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Criminal Liability Analysis of Capital Market Manipulation Perpetrators as Corruption Offenses in Indonesian Criminal Law

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Abstract: The background of this study is rooted in the fact that capital market manipulation has evolved into a primary modus operandi for corruption offenses that inflict massive state financial losses, as exemplified by the Jiwasraya and ASABRI cases. The research gap addresses the scarcity of literature that comprehensively integrates capital market law and anti-corruption criminal law within a criminal liability framework. This study aims to analyze regulatory prohibitions against market manipulation and evaluate the application of anti-corruption criminal liability to both individual and corporate actors. Utilizing a normative legal research methodology with statutory, conceptual, and case-based approaches, the results indicate that market manipulation is prohibited under Articles 91, 92, and 93 of the Capital Market Law with criminal sanctions under Article 104. However, when such manipulative acts involve state funds, abuse authority, and result in measurable state losses, perpetrators are held liable under Articles 2, 3, and 20 of the Anti-Corruption Law through a 5-tier system of proof. The novelty of this research lies in positioning market manipulation as a vehicle for corruption while emphasizing the optimization of corporate criminal liability and state asset recovery.

Keywords: Capital Market Manipulation, Corruption Offenses, Criminal Liability.

INTRODUCTION

National development is essentially a continuous effort to create an Indonesian society that is just, prosperous, and thriving, as mandated in the Preamble to the 1945 Constitution of the Republic of Indonesia. One crucial aspect of national development is economic development, which aims to improve public welfare through sustainable economic growth. To support this economic development, a financial system is required that is sound, stable, and capable of effectively mobilizing and allocating public funds. One instrument holding a strategic role in the modern economic system is the capital market. (Bismar Nasution, 2022).

The capital market serves as a venue bringing together parties with excess funds (surplus units) and those requiring funds (deficit units) through trading mechanisms of various financial instruments, particularly securities. The presence of a capital market not only provides alternative financing sources for the business sector but also offers investment vehicles for the public to grow their assets. Therefore, the capital market performs a vital function in supporting

national economic growth, improving the efficiency of resource allocation, and strengthening a country's economic competitiveness. (Gunawan Widjaja dan Ahmad Yani, 2021).

In its development, the Indonesian capital market has demonstrated significant growth. The increasing number of investors, the growing number of companies conducting public offerings, and the rise in securities trading activity indicate that the capital market has become one of the primary pillars of the national financial system. However, this growth has also been accompanied by the increasing complexity of transactions and various forms of deviations that potentially disrupt capital market integrity. One of the most detrimental forms of deviation is capital market manipulation. (Otoritas Jasa Keuangan, 2024).

Capital market manipulation is an intentional act conducted to create a false or misleading appearance regarding trading activity, prices, or market conditions of specific security with the intention of influencing the investment decisions of other parties. Such practices contradict the principles of transparency (disclosure principle), fairness, and market efficiency, which serve as the main foundations of modern capital market operations. Capital market manipulation not only harms investors but also damages the fair price discovery mechanism, thereby reducing public trust in the capital market. (Hamud M. Balfas 2021)

Within the Indonesian legal system, the prohibition of capital market manipulation is explicitly regulated under Law Number 8 of 1995 concerning the Capital Market. Articles 91, 92, and 93 of the Capital Market Law prohibit any party from taking actions that can create a false or misleading appearance regarding securities trading, securities prices, or market conditions. These provisions indicate that lawmakers view capital market manipulation as a dangerous act that potentially harms the public interest, thereby necessitating criminal sanctions. (Undang-Undang Nomor 8 Tahun 1995 tentang Pasar Modal).

Nevertheless, the evolution of capital market manipulation practices shows that this crime is no longer committed solely to gain personal profit from securities trading activities. In various cases in Indonesia, capital market manipulation has instead been used as a means or *modus operandi* to commit other criminal offenses with broader impacts, including corruption offenses that result in state financial losses. This situation demonstrates that capital market manipulation has evolved into a part of modern economic crime featuring complex and organized characteristics involving various parties. (Marulak Pardede, 2023).

