

**THE CORPORATE CRIME CASE ANALYSIS:
CORRUPTION CRIMES AT THE MARITIME SECURITY
AGENCY (BAKAMLA) RELATED TO SATELLITE AND DRONE
PROCUREMENT INVOLVING PT. MERIAL ESA**

Yosep Pasaribu^{1*}, Surya Nita², Anggi Aulina Harahap³

¹⁻³ Police Science Study Program, School of Strategic and Global Studies,
Universitas Indonesia, Depok, Indonesia

E-mail: ¹⁾ yosepjadi@gmail.com ²⁾ suryanita.sksgui@gmail.com

Abstract

Corporations also play an important role in the flow of change and growth in the world economy. The existence of corporations is also related to control of natural resources and global finance. However, it is not uncommon for corporations in their activities to commit deviant acts or crimes with various modus operandi. Crimes committed by corporations are often called corporate crimes. This research paper discusses one case of corporate crime that occurred in Indonesia. This is because the problem of corporate crime has recently become more common. One of them is related to a corruption case at the Bakamla, related to the procurement of satellites and drones involving PT Merial Esa. The verdict determined that PT Merial Esa was found guilty of breaching Article 5, paragraph (1), letter b of Republic of Indonesia Law Number 31 of 1999 on the Eradication of Corruption Crimes, as amended by Republic of Indonesia Law Number 20 of 2001, alongside violations of Article 55, paragraph (1), along with Article 64, paragraph (1) of the Criminal Code. In addition to the penalties, PT Merial Esa has been fined IDR 200 million and ordered to pay an additional compensation of IDR 126 billion. A significant challenge in addressing this matter has been the presence of an individual whose role remains unclear; their whereabouts are unknown, yet they are believed to be pivotal in illuminating this case. Moreover, the involvement of military personnel complicates matters further, as such cases necessitate specialized handling due to their unique regulations.

Keywords: Corporations, Corporate Crimes, Corruption

1. INTRODUCTION

Crime is a violation of norms as the first basic element of criminal law. Crime can also be referred to as human action, which is a violation of norms, which is felt to be detrimental, annoying, so it should not be tolerated. Crime is something that is not good and violates the existing legal order of society, and this is not something that should happen (Santoso & Zulfa, 2010). Crime has become a part of human life today, whenever and wherever crime can be committed by anyone against anyone.

Nowadays, there is something called corporate crime. In short, corporate crime is any action carried out by a corporation that can be subject to administrative, civil or criminal sanctions. Corporate crime is a new paradigm in the world of law today, so that the laws and regulations do not yet clearly state the boundaries of corporations and how they are held accountable (Shofte, 2002).

In connection with this, corporations were actually created to respond to the demands of economic and business development in the era of the increasingly broad and complex industrial revolution, especially the problem of limited funds to finance large industries and the problem of organizing cooperation between capital owners in

carrying out economic and business activities (Guntik & Yustiawan, 2022). Large projects require large amounts of funds, while the amount of individual capital is limited. In order for the project to be carried out, individual capital needs to be combined, and with the combination of capital it is also necessary to regulate the organization of cooperation (Luthan, 1994), which is then realized in the form of a corporation.

The existence of corporations in this modern era is not something new. Corporations began to develop along with the development of the industrial and business world. A corporation is defined as a legal entity, while legal entities themselves are often associated with the field of civil law (Djanim & Halim, 2018). In general, what is called a corporation is an organized collection of people and/or assets, whether they are legal entities or non-legal entities (MA, 2016). Furthermore, in its development, corporations apparently do not only operate in the field of economic activities, but now their scope has become wider because they can cover the fields of education, health, research, government, social, cultural and religious (Muladi & Priyatno, 2007). So that its existence becomes increasingly widespread and can dominate various aspects of human life.

Along with this, corporations in human life have many roles. Corporations in the development of their activities can increase economic growth through state income in the form of taxes, even foreign exchange, as well as providing extensive employment opportunities for the community (Shanty, 2017). Corporations also play an important role in the flow of change and growth in the world economy. The existence of corporations is also related to control of natural resources and global finance (Satria, 2016). Even today corporations dominate everyday life, especially with increasing privatization. It is no longer the state that provides needs, but corporations. Corporations can increase the wealth of the country and its workforce (Prasetyo, Ma'ruf, & Mashdurohatun, 2017).

However, it is not uncommon for corporations in their activities to commit deviant acts or crimes with various *modus operandi* (Shanty, 2017). Crimes committed by corporations are often called corporate crimes. In simple terms, corporate crime is an incident where a corporation commits a crime or to accommodate the proceeds of crime, hides assets resulting from criminal acts that are not touched by the legal process of criminal liability. There are many types of crimes that can be committed by a corporation, for example money laundering, corruption, environmental damage and many others. In this case, a corporate crime can basically cause physical, economic and social losses to society (Djanim & Halim, 2018).

In other words, often criminal acts committed by corporations will be detrimental, not only to society but also to the state (Tambunan, 2016). Every crime will cause loss of property, life or mental health to the victim of the crime. The losses that can be caused if a corporation commits a crime are financial losses for the parties involved, loss of jobs, disruption of the domestic economic system, and many others. For this reason, crimes committed by corporations should be eradicated, to avoid a number of losses for all parties involved.

In connection with this explanation, in this research paper we will discuss one case of corporate crime that occurred in Indonesia. This is because the problem of corporate crime has recently become more common. One of them is related to a corruption case at the Maritime Security Agency (Bakamla—*Badan Keamanan Laut*)

related to the procurement of satellites and drones involving PT Merial Esa. This case is quite complex, because it is not only corporations that are involved in corruption issues, but also involves the state military apparatus, namely members of the TNI (*Tentara Nasional Indonesia*—Indonesian National Army). Referring to this explanation, this research paper will analyze the case in more depth, along with the handling that has been carried out and the obstacles encountered in handling corporate crime issues involving the military apparatus.

