



Analysis of the Application of Indonesian Corruption Law to State-Owned Banks According to the Principle of Separate Legal Entity

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Abstract

To this day, there remains a difference of opinion among legal practitioners regarding whether the assets of State-Owned Enterprises (SOEs) fall under the regime of state finances. The view that considers the administration of SOEs as part of state finances places financial crimes in state-owned banks under the category of corruption. On the other hand, another view emphasizes the principle of separate legal entity in recognizing state-owned banks as independent legal entities, thereby classifying financial crimes in these banks as banking crimes. This divergence leads to a normative conflict between the Corruption Law and the Banking Law in the legal application to financial crimes committed within state-owned banks. This research aims to understand the rationale behind classifying financial crimes in state-owned banks as acts of corruption, and to examine the application of corruption law to these banks based on the principle of separate legal entity. This study is a normative legal research using statutory and case approaches to provide answers to the normative conflict.

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Introduction

A bank is a financial institution that performs an intermediation function by collecting public funds in the form of deposits and redistributing them to the public as loans. This intermediation role is essential for connecting parties with surplus funds to those needing financing, thereby promoting economic growth ^[1]. Additionally, banks play a crucial role in implementing government monetary policy. Consequently, the health of banks, especially large-scale ones, significantly influences national economic stability. Due to the critical role of banks, the state has established banking institutions under State-Owned Enterprises (SOEs). These state-owned banks are the most influential institutions in Indonesia's banking industry ^[2]. As market leaders with the largest customer base, their performance greatly impacts the overall banking sector. Given the vast number of customers, any health issues in these banks could pose systemic risks to national economic stability. Therefore, ensuring sound operations in state-owned banks requires extra efforts. Unlike private banks, state-owned banks serve not only a profit-making function but also act as development agents, support government programs, and contribute to national development. Examples of state-owned banks include Bank Rakyat Indonesia (BRI), Bank Negara Indonesia (BNI), Bank Mandiri, and Bank Tabungan Negara (BTN). These banks are classified as state-owned because the majority or entirety of their shares are owned by the Republic of Indonesia,

¹ Simatupang, H.B., 2019. Peranan Perbankan Dalam Meningkatkan Perekonomian Indonesia. *JRAM (Jurnal Riset Akuntansi Multiparadigma)*, 6(2), p.136-146.

² Silitonga, Ragil Noviantika, and Gusganda Suria Manda. "Pengaruh Risiko Kredit dan Risiko Likuiditas terhadap Kinerja Keuangan pada Bank BUMN Periode 2015-2020." *Jurnal Maksipreneur: Manajemen, Koperasi, Dan Entrepreneurship* 12, no. 1 (2022): 22-32.

either directly through the Central Government or via other parent SOEs. Thus, their capital originates from state finances^[3]. Consequently, these banks are considered as segregated state assets managed in the form of enterprises. The involvement of state finances in SOE capital leads to special regulations applicable to state-owned banks. In addition to banking regulations, these banks are also subject to laws governing state finances and SOEs.

As critical nodes in the economic cycle, banks are not immune to crimes perpetrated by external individuals or internal employees. Financial crimes in the banking sector are violations committed by individuals or corporations in relation to banking activities, either internally or in dealings with customers or third parties. Such crimes not only undermine public trust in the banking system but can also have systemic repercussions on national economic stability. Common financial crimes in the banking sector include:

1. **Embezzlement:** Unauthorized withdrawal of funds by bank insiders or individuals with system access.
2. **Fraud:** Deceiving or misleading customers or third parties for unlawful gain.
3. **Account Breach:** Illegal access to customer accounts to steal funds or personal information.

Banking crimes often involve abuse of authority by managers/employees, falsification of banking documents, illegal fund collection (unlicensed banks), violations of prudential principles, money laundering, customer fraud, and acceptance of gratuities in lending. These crimes can occur in both private and state-owned banks. However, in practice, differences in legal application exist between private and state-owned banks^[4].

