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Accountability Of Perpetrators Of Corruption Criminal Acts For State Losses In The Use Of Customer Funds At Pt. Asuransi Jiwasraya (Study of Cassation Decision Number 2931 K/Pid.Sus/2021)

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Abstract. *This study aims to analyze and explain the enforcement of criminal law against perpetrators of corruption for state losses at PT Asuransi Jiwasraya. As well as explaining the accountability of perpetrators of corruption for state losses in the use of customer funds at PT Asuransi Jiwasraya through Cassation Decision Number 2931 K / Pid.Sus / 2021 and government efforts to provide protection to customers or policyholders of PT. Asuransi Jiwasraya. This study employs a normative legal research methodology. The study's findings demonstrate that PT Asuransi Jiwasraya's criminal law enforcement is following the guidelines laid out in Law Number 31 of 1999, as revised by Law Number 20 of 2001, when it comes to prosecuting those responsible for causing state losses due to corruption. The formulation demonstrates the efficacy of current legal regulations in handling the Jiwasraya case and protects the interests of public investors and shareholders. It contains specific elements and is subject to a specific sentencing system. Corruption at PT Asuransi Jiwasraya has resulted in monetary losses for the state. This is due to the defendant's substantial acts, which satisfy the criteria for a "Criminal Act" and a "error" that can be either "intentional" or "dolus" according to the trial evidence. This conclusion is reached in Cassation Decision Number 2931 K/Pid.Sus/2021. Customers or policyholders of PT. Asuransi Jiwasraya are protected through repressive legal measures, specifically through criminal channels, against those who have been proven to have violated the Corruption Crime Law, Article 55, paragraph 1, number 1, and Article 2 paragraph 1.*

Keywords *accountability, corruption, insurance*

1. INTRODUCTION

Background of the Problem

Corruption at PT Asuransi Jiwasraya is one example of a case involving a state-owned firm. Rini M. Soemarno, Indonesia's Minister of State-Owned Enterprises (BUMN) from 2014 to 2019, first notified the Attorney General's Office of the Republic of Indonesia about the PT. Asuransi Jiwasraya issue. The Deputy Attorney General for Special Crimes of the Attorney General's Office of the Republic of Indonesia issued an Investigation Order Number: PRINT-33/F.2/Fd.2/12/2019 dated December 17, 2019, following her October 17, 2019 report of alleged fraud at PT. Asuransi Jiwasraya (Persero) with Case Number: SR-789/MBU/10/2019.

By engaging in investment misuse involving thirteen separate corporations, PT Asuransi Jiwasraya broke the rules of good corporate governance. Good corporate governance is a set of positive practices that managers should implement to safeguard their company's assets and advance its mission. Consequently, it has been responsible for the possible state loss of 13.7 trillion IDR up until August 2019

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On Monday, May 31, 2021, the Central Jakarta District Court conducted the first trial for thirteen corporate defendants in the corruption case against PT Asuransi Jiwasraya (Persero). The case files, along with the thirteen individuals charged, were submitted to the Jakarta Corruption Court (PN) by the Attorney General's Office of the Republic of Indonesia. The indictment against all corporate suspects was to be read aloud during the trial by the Public Prosecutor (JPU) of the Attorney General's Office of the Republic of Indonesia (AGO).

The thirteen companies in question allegedly coordinated and oversaw the buying and selling of financial instruments that formed the basis of the mutual fund products held by PT Asuransi Jiwasraya Persero. These defendants were allegedly controlled by Heru Hidayat, Benny Tjokorosaputro, Joko Hartono Tirto, and Piter Rasiman. The corruption case involving the administration and use of investment funds at PT Asuransi Jiwasraya includes thirteen corporate defendants and six individuals who were prosecuted by the Attorney General's Office of the Republic of Indonesia. President and Commissioner Heru Hidayat of PT Trada Alam Minera is one of them in case number 30/Pid.Sus-TPK/2020/PN Jkt.Pst.

According to the Supreme Court of the Republic of Indonesia's decision in cassation level decision Number 2931 K/Pid.Sus/2021 involving defendant Heru Hidayat, the court denied the cassation requests of both the public prosecutor at the Central Jakarta District Attorney's Office and the defendant. The objective is to seize the assets of the firm that the defendant owns as its primary director in accordance with the panel of judges' decision, which has permanent legal force. Through their ownership of shares in PT. Mandiri Mega Jaya, the majority of the companies whose assets were confiscated for the state in the a quo case verdict are subsidiaries of PT. Hanson International Tbk. If Benny Tjokrosaputro was always the one implicated and convicted in the matter involving the management of PT. AJS investment funds.

In its legal considerations, the panel of judges stated that 'based on the consideration of the criminal elements, the defendant has been proven to have obtained assets from the proceeds of corruption and all its profits, while the defendant is not entitled to enjoy the proceeds, it is reasonable to confiscate all assets and all profits obtained by the defendant from the crime.