Based on the explanation in the background above, the problem formulation in this research paper is: 1) What is the problem with the corporate corruption crime case involving PT Merial Esa?; 2) What is the form of legal accountability for corporate corruption crimes involving PT Merial Esa?; and 3) What are the obstacles in handling the problem of corporate corruption crimes involving PT Merial Esa?

2. LITERATURE REVIEW

2.1. Corporate Crime

In principle, crime is an actual problem in people's lives. Not only in Indonesia but also anywhere in the world, because crime is a universal problem. In fact, crime in reality occurs all the time and can be seen to be increasing, nowadays and the number of people committing crimes is increasing (Rajamuddin, 2014). Crime is evolving and diversifying at an increasing pace. As time progresses, many forms of crime are becoming more complex and challenging to manage. This includes the rise of transnational corporations and the growing prevalence of cybercrime, as well as corporate crimes committed by companies themselves.

This paper will focus on the topic of corporate crime. To fully understand the concept of corporate crime, it is essential first to grasp the definition of a corporation. A corporation is defined as a legal entity, a term often associated with civil law. The word "corporation" has its roots in the Latin term "*corporatio*" and is recognized in various languages as "*corporatie*," "corporation," and similar variants. This term derives from "*corporare*," which itself is linked to "*corpus*," meaning "body." Essentially, the concept of a corporation stems from the idea of "*corpus*," signifying the act of giving form or creating a body. In this context, "*corporatio*" can be interpreted as the product of collective human effort, essentially representing an entity that behaves as a person—a legal "person" created through human action rather than natural processes. A corporation, therefore, can be viewed as an association or organization that is treated as an individual under the law, possessing rights and obligations and capable of initiating or facing legal action in a court of law (Djanin & Halim, 2018).

Corporations were basically created to answer the demands of economic and business development in the increasingly broad and complex era of the industrial revolution, especially the problem of limited funds to finance large industries and the problem of organizing cooperation between capital owners in carrying out economic and business activities. Large projects require large amounts of funds, while the amount of individual capital is limited. In order for the project to be carried out, individual capital needs to be combined, and with the combination of capital it is also necessary to regulate the organization of cooperation (Luthan, 1994), which is then realized in the form of a corporation.

The presence of corporations has become integral to the development landscape in Indonesia, particularly in the realms of economic progress and modernization. In this modernization process, especially within the economic sector, corporations are often viewed as a vital characteristic or necessity for an industrial society. Their roles in advancing industrialization and trade are significant. Moreover, corporations contribute substantially to economic growth and national development through various channels. They generate state revenue via taxes, enhance foreign exchange earnings, and create extensive employment opportunities for the community. It is anticipated that corporate investments will also support and nurture traditional businesses that provide jobs, thereby enhancing community welfare and progressing towards national development goals, which aim to establish a fair and prosperous society that balances material and spiritual well-being. As corporations engage in these activities, it is crucial that they operate in accordance with existing regulations and refrain from actions that could harm society and hinder development efforts.

From this explanation, it can be said that what is called a corporation is a combination of people who, in legal relations, act together as a separate legal subject, a personification. A corporation is a legal entity that has members, but has its own rights and obligations separate from the rights and obligations of its respective members (Luthan, 1994). Meanwhile, as previously mentioned, crime is a human act that is not good and violates the existing legal order of society (Santoso & Zulfa, 2010). So, in simple terms, corporate crime refers to wrongful acts carried out by individuals who are part of a legal entity, such as a corporation or company. Essentially, it encompasses illegal activities that are perpetrated by these organizations (Djanim & Halim, 2018).

Corporate crime refers to actions or omissions undertaken by an organization or legal entity, conducted through its representatives, that aim to generate profit or are expected to do so. When these activities violate laws that safeguard public order, they can be classified as criminal acts. Such offenses may cause harm to individuals or society as a whole, leading to criminal penalties imposed on the organization or legal entity through the appropriate legal procedures (Fuady, 2013). Corporate crime is part of white-collar crime, but more specific. It is an organized crime involving a complex and deep relationship between a chief executive and a manager in one hand. It can also be formed as a family company, but remains a white-collar crime (Muladi, 1992)

In this context, corporations can engage in various types of criminal activities, including corruption, embezzlement, and money laundering. Additionally, they may be involved in environmental destruction, tax evasion, invoice fraud, and other illicit acts (Suhartati, Sahetapy, & Christianto, 2018). This aligns with Kristian's insights (2013), highlighting that corporations often engage in criminal activities. Examples include environmental pollution, engaging in unfair business practices, and committing economic crimes such as corruption and money laundering—both actively and passively. These offenses not only harm individuals and communities but also pose significant risks to the state. Additionally, corporate criminal acts can be classified as transnational organized crimes, as they typically involve systematic operations and processes that create conducive environments for such activities. This is in line with what was expressed by Kristian (2013), that criminal acts that are often committed by a corporation, for example, are corporations committing environmental pollution, carrying out unfair business or even committing a criminal act in the economic sector such as a criminal act of corruption or a criminal act of money laundering (criminal acts

of corruption and criminal acts of money laundering passively or even actively) which not only harm individuals or the wider community but also have the potential to cause losses to the State. Apart from that, corporate criminal acts can also be categorized as transnational organized crimes. It is said that because corporate crime involves a systematic system and its elements are very conducive.