The law applied to financial crimes in state-owned banks does not solely refer to the banking law, as regulated in Law Number 7 of 1992 concerning Banking, as amended by Law Number 10 of 1998 concerning amendments to Law Number 7 of 1992 concerning Banking (hereinafter referred to as the Banking Law). It also refers to anti-corruption legislation.

The application of corruption law to state-owned banks stems from the view that SOE capital originates from state finances. Therefore, although the assets of these banks are segregated, under the corruption law perspective, any loss resulting from abuse of authority within an SOE is deemed a state financial loss. Based on this view, misconduct by managers/employees of a state-owned bank that harms the company is also considered to harm state finances, thereby qualifying as a corrupt act.

There remains debate among legal scholars and law enforcers on whether SOE assets are state assets. Some argue that once state assets are transferred to an SOE, they become separate and are no longer state-owned but rather belong to the enterprise as an independent legal subject^[5]. Thus, state capital contributions result in the state receiving corresponding shares, which become part of the state's

wealth. This divergence regarding the status of SOE assets and the independent legal standing of state-owned banks results in overlapping legal applications to banking crimes. If one assumes that SOE losses equate to state losses, crimes in state-owned banks would fall under corruption. Conversely, if state involvement is viewed merely as shareholding, such crimes would be governed under banking law, based on the separate legal entity principle. This principle posits that the state and SOEs are distinct legal subjects. As such, state-owned banks, as independent legal entities, are subject to laws specifically governing corporations and banking institutions. These conflicting perspectives necessitate a legal analysis through the lens of the separate legal entity principle.

Problem Formulation

1. Why are financial crimes in state-owned banks classified as acts of corruption?
2. How is corruption law applied to state-owned banks based on the principle of separate legal entity?

Purpose

This study aims to understand the rationale behind classifying financial crimes in state-owned banks as acts of corruption and to examine the application of corruption law to these banks from the perspective of the separate legal entity principle.

Discussion

A. Financial Crimes in State-Owned Banks as Acts of Corruption

The term "corruption" originates from the Latin root word *corruptio*, which in English is referred to as *corruption* and in Dutch is known as *corruptive*. In general, this term refers to immoral, fraudulent, or destructive acts, especially those related to the abuse of power and finances^[6]. In Black's Law Dictionary, corruption is described as an act committed by someone to gain personal benefit or for others by violating their obligations, harming the rights of other parties, and improperly utilizing the position or authority they possess. Corruption is no longer considered an ordinary crime but has been categorized as an extraordinary crime; therefore, its eradication efforts must also be extraordinary. Strategies to combat corruption generally consist of two main approaches, namely the prosecution of perpetrators and prevention to ensure similar actions do not occur in the future^[7]. The effectiveness of this effort greatly depends on the active involvement of all levels of society, including the strategic role of the government in building a transparent and accountable system.

If acts of corruption continue to increase without adequate control, the impact will not only damage the stability and growth of the national economy but also threaten the foundations of national and state life. Corruption can destroy public trust in state institutions, weaken the supremacy of

³ Mokoginta, Rukly. "Analisis hukum bisnis tentang kerugian keuangan pada badan usaha milik negara (BUMN)." *Lex Crimen* 4, no. 6 (2015), pp. 47-56

⁴ Faridah, Hanna. "Jenis-jenis Tindak Pidana Perbankan dan Perbandingan Undang-undang Perbankan." *Jurnal Hukum Positum* 3, no. 2 (2018): 106-125.

⁵ Sandi, Meidy Yanto, Muhammad Hadin Muhjad, and Akhmad Syaafi. "Kekayaan Negara Yang Dipisahkan Dalam Badan Usaha Milik Negara (BUMN) Dalam Bentuk Persero." *Notary Law Journal* 2, no. 3 (2023): 181-202.

