

POTENTIAL OF CORPORATE CRIMINAL LIABILITY IN THE CRIME OF BRIBERY PERFORMED BY PT. LIPPO CIKARANG (MEIKARTA CASE)

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Abstract: Corporations are part of the subject of criminal law and can be held accountable for their actions. PT. Lippo Cikarang is a corporation that handles the Meikarta project, in 2017 the leaders and several members of this PT were caught in the act of committing a crime of bribery to the Bekasi Regency government. The bribe givers took this action solely to facilitate the licensing of the Meikarta project development, so it is clear that the beneficiaries here are the corporations and in this case they can be held criminally responsible. carried out by PT Lippo Cikarang by analyzing the imposition of sanctions on corporations and how the corporation can be held criminally responsible.

Key Words: Criminal Liability, Corporate, Crime of Bribery.

1. INTRODUCTION:

Criminal liability will occur if someone has committed a crime. [1]

According to Utrecht and M. Soleh Djindang, a corporation or legal entity states that: A corporation is a combination of people who in legal relations act together as a separate legal subject as a personification. Corporations are legal entities that have members, but have the rights and obligations of each member.[2] The crime of bribery as one of the groups of criminal acts of corruption is an act that often occurs in corruption. Many corruption crimes committed by corporations have occurred and some have received decisions from the corruption courts. The corporate leader who commits the crime actually wants to benefit the company. So that mostly if a leader of a corporation commits a criminal act of corruption, the corporation can also be held criminally responsible in accordance with the elements that have been determined. For example, the Meikarta project bribery case that occurred in 2017 by PT Lippo Cikarang was caught having bribed several government officials in Bekasi Regency. Where to get convenience in licensing the Meikarta development, several members of PT Lippo Cikarang who act as the corporation that handles the Meikarta development project.

2. THEORITICAL FRAMEWORK:

a. Law Enforcement Theory

In the theory of Plato, Hagel, Hobbes and Harold J. Laski, law enforcement is the highest state law than other laws, and the state is obliged to fulfill the law and the community is obliged to obey it, sociologically the law has fulfilled a sense of justice.[3]

b. Corporate Criminal Liability Theory

Roeslan Saleh also argues that criminal liability is something that is criminally responsible for someone who commits a criminal act or crime.[4]

c. Criminal Theory

This theory examines and analyzes why the state imposes criminal sanctions on perpetrators.

3. LITERATURE REVIEW:

Criminal liability was originally attached only to individual actors, because the characteristics of existing criminal law are basically accountability for personal actions and mistakes (*subjective liability*).[5]

A corporation is an entity created by law. The body he created consisted of *corpus*, namely its physical structure and into it the law included the *animus* that gave the body a personality.[6]

Corporate criminal acts, in terms of bribery offenses, are basically acts committed by directors and/or employees of the corporation, at every level carrying out their duties and functions and can represent the corporation, which can result in criminal liability.

5. METHOD:

The method used in this research is a normative juridical approach, namely an approach that is based on library materials or secondary data, with coverage of primary, secondary, and tertiary legal materials.[7]

6. DISCUSSION:

Corporations as subjects of criminal law have committed many crimes. Both in economic, environmental, and corruption crimes. The crime of corruption, which is one form of extraordinary crime, has not decreased from year to year. People and legal entities who commit corruption do not seem to be afraid of the punishment that has been set by the state. Corruption is also a crime that is very detrimental to the state on a large scale. The crime of bribery as one of the groups of criminal acts of corruption is an act that often occurs in corruption. The crime of bribery does not only occur between individuals, but also occurs by corporations. Many corruption crimes committed by corporations have occurred and some have received decisions from the corruption courts. The corporate leader who commits the crime actually wants to benefit the company. So that mostly if a leader of a corporation commits a criminal act of corruption, the corporation can also be held criminally responsible in accordance with the elements that have been determined.

7. ANALYSIS:

a. Potential Corporate Criminal Liability in the Crime of Bribery Committed by Pt. Lippo Cikarang (Meikarta Case)

Crimes committed by PT. Lippo Cikarang in giving bribes to the ranks of the Bekasi district government is included in *crimes for corporations*, namely where crimes or violations of law are committed by corporations in achieving certain businesses and goals in order to gain profits. Regarding victims of this corporate crime, Muladi distinguishes between victims of conventional crimes and victims of corporate crimes as follows: "In conventional crimes, the victims can be easily identified, while in corporate crimes the victims are often abstract, such as the government, other companies or a large number of consumers. , while individually the losses are very small".[8]

b. Potential Imposition of Criminal Sanctions for Corporations Committing the Crime of Bribery Committed by Pt. Lippo Cikarang To Achieving the Goal of Criminalization

In the judge's view, the imposition of sanctions on PT Lippo Cikarang must be subject to criminal sanctions in accordance with the applicable laws and regulations in order to be able to recover state losses by the Bekasi Regency government and provide a deterrent effect to the corporation itself. The judge can also give additional penalties to corporations, namely in the form of compensation money to PT Lippo Cikarang where in the crime of bribery it is used as payment for state financial losses. Law enforcers should be able to maximize deterrence efforts against corporations by providing additional penalties in the form of closing all or part of the corporation. Therefore, the provision of criminal sanctions to the PT Lippo Cikarang corporation can be carried out because it has fulfilled the elements of criminal responsibility itself. The purpose of the sentencing of PT Lippo Cikarang as the corporation responsible for the crime of bribery is to provide a deterrent effect and it is hoped that it will not repeat itself and to other corporations so as not to make the same mistake as PT. Lippo Cikarang.

8. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- Criminal liability against corporations in the crime of bribery committed by several members of PT. Lippo Cikarang to the Bekasi district government regarding the licensing of the Meikarta development project.
- The potential for imposing criminal sanctions for corporations that commit the Crime of Bribery where the perpetrator is PT Lippo Cikarang which has been proven and the recipients and givers of bribes have been sentenced to criminal penalties.

REFERENCES:

1. Chairul Huda, 2006, *Dari Tiada Pidana Tanpa Kesalahan Menuju Kepada Tiada Pertanggungjawabanpidana Tanpa Kesalahan*, Kencana, Jakarta, page 20.
2. Chidir Ali, 2005, *Badan Hukum*, Alumni, Bandung, page 84.
3. H. Soetandyo Wignjosebroto, 2010, *Dasar-Dasar Sosiologi Hukum*, Pustaka Pelajar, Yogyakarta, page 374.
4. Roeslan Saleh, 1982, *Pikiran-pikiran tentang Pertanggung Jawab Pidana*, Ghalia Indonesia, Jakarta, page 32.

5. Celia Wells dan Oliver Quick, 2010, *Reconstructing Criminal Law*, Fourth Edition, Cambridge University Press, Cambridge, page 19.
6. Satjipto Rahardjo, 1986, *Ilmu Hukum*, Alumni, Bandung, page 110.
7. Soerjono Soekanto dan Sri Mamudji, 2007, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, Raja Grafindo Persada, Jakarta, page 52.
8. Arief Amrullah, 2006, *Kejahatan Korporasi (The Hunt for Mega Profits and the Attack on Democracy)*, Banyumedia Publishing, Malang, page 133.