Corporate crime has emerged as a prominent issue in today's global landscape. The challenges associated with identifying and addressing such crimes highlight their complex legal nature. Various factors contribute to the prevalence of these offenses. According to Clinard and Yeager, corporations are often driven to commit crimes by rational, profit-seeking motives, alongside an organic model that underscores the intricate relationships between a company and its economic and political surroundings—such as suppliers, competitors, consumers, the government, and other relevant stakeholders. The pursuit of maximum profit stands out as the most compelling motivator, often leading large industries to engage in unethical practices, such as price manipulation, stifling competition, or producing subpar products (Luthan, 1994).

Further explanation of corporate crime, based on the opinion of Steven Box, states the types and characteristics of criminal acts committed by corporations, which are basically different from criminal acts or conventional crimes in general. Steven Box states that the scope of corporate criminal acts includes (Hatik, 1995):

- a) Crimes for corporation, it is crimes or legal violations committed by corporations in achieving certain businesses and goals in order to gain profit.
- b) Criminal corporation, is a corporation whose sole aim is to commit crimes. (in this case the corporation is only a cover for a criminal organization).
- c) Crimes against corporations, namely crimes against corporations such as theft or embezzlement of corporate property, in this case the corporation is the victim.

In addition, when corporations engage in criminal activities, the potential consequences can far exceed those associated with individual offenses (Anjari, 2016). Such corporate crimes can lead to significant financial losses for affected parties, result in job losses, disrupt the domestic economy, and create a host of other negative repercussions. Therefore, it is imperative to address and eliminate crimes perpetrated by corporations to mitigate these widespread harms. Moreover, corporate crime has adversely impacted various sectors, including (Kristian, 2013):

- a) Economic Losses

It is evident that corporate crime often results in significant economic losses, far surpassing those associated with ordinary crimes. In particular, corruption cases reveal that the financial repercussions of corporate misconduct typically involve a greater number of entities than just individual legal subjects.

- b) Health and Safety Losses

This section addresses the accountability of corporations for incidents that lead to thousands of deaths and disabilities globally. Criminal activities perpetrated by these entities pose significant risks to life and well-being. Such crimes may arise from defective products or from unsafe practices during the production process, ultimately endangering the broader community, particularly consumers and employees associated with these corporations.

- c) Social and Moral Losses

In addition to the economic, health, and mental losses associated with corporate crime, there are significant detriments to social and moral values. Such crimes erode

public trust in business practices, casting doubt on the integrity of the corporate sector. The magnitude of these offenses is concerning not only for their financial ramifications but also for their profoundly damaging effects on the moral standards that guide business behavior. When corporate crime is woven into the fabric of legitimate business operations, it fundamentally undermines public confidence in the entire business system.

2.2. Forms of Corporate Crime: Corruption

Corruption is a complex social phenomenon (Dimant & Tosato, 2017) This is behavior that abuses authority or power, deviates from legal rules and norms or morals, and destroys or breaks trust. The elements inherent in corruption are the act of taking, hiding, embezzling state or community (public) or company assets, against legal and applicable norms, abuse of power or authority, or the trust that exists in oneself, for the sake of personal interests, family, or other people and their corporations, harming other parties, society and the country (Sumaryati, Suyadi, & Hastuti, 2019).

Corruption is a criminal act, namely a situation where a person unlawfully commits an act of enriching himself or another person in a corporation which can harm the state's finances or the state's economy (Article 2 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes before it is replaced with Law No. 20 of 2001). This is in line with what was expressed by Kartini Kartono (2003), where what is called corruption is the behavior of individuals who use authority and position to gain personal gain, harming the public and state interests. So, corruption for personal gain, mismanagement of power, for personal gain, mismanagement of state resources by using formal authority and power (for example by reason of law and the power of arms) to enrich oneself. With these actions, as a whole, corruption can have an impact on the economy, weakening the government's capacity and ability in development programs to improve the economy, increasing state debt, reducing state income, reducing productivity (Nugraheni, Lestari, & Sukini, 2017), where these phenomena will have an impact on the rate of economic growth in the country concerned.

Corruption is a behavior that has destructive consequences for numerous stakeholders. Under Law No. 31 of 1999, in conjunction with Law No. 20 of 2001, which addresses the Eradication of Corruption Crimes, corruption encompasses various harmful activities, including actions detrimental to state finances, bribery, embezzlement, extortion, fraudulent conduct, conflicts of interest in procurement, and the acceptance of illicit benefits (Sumaryati, Suyadi, & Hastuti, 2019). This issue extends across many sectors of society, with state officials often being the most notorious offenders. However, the potential for corruption exists not only among government representatives but also within the general public, the business community, educational institutions, and beyond. A contemporary challenge has emerged as acts of corruption increasingly intersect with corporate crime, where such illicit activities are perpetrated by legal entities in the form of corporations.

3. RESEARCH METHODS

This research employed a systematic literature review as the primary method of data collection. This approach involves gathering and understanding various theories from a range of literature pertinent to the research topic. The process entails searching

for and synthesizing information from diverse sources, such as books, journals, and previously conducted studies. It is crucial that the materials sourced from the library are critically analyzed and explored in depth to effectively support the propositions and ideas presented (Miza Nina Adlini, 2022).

Literature study is an integral aspect of research. Through this method, researchers can uncover the theoretical foundations underlying their specific problems and areas of inquiry. Additionally, it allows for the identification of similar or related studies that have been undertaken in the past. By engaging in literature studies, researchers can effectively harness all relevant information and insights to enrich their own work (Purwono, 2008).