In addition to the confiscation of assets from the proceeds of corruption carried out by the government, restructuring efforts were carried out for all Jiwasraya policies and were seen as the government's good faith and efforts to protect policyholders against their rights as customers of PT. Asuransi Jiwasraya. This effort is a form of government protection for customers of PT. Asuransi Jiwasraya policyholders.

The Jiwasraya Policy Restructuring Program is an effort to save policies by transferring or acquiring policies owned by policyholders to a new insurer formed by the government, namely PT Asuransi Jiwa IFG (IFG Life). The Jiwasraya Policy Restructuring Program is divided into three types, namely Individual Policy Restructuring, Bancassurance Policy Restructuring, and Corporate Policy Restructuring. The three types of restructuring are distinguished based on the type of policy or insurance product issued by PT Asuransi Jiwasraya (Persero). Individual Policy Restructuring (Retail) is intended for policies owned by individuals, Bancassurance Policy Restructuring is intended for bancassurance policies or policies that are the result of cooperation between insurance companies and banks, and Corporate Restructuring is intended for policies owned by a corporation speech on his staff.

Problem Formulation

The research problem is formulated as follows; how is the enforcement of criminal law against perpetrators of corruption for state losses at PT Asuransi Jiwasraya? and how is the responsibility of perpetrators of corruption for state losses in the use of customer funds at PT Asuransi Jiwasraya through the Cassation Decision Number 2931 K/Pid.Sus/2021 and how is the legal protection for policyholders for losses suffered by the government?

Research Objectives

In light of the Cassation Decision Number 2931 K/Pid.Sus/2021 and the government's attempts to safeguard PT. Asuransi Jiwasraya policyholders and customers, this study aims to examine and explain the criminal law enforcement against corrupt officials at PT Asuransi Jiwasraya and the accountability of corrupt officials at PT Asuransi Jiwasraya regarding the misuse of customer funds.

Theoretical Framework

This research on criminal acts of corruption at PT Asuransi Jiwasraya is based on several applicable legal theories, namely the theory of justice, the theory of law enforcement, the theory of punishment and the theory of legal responsibility.

a. Theory of Justice

The idea of equality is crucial to Aristotle's conception of justice. Justice is done when things that are equal are needed equally and those that are unequal are treated unequally, according to the current interpretation of the notion. There are two types of justice that Aristotle identifies: distributive and commutative. Equal distribution of resources is the hallmark of distributive justice, which

ensures that all people get their fair share. As far as this place is concerned, fairness is defined as the distribution of rights in a proportional manner. For distributive justice to work, society and the state must have a mutual understanding of each other's rights and responsibilities, and the state must provide its citizens with the resources they need. Citizens or members of society can enjoy the rights bestowed upon them without infringing upon the rights of others when they partake in indivisible goods, which are shared benefits like security, public facilities (administrative and physical), and a host of other rights. Furthermore, in a distributive justice situation, where the state can fairly provide for its citizens' needs, divisible goods, which are rights or objects, can be determined and distributed to meet individual and family needs. In this case, social justice will be achieved for society.

Cumulative justice, in contrast, is concerned with the issue of establishing equitable rights among several equal individuals, whether those individuals be physical or psychological. Determining fair rights in an association or other relationship falls under the meaning of cumulative justice, provided that the association is not intended to be a relationship between an institution and its members, but rather between the association itself or other physical humans.

In cumulative justice, the goal of the rights of other parties is to ensure that what rightfully belongs to a person from the start is returned to him. Everything from the origins of an item or its subsequent lawful acquisition to its physical and intellectual attributes, as well as any and all interactions between it and other things, as well as any and all family and economic ties, are all subject to this property right. As a result, third parties are obligated to honor it, and monetary penalties can be imposed in the event that the right is diminished, destroyed, or rendered ineffective.

b. Theory of Law Enforcement

According to Lawrence M. Friedman, there are 3 (three) theories of legal systems in the application of law enforcement, namely substance, structure and culture. If explained more broadly, based on Lawrence M. Friedman's theory, there are four factors that can influence the functioning of legal rules in society, namely:

1) Legal rules or regulations themselves.

   The legal rules discussed are limited to written regulations which are official legislation. Common problems here include problems that require in-depth research (literature), in order to overcome possible bottlenecks. Good regulations will greatly support the law enforcement process.

2) Officers who enforce or implement.

   Law enforcement officers here can have a very broad scope. Can include officers in the upper, several levels of society. Written regulations outlining the breadth of their responsibilities should serve as a guide for them as they carry out their obligations. Along with the important role of officers in the functioning of clear laws, law enforcement officers and legal regulations must be equally good. If one of the factors is bad, it will cause problems.

3) Facilities that are expected to support the implementation of legal principles.

   Facilities are simply defined in order to accomplish objectives. The primary focus is on the physical infrastructure that provides necessary support. In many cases, a rule has been passed before all of the necessary infrastructure is in place. The procedure is now obstructed and plagued with regulations whose original intent was to make it easier.

4) Citizens affected by the scope of the regulation.