One case that drew significant public attention was the case of PT Asuransi Jiwasraya (Persero). In that case, investment funds were managed by placing money into several stocks with weak corporate fundamentals and high risks. Several stocks targeted for investment experienced unnatural price increases before eventually dropping drastically, causing enormous state losses. Based on facts revealed during court proceedings, indications suggested that these stock price movements were not entirely formed through fair market mechanisms, but were instead influenced by specific actions bearing the characteristics of capital market manipulation. (Putusan Pengadilan Negeri Jakarta Pusat Nomor 30/Pid.Sus-TPK/2020/PN.Jkt.Pst).

A similar phenomenon occurred in the case of PT ASABRI (Persero). Funds originating from state financial management and participant funds were placed into stocks carrying high risk levels that violated prudent investment principles. During law enforcement proceedings, it was disclosed that several stocks targeted for investment experienced significant price surges without being supported by adequate corporate fundamental conditions. These conditions point to suspected practices of stock price manipulation and false market creation that resulted in extensive state financial losses. (Putusan Pengadilan Negeri Jakarta Pusat Nomor 30/Pid.Sus-TPK/2020/PN.Jkt.Pst).

The Jiwasraya and ASABRI cases demonstrate that capital market manipulation can be used as a vehicle to commit corruption offenses. In both cases, the focus of law enforcement was no longer directed solely at violations of the Capital Market Law, but rather at the state financial losses caused by the perpetrators' acts. In other words, the emerging legal issue is no

longer merely a matter of violating capital market integrity, but has evolved into a issue of corruption directly impacting state finances. (Komisi Pemberantasan Korupsi, 2023).

From a criminal law perspective, corruption is considered an extraordinary crime (extraordinary crime) that has far-reaching impacts on national and state life. Law Number 31 of 1999 concerning the Eradication of Corruption Crimes, as amended by Law Number 20 of 2001, stipulates that any unlawful act resulting in state financial losses and committed to enrich oneself, another person, or a corporation can be prosecuted as a corruption offense. Therefore, when capital market manipulation is conducted using state funds or leads to state financial losses, the act becomes relevant to examine not only within the perspective of capital market law, but also within the perspective of anti-corruption criminal law.

The subsequent problem that arises concerns the criminal liability of parties involved in capital market manipulation practices that result in such state financial losses. In various cases, capital market manipulation is not carried out individually by a single person, but involves multiple parties, including boards of directors, commissioners, investment managers, securities companies, and even corporate entities used as vehicles to commit criminal acts. The complexity of relationships among these actors raises questions regarding who should be held criminally liable and in what form that liability should be applied. (Kristian dan Yopi Gunawan, 2023).

Modern criminal law developments have recognized corporations as legal subjects capable of holding criminal liability. This recognition is based on the reality that various modern economic crimes, including corruption, are frequently carried out through corporate activities. In the context of corruption offenses, provisions regarding corporate criminal liability are explicitly regulated under Article 20 paragraph (1) of Law Number 31 of 1999, which states that if a corruption offense is committed by or on behalf of a corporation, prosecution and criminal sanctions may be imposed against the corporation and/or its management. (Undang-Undang Nomor 31 Tahun 1999 tentang Pemberantasan Tindak Pidana Korupsi sebagaimana telah diubah dengan Undang-Undang Nomor 20 Tahun 2001).

This provision holds vital relevance in cases of capital market manipulation resulting in state financial losses. If a company or corporation is used as a vehicle to execute capital market manipulation leading to corruption offenses, the corporation should not merely be viewed as a tool used by the perpetrator, but must also be held criminally accountable in accordance with applicable laws and regulations. Consequently, enforcing corporate criminal liability serves as a crucial instrument in establishing effective law enforcement against corruption offenses committed through capital market mechanisms. (Kristian, 2022).