4. RESULTS AND DISCUSSION

Referring to the previous explanation, this research paper discusses one of the corporate crime cases that occurred in Indonesia. The focus of the analysis is on a case of corporate corruption. As previously discussed, corruption can manifest within corporate settings, where companies themselves often take center stage as offenders. Over time, instances of corruption have been on the rise, with increasingly sophisticated methods emerging. One particularly alarming trend is the prevalence of corruption perpetrated specifically by corporations. In statutory regulations, basically the responsibility for criminal acts of corruption by corporations is stated in the law No. 31 of 1999 jo, as amended into Law no. 20 of 2001 concerning the Eradication of Corruption Crimes. Article 2 paragraph 1, states that unlawful acts of enriching oneself, or another person, or a corporation, can harm the State's finances or the State's economy. Then, according to the provisions of Law Number 20 of 2001 in Article 20, it states that:

- a) In cases of corruption involving a corporation, either directly or indirectly, criminal charges may be filed against the corporation and/or its management.
- b) A corporation is deemed to have committed a criminal act of corruption when individuals acting within its corporate context—whether through an employment relationship or another association—engage in unlawful activities, either independently or collaboratively.
- c) When criminal charges are initiated against a corporation, its management takes on the role of representation.
- d) This management may, if necessary, appoint another individual to represent the corporation in legal matters.
- e) The judge has the authority to require the management to appear in court personally, and can issue orders to ensure their attendance.
- f) In such cases, formal notices to appear in court are delivered directly to the management at their home or office.
- g) The primary penalty that can be imposed on a corporation in these situations is a financial fine, which can be increased by up to one-third of the original amount.

This research paper addresses a corruption case involving PT Merial Esa, which has been identified as a suspect in connection with the procurement of satellites and drones for the Maritime Security Agency (Bakamla). Below, we present the findings from our analysis of this corporate corruption crime case (Rachman & Krisiandi, 2019):

4.1. Addressing the corporate corruption case involving PT Merial Esa

The PT Merial Esa corporate crime case is a notably intricate matter that has undergone a lengthy and convoluted process in Indonesia. It originated several years ago, but its complexities ensure that it will remain a topic of discussion into early 2024. This ongoing discourse is particularly fueled by the recent action of the Corruption Eradication Commission, which reportedly deposited a total of IDR 126 billion in replacement funds into the state treasury at the beginning of 2024. These funds are linked to a corruption case involving PT Merial Esa and Bakamla—the Maritime Security Agency in Indonesia, and have been disbursed in stages, amounting to IDR 92.9 billion, IDR 22.5 billion, and IDR 10.6 billion (Ernes, 2024).

PT Merial Esa has been identified as a suspect in a corruption case linked to an alleged bribery scandal involving the management of the Bakamla budget for satellite and drone procurement projects under the 2016 amended state budget (APBN-P). This investigation, which began in 2016, has led to the determination of the company's involvement in the corporate corruption issue. Below is the key chronology of the case.

- a) The case is known from the OTT (*Operasi tangkap Tangan*—Hand Arrest Operation) carried out by the KPK (*Komisi Pemberantasan Korupsi*—Corruption Eradication Commission)

On December 14, 2016, the Corruption Eradication Commission (KPK) conducted a Hand Arrest Operation, leading to the detention of several officials from Bakamla alongside individuals from the private sector. During this operation, the KPK successfully confiscated IDR 2 billion. Following a sting operation, the Commission identified four individuals as suspects: Eko Susilo Hadi, Bakamla's Deputy for Information, Law, and Cooperation; Esa Fahmi Darmawansyah, Director of PT Merial; and two private individuals, Hardy Stefanus and Muhammad Okta. Each of these four suspects faced sentencing at different times by the Panel of Judges at the Jakarta Corruption Court.

- 1) Eko Susilo Hadi was sentenced on July 17 2017: Eko Susilo Hadi was sentenced to 4 years and 3 months in prison. Eko is also required to pay a fine of IDR 200 million subsidiary to 2 months in prison. Eko was proven to have received bribes from PT Melati Technofo Indonesia. Eko was proven to have received 10,000 US dollars, 10,000 Euros, 100,000 Singapore dollars and 78,500 US dollars.
- 2) Fahmi Darmawansyah (FD) was sentenced on May 24 2017: He was also required to pay a fine of IDR 150 million subsidiary to 3 months in prison. According to the judge, Fahmi was proven to have bribed a number of Bakamla officials, including Eko Susilo. The bribe was related to the satellite monitoring procurement project at Bakamla. Then Bambang Udoyo, as Director of Data and Information at the Deputy for Information, Law and Cooperation at Bakamla, was also bribed with 105,000 Singapore dollars. Furthermore, the Head of Bakamla's Planning and Organization Bureau, Nofel Hasan, amounted to 104,500 Singapore dollars, and Tri Nanda Wicaksono as Head of the Bakamla Secretariat Administrative Subdivision amounted to Rp. 120 million. Giving money to win the company owned by Fahmi, namely PT Melati Technofo Indonesia, in the procurement of satellite monitoring.
- 3) M Adami Okta and Hardy Stefanus: Both are former employees of PT Melati Technofo Indonesia. Muhammad Adami Okta and Hardy Stefanus, sentenced to

1.5 years in prison on May 17 2017). Both of them are also required to pay a fine of IDR 100 million subsidiary to 6 months in prison.

b) Another suspect was found

As the investigation into the case progressed, the Corruption Eradication Commission identified three individuals as suspects: Fayakhun Andriadi, a former member of Commission I of the DPR; Nofel Hasan, the Head of Bakamla's Planning and Organization Bureau; and Erwin Syaf Arief, the Managing Director of PT Rochde and Swarz Indonesia. Two of these suspects have since been sentenced by the panel of judges at the Jakarta Corruption Court on separate occasions.

c) PT Merial Esa was named a suspect.