   Regarding citizens, this cannot be separated from the problem of the degree of compliance which is one of the indicators of the validity of the law in question. This degree of compliance is narrowed down to the degree of citizen compliance with the law.

There are three main factors that impact how law enforcement officers carry out their duties: (i) the institutions themselves, including all the necessary infrastructure and support services, as well as the work mechanisms within them; (ii) the culture of the department as a whole, including the officers' well-being; and (iii) the regulatory tools that govern the department's operations and the material and procedural laws that serve as standards for work. In order for the process of law enforcement and justice to be internalized in a meaningful sense, it is imperative that all three aspects be addressed concurrently in any systemic endeavor to enforce the law.

c. Theory of Punishment

Punishment as an action against a criminal, can be justified normally not primarily because the punishment has positive consequences for the convict, the victim and others in society. Punishment is imposed not because of having done something bad but so that the perpetrator of the crime no longer does something bad and other people are afraid to commit similar crimes.

There are several theories of punishment that can be used as a basis or reason by the state in imposing punishment. The theories of punishment are:

1) Retribution Theory (Absolute/Retributive/Vergeldingstheorien)

   The commission of a crime constitutes justification for punishment according to the notion of retribution. Absolutely, the offender must face punishment as retribution for the crime. There is no doubt about the sentencing's impact on the offender. The crime itself, according to the Absolute Theory, is the foundation of punishment. For the offender, punishment is a form of "retribution or reward" (vergelding). As the victim goes through pain as a result of a criminal act, the perpetrator should also go through pain (leet net vergelden - suffering is returned with suffering).

2) Purpose Theory (Relative/Utilitarian/Doelthoerieen)

   As a means to an end the protection of society or the prevention of crime the purpose hypothesis provides a rationale for punishment. In order to accomplish the aim and evaluate the efficacy of punishment, the purpose theory differs from a number of other theories that are part of it. The purpose theory differs from the retribution theory in that it considers whether punishment serves society's interests or the interests of offenders. The future is also thought of in terms of prevention.

3) Combined Theory (Veirenigingstheorien)

   The foundations of both absolute and relative theory are included in this theory. The crime itself torture or vengeance is the foundation of law, according to this view. The point of punishment also forms the foundation. This idea states that the offense and the goal of punishment provide the basis for sentencing, with the latter serving to both better the offender and ensure payback.

d. Theory of Legal Responsibility

An individual's legal responsibilities for specific acts, including the possibility of sanctions for those that violate the law, are central to the theory of responsibility, which places greater emphasis on the meaning of responsibility as it emerges from the provisions of laws and regulations.

Hans Kelsen's notion of legal responsibility asserts that: "a person is legally responsible for a certain action or that he bears legal responsibility, the subject means that he is responsible for a sanction in the case of an act that is contrary." Additional responsibilities are divided by Hans Kelsen into:

1) Personal accountability, in the sense that a person must answer for his own transgressions.
2) When one person is held accountable for the actions of another, it is called collective responsibility.
3) Third, "responsibility based on fault," which states that a person must pay the price for his own transgressions since they are willful and malicious.
4) Absolute responsibility, which states that a person must bear the consequences of his own actions, even if they are unintended and unexpected.

2. METHODS

Included in the category of normative legal study is the methodology pertaining to PT. Asuransi Jiwasraya's corruption. Based on the Cassation Decision Number 2931 K / Pid.Sus / 2021, which addresses the culpability of corrupt individuals for state losses caused by the misuse of consumer funds at PT Asuransi Jiwasraya, this study selects normative legal research to inform its analysis.

In order to analyze the data using qualitative descriptive techniques, it is necessary to conduct critical readings on the problems and legal issues that will be studied. After collecting all relevant information, relevant details regarding the accountability of corrupt individuals for state losses in the use of customer funds at PT Asuransi Jiwasraya through the Cassation Decision Number 2931 K / Pid.Sus / 2021 are chosen.

Primary legal materials consist of binding documents such as constitutional amendments and trademark laws, while secondary legal materials provide explanations and analysis, such as literature and legal journals. Tertiary legal materials provide additional guidance, such as dictionaries and legal reference materials (Mustomi et al., 2024)

3. RESULTS

Corruption Crime

A corruptie or corruptus is a corrupt person or institution in Latin. Additionally, the ancient Latin word Corrumpore is said to be the origin of the word Corruptio. Corruptio is a Latin word that has spread over Europe and is now used in several languages, including English (Corrupt), French (Corruption), and Dutch (Corruptie). From this, we can deduce that the Indonesian word "corruption" originates in the Dutch language.

Based on the purpose of someone committing corruption, corruption can be divided into two types, namely:

a. Political corruption, namely the abuse of power that leads to political games, nepotism, clientelism (a political system based on personal relationships rather than personal gain), misuse of voting, and so on. The driving factors for this type of corruption are the values of difference (different values), namely feeling that one is different from others.
b. Material corruption, namely corruption in the form of manipulation, bribery, embezzlement, and so on. The driving factors for this type of corruption concern welfare values.

