Analysis of The Effectiveness of Corporate Criminal Liability Policies in Preventing Corruption in Indonesia

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ABSTRACT

Corporate criminal liability policies have been implemented as a legal instrument aimed at preventing and combating corruption crimes in Indonesia. This policy is part of the government's efforts to strengthen corporate governance and enhance business integrity. However, the effectiveness of implementing this policy remains a subject of debate among legal experts and practitioners. Some critics argue that the policy has not significantly reduced corruption cases involving corporations. Factors such as lax law enforcement, gaps in regulations, and the inability of supervision systems are the main obstacles in the implementation of this policy. Additionally, a lack of awareness and commitment from corporate entities in applying principles of good corporate governance also influence the effectiveness of this policy. Therefore, there is a need for evaluation and improvement in the implementation of corporate criminal liability policies to be more effective in preventing corruption crimes in Indonesia.

Keyword : Corporation, Corruption, Accountability

A. Introduction

Corruption has long been a serious problem that haunts Indonesia, a country with a complex and diverse legal history. Corruption has disturbed various levels of society, harmed the country on a large scale, and hindered economic growth and sustainable development. In this context, the role of corporations as business entities operating in a dynamic and competitive business environment, plays an important role in the prevention and overcoming of corruption crimes.

Corporations, both large and small, have great potential in influencing corporate governance, fair business practices, and integrity in carrying out their operations. However, in recent decades, corporations have often been the main actors in various corruption scandals that have harmed the state and society. Corporate involvement in corruption crimes is often linked to unethical business practices, bribery, tax evasion, and other violations of the law that are detrimental to the public interest.[1]

Faced with this reality, the Indonesian government is striving to improve corporate governance and reduce the risk of corruption committed by corporations. One of the efforts made is to implement the corporate criminal liability policy as a legal instrument that aims to prevent and overcome corruption crimes involving corporations. This policy is expected to give

[1] Rusdiyanto, *Law on Corruption,* (Jakarta: Gramedia, 2020), p. 79

a strong signal to the business world that the government is serious about fighting corruption and enforcing the law, so that corporations will be more careful in carrying out their operations and complying with applicable regulations.

However, the implementation of corporate criminal liability policies in Indonesia is not running smoothly. There are many challenges and obstacles faced in its implementation, both in terms of law enforcement, regulations, and from the corporation itself. One of the main obstacles is the lack of firm and effective law enforcement against corporations involved in corruption crimes. This is due to various factors, including limited resources, coordination between law enforcement agencies, and political intervention or business interests that affect the independence of law enforcement agencies.

Loopholes in existing legal regulations are also an obstacle to the implementation of this policy. Ambiguous and unclear regulations often cause legal uncertainty for corporations in determining business practices that are in accordance with the law and ethics. The lack of awareness and commitment from the corporate side in implementing the principles of good corporate governance is also a factor that affects the effectiveness of corporate criminal liability policies. Many corporations still prioritize financial profits without paying attention to ethical aspects and integrity in running their business.

The supervision system that is not optimal is also one of the causes of the low effectiveness of this policy. The weak supervision system causes many corporations to easily evade their legal responsibilities or find loopholes in the regulations to conduct unethical business practices. Therefore, improvements and improvements are needed in the supervision system to ensure corporate compliance with the law and prevent corruption.

In the context of globalization and economic integration, the challenges in preventing and overcoming corruption crimes by corporations are increasingly complex. Multinational corporations with extensive and complex operations require a comprehensive and collaborative approach between countries to prevent and overcome corruption crimes. Coordination between law enforcement agencies, information exchange, and international cooperation are key in efforts to prevent and overcome corruption crimes by corporations in this era of globalization.

Taking this background into account, there is a need for an in-depth evaluation of the implementation of corporate criminal liability policies in Indonesia. This evaluation aims to identify existing obstacles, understand the dynamics of corporations in carrying out their operations, and find effective solutions and strategies in preventing and overcoming corruption crimes by corporations. In addition, the role of the government, the community, and the business world in supporting the implementation of this policy is also very important to ensure

success in preventing and overcoming corruption crimes in Indonesia.[2] Departing from this background becomes a problem *first* how effective is the corporate criminal liability policy in preventing corruption by corporations in Indonesia?; *second* What are the obstacles and challenges faced in the implementation of corporate criminal liability policies and how to overcome them to increase their effectiveness?