Following a thorough review of the facts from the previous trial, the KPK uncovered evidence of corporate involvement in the matter. It has identified Fahmi Darmawansyah's company, PT Merial Esa (ME), as a suspect. The company allegedly transferred a total of \$911,480 to Fayakhun Andriadi in several installments. These funds were sent by PT Merial Esa's director, Fahmi Darmawansyah, in four separate transactions through accounts located in Singapore and Guangzhou, China. PT Merial Esa is a corporation poised to undertake a satellite monitoring project for Bakamla, having been allocated funding in the revised 2016 state budget (*APBN-P*).

d) Legal consequences of PT Merial Esa as a suspect in corporate corruption

PT Merial Esa, represented by Fahmi Darmawansyah as Director of PT Merial Esa, was charged with giving bribes to a number of DPR officials and Bakamla. The prosecutor said that the bribe was given to ensure that PT Merial Esa received the satellite and drone monitoring project at Bakamla. As a result of the actions taken, PT Merial Esa was sentenced to pay a fine of IDR 200 million and pay an additional penalty in the form of compensation amounting to IDR 126 billion in a bribery case in a procurement project at Bakamla in 2016. This decision refers to proof that PT Merial Esa was guilty of violating Article 5 paragraph (1) letter b Republic of Indonesia Law Number 31 of 1999 concerning Eradication of Corruption Crimes as amended by Republic of Indonesia Law Number 20 of 1999 2001 concerning Amendments to Republic of Indonesia Law Number 31 of 1999 concerning the Eradication of Corruption Crimes in conjunction with Article 55 paragraph (1) 1st of the Criminal Code in conjunction with Article 64 paragraph (1) (detikNews, 2022).

4.2. Types of Criminal Liability in the PT Merial Esa corporate corruption case

Criminal acts can be committed by individuals, legal entities, or corporations. This highlights the fact that corporations, as legal entities, are also capable of wrongdoing. Salman Luthan (1994) elaborated on this concept, explaining that a corporation, as a legal subject, possesses rights and obligations akin to those of natural persons. Consequently, corporations can engage in various legal activities, including conducting business transactions, entering into credit agreements, and owning property and assets. They also have the right to initiate or defend against lawsuits. However, there are certain legal actions that corporations cannot pursue, such as marriage and inheritance, setting them apart from individuals as legal entities.

The issue of corporations as perpetrators of business crimes finds its foundation in Law No. 20 of 2001, which amends Law No. 31 of 1999 regarding the Eradication of Corruption Crimes—commonly known as the Corruption Law. Notably, Article 1, point 3 of this legislation states, "Every person is an individual or includes a corporation."

This provision indicates that the definition of a perpetrator of corruption encompasses not only individuals but also corporations that have inflicted harm on state finances. In essence, both natural persons and legal entities, such as corporations, can be held accountable for acts of corruption (Mukti & Setiyawan, 2014).

Corporate responsibility for acts of corruption is articulated in Article 20 of the Corruption Eradication Law, which outlines at least seven different aspects of this responsibility, as previously noted. Essentially, this article illustrates that corporations can be held accountable for criminal acts of corruption committed by individuals who are acting within the scope of their work or other relationships within the corporate environment, whether acting independently or in concert (Saputra, 2015).

According to this provision, the responsibility for these acts falls on the corporation itself and/or its management. This form of responsibility is characterized as cumulative-alternative, evident from the phrasing "corporation and/or management" in Article 20, paragraph (1). Consequently, legal action for corruption committed on behalf of a corporation can be pursued against the "corporation and management" collectively, or against either the "corporation" alone or "management" alone (Saputra, 2015).

Still referring to the same provisions, it is stated that in Article 20, especially paragraph (7), corporations can only be sentenced to a basic penalty in the form of a fine with the maximum provision being that it can be increased by 1/3. However, at the same time, in addition to fines, corporations can also be punished with confiscation of tangible or intangible movable property, immovable property used for proceeds obtained from criminal acts of corruption, including companies owned by convicts where the criminal act of corruption was committed, as well as from goods that replace said goods, and closure of the business or part of the company for a maximum period of 1 (one) year (vide Article 18 paragraph (1) letters a and c). Apart from that, in relation to the imposition of additional sanctions, in Law no. 7 Drt/1955 concerning Economic Crimes is also known as a form of sanction in the form of disciplinary action, including (Saputra, 2015):

- Placement of the company under supervision
- Obligation to pay security deposit
- Obligation to do what was neglected without the right or to cancel what was done without the right; And
- Obligation to pay a certain amount of money as disgorgement of profits

As previously noted, one instance of alleged corporate criminal activity centers around PT. Merial Esa, which is implicated in a corruption case involving bribery of Bakamla officials related to a satellite monitoring project funded by the 2016 Revised APBN. In this context, criminal actions linked to corporate management, including the accountability of commissioners who supervise the directors, can indeed be pursued. It is important to recognize that the responsibilities and actions of a company's directors often stem from initiatives taken by the board of directors or directives issued by the board of commissioners and/or shareholders (Fadeli, 2022). This structure is crucial in determining corporate liability for criminal acts, as these offenses are rarely committed by just one or two individuals. Instead, they typically involve those who collectively control the corporation as a cohesive entity.