Paragraphs 2 and 3 of Law No. 31 of 1999, as revised by Law No. 20 of 2001, pertaining to the Eradication of Corruption, regulate the subject of corruption.

Corruption can be classified into the following forms, as laid down in Article 31 of Law No. 31 of 1999, as revised by Law No. 20 of 2001:

a. Bribery for the Purpose of Personal, Other, or Corporate Gain (Article 2).
b. Corruption through exploiting One's Position, Power, or Opportunity for Personal Gain (Article 3).
c. Bribery by the Offering or Promise of Anything" (Article 5).
d. Judgment-related corruption by bribery of advocates and judges (Article 6).
e. TNI and KNRI Equipment Handover Corruption, Construction Material Sales Corruption, and Other Forms of Corruption (Article 7).
f. The Theft of Funds and Valuables by Corrupt Public Officials (Article 8).
g. Corruption of public officials through the falsification of records (Article 9).
h. Corruption of public officials resulting in the destruction of documents, records, or property (Article 10).

i. Corruption of Civil Servants Accepting Gifts or Promises Related to the Authority of the Position (Article 11).
j. Corruption of Public Officials, State Administrators, Judges, and Advocates Who Accept Gifts or Promises; Public Officials Who Forcibly Collect Money, Have It Withheld, Request Employment, Utilize State Property, or Engage in Contracts (Article 12).
k. Bribery of officials receiving remuneration is a corrupt crime (Article 12B).
l. Article 13 addresses the corruption and bribery of public servants in relation to their power in office.
m. Criminal Acts Related to the Corruption Eradication Procedure Law.
n. Article 23 of the Criminal Code addresses criminal acts that violate articles 220, 231, 421, 429, and 430.

Law Enforcement in Corruption Crime

Eradication of criminal acts of corruption is closely related to law enforcement carried out by law enforcement officers. Efforts to enforce criminal law in the understanding of the legal system (Legal System) as stated by Lawrence M. Friedman include the operation of the components of "legal regulations/substance, law enforcement officers/structure (legal actors) and legal culture/culture (legal culture)."

Indonesia as a country based on law (rechtstaat), in eradicating corruption has made various strategic efforts by issuing several legal products, in the form of laws and regulations on the eradication of criminal acts of corruption to date.

Law enforcement was conceptualized by Satjipto Rahardjo as a means to bring about the fulfillment of legitimate goals. "Corruption perpetrators and legal mafia" is a phrase that has become a contentious issue for the youth of Indonesia regarding the government's enforcement of the laws, as specified in the 1945 Constitution. The Indonesian people still have a long way to go before they can be accepted by their own country. When it comes to implementing criminal laws against corruption, there are three main components:

a. Matters constituting rules and statutes. Within this component, legislators have developed rules and regulations that govern the execution of anti-corruption statutes. In 2001, the Republic of Indonesia passed Law No. 20 amending Law No. 31 of 1991 on the Eradication of Corruption, which is the most recent law

in this area. All forms of corruption in Indonesia are explicitly regulated by Law No. 20 of 2001 of the Republic of Indonesia.

b. Elements of law enforcement officials. Corruption Eradication Commission, Indonesian National Police, and the Prosecutor's Office and Courts are the components of law enforcement agencies that implement corruption legislation. The Corruption Eradication Commission is governed by Law Number 31 of 1999, which was further detailed in Law Number 30 of 2002.
c. Elements of the environment, which comprise individual people and societal. Public knowledge of the importance of preventing corruption at the individual and corporate levels, as well as community involvement in the enforcement of anti-corruption legislation, are examples of environmental factors. To this end, it is imperative that members of the community work together to root out corruption.

In accordance with the provisions of Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption, there are three pillars upon which the enforcement of anti-corruption laws in Indonesia rests. These pillars include the legislative branch, which is responsible for enacting such laws; the executive branch, which is responsible for overseeing the activities of executive branch agencies like the Corruption Eradication Commission; and the community sphere, which is represented by the regulation of citizen engagement in the fight against corruption in Indonesia.

Conceptualization, planning, and carrying out an action are the three phases that make up law enforcement. At the formulation stage, lawmakers are enacting criminal laws in a theoretical sense. At the application stage, members of the criminal justice system, including police, prosecutors, and judges, work to enforce the law. At this point, law enforcement officials are putting criminal laws into practice through the execution step.

Legal substance, legal structure, and legal culture are the three key components that make up law enforcement in corruption crimes, according to Lawrence Friedman. When together, these three factors produce effective law enforcement. When all three components function as intended, we say that law enforcement is effective. Corruption crimes comprise the three primary areas of law enforcement.

Law Enforcement Against Corruption Crime Perpetrators

The State, its officials, and those in acceptable social positions are all entangled in the criminal underworld of corruption. Theft of property is a crime regardless of whether the perpetrator is involved in corruption or not. There are two perspectives that allow us to discern the distinction: that of the offender and that of the victim. In contrast to those at the top of society, who can abuse their positions of power and influence to commit corruption by abusing the resources at their disposal, those on the streets tend to be members of lower socioeconomic strata who lack resources, education, and knowledge. Corruption affects the state rather than individuals; the public does not perceive it as a crime that poses a threat to its citizens (at least immediately) due to the fact that the state is invisible. A public view that is hard to alter due to the visibility of street crimes is that they are significantly more common than corruption. Criminal acts of corruption are addressed in Chapter II of Law Number 31 of 1999, which deals with their eradication.