⁶ Saputra, Ewaprilyandi Fahmi, and Hery Firmansyah. "Politik Hukum dalam Upaya Pemberantasan Tindak Pidana Korupsi melalui Pembaharuan Pengaturan Tindak Pidana Korupsi sebagai Extraordinary Crime dalam KUHP Nasional." *UNES Law Review* 6, no. 2 (2023): 4493-4504.

⁷ Rambey, Guntur. "Pengembalian Kerugian Negara Dalam Tindak Pidana Korupsi Melalui Pembayaran Uang Pengganti Dan Denda." *De Lega Lata: Jurnal Ilmu Hukum* 1, no. 1 (2016): 137-161.

law, and exacerbate social inequality. Moreover, acts of corruption do not only cause moral and social losses but also bring profound negative impacts on the state's finances and economy.

Corruption, as a special criminal act, was initially regulated through Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, which was later amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (hereinafter referred to as the Corruption Crime Law). Based on these provisions, criminal cases in the banking sector are often prosecuted under the provisions of Article 2 of the Corruption Crime Law, which stipulates that: "Any person who unlawfully commits an act to enrich themselves or another person or a corporation that can cause loss to state finances or the national economy shall be punished with life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp. 200,000,000.00 (two hundred million rupiah) and at most Rp. 1,000,000,000.00 (one billion rupiah)." This provision emphasizes the existence of actions to enrich oneself, another person, or a corporation that has the potential to harm state finances or the national economy.

In addition, Article 3 of the Corruption Crime Law is also often used as a basis for prosecuting someone who commits a criminal act in the banking sector. This provision states that: "Any person who with the intent of benefiting themselves or another person or a corporation, abuses authority, opportunity or means available to them because of their position or role that can harm state finances or the national economy, shall be punished with life imprisonment or imprisonment for a minimum of 1 (one) year and a maximum of 20 (twenty) years and/or a fine of at least Rp. 50,000,000.00 (fifty million rupiah) and a maximum of Rp. 1,000,000,000.00 (one billion rupiah)." The additional element in Article 3 of the Corruption Crime Law is the element of abuse of authority, opportunity, or means available due to position or role.

The fundamental element that becomes the parameter of corruption crimes is the existence or absence of state financial loss or loss to the national economy^[8]. Article 1 point (1) of Law Number 17 of 2003 concerning State Finances affirms that state finances are all rights and obligations of the state that can be valued in money, as well as everything either in the form of money or goods that can be owned by the state in relation to the implementation of those rights and obligations. When from the perspective of corruption crimes, the general explanation in the fourth paragraph of the Corruption Crime Law explains that the state finances referred to are all state assets in any form, whether separated or not separated, including all parts of state assets and all rights and obligations arising due to:

- Being under the control, management, and accountability of state institution officials, both at the central and regional levels; and;
- Being under the control, management, and accountability of State - Owned Enterprises/Region - Owned Enterprises, foundations, legal entities, and companies with state capital participation or companies that include third-party capital based on agreements with

the state.

Regarding losses to the national economy, the explanation of the Corruption Crime Law states that the national economy is an economic life structured as a joint effort based on the principle of family as well as community independent businesses based on government policy, both at the central and regional levels, in accordance with the provisions of applicable laws and regulations aimed at providing benefit, prosperity, and welfare to the entire life of the people.

This understanding is inseparable from the ideals of the Corruption Crime Law which indeed aims for corporations to become subjects of corruption crimes. Therefore, the existence of the Corruption Crime Law seeks to draw SOEs/ROEs as independent entities into the legal regime of corruption crimes.

Corruption as an extraordinary crime encourages extraordinary efforts so that corruption in all sectors can be eradicated. This encourages the application of corruption crime law even to State - Owned Banks. Financial crime cases that occurred in State-Owned Banks have been decided several times in the Corruption Crime Court.