In addition to corporate criminal liability, it is equally important to examine the criminal liability of corporate management involved in investment decision-making that leads to state financial losses. In various corruption cases related to capital market investments, corporate officers often hold a central role in determining investment policies, selecting investment instruments, and approving specific transactions. Therefore, determining criminal liability cannot focus solely on the corporation as a legal entity, but must also evaluate the role and involvement of corporate managers who tangibly contribute to the commission of the crime.

In criminal law theory, criminal liability requires the presence of fault (*schuld*) inherent in the perpetrator. This fault may take the form of intent (*dolus*) or negligence (*culpa*). In corruption offenses committed via capital market manipulation, proving the element of fault becomes crucial as it relates to the perpetrator's intent or knowledge regarding the consequences of their actions. When perpetrators are aware that conducted transactions contradict prudent investment principles, violate applicable legal provisions, and potentially cause state financial losses, the element of fault is principally fulfilled. (Eddy O.S. Hiariej, 2023).

Issues become increasingly complex when capital market manipulation is conducted through transaction networks involving multiple securities accounts, affiliated companies, or

parties with specific business relationships. Under such circumstances, law enforcement authorities must be capable of identifying the causal link between the actors' conduct and the resulting state financial losses. This complexity is one reason why capital market manipulation cases leading to corruption offenses require a more comprehensive legal approach compared to conventional criminal offenses in general. (Mahrus Ali, 2022).

On the other hand, the Capital Market Law remains significant because provisions regulating prohibitions against market manipulation can be utilized to identify acts serving as the *modus operandi* of corruption offenses. Thus, the Capital Market Law is not positioned as a standalone legal regime separate from corruption offenses, but rather as an instrument helping to explain the characteristics of acts committed by perpetrators to enrich themselves, others, or corporations, thereby resulting in state financial losses. (Bismar Nasution, 2022).

Based on a review of prior literature, most studies on capital market manipulation still focus on regulatory aspects of capital market law, investor protection, and oversight conducted by the Financial Services Authority (OJK). Meanwhile, research specifically analyzing anti-corruption criminal liability for capital market manipulation actors who cause state financial losses remains relatively limited. Prior research generally discusses capital market manipulation purely as a capital market offense, without thoroughly analyzing how the framework of corruption criminal liability is applied to actors using market manipulation as a vehicle to commit corruption. (Nur Basuki Minarno, 2023).

Given these conditions, a research gap exists that needs to be addressed through this study. This research gap lies in the sub-optimal analysis concerning anti-corruption criminal liability for capital market manipulation perpetrators causing state financial losses within the perspective of Indonesian criminal law. In fact, the evolution of modern economic crime demonstrates that capital market manipulation is increasingly used as a *modus operandi* for committing corruption offenses resulting in substantial state financial losses.

Furthermore, the novelty of this study lies in analyzing capital market manipulation as a *modus operandi* for corruption offenses causing state financial losses, placing corporate criminal liability as the primary focus of analysis. This study also examines the application of Article 20 paragraph (1) of the Anti-Corruption Law to corporations used as instruments for market manipulation, as reflected in the Jiwasraya and ASABRI cases.

This study bears high urgency because capital market manipulation executed using state funds not only harms investors and damages market integrity, but also inflicts state financial losses that ultimately impact the broader public interest. Therefore, a study capable of contributing to the development of a more effective criminal liability concept is needed to address increasingly complex and organized modern economic crimes.

Theoretically, this study is expected to contribute to legal science, particularly in the fields of criminal law, corruption law, and capital market law. Practically, the findings of this research are expected to serve as input for lawmakers, law enforcement officers, the Financial Services Authority (OJK), the Indonesia Stock Exchange (IDX), and various stakeholders in efforts to enhance the effectiveness of law enforcement against capital market manipulation perpetrators who cause state financial losses.