Anyone found guilty of engaging in illicit activities with the intent to enrich themselves or others at the expense of the state's finances or economy faces a life sentence or a minimum of four years and a maximum of twenty years in prison, fined between two hundred million and one billion rupiah, or both, according to Article 1 paragraph (1). Paragraph (2) The death sentence can be applied in specific cases of the kinds of corruption mentioned in paragraph (1). Public opinion holds that the criminal legislation on corruption is not severely enforced by the penalties outlined in the law, despite the existence of minimum and maximum burdens and restrictions. The judge applies criminal law as retribution for the offender's actions; this can take the form of a death sentence, incarceration, detention, or other criminal acts collectively referred to as uitvoering, which means to impose a criminal sentence by depriving a person of their right to life for a crime regulated by law with the death penalty.

In Indonesia, the death penalty for corruption can be applied according to specific provisions in the PTPK Law (specialist derogate) and the Criminal Code (generalis derogate). In such cases, the judge hearing the case can use these provisions as a basis to increase the sentence imposed on the offender, with the hope that this will serve as a deterrent and make others afraid to engage in similar behavior

Law Enforcement Against Corruption Crime Perpetrators at PT Asuransi Jiwasraya.

Law enforcement in the criminal act in the Jiwasraya case is very necessary in order to show the seriousness of the government in protecting the interests of public investors and shareholders related to Jiwasraya and to show the effectiveness of existing legal regulations in handling the ongoing Jiwasraya case. PT. Asuransi Jiwasraya currently has a presence throughout Indonesia, with one head office located in Jakarta, 17 offices at the provincial level, 72 representative offices at the provincial level, including in first-level regions, and 388 production unit offices in second-level regions. Over the past few years, PT. Asuransi Jiwasraya has become the focus of attention because it has been unable to fulfill its policy obligations that have matured, reaching around IDR 12.4 trillion. Special attention was given to PT Asuransi Jiwasraya regarding its inability to pay one of its main products, in particular the JS Saving Plan, which is a bancassurance and life insurance policy.The policyholder may be responsible for some investment risk in a unit link insurance product, but the insurance company would be fully responsible for all investment risk in a non-unit link investment like the JS Saving Plan.

Some of the alleged causes of PT Asuransi Jiwasraya's default include: its products were loss-making and too cheap, poor asset management, low-quality investment and non-investment asset liquidity, weak company system control and poor Good Corporate Governance, and so on. The Audit Board of Indonesia (BPK) explained in detail the chronology of the case that entangled Jiwasraya until it ended up being unable to pay the JS Saving Plan insurance policy (default).

As the idea of criminal culpability has evolved within Indonesian law, the onus of proof has shifted from individuals to corporations. If this theory is correct, then the punishment and responsibility for a crime committed by a business should fall on the corporation itself.

Since it is a separate legal company from its shareholders, PT. Asuransi Jiwasraya keeps all of its assets completely separate from their personal wealth. Corporate Separate Legal Personality, the guiding principle of limited liability companies, is consistent with this method. This idea establishes the distinct legal personality of a corporation, particularly a Limited Liability corporation, from its founder or founders.

The board of directors is fully responsible for managing State-Owned Enterprises (BUMN) and represents BUMN in all legal proceedings, as stated in Article 5 of Law Number 19 of 2003. Everything boils down to the fact that the Company is a Limited Liability Company (PT) in its legal form, nonetheless. In this regard, PT Persero has opted to be structured as a Limited Liability Company, meaning that it is subject to all rules and regulations pertaining to such entities as outlined in Law Number 40 of 2007. In line with Law Number 40 of 2007, all regulations governing Limited Liability Companies also apply and bind PT Persero, such as PT. Asuransi Jiwasraya, since it has chosen to be a Limited Liability Company.

Concerning the investment firm, PT. Asuransi Jiwasraya was the target of accusations of misconduct. Accounting firm PT. Jiwasraya Insurance's upper echelons rushed to launch the high-interest Jiwasraya savings scheme, according to a report from the Audit Board of Indonesia. Because of this, PT. Asuransi Jiwasraya's wealth is being eroded by a negative spread, which is the difference between the selling price. Article 21, paragraph 3, of Law Number 40 of 2014 states that insurance companies must use caution while investing the funds entrusted to them, and PT. Asuransi Jiwasraya has broken this provision by its acts.

Moreover, this is also dictated by the Financial Services Authority Regulation Number 73/POJK.05/2016, which is about Good Corporate Governance for Insurance Companies. Specifically, Article 59 states that directors of companies must professionally make investment decisions and boost the value of the company for the advantage of shareholders, policyholders, insured, participants, and policyholders. This section highlights the fact that the corporation may face administrative sanctions as outlined in Article 80 for infractions, such as written warnings, limitations on commercial activity (partial or complete), or even the revocation of permits. Due to behavior that goes against the legislation' stated principles Here, administrative sanctions may be levied against any business that disobeys this regulation.