The First Case, namely in the form of fictitious credit at Bank BRI submitted by Second Lieutenant (Ret.) Dwi Singgih Hartono. This fictitious credit was submitted by falsifying the data of credit application requirements to the BRI Cut Mutiah Branch Office Jakarta, BRI Menteng Kecil Unit, and BRI Tanah Abang Branch Office. This criminal act also involved Nadia Sukmaria, an employee of BRI Menteng Kecil Branch (2019–2023); Head of BRI Menteng Kecil Branch Unit (2019–2022) Rudi Hotma; and Head of BRI Menteng Kecil Branch Unit (2022–2023) Heru Susanto. The perpetrators were sentenced under Article 2 paragraph (1) in conjunction with Article 18 of Law Number 31 Year 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20/2001 concerning Amendments to Law Number 31/1999 concerning the Eradication of Corruption Crimes in conjunction with Article 55 paragraph (1) point 1 of the Criminal Code (KUHP) in conjunction with Article 64 paragraph (1) of the Criminal Code. The case was decided through Verdict Number 28/Pid.Sus-TPK/2025/PN.Jkt.Pst and Case Number 29/Pid.Sus-TPK/2025/PN.Jkt.Pst. In each of these decisions, Second Lieutenant (Ret.) Dwi Singgih Hartono was sentenced to 9 years in prison and 6 years in prison with a payment of replacement money amounting to up to 45 billion rupiah. Meanwhile, the leaders and employees of Bank BRI were sentenced to 4 years in prison with different amounts of replacement money to be paid^[9]. The Second Case, Putu Tory, a Bank BRI employee, committed embezzlement of customer funds because he was ensnared by more than 30 online loans (pinjol). This embezzlement was carried out from 2018 to 2022. The perpetrator's modus operandi was by transferring customer deposit funds by taking advantage of his position as a bank employee. This act was prosecuted under Article 2 paragraph (1) jo. Article 18 of the Republic of Indonesia Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended and supplemented by the Republic of Indonesia Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption

⁸ Guslan, Odie Faiz. "Tinjauan Yuridis Mengenai Batasan Antara Perbuatan Maladministrasi Dengan Tindak Pidana Korupsi." JCH (Jurnal Cendekia Hukum) 4, no. 1 (2018): 9-25.

⁹ Hidayat, S., Kasus Korupsi Kredit Fiktif Rp 64 Miliar, Purnawirawan TNI Divonis 9 dan 6 Tahun Penjara, 2016, <https://www.kompas.id/artikel/terbukti-palsukan-data-calon-debitor-briguna-purnawirawan-tni-divonis-9-tahun-penjara>, retrieved on June 26, 2025

Crimes jo. Article 64 paragraph (1) of the Criminal Code. Based on Decision Number 8/Pid.Sus-TPK/2025/PN Dps, the defendant was sentenced to imprisonment for 5.5 years and a fine of 500 million rupiah^[10].

The judge in Decision Number 8/Pid.Sus-TPK/2025/PN Dps stated that the act of Putu Tory as a corruption crime was based on the following considerations:

1. The elucidation of Article 2 paragraph (1) of the Republic of Indonesia Law No. 31 of 1999, as amended and supplemented by Law No. 20 of 2001, affirms that the word "may" before the phrase "causing loss to the state finances or the state economy" indicates that corruption crime is also a formal offense, namely that the existence of a corruption crime is sufficient by the fulfillment of the elements of the act as formulated, not with the emergence of consequences;
2. The word "may" mean not only that the act has actually resulted in a loss to the state finances or the state economy (actual loss), but also includes acts that may (potentially) cause a loss to the state finances or the state economy (potential loss), as in the Supreme Court Jurisprudence of the Republic of Indonesia in case No.813 K/Pid/1987.
3. Based on the Constitutional Court Decision No. 25/PUU-XIV/2016, it is stated that the phrase/word "may" cause loss to the state finances or the state economy "in the formulation of Article 2 and Article 3 of Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law of the Republic of Indonesia Number 20 of 2001 concerning Amendments to Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Corruption Crimes; is declared contradictory to the constitution of the 1945 Constitution so it no longer has binding legal force.
4. From a formal offense it changes into a material offense, so the state financial loss or loss to the state economy must be proven in real/actual terms; in other words, the calculation of state financial loss cannot merely be based on potential loss, but must be based on actual loss.
5. PT BANK RAKYAT INDONESIA (Persero) Tbk. is a State-Owned Enterprise (BUMN) engaged in financial services whose majority (56%) of capital is owned by the State through direct capital participation.
6. Based on the Audit Results of the Calculation of State Financial Losses conducted by the Supervisory Audit Auditor of the Bali High Prosecutor's Office dated January 6, 2025 together with the team, it was principally found that there were 6 (six) findings of misuse of customer funds committed by the Defendant as a Customer Service and Credit Administration Officer (ADK) at BRI Ubud Branch Office amounting to Rp. 3,237,695,793.00.