Based on all the descriptions above, it can be understood that capital market manipulation causing state financial losses is a legal issue that pertains not only to violations of capital market provisions, but also to corruption offenses. Therefore, a comprehensive study is required regarding how criminal liability for corruption offenses against capital market manipulation perpetrators is applied within the perspective of Indonesian criminal law to provide legal certainty, justice, and protection for state and public interests. (Rr. Dijan Widijowati, 2024) Based on the background above, the problem statements can be formulated as follows: How are prohibitions and sanctions regulated under capital market law in Indonesia and how is anti-corruption criminal liability applied to capital market manipulation perpetrators who cause state financial losses.

METHODS

This study employs a normative legal research method (library research) focusing on the analysis of legal norms, principles, and doctrines. (Peter Mahmud Marzuki, 2017) The research approaches applied include the statutory approach (statute approach), conceptual approach (conceptual approach), and case approach (case approach). (Johnny Ibrahim, 2007) using case studies of PT Asuransi Jiwasraya (Persero) and PT ASABRI (Persero). The legal materials utilized in this research consist of secondary data, categorized into three levels: Soerjono Soekanto dan Sri Mamudji, 2015), Primary Legal Materials, consisting of the 1945 Constitution, the Indonesian Criminal Code (KUHP), the Capital Market Law, the Anti-Corruption Law, the Financial Sector Development and Strengthening Law (UU PPSK), Supreme Court Regulation (PERMA) No. 13/2016, Financial Services Authority (OJK) Regulations, as well as relevant court decisions (Central Jakarta District Court, Jakarta High Court, and the Supreme Court). Secondary Legal Materials, comprising legal textbooks, scientific journal articles, master's theses, doctoral dissertations, and doctrines/opinions of legal experts. Tertiary Legal Materials, consisting of legal dictionaries, the Big Indonesian Dictionary (KBBI), encyclopedias, and court decision directories. Data collection was conducted through document study (document study) involving four main stages: identifying relevant laws and regulations, collecting relevant court decisions, reviewing scientific literature, and classifying and inventorying legal materials. (Sunggono, Bambang, 2016) Furthermore, data analysis was performed qualitatively using a descriptive-analytical method with a deductive reasoning framework. (Mukti Fajar ND dan Yulianto Achmad, 2015) The processing of legal materials progressed through data inventory, legal interpretation (grammatical, systematic, and teleological), and the formulation of prescriptive conclusions.

RESULTS AND DISCUSSION

Regulation of Prohibitions and Sanctions in Indonesian Capital Market Law

The capital market is one of the important instruments in the national economic system because it functions as a means of mobilizing public funds and as an alternative financing source for the business sector, as well as an investment vehicle for the public. (Undang-Undang tentang Pasar Modal, UU No. 8 Tahun 1995) Therefore, capital market activities not only have an economic dimension, but also have a legal dimension related to investor protection, legal certainty, information disclosure, transaction fairness, and the integrity of securities trading. Capital market operations must be directed so that securities trading activities take place in an orderly, fair, efficient, transparent manner, and can provide protection for the interests of investors and the national economy.

In a legal perspective, capital market regulation has a broader function than merely regulating securities trading procedures. Capital market law functions to provide certainty regarding the rights and obligations of the parties, regulate the behavior of market participants, prevent the abuse of trading mechanisms, and provide law enforcement instruments against actions that can damage market integrity. The main foundation of capital market regulation in Indonesia is contained in Law Number 8 of 1995 concerning the Capital Market, which subsequently underwent amendments, including through Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector. (Undang-Undang tentang Pengembangan dan Penguatan Sektor Keuangan, UU No. 4 Tahun 2023)

One form of action specifically prohibited in capital market law is market manipulation. This prohibition shows that the state not only grants freedom to market participants to conduct securities transactions, but also provides limits so that such freedom is not used to create false market conditions, unfairly influence prices, or provide misleading information. Viewed from the Grand Theory of Justice Theory, the prohibition of market manipulation is an instrument to maintain a balance of interests between market participants, investors, companies, the state,

and the public. (John Rawls,1999) This view has direct relevance to research on capital market manipulation related to investment management at PT ASABRI (Persero).