PT. Asuransi Jiwasraya, as a legal entity of a Limited Liability Company (PT), was involved in a corporate crime that violated various legal principles governing asset management, investment, and the directors' responsibility towards the company. In this case, there was a violation of the principle of prudence in investment management, which resulted in losses for the company. The Board of Directors of PT. Asuransi Jiwasraya used a high-risk investment strategy without considering adequate

analysis, which was not in line with the legal principles that mandate prudence and good faith in managing the company. The large losses arising from decisions that did not comply with legal principles indicated a violation of the principle of Fiduciary Responsibility. In addition, the Board of Directors' actions also violated the principles of Corporate Governance (GCG), such as Accountability, Transparency, and Responsibility. The Board of Directors of PT. Asuransi Jiwasraya did not comply with the principle of Fiduciary Responsibility, including obligations towards the duty of loyalty and good faith and the duty of skill and care.

This violation resulted in PT. Asuransi Jiwasraya's failure to pay in the Jiwasraya Saving Plan product, which could result in liability for state losses. Overall, the violations committed by the Board of Directors of PT. Asuransi Jiwasraya highlight non-compliance with various legal principles governing corporate governance, investment, and the responsibilities of directors. These violations can open up opportunities for legal liability for losses suffered by the state.

According to the BPK's determination in the case of PT Asuransi Jiwasraya (Persero) for the period 2008 to 2018 (Report on the Results of the Investigative Examination in the Framework of Calculating State Losses for the Management of Finance and Investment Funds at PT Asuransi Jiwasraya (Persero) for the Period 2008 to 2018 Number: 06/LHP/XXI/03/2020), which was made public on March 9, 2020, the administration of mutual funds and stock investments at Jiwasraya was characterized by irregularities. There were other facets to these abnormalities, including:

a. an agreement for the administration of Jiwasraya's stock and mutual funds It has been alleged that Hary Prasetyo, in conjunction with Joko Hartono Tirto and Heru Hidayat, arranged stock and mutual fund placement transactions for Jiwasraya, thereby enacting policies that are neither transparent nor responsible. As part of a plot orchestrated by Joko Hartono Tirto, an affiliate of Heru Hidayat, Benny Tjokrosaputro requested that Hari Prasetyo and Syahmirwan approve of his sale of shares to Jiwasraya. Hendrisman Rahim, in his role as President and Director of Jiwasraya, was aware of the deal. b. Managing investments in stocks. A formal analysis was prepared by the Investment Division without relying on objective, professional data in the Head Office Internal Note (NIKP) regarding the purchase of shares of PT Bank Pembangunan Jawa Barat and Banten Tbk. (BJBR), PT PP Properti Tbk.

(PPRO), PT Semen Baturaja Tbk. (SMBR), and PT SMR Utama Tbk. (SMRU). Hendrisman Rahim and Hary Prasetyo gave their stamp of approval to the NIKP although knowing full well that it was only a formality.

b. Asset allocation for mutual funds. Thirteen investment managers (MI) collaborated with Heru Hidayat associates Hary Prasetyo, Syahmirwan, and Joko Hartono Tirto to create a unique mutual fund for Jiwasraya. Joko Hartono Tirto wanted to be in charge of the procurement of the financial instruments that made up the Jiwasraya mutual funds, therefore she did this.
c. Interest conflict. There is suspicion that parties associated with Jiwasraya received money, shares, or other benefits from securities businesses that worked with Jiwasraya or parties affiliated with Heru Hidayat.

The state lost IDR 16.81 trillion in the Jiwasraya case, according to the BPK, who found a slew of anomalies. The exact sum is 4.65 trillion Indonesian Rupiah, which represents the purchase price of BJBR, PPRO, SMBR, and SMRU shares. After subtracting the redemption value of mutual fund participation units, the acquisition value of 21 products from 13 investment managers comes to Rp12.16 trillion.

Accountability of Corruption Crime Perpetrators at PT Asuransi Jiwasraya

The concept of criminal liability, also known as teorekenbaardheid or criminal responsibility in other languages, refers to the punishment of the offender and is used to decide if a person is guilty of a crime. The commission of the crime satisfies the legal definition of the crime. Looking at it from the perspective of forbidden actions, if they are illegal and there is no way to justify or erase the illegality of the crime, then the perpetrator can be held responsible. And when we look at it through the lens of being able to be responsible, we see that only those who possess that capacity can truly face the consequences of their acts.

The common law and civil law traditions both tend to see criminal responsibility through a pessimistic lens. Negatively interpreting criminal culpability, particularly in regard to the oppressive role of criminal law. In criminal law, punishment is an outcome of being held responsible for this. That is why the imposition of punishment on a criminal requires the idea of criminal culpability.