In this case, the amount of customer savings that was

successfully embezzled by the perpetrator is considered as actual loss or a real financial loss to the state. In other words, the customer's loss is considered as a financial loss suffered by the state. This view is based on the status of Bank BRI as a State-Owned Bank that manages capital sourced from state finances. This view places State-Owned Banks under the regime of the Corruption Crime Law, as described in the general explanation of the Corruption Crime Law.

A. Application of the Corruption Crime Law to State-Owned Banks (BUMN Banks) Based on the Principle of Separate Legal Entity

The Corruption Crime Law views that state assets that are separated and managed by State-Owned Banks are part of the state finance regime which is also subject to the Corruption Crime Law. This view incorporates the public characteristics of the state as a shareholder into the BUMN as an independent legal entity. One form of SOEs is generally a Limited Liability Company (Persero). According to Article 10 of Law Number 1 of 2025 concerning the Third Amendment to Law Number 19 of 2003 on State-Owned Enterprises, "The establishment and operation of Persero shall be carried out in accordance with the provisions of legislation governing limited liability companies, unless otherwise stipulated in this Law." This shows that in principle, SOEs in the form of Perseroan (limited liability companies) are still subject to the Law governing Limited Liability Companies.

A Limited Liability Company is an independent legal subject. A legal subject is anything, whether an individual (human being) or a legal entity, that has rights and obligations within a legal system^[11]. A Limited Liability Company is an independent legal subject. A legal subject is anything, whether an individual (human being) or a legal entity, that has rights and obligations within a legal system. They are parties that can bear rights and obligations and can perform legal acts. Legal subjects can be distinguished into two: individuals (*natuurlijk persoon*) and legal entities (*recht persoon*)^[12]. As a legal subject, a Limited Liability Company is an independent legal entity and separate from its founders. Although a Limited Liability Company is established and managed by individuals (*natuurlijk persoon*), the assets of the Limited Liability Company are not the personal property of its founders, but rather the property of the company itself^[13]. This principle ideally also applies to SOEs. Even though the majority of shares in a State-Owned Banks are owned by the state, the State-Owned Banks in the form of a Limited Liability Company should still be viewed as an independent legal subject, and possesses equal standing and rights with other legal subjects.

The main purpose of establishing a Limited Liability Company is to provide legal certainty and protection for anyone who wishes to conduct business. This legal protection is provided through the separation of assets (separate legal entity) between the founders/shareholders and the Limited

¹⁰ Maulana, S., Embat Uang Nasabah Rp 3 Miliar Lebih, Eks Karyawan Bank Plat Merah Ubud Dituntut 8 Tahun, Aliran Dananya Ada yang ke Mertua, 2025, https://radarbali.jawapos.com/hukum-kriminal/706069195/embat-uang-nasabah-rp-3- miliar-lebih-eks-karyawan-bank-plat-merah-ubud-dituntut-8-tahun-aliran-dananya-ada-yang-ke-mertua#google_vignette, retrieved on June 26, 2025

¹¹ Setianto, Verina Yuwono. "Pertanggungjawaban Pribadi Direksi Pada Perseroan Terbatas Yang Pailit." MIMBAR YUSTITIA: Jurnal Hukum dan Hak Asasi Manusia 1, no. 2 (2017): 202-222.