Placing funds in shares is basically an investment activity that can be carried out as long as it complies with legal provisions, prudent principles, good corporate governance, and provisions regarding investment management. Legal issues arise when such transactions are used as part of a series of actions aimed at providing profits to certain parties at the expense of corporate interests and ultimately causing losses to state finances.

Article 91 of Law Number 8 of 1995 concerning the Capital Market determines that any party is prohibited from taking action, directly or indirectly, with the intention of creating a false or misleading appearance regarding trading activity, market conditions, or securities prices on the Stock Exchange. The essence of Article 91 lies in the protection of actual market conditions. The capital market essentially must reflect fair interaction between supply and demand. The Elucidation of Article 91 illustrates that actions capable of creating a false appearance may include securities transactions that do not result in a change of ownership (wash sale) or buy and sell offers of securities at certain prices conducted through collusion with other parties. (Undang-Undang Nomor 8 Tahun 1995 tentang Pasar Modal.)

In relation to the Middle Theory of Law Enforcement Theory, the existence of Article 91 indicates that the state has provided legal norms to prevent and crack down on market manipulation. However, the effectiveness of law enforcement is influenced by factors of law, law enforcement officers, means or facilities, society, and culture, as put forward by Soerjono Soekanto. (Soerjono Soekanto,2004) The characteristics of capital market manipulation demonstrate that its law enforcement carries a high degree of complexity. Law enforcement officials need to analyze transaction sequences, inter-party relationships, securities account ownership patterns, fund flows, communications between related parties, transaction objectives, and transaction impacts on stock prices. In cases related to PT ASABRI (Persero), this becomes important because stock investment activity in itself cannot be directly categorized as a criminal offense. Stock investment is a legitimate activity when conducted according to legal provisions. Therefore, to state that a particular transaction constitutes market manipulation, an analysis must be conducted on the entire sequence of acts rather than merely observing the purchase or sale of stocks. From the perspective of Justice Theory, transactions conducted by creating false market conditions cause investors and other parties to make decisions based on non-actual conditions, thereby damaging market integrity.

In addition to Article 91, market manipulation is also regulated under Article 92 of Law Number 8 of 1995 concerning the Capital Market. These provisions prohibit any party, either individually or jointly with other parties, from conducting two or more securities transactions, directly or indirectly, which cause the price of securities on the Stock Exchange to remain unchanged, rise, or drop with the intention of influencing other parties to buy, sell, or hold securities. Where Article 91 emphasizes the creation of a false or misleading appearance regarding trading activity, market conditions, or securities prices, Article 92 places greater emphasis on a series of transactions intended to influence securities prices and the decisions of other parties.

In practice, price manipulation can be carried out through various transaction patterns, including matched orders, wash sales, marking the close, painting the tape, or other transaction patterns that substantially share the goal of influencing securities prices. However, a transaction cannot be considered manipulation solely because a price increase or decrease occurs. The existence of a sequence of transactions and an objective related to efforts to influence prices or decisions of other parties must be proven. In the perspective of Criminal Liability Theory, such analysis is important because criminal liability cannot be based solely on the occurrence of an outcome in the form of losses. (Moeljatno,2008) A link must be found between the perpetrator's act, the perpetrator's fault, and the violated criminal provision. Therefore, investment losses alone are not sufficient to prove the existence of a criminal offense. Furthermore, if the series

of transactions is carried out using specific authority or position and aims to provide benefits to oneself, another person, or a corporation while causing state financial losses, the analysis does not stop at Article 92 of the Capital Market Law, but extends to the intersection with Corruption Offenses. (Undang-Undang tentang Pemberantasan Tindak Pidana Korupsi, UU No. 31 Tahun 1999 jo. UU No. 20 Tahun 2001)