In examining the role of corporations as creators and the framework of corporate criminal liability, three models emerge (Priyatno, 2003):

- a) Corporate managers accountable as both perpetrator and responsible for the crime

This accountability framework seeks to limit the criminal acts of corporations to individual actions. In this context, corporate management assumes responsibilities that are essentially those of the corporation itself. When managers fail to fulfill these obligations, they face the threat of criminal penalties. This approach is rooted in the belief that corporations themselves cannot be held accountable for legal violations; rather, it is the management who is deemed to have committed the offense (Tawalujan, 2012).

b) Corporate as perpetrator and corporate managers responsible for the crime

This accountability system is characterized by the recognition that arises in the formulation of the law that a criminal act can be committed by a union or business entity (corporation), but the responsibility for this falls on the management of the business entity (corporation). Gradually, criminal responsibility shifted from management members to those who ordered it, or were prohibited from carrying it out if they neglected to truly lead. In this accountability system, corporations can be the perpetrators of criminal acts, but those responsible are the management members, as long as it is stated explicitly in the regulations (Tawalujan, 2012).

c) Corporate as perpetrator and corporate responsible for the crime

This accountability model is designed to focus on the development of the corporation itself. It has become clear that, in certain cases, simply holding administrators accountable is inadequate. In instances of economic offenses, the imposition of fines on management may not serve as an effective deterrent; these fines can pale in comparison to the profits gained from unlawful activities or the losses incurred by society and competitors. Consequently, the financial consequences often do not outweigh the benefits of the misconduct. Furthermore, convicting management does not guarantee that the corporation will refrain from engaging in illegal activities in the future. Therefore, it's essential to extend criminal liability to corporations and their executives as well. (Tawalujan, 2012).

There's also absolute liability model, often referred to as strict liability, which is commonly understood as liability without fault. This principle dictates that if an individual's actions result in harm to others, they can be held legally accountable, regardless of any personal wrongdoing. In the context of corporate accountability, this means that one does not necessarily need to examine the specific errors made by the individual responsible; rather, the focus can be placed on the principle of *andagium res ipsa loquitur*—meaning "the facts speak for themselves" (Setiyono, 2009). Consequently, under strict liability, the question of whether the perpetrator was at fault becomes irrelevant. This theory primarily concentrates on the occurrence of prohibited actions (*actus reus*) and the resulting harm. Thus, if a corporation engages in a criminal act, the grounds for legal action are simply based on the established facts surrounding the harm suffered by victims due to the corporation's conduct.

This explanation highlights the nature of legal accountability for corporate corruption, particularly in the case of PT Merial Esa. Here, the corporation is both the perpetrator and the entity held responsible for its actions. This is evidenced by the fact that PT Merial Esa was ordered to pay a fine of IDR 200 million, in addition to an extensive compensation penalty of IDR 126 billion related to a bribery case linked to a procurement project at Bakamla in 2016 (detikNews, 2022). The financial burdens, including these additional fines and penalties, rest entirely on the corporation, which is obligated to settle them. PT Merial Esa is required to pay the imposed fines within one

month following the final legal decision. Should it fail to do so, the prosecutor is authorized to confiscate its assets (detikNews, 2022).

Apart from that, to the charges filed against the corporation, the responsibility for the corruption case involving PT Merial Esa has also been assigned to its management. Specifically, Fahmi Darmawansyah, the Director of PT Merial Esa, faces accusations of bribing several officials from the DPR and Bakamla. This highlights that the corporation, as the entity responsible for the misconduct, is held accountable, while management is also implicated. As previously discussed, this accountability framework underscores the recognition within legal statutes that criminal acts can be committed by organizations or corporate entities. However, it is the management of these entities that ultimately bears the responsibility. Over time, the focus of criminal accountability has shifted from individual members of management to those who authorized the actions or failed to prevent them through proper leadership. Under this system, while corporations can indeed commit offenses, it is the management members who are held accountable, provided this is explicitly outlined in the regulations (Tawalujan, 2012).

4.3. Obstacles in handling the PT Merial Esa corporate corruption case

Addressing the issue of corporate corruption is undoubtedly a challenging task. In the case of PT Merial Esa, one significant hurdle was the difficulty in locating the elusive figure of Ali Habsyi, also known as Ali Fahmi. This individual, as reported, served as a special staff member focused on planning and budgeting at Bakamla RI (Kahar & et al., 2023). At that time, Vice Admiral Arie Soedewo, the head of Bakamla, seemingly overlooked the importance of formally designating Ali Habsyi as a resource person in the areas of planning and procurement of goods and services. Back in March 2016, when Vice Admiral Soedewo took on his role as head of Bakamla, Ali had approached him, citing his extensive experience at the Ministry of Defense and the National Development Planning Agency (Bappenas). Acknowledging Ali's background, Arie eventually appointed him as a resource person to assist with his responsibilities at Bakamla. However, it is worth noting that Ali's involvement was confined solely to planning and procurement tasks (Rachman & Krisiandi, 2019).

However, according to Arie, he only found out recently that Ali was handling Bakamla's budget proposal in the DPR. Arie also just learned that Ali received money from PT Merial Esa regarding the budget proposal. The judge then asked whether Arie knew where Ali was during the trial because, according to the judge, Ali's whereabouts were mysterious because no one knew. It is suspected that Ali was involved in this case (Rachman & Krisiandi, 2019).

Several reports indicated that, prior to 2020, the Corruption Eradication Commission (KPK) had called upon Ali Fahmi, also referred to as Fahmi Al Habsyi, who serves as the Main Director of PT Viva Kreasi Investindo and is a former politician of the PDIP, to testify as a witness. However, there is no further information regarding the development of the case. In fact, it is known that Ali Fahmi is often mentioned in trials, where he is said to have received money from the Managing Director of Merial Esa, Fahmi Darwansyah, which money was distributed to a number of DPR members to pass the Bakamla project budget (Diky Anandya, 2024).

