society even though they are actually criminals. This idea was then sharpened by Edwin Sutherland. There are 4 (four) main characteristics of an action that can be called a White Collar Crime, namely:⁶

1. This action violates the provisions of the applicable criminal law (a violation of criminal law).

Criminal law theory emphasizes that an action cannot immediately be called a criminal act if there is no legal rule in a criminal law provision that prohibits the action before the action occurs. The principle of legality or the principle of *nullum delictum nulla poena sine praevia lege poenali* is a principle of criminal law that applies universally in all countries. The requirement that

⁶Suhartati, et al, *Textbook of the Anatomy of Corporate Crime*, Surabaya: PT. Revika Petra Media, 2014, p. 80-85.

criminal law provisions have previously been in force seems to be the main requirement for white collar crime. This means that the perpetrator is considered to know the existence of criminal law provisions before he commits the act.

The application of white collar crime by requiring the existence of criminal law provisions first does not actually cause problems considering that the perpetrator is a natural person or person. This is very difficult to implement if the corporation is the perpetrator of the crime itself. There are still many Indonesian criminal law provisions that do not provide provisions that prohibit criminal acts from being committed by corporations.

2. The perpetrator has a high socio-economic position in society (the person of the upper socio-economic class).

The second condition is a sign that differentiates white collar crimes from other crimes (conventional crimes). The perpetrator is required to have a high socio-economic position in society. There is an opinion that determines the size of position based on the amount of wealth owned. There are also those who place a measure of position in terms of public recognition. However, this recognition from the community will give rise to new problems regarding who the community is, how many people in the community assess it so that it is said to be valid or whether there is written evidence that states a person's position in society in the economic and social fields.

Regarding corporations, they are seen as actors who have a high socio-economic position, which can easily be seen from the fact that corporations are a container/body/unit of people or capital that is of high value compared to the abilities and capital possessed by a human being (individual). The second fact is that corporations have a very important position in society as providers of human life's needs. The availability of goods and/or services so that they can be consumed by the public is actually inseparable from the role of corporations in producing or providing goods and/or services to consumers.

3. This action is an action that is his duty and responsibility/power (in the course of his occupational activities).

This third characteristic in criminal law is very important considering that an action must be carried out with the perpetrator's awareness. The size of an action that can be called a corporate action can be seen from the purpose of carrying out the action within the scope of work as determined by the corporation or not. An action carried out outside the scope of corporate work certainly cannot be included in corporate action but is an individual's own action. If a corporate

action is understood carefully, it is actually an action that is known, planned, and even carried out jointly by members of the corporation for the benefit of the corporation. Therefore, it can be ensured that every corporate action is known by the leader or person in charge of the corporation itself as long as the action is carried out to bring profit to the corporation.

4. Injuring the trust given by the Government (violation of trust).

Fulfillment of this fourth element is the key to corporate crime as white collar crime. A corporation can be established as a legal entity that is valid and recognized, actually starting from the granting of permission by the community, which in this case is represented by the Government. The concept of permission in law is understood as a form of exception to an existing prohibition

CONCLUSION

Corporate crime is essentially an act that is condemned by law. Its existence is an act prohibited by any law. Therefore, the understanding of corporate crime can be divided based on the understanding of corporate crime as organized crime because it involves all aspects and parts of the corporation, as transnational crime because the scope of the act is not only carried out in one country but also across countries. As a white collar crime considering that corporations are parties that have an important position and have certain economic power in society. The thing that is worth remembering when understanding corporate crime as white collar crime is when corporations use their existing capabilities to commit crimes.

BIBLIOGRAPHY

- Jahja, June Sjafrien. 2013. Prudential Principles in Eradicating Corrupt Management in Government and Corporations, Jakarta: Jagakarsa.
- Reksodiputro, B. Maijono. 1989. Responsibility for Corruption in Corporate Crime, Corporate Crime Seminar paper, UNDIP.
- Ali, Mahrus. 2013. Principles of Corporate Criminal Law, Jakarta: Rajawali Press.
- Soekanto, Soerjono. 1984. Introduction to Legal Research, Cet.1, Jakarta: Univ Indonesia Press.
- Amrullah, M. Arief. 2016. Corporations and Exploitation of Natural Resources, Banjarmasin, 16-19 May.
- Suhartati, et al. 2014. Textbook of the Anatomy of Corporate Crime, Surabaya: PT. Revika Petra Media.