Article 93 of Law Number 8 of 1995 concerning the Capital Market operationalizes the prohibition against parties who, in any manner, make statements or provide information that is materially false or misleading so as to influence other parties to buy or sell securities. These provisions demonstrate that legal protection in the capital market is directed not only to transaction mechanisms, but also to information serving as the foundation for investment decision-making. (Munir Fuady, 2004) Information holds a very critical position in the capital market because investors generally make decisions based on information regarding company performance, financial performance, business prospects, and investment risks. In the perspective of Justice Theory, truthful and transparent information is an essential prerequisite so that every investor has a relatively balanced opportunity in making decisions. In relation to the PT ASABRI (Persero) case, the analysis regarding information must be conducted carefully; the existence of materially false or misleading information as well as a causal linkage to investment transaction decisions must first be proven.

The prohibition against market manipulation is safeguarded by strict criminal sanctions in Article 104 of Law Number 8 of 1995 concerning the Capital Market. The provision states that any party violating the provisions of Article 90, Article 91, Article 92, Article 93, Article 95, Article 96, Article 97 paragraph (1), and Article 98 is threatened with imprisonment for a maximum of 10 (ten) years and a maximum fine of IDR 15,000,000,000.00 (fifteen billion rupiah). Criminal sanctions in Article 104 serve both repressive and preventive functions. Viewed from Law Enforcement Theory, the effectiveness of sanctions relies not only on the severity of the criminal threat, but on the evidentiary capability of law enforcement officers. Furthermore, based on the Applied Theory of Punishment Theory, imposing criminal penalties against market manipulation perpetrators must have a broader purpose than mere retaliation (retributive), serving also as deterrence, maintaining capital market trust, and providing proportional sanction imposition according to the impact of losses caused, particularly when impacting state finances. (Andi Hamzah, 2010).

Based on the results of research on laws and regulations as well as the subject matter of this study, it can be emphasized that investing in stock instruments is not an act prohibited by law. PT ASABRI (Persero) possesses the authority to make stock investment placements according to applicable policies. Legal issues arise when these investment activities are suspected of no longer being carried out for corporate interests, but instead become part of a series of covert acts benefiting certain parties.

If transactions are carried out in a planned manner to create a false appearance, Article 91 is relevant to apply. If transactions are carried out repeatedly to manipulate price fluctuations, Article 92 forms the basis of analysis. Meanwhile, if there is a disclosure of materially false information, Article 93 binds such transactions. The most complex problem arises when such capital market manipulation practices do not stand alone, but are instead integrated as a vehicle or *modus operandi* for corruption offenses resulting in massive state financial losses.

Anti-Corruption Criminal Liability for Capital Market Manipulation Perpetrators Causing State Financial Losses

Capital market manipulation is fundamentally a criminal offense regulated under the capital market legal regime. However, an act occurring within capital market activities does not always end with violations of the Capital Market Law. If the sequence of acts also meets

the elements of a corruption offense, the perpetrator can be held criminally liable based on corruption provisions in accordance with the proven elements. (Barda Nawawi Arief, 2010).

Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 concerning the Eradication of Corruption Crimes recognizes corporations as one of the subjects of criminal law. Article 1 point 1 defines a corporation as an organized collection of persons and/or assets, whether structured as legal entities or non-legal entities, while Article 1 point 3 determines that "any person" encompasses natural individuals as well as corporate entities.

In the qualification of corruption offenses, the primary provisions regulate legal acts as follows:

1. Article 2 paragraph (1) of the Anti-Corruption Law: Regulates unlawful acts that enrich oneself, another person, or a corporation that can cause state financial losses or state economic losses.
2. Article 3 of the Anti-Corruption Law: Regulates acts committed with the purpose of benefiting oneself, another person, or a corporation through the abuse of authority, opportunity, or means available due to position/status that can cause state financial losses or state economic losses.