One component of mistake is the capacity to take responsibility. There is a connection between the elements of responsibility and the factor of illegality. Why?

Because there must be a mistake for there to be an error, and there must also be an act that prohibits an act (its unlawful nature).

When it comes to criminal law in Indonesia, the evolving and intricate notion of corporate criminal liability is a major topic. Corporate criminal culpability is defined differently under civil law systems in Continental Europe and common law systems in the United Kingdom, while the term "corporation" encompasses both legally recognized and unofficially formed organizations. Historically, rather than concentrating on the corporation as an organization, Indonesian criminal law has mostly dealt with the persons engaged with it. On the other hand, recent developments in the law have started to acknowledge the possibility of direct criminal culpability for corporations.

Various specific laws address the question of criminal liability for corporations, revealing the development of legal perspectives on the function of corporations in criminal behavior. A step towards establishing corporation accountability in criminal cases has been achieved by the enactment of laws such as the PERMA on Corporations. Furthermore, when it comes to criminal law, corporate accountability takes into account not just the acts of those officially associated with the corporation, but also those with additional ties to the business, as well as the advantages gained by the corporation as a result of the crime.

Supreme Court Regulation No. 13 of 2016 addressed procedures for handling criminal cases by corporations (PERMA Corporation) and was issued by the Supreme Court. When litigating criminal cases involving corporations as defendants, this rule specifies in great detail how the examination procedure, evidence, and other technical elements must be examined.

PERMA Corporation's Article 3 states that "Criminal acts by Corporations refer to criminal acts committed by individuals based on employment ties or other ties, either individually or jointly, who act on behalf of and in the name of the Corporation, both within and outside their work environment." Two individuals have been identified by PERMA Corporation as potentially engaging in criminal activities pertaining to businesses. Those who are directly or indirectly employed by the company come first. The second category consists of people who are not necessarily employees but who have some connection to the business.

According to the PERMA on Corporations, anyone can commit a corporate crime, regardless of their official position within the company. More room is created for the identification of persons engaged in criminal crimes pertaining to business operations, including those with other connections that would suggest their participation in those operations.

Since it is a separate legal company from its shareholders, PT. Asuransi Jiwasraya keeps all of its assets completely separate from their personal wealth. Corporate Separate Legal Personality, the guiding principle of limited liability companies, is consistent with this method. An organization, and a limited liability business in particular, have a distinct legal personality apart from their founders, according to this idea. The entire duty for running the company rests with the board of directors, by Law No. 19 of 2003. in accordance with Article 5 of Law No. 19 of 2003, represents BUMN, a state-owned enterprise, both within and outside of the courtroom.

Therefore, it is crucial to be familiar with the relevant legal concepts concerning the formation of a legal entity so that the assets of a company may be clearly distinguished from the shareholders' own wealth.

The case involving defendant Heru Hidayat was decided by the Supreme Court after reviewing the cassation level corruption case submitted by the Public Prosecutor at the Central Jakarta District Attorney's Office (Decision Number 2931 K/Pid.Sus/2021). The Criminal Charges of the Public Prosecutor at the Central Jakarta District Attorney's Office dated October 15, 2020 stated that the Defendant Heru Hidayat had been legally and convincingly proven guilty according to the law, "Committing a criminal act of corruption together and a criminal act of money laundering" as in the First Primary Charge Article 2 Paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption in conjunction with Article 55 Paragraph (1) point 1 of the Criminal Code and Second Article 3 Paragraph (1) letter c of Law of the Republic of Indonesia Number 15 of 2002 concerning the Crime of Money Laundering as amended by Law Number 25 of 2003 concerning Amendments to Law Number 1 2002 on Money Laundering Crimes and the Third Primary Acts of the Defendant as regulated and threatened with

criminal penalties in Article 3 of Law of the Republic of Indonesia Number 8 of 2010 on the Prevention and Eradication of Money Laundering Crime.

In its cassation ruling, the Supreme Court denied the applications for cassation from two parties: the public prosecutor at the central Jakarta district attorney's office (Applicant for Cassation I) and defendant heru hidayat (Applicant for Cassation II). The Supreme Court panel reached its verdict after considering the defendant's conduct, which met the elements of a "Criminal Act" and a "mistake" (either "intentional" or "dolus"), which together constitute the subject of guilt. Taking into consideration the evidence presented throughout the trial. It can be inferred from this that the Defendant can be held accountable for his conduct, which breaches several laws. These laws include: (1) the Eradication of Criminal Acts of Corruption (Article 2 paragraph (1) of Law Number 31 of 1999), (2) the Criminal Code (Article 55 paragraph (1) point 1), (3) the Prevention and Eradication of Criminal Acts of Money Laundering (Article 3 paragraph (1) letter c of Law Number 15 of 2002), and (4) the Amendments to Law Number 20 of 2001 (Article 20 of 1999).

Since Article 65 addresses actual acts (concursus realis) that are subject to comparable principal penalties, the Criminal Sanctions System for Concursus Realis Cases in Decision Number 2931 K/Pid.Sus/2021 can be described as a sharpening absorption system (stelsel).