B. Research Methods

This research will use a qualitative approach with descriptive analysis.[3] The qualitative approach was chosen to gain a deep understanding of the effectiveness of corporate criminal liability policies and the obstacles faced in their implementation. The data will be collected through in-depth interviews with various relevant parties, such as legal experts, government officials, business practitioners, and anti-corruption activists. In addition, this research will also collect data from literature studies, legal documents, and reports related to the implementation of corporate criminal liability policies. The data analysis technique used is content analysis to identify the main themes and patterns that emerge from the data that has been collected. With this approach, it is hoped that this study can provide a comprehensive overview of the effectiveness of policies and obstacles in their implementation.

C. Analysis And Discussion

1. The Effectiveness of Corporate Criminal Liability Policies in Preventing Corruption by Corporations in Indonesia

The effectiveness of corporate criminal liability policies in preventing corruption by corporations in Indonesia is an issue that is a major concern in efforts to eradicate corruption in this country. Corruption, as a criminal act that harms the state and society, has a very wide impact on political stability, the economy, and public trust in legal institutions and the government. Therefore, the prevention and prevention of corruption crimes is a national priority that must be overcome with various effective strategies and policies.[4]

The corporate criminal liability policy is one of the legal instruments that is expected to reduce the risk of corruption committed by corporations. This policy allows companies or corporations to be tried and subject to criminal sanctions for acts of corruption committed by directors, management, or employees in carrying out their business operations. Thus, this

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[2] Rudianto, *Law Science,* (Bogor: Ghalia Indonesia), p. 59)
[3] Budiono, *Legal Research Methods,* (Bandung: Redika Aditama), p. 79
[4] Aldiano, *Koropso Law and Law Enforcement,* (Jakarta: Kencana, 2019), p. 69

policy is expected to provide a deterrent effect for corporations to comply with the law and ethical business practices.

However, in practice, the effectiveness of corporate criminal liability policies in Indonesia is still a matter of debate. Although there have been efforts from the government to encourage corporations to comply with regulations and principles of good corporate governance, there are still many corruption cases involving corporations that occur in Indonesia. This shows that this policy has not been fully successful in preventing corruption crimes committed by corporations.

One of the main obstacles in the implementation of corporate criminal liability policies is the lack of firm and effective law enforcement against corporations involved in corruption crimes. Limited resources, coordination between law enforcement agencies, and political intervention or business interests that affect the independence of law enforcement agencies are the main factors that hinder the enforcement of this policy. In addition, loopholes in existing legal regulations also cause legal uncertainty for corporations in determining business practices that are in accordance with the law and ethics.

In addition to external factors, internal factors of corporations also affect the effectiveness of corporate criminal liability policies. The lack of awareness and commitment from the corporate side in implementing the principles of good corporate governance, as well as a higher priority on achieving financial targets rather than ethical and integrity aspects in running a business are challenges in the implementation of this policy. Many corporations still prioritize financial profits without paying attention to social and environmental impacts, as well as applicable legal principles.

A suboptimal supervision system is also one of the obstacles to the effectiveness of corporate criminal liability policies. The weak supervision system causes many corporations to easily evade their legal responsibilities or find loopholes in the regulations to conduct unethical business practices. Therefore, improvements and improvements are needed in the supervision system to ensure corporate compliance with the law and prevent corruption.

In the context of globalization and economic integration, the challenges in preventing and overcoming corruption crimes by corporations are increasingly complex. Multinational corporations with extensive and complex operations require a comprehensive and collaborative approach between countries to prevent and overcome corruption crimes. Coordination between law enforcement agencies, information exchange, and international cooperation are key in efforts to prevent and overcome corruption crimes by corporations in this era of globalization.

Taking into account the various obstacles and challenges faced in the implementation of corporate criminal liability policies, there is a need for an in-depth evaluation of this policy. This evaluation aims to identify existing obstacles, understand the dynamics of corporations in carrying out their operations, and find effective solutions and strategies in preventing and overcoming corruption crimes by corporations. The role of the government, the community, and the business world in supporting the implementation of this policy is also very important to ensure success in preventing and overcoming corruption crimes in Indonesia.[5]

2. Obstacles and Challenges Faced in the Implementation of Corporate Criminal Liability Policies and How to Overcome Them to Increase Their Effectiveness

Obstacles and challenges in the implementation of corporate criminal liability policies in Indonesia are complex issues and require a comprehensive approach to be overcome. Some of the main obstacles faced are the lack of firm and effective law enforcement, gaps in legal regulations, and a lack of awareness and commitment from corporations.