Thus, there is a clear conceptual separation between the act of market manipulation as a capital market law violation and the qualification of a corruption offense arising from that series of acts. These two constructions must not be mixed together. (Barda Nawawi Arief, 2010) In this study, capital market manipulation is positioned as a *modus operandi* analyzed within the overall sequence of acts. Criminal liability against individual perpetrators must be based on the fundamental principle that a person can only be punished if proven to have committed a prohibited act and possesses culpable fault. (Roeslan Saleh, 1983) State financial losses do not automatically prove a person's fault. Within the context of the Middle Theory of Criminal Liability Theory, a causal relationship must be proven between the perpetrator's act, role (executing, ordering execution, participating, or aiding), mental state (*mens rea*), benefits obtained, and losses incurred. This is crucial to prevent criminalization based on absolute assumption.

Along with the evolution of modern economic crime, criminal offenses are frequently committed through organizational structures and corporate business activities. Capital market manipulation can involve the use of corporate structures, securities accounts, investment management, business relationships, and corporate organ authorities.

The analysis of corporate criminal liability must assess whether the criminal offense was committed for the benefit of the corporation, provided benefits to the corporation, or occurred as a result of policies, orders, omission, or failure of supervision by authorized parties. Sutan Remy Sjahdeini explains that corporate liability is a logical consequence of the evolution of organized crime. (Sutan Remy Sjahdeini, 2014) Article 20 of Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 stipulates that if a corruption offense is committed by or on behalf of a corporation, prosecution and criminal imposition can be directed against the corporation, its management, or both. In the perspective of Justice Theory, this mechanism prevents corporations from enjoying the proceeds of crime while criminal sanctions are borne solely by individuals at the operational level. (Indriyanto Seno Adji, 2006).

In the case of PT ASABRI (Persero), the main legal issue is not merely the existence of stock investment activities or the occurrence of investment losses, but how those investment decisions were executed and whether there was a series of unlawful acts. The distinction between losses resulting from business risk (business judgment/risk) and criminal offenses lies in the aspects of process, purpose, and fault in decision-making:

1. Business Risk: Losses occur even though decisions were made professionally, in good faith, and based on adequate analysis at the time the decision was made.
2. Corruption Offenses: The decision from the outset constitutes an unlawful act, abuses authority, unlawfully benefits certain parties, and deliberately disregards regulations.

The construction of criminal liability in the case of PT ASABRI (Persero) is carried out systematically through five stages of proof:

1. Identification of market manipulation acts / unlawful acts;
2. Determination of the roles of the parties;
3. Proof of fault (*mens rea*);
4. Analysis of the causal relationship between the act, benefits to specific parties, and state losses;
5. Determination of the most appropriate criminal offense qualification (specifically Article 3 of the Anti-Corruption Law).

Law enforcement on complex crimes such as capital market manipulation connected to corruption offenses must not be conducted partially. Law enforcement officers must encompass the entire chain of actions: the investment decision process, securities transactions, price movement patterns, fund flows, up to the occurrence of state losses.

Based on Law Enforcement Theory, the effectiveness of law enforcement is determined by five factors: legal substance, law enforcement officers, supporting facilities/means, society, and legal culture. (Soerjono Soekanto, 2008) In capital market crimes, supporting means (technology for proving digital transaction patterns and digital forensics) hold a vital role. Furthermore, law enforcement must be executed in a coordinated manner across agencies (OJK, Attorney General's Office, Police, KPK, and Judiciary). In accordance with Justice Theory, law enforcement focuses not only on bodily imprisonment, but is also prioritized toward efforts for recovering state financial losses (asset recovery). (Muladi dan Barda Nawawi Arief, 2010)

Based on the Applied Theory of Punishment Theory, criminal sanctions are not intended purely as retribution (retributive), but possess functions of public protection, prevention (general & specific), perpetrator rehabilitation, and maintenance of legal order. (Muladi dan Barda Nawawi Arief, 2010) The imposition of penalties must consider the level of fault, position/office of the perpetrator, *modus operandi*, magnitude of accumulated profits, value of state losses, as well as its impact on the stability of public trust in the capital market. Because the capital market operates based on trust, proportional punishment is deeply required to create a strong deterrent effect.