Through monitoring the news, it can be said that Ali Fahmi's position in the corruption case at Bakamla and PT Merial Es Aini is still unclear. Even though Ali is considered a key witness in the arrangement of projects at Bakamla in 2016. Because he

is often mentioned by parties who have been questioned during the case handling process, and is often called to serve as a witness. However, its existence is still a mystery to this day.

One additional challenge that complicates this case further is the participation of domestic military officials as individuals engaged in corrupt activities. In this case, the Bakamla personnel involved in the alleged corruption case in the procurement of Bakamla satellites and drones with PT Merial Esa are Nofel Hasan, Head of Bakamla's Planning and Organization Bureau, Eko Susilo Hadi who is Bakamla's Deputy for Information, Law and Cooperation. Head of the Bakamla Planning and Organization Bureau, Nofel Hasan, is the suspect who received a bribe of 104,500 US dollars. Another name revealed as the recipient of bribes was Tri Nanda Wicaksono, Head of TU Sestama Bakamla, worth 120 million rupiah. Apart from that, there is also First Admiral Bambang Udoyo, as a suspect in his capacity as Bakamla Data and Information Director and Commitment Making Officer (ICW, 2017).

In addressing the corruption case within the military context, it was necessary to conduct the legal proceedings separately due to Law Number 31 of 1997 concerning Military Justice. This law mandates that legal actions involving members of the Indonesian National Armed Forces (TNI) be tried in military courts, overseen by military police or military prosecutors. However, this legal framework conflicts with Law Number 30 of 2002, Article 42, which empowers the Corruption Eradication Commission (KPK) to coordinate and oversee the investigation and prosecution of corruption offenses committed by individuals subject to both military and civilian justice. These two laws represent special legal provisions in the Indonesian legal system and have sparked debates over which should take precedence when TNI members are implicated in corruption (ICW, 2017). While the events involving Bakamla may not strictly fall within the realm of corporate crime, their connection to PT Merial Esa can complicate the overall resolution of the case due to this duality in legal standards.

5. CONCLUSION

Building on the explanation provided earlier, this research paper concludes that corporate crime has emerged as a significant concern, particularly in Indonesia. The alarming increase in cases of corporate crime, notably corruption, underscores this issue. A high-profile example is the case involving PT Merial Esa, which has garnered considerable public attention due to the complexity of its implications, especially as it connects to public organizations operating within the military sector, such as Bakamla. Further, in accordance with research problem, several conclusions are drawn. First, the research found that PT Merial Esa must be held accountable for its conduct on corporate corruption crime. The verdict determined that PT Merial Esa was found guilty of breaching Article 5, paragraph (1), letter b of Republic of Indonesia Law Number 31 of 1999 on the Eradication of Corruption Crimes, as amended by Republic of Indonesia Law Number 20 of 2001, alongside violations of Article 55, paragraph (1), along with Article 64, paragraph (1) of the Criminal Code. In addition to the penalties, PT Merial Esa has been fined IDR 200 million and ordered to pay an additional compensation of IDR 126 billion.

Second, research findings show that the form of legal accountability for corporate corruption crimes involving PT Merial Esa includes its role as the perpetrator and the

entity held responsible for its actions. While the corporate entity itself is held responsible, the management must also face consequences for their actions. Third, several obstacles also identified in handling the problem of corporate corruption crimes involving PT Merial Esa. A significant challenge in addressing this matter has been the presence of an individual whose role remains unclear; their whereabouts are unknown, yet they are believed to be pivotal in illuminating this case. Moreover, the involvement of military personnel complicates matters further, as such cases necessitate specialized handling due to their unique regulations.

This analysis underscores the need for future investigations to undertake a more thorough examination of similar cases. A comprehensive study is essential for a deeper understanding of the complexities surrounding corporate crime in Indonesia today, particularly from a legal perspective. It is anticipated that this thorough examination will enhance our grasp of these intricate issues.

REFERENCES

- Anjari, W. (2016). Pertanggungjawaban Korporasi Sebagai Pelakutindakpidana. *Jurnal Ilmiah WIDYA Yustisia*, 116 121.
- detikNews. (2022, April 22). *PT Merial Esa Divonis Bayar Denda Rp 200 Juta, KPK Pikir-pikir Banding*. Retrieved from detikNews: <https://news.detik.com/berita/d-6041594/pt-merial-esa-divonis-bayar-denda-rp-200-juta-kpk-pikir-pikir-banding>
- Diky Anandya, d. (2024). *Laporan Evaluasi Kinerja Komisi Pemberantasan Korupsi Periode 2019 - 2024*. Jakarta Selatan: Indonesia Corruption Watch.
- Dimant, E., & Tosato, G. (2017). Causes and effects of corruption: What has past decade's empirical research taught us? A Survey. *Journal of Economics Survey*, 335-356.
- Djanim, R., & Halim, P. (2018). *Kejahatan Korporasi Dan Pertanggungjawaban Pidana "KaJian terhadap Bentuk Baru Pelaku Kejahatan di Indonesia"*. Jakarta: UM Jakarta Press.
- Ernes, Y. (2024, April 26). *KPK Setor Rp 126 M Uang Pengganti PT Merial Esa di Kasus Bakamla ke Negara*. Retrieved from detikNews: <https://news.detik.com/berita/d-7311613/kpk-setor-rp-126-m-uang-pengganti-pt-merial-esa-di-kasus-bakamla-ke-negara>
- Fadeli, M. N. (2022). Pemegang Saham Selaku Subjek Hukum Pidanaan. *Jurnal Juristic*, 3(3).
- Fuady, M. (2013). *Teori-Teori Besar (Grand Theory) Dalam Hukum*. Jakarta: Kencana.
- Guntik, D. S., & Yustiawan, D. G. P. (2022). Corporations As Whistleblowers In The Crime Of Defamation Based On The Electronic And Transaction Information Act. *Policy, Law, Notary and Regulatory Issues (POLRI)*, 1(1), 65–73. <https://doi.org/https://doi.org/10.55047/polri.v1i1.43>
- Hatrik, H. (1995). *Asas Pertanggungjawaban Korporasi dalam Hukum Pidana Indonesia (Strict Liability dan Vicarious Liability)*. Jakarta: Raja Grafindo Persada.
- ICW. (2017, April 16). *In-Depth Analysis: Bakamla Bukti Lemahnya KPK Menjerat Aparat Militer*. Retrieved from ICW: <https://antikorupsi.org/id/article/depth-analysis-bakamla-bukti-lemahnya-kpk-menjerat-aparat-militer>