Accordingly, a single penalty is levied, with the possibility of an increase equal to one-third of the maximum severe punishment. According to the law, as stated in Article 67 of the Criminal Code, there is a mechanism in place that penalties the defendant when they commit multiple crimes at the same time. Regarding this matter, the judge has finally decided that Defendant Heru Hidayat is guilty of both the money laundering and corruption charges, and has sentenced him to life in prison plus a fine for failing to pay restitution to the state

Legal Protection for Customers/Policyholders of PT Asuransi Jiwasraya

Legal protection can be either preventative or repressive, according to Philipus M. Hadjon. While repressive legal protection seeks to handle issues that have already arisen, preventive legal protection seeks to avoid such issues altogether. Regulators can provide insurance policyholders preventative legal protection by establishing clear standards for the exercise of their rights as policyholders.

A financial organization that offers insurance to individuals and businesses is one that is prepared and able to take on any risk that its clients may incur. Law No. 40 of 2014 Concerning Insurance seeks to address and foresee the evolution of the insurance sector as well as economic growth on a national and international scale.

According to Article 52 of the Insurance Law, the rights of the insured, policyholders, or participants are given precedence over the rights of other parties in order to safeguard their interests in the case of an insurance company's liquidation and the revocation of its business license.

Law No. 40 of 2014, Article 6, paragraph 1, designates insurance businesses as legal entities constituted as limited liability companies. In addition to providing insurance products to individuals and organizations, PT. Asuransi Jiwasraya (Persero) also offers a range of insurance products to businesses and organizations, including life, health, education, and pension funds.

At present, the biggest local life insurance business in Indonesia is PT. Asuransi Jiwasraya (Persero), which is also the only life insurance firm owned by the Government of the Republic of Indonesia (BUMN). According to Article 2 Paragraph (1) letter (a) of Law Number 19 of 2003, one of the goals of establishing BUMN is to expand the national economy and state revenues to contribute explicitly. With sound management practices in place at BUMN, this goal should be attainable. A strong corporate governance practice is one that the board of directors puts into action in accordance with GCG principles.

Insurance firms are required by Law No. 40 of 2014, specifically Article 11, Paragraph 1, to practice excellent corporate governance, which is, of course, done with the best of intentions. Management, specifically the Board of Directors, is responsible for carrying out the governance of a BUMN company in accordance with relevant provisions. The Board of Directors is one of the company's organs, as stated in Article 5 paragraph (1) of Law Number 19 of 2003. The company's objective and purpose are outlined in Article 1 Number (5) of Law Number 40 of 2007, which asserts that the Board of Directors have complete power and duty to oversee the company's operations and act as its representative in and out of court. The appointment of a manager responsible for the implementation and supervision of good corporate governance (GCG) in the relevant BUMN is emphasized in Article 19 Paragraph (2) of the Regulation of the Minister of State-Owned Enterprises No.

PER09/MBU/2012, which was amended by the Regulation of the Minister of State-Owned Enterprises No. Per01/MBU/2011.

Article 97 paragraph (2) of Law No. 40 of 2007 states that in carrying out their functions and authorities, the board of directors must adhere to two basic principles. The first principle is the trust that the community has placed in them, and the second principle is the principle that pertains to the company's ability and prudence when making decisions and taking actions. According to these two tenets, the board of directors must be forthright and work hard to achieve the company's objectives.

There are two approaches to enforce legal protections for policyholders of PT. Asuransi Jiwasraya (Persero): preventative and repressive. Taking precautions by establishing rules to give insurance consumers more clarity in the law, since the Policy Guarantee Institution has not yet been subject to any legislation and there is a lack of established norms in this area. Law enforcement agencies can use both criminal and civil procedures to impose repressive legal protections. Prosecuting corrupt individuals who have caused financial harm to PT. Asuransi Jiwasraya (Persero) through the legal method.

4. CONCLUSION

After considering the information provided, it can be concluded that PT Asuransi Jiwasraya is subject to criminal prosecution for alleged corruption-related state losses. This action is in accordance with the provisions outlined in Law Number 31 of 1999, as amended by Law Number 20 of 2001, which addresses the eradication of corruption. The formulation demonstrates the efficacy of current legal regulations in handling the Jiwasraya case and protects the interests of public investors and shareholders. It contains specific elements and is subject to a specific sentencing system.

The defendant's substantial acts must fulfill multiple criteria in order to establish the subject of the error, including the elements of "Criminal Act" and "error" in the form of "intentional" or "dolus" according to the facts presented at trial, in order for the perpetrators of corruption to be held accountable for state losses incurred through the misuse of customer funds at PT Asuransi Jiwasraya, as stated in Cassation Decision Number 2931 K / Pid.Sus / 2021. One way that PT. Asuransi Jiwasraya protects its policyholders and customers is by taking legal action against those who have broken the law, specifically those who have violated the Corruption Crime Law, Article 18, and Criminal Code (Article 55, paragraph 1, number 1).

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