The lack of firm and effective law enforcement is one of the main obstacles in the implementation of corporate criminal liability policies. Limited resources, coordination between law enforcement agencies, and political intervention or business interests that affect the independence of law enforcement agencies are the main factors that hinder the enforcement of this policy. Weak law enforcement causes corporations to feel unthreatened and lack initiative to comply with the law, thus affecting the effectiveness of policies in preventing corruption.[6]

Loopholes in legal regulations are also an obstacle to the implementation of corporate criminal liability policies. Ambiguous and unclear regulations often cause legal uncertainty for corporations in determining business practices that are in accordance with the law and ethics. This ambiguity in legal regulations allows corporations to find loopholes in regulations to conduct unethical business practices without strict sanctions, thereby reducing the effectiveness of policies in preventing corruption.

In addition to external factors, internal factors of corporations also affect the effectiveness of corporate criminal liability policies. The lack of awareness and commitment from the corporate side in implementing the principles of good corporate governance is a challenge in the implementation of this policy. Many corporations still prioritize financial profits without paying attention to social and environmental impacts, as well as applicable legal principles.

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[5] Rudianyo, *Human Rights,* (Yogyakarta: Sinar Grafika, 2020), p, 121
[6] Fauzan, *Introduction to Law,* (Yogyakarta: Sinar Grafika, 2018), p, 111

Higher priority on achieving financial targets than ethical and integrity aspects in running a business is one of the factors that cause the lack of corporate commitment to corporate criminal liability policies.

To overcome the obstacles and challenges faced in the implementation of corporate criminal liability policies, several effective strategies and measures are needed. First, the government needs to strengthen law enforcement by increasing coordination between law enforcement agencies, strengthening human and technical resources, and ensuring the independence of law enforcement agencies from political interference or business interests. With firm and effective law enforcement, corporations will feel threatened and take more initiative to comply with the law, thereby increasing the effectiveness of corporate criminal liability policies in preventing corruption.

Second, there is a need for revision and improvement of applicable legal regulations to overcome loopholes in existing regulations. Clear, transparent, and accountable legal regulations will provide legal certainty for corporations in determining business practices that are in accordance with the law and ethics. With clear legal regulations, corporations will be more careful in carrying out their operations and complying with applicable regulations, thereby increasing the effectiveness of corporate criminal liability policies in preventing corruption.

Third, the importance of increasing awareness and commitment from the corporate side in implementing the principles of good corporate governance. Education and training on the importance of ethics and integrity in business need to be provided to corporate stakeholders, from directors, management, to employees. By increasing corporate awareness and commitment to the principles of good corporate governance, it is hoped that corporations will pay more attention to ethical and integrity aspects in running their business, thereby increasing the effectiveness of corporate criminal liability policies in preventing corruption.

Thus, to increase the effectiveness of corporate criminal liability policies in preventing corruption in Indonesia, a comprehensive approach is needed through strengthening law enforcement, revising legal regulations, and increasing corporate awareness and commitment to the principles of good corporate governance. Only with a comprehensive and collaborative approach between the government, the community, and the business world can Indonesia build a more ethical, transparent, and accountable business environment, so as to be able to prevent and overcome corruption crimes by corporations.[7]

[7] Rudi Salam, *Criminal Procedure Law,* (Bandung: Redika Aditama, 2020), p, 99

D. Conclusion

The effectiveness of corporate criminal liability policies in preventing corruption in Indonesia is still not optimal. The lack of firm law enforcement, gaps in legal regulations, and a lack of awareness and commitment from corporations are the main obstacles to its implementation.

Obstacles and challenges faced in the implementation of corporate criminal liability policies include a lack of firm law enforcement, gaps in legal regulations, and a lack of awareness and commitment from corporations. To increase its effectiveness, it is necessary to strengthen law enforcement, revise legal regulations, and increase corporate awareness and commitment to the principles of good corporate governance.

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