- Kahar, M. P., & et al. (2023). elik Suap dan Gratifikasi dalam Tindak Pidana Korupsi: Studi Kasus Putusan Hakim dalam Praktik Penegakan Hukum. *Jurnal Anti Korupsi*, 13(1), 46-58.
- Kartono, K. (2003). *Patologi Sosial*. Jakarta: Raja Grafindo Persada.
- Kristian. (2013). Urgensi Pertanggungjawaban Pidana Korporasi. *Jurnal Hukum dan Pembangunan*, 585-586.
- Luthan, S. (1994). Anatomi Kejahatan Korporasi dan Penanggulangannya. *Jurnal Hukum*, 2(1).
- MA. (2016). *Peraturan Mahkamah Agung Republik Indonesia Nomor 13 Tahun 2016 Tentang Tata Cara Penanganan Perkara*. Retrieved from Mahkamah Agung.
- Miza Nina Adlini, d. (2022). Metode Penelitian Kualitatif Studi Pustaka. *Jurnal Edumaspul*, 6(1).
- Mukti, W. B., & Setiyawan. (2014). Pertanggungjawaban Korporasi Dalam Tindak Pidana Korupsi. *Rechstaat: Jurnal Ilmu Hukum*.
- Muladi. (1992). *Bunga Rampai Hukum Pidana*. Bandung.
- Muladi, & Priyatno, D. (2007). *Pertanggungjawaban Pidana Korporasi*. Kencana Prenada Media Group.
- Nugraheni, H., Lestari, T. W., & Sukini. (2017). *Mahasiswa Pelopor Gerakan Antikorupsi*. Yogyakarta : Deepublish.
- Prasetyo, R. T., Ma'ruf, U., & Mashdurohatun, A. (2017). Tindak Pidana Korporasi Dalam Perspektif Kebijakan Formulasi Hukum Pidana. *Jurnal Hukum Khaira Ummah*, 12(4).
- Priyatno, D. (2003). *Kebijaksanaan Legeslasi Tentang Sistem Pertanggungjawaban Pidana Korporasi Indonesia*. Bandung: Utomo.
- Purwono. (2008). Studi Kepustakaan. *Info Persadha*, 6(2).
- Rachman, D. A., & Krisiandi. (2019, Maret 1). *Perjalanan Kasus Bakamla, dari OTT KPK hingga Dijeratnya Korporasi*. Retrieved from Kompas: <https://nasional.kompas.com/read/2019/03/01/21023141/perjalanan-kasus-bakamla-dari-ott-kpk-hingga-dijeratnya-korporasi?page=all>
- Rajamuddin, A. (2014). Tinjauan Kriminologi terhadap Timbulnya Kejahatan yang Diakibatkan oleh Pengaruh Minuman Keras di Kota Makassar . *Jurnal Al-daulah*.
- Santoso, T., & Zulfa, E. A. (2010). *Kriminologi*. Jakarta: Raja Grafindo Perkasa.
- Saputra, R. (2015). Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Korupsi . *Jurnal Cita Hukum, FSH UIN Syarif Hidayatullah Jakarta* , 269-288.
- Satria, H. (2016). Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Sumber Daya Alam. *Mimbar Hukum*, 28(2), 288-300.
- Setiyono. (2009). *Kejahatan Korporasi Analisis Viktimologi dan Pertanggungjawaban Korporasi Dalam Hukum Pidana Indonesia*. Malang: Bartyumedia.
- Shanty, L. (2017). Aspek Teori Hukum dalam Kejahatan Korporasi. *Pakuan Law Review*, 3(1).
- Shofte, Y. (2002). *Pelaku Usaha, Konsumen Dan Tindak Pidana Korporasi*. Jakarta : Ghalia Indonesia.

-
- Suhartati, Sahetapy, E. L., & Christianto, H. (2018). *Buku Ajar: Anatomi Kejahatan Korporasi*. Surabaya: PT Revka Petra Media.
- Sumaryati, Suyadi, & Hastuti, D. (2019). *Pendidikan Antikorupsi Dalam Keluarga, Sekolah, Dan Masyarakat*. Yogyakarta: UAD PRESS.
- Tambunan, M. P. (2016). Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Pencucian Uang. *Mimbar Keadilan, Jurnal Ilmu Hukum*, 111-128 .
- Tawalujan, J. (2012). Pertanggungjawaban Korporasi Terhadap Korban Kejahatan. *Lex Crimen*, 1(3).

Copyrights

Copyright for this article is retained by the author(s), with first publication rights granted to the journal.

This is an open-access article distributed under the terms and conditions of the Creative Commons Attribution license (<http://creativecommons.org/licenses/by/4.0/>).