Capital market manipulation (Article 91, 92, 93 in conjunction with Article 104 of the Capital Market Law) focuses on market integrity and the fairness of securities prices. Meanwhile, corruption offenses focus on unlawful acts/abuse of authority resulting in state financial losses. Not all capital market manipulation automatically constitutes corruption, unless all elements of the corruption offense are convincingly fulfilled. (Hamzah Hatrik, 2010) Anti-corruption criminal liability for capital market manipulation requires a 5-tier system of proof:

1. Tier 1: Proof of an unlawful act or manipulation in capital market transactions.
2. Tier 2: Establishment of the concrete role of each perpetrator (*dader*, *medepleger*, *uitdoener*, or *medeplichtige*).
3. Tier 3: Proof of culpable fault (*mens rea*).
4. Tier 4: Proof of the intent and realization of benefits for oneself, another person, or a corporation.
5. Tier 5: Proof of causality regarding state financial losses or state economic losses.

CONCLUSIONS AND RECOMMENDATIONS

Conclusion

Regulation of Prohibitions and Sanctions in Indonesian Capital Market Law, The regulations prohibiting capital market manipulation in Indonesia are normatively governed under Law Number 8 of 1995 concerning Capital Market (Capital Market Law), wherein Article 91 prohibits actions that create a false or misleading appearance regarding trading

activities, market conditions, or security prices; Article 92 prohibits a series of transactions intended to maintain, increase, or decrease security prices to influence other parties' decisions; Article 93 prohibits making materially false or misleading statements or information; and Article 104 establishes criminal sanctions of up to 10 years imprisonment and a maximum fine of IDR 15,000,000,000.00. These regulations serve to ensure fairness, orderliness, and transparency in the capital market. However, if such manipulation is committed through an abuse of authority that meets the elements of corruption and results in state financial losses, law enforcement is extended under the Anti-Corruption Law regime.

Anti-Corruption Criminal Liability for Capital Market Manipulation Perpetrators Causing State Financial Losses, Anti-corruption criminal liability for capital market manipulation perpetrators does not arise solely from investment losses or business risk. Rather, criminal liability can only be imposed if cumulative proof establishes an unlawful act or abuse of authority, *mens rea* on the part of the perpetrator, an intent to enrich or benefit oneself, another person, or a corporation, and a direct causal relationship between the manipulative conduct and the resulting state financial losses. This criminal liability can be imposed on both individuals (executives) and corporate entities under Article 20 of the Anti-Corruption Law and Supreme Court Regulation (PERMA) No. 13 of 2016, grounded in investigative audit findings by the Supreme Audit Agency (BPK) as a crucial basis for proving state losses to achieve state financial recovery and equitable law enforcement.

Recommendations

The Government, together with the House of Representatives (DPR) and the Financial Services Authority (OJK), is advised to revise and clarify the normative boundaries between high-risk investment transactions (business risk) and market manipulation that fulfills criminal elements, in order to provide clear legal certainty within capital market law. Furthermore, the OJK, the Attorney General's Office, and the Indonesian National Police need to enhance synergy and oversight effectiveness, as well as harmonize the application of criminal sanctions under the Capital Market Law and the Anti-Corruption Law, thereby closing legal loopholes frequently exploited by perpetrators without compromising the protection of the national investment climate.

Law enforcement agencies and the Supreme Audit Agency (BPK) are advised to establish precise investigative audit guidelines to verify the direct causal relationship between capital market manipulation acts and the resulting state financial losses, ensuring no confusion between market failure and corruption offenses. Additionally, law enforcement officials are recommended to further optimize the enforcement of corporate criminal liability and state asset recovery under Article 20 of the Anti-Corruption Law and Supreme Court Regulation (PERMA) No. 13 of 2016, ensuring that law enforcement not only penalizes individual actors but also targets corporate entities that benefit from or serve as instruments for the crime.

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