¹² Mahlil, A., et.al., *Hukum Perdata*, 2024, Gita Lentera, Padang, p. 15

¹³ Wahjuningati, E., 2024. "Pertanggungjawaban Perseroan Terbatas Sehubungan Doktrin Ultra Vires Terkait Tindakan Organ Perseroan Terbatas Di Luar Ketentuan Anggaran Dasar". *Jurnal Rechtsens*, 13(2), pp.167-180.

Liability Company^[14]. This separation of assets forms the basis for the emergence of limited liability as stipulated in Article 2 of Law Number 40 of 2007 concerning Limited Liability Companies, which states that "Shareholders of the Company shall not be personally liable for any obligations incurred on behalf of the Company and shall not be liable for losses of the Company exceeding the value of shares they own." According to this provision, shareholders are only liable up to the amount of shares they own in the Company^[15]. If in the course of business there are losses resulting from business risks, then shareholders cannot be held personally liable with their personal assets. Likewise, if the shareholder is the State and the State-Owned Banks suffers losses, then according to the principle of separate legal entity, the state cannot be required to bear the losses of the Bank using state assets. That is, there is no obligation on the part of the state to cover losses that occur due to business risk. Moreover, if such losses are caused by mistakes of the company's administrators, the legislation has regulated the legal responsibilities to be borne by the respective parties.

The responsibility of the Commissioners, Directors, shareholders, and employees of a Limited Liability Company must also be viewed under the Organ Theory. According to this theory, Commissioners, Directors, shareholders, and employees are organs that drive the Limited Liability Company^[16]. Therefore, all actions of the company's organs must be considered as actions of the company itself, not the individual actions of the administrators. Hence, their responsibility will be measured based on the Identification Theory, i.e., the party that can be held accountable is the organ of the company acting as the *directing mind* of the problematic or harmful act to the company^[17].

Such as in cases of losses at State-Owned Banks due to financial crimes committed by their employees/staff. These losses cannot automatically be considered as state financial losses. Because the one that suffers is the State-Owned Bank as an independent legal entity. Meaning, before entering the realm of "state financial loss," the losses of the State-Owned Bank as an independent legal subject must first be resolved through the legal accountability mechanisms as regulated in the Banking Law. The application of corruption law to financial crimes at State-Owned Banks creates a conflict of norms between the Corruption Law and the Banking Law.

The Banking Law actually specifically regulates banking crimes. So if we refer to the principle of *lex specialist derogat legi generali*^[18] the law that should be applied in cases of financial crimes by State-Owned Bank employees/staff is the provision of banking crimes as regulated in Article 49 of the Banking Law. The provisions cover members of the board of commissioners, directors, or bank employees who intentionally:

a. make or cause to exist false entries in the books or in the report process, or in documents or business activity reports, transaction reports, or account records of a bank;

- b. eliminate or omit or cause the omission of entries in the books or in the reports, or in documents or business activity reports, transaction reports or bank account records;
- c. alter, obscure, conceal, delete, or remove an entry in the books or reports, or in documents or business activity reports, transaction reports or bank account records, or intentionally alter, obscure, conceal, or destroy such records, are punishable by imprisonment of not less than 5 (five) years and not more than 15 (fifteen) years and a fine of not less than IDR 10,000,000,000.00 (ten billion rupiah) and not more than IDR 200,000,000,000.00 (two hundred billion rupiah).
- d. request or receive, allow or approve the receipt of a reward, commission, extra money, services, money or valuables, for their own benefit or for the benefit of their family, in order to obtain or attempt to obtain for another person an advance, bank guarantee, or credit facility from the bank, or in connection with the purchase or discounting by the bank of bills of exchange, promissory notes, checks, and other commercial papers or evidences of obligations, or in the process of granting approval for others to withdraw funds exceeding their credit limits at the bank;
- e. fail to take necessary steps to ensure the bank's compliance with the provisions of this Law and other applicable laws and regulations governing banks, shall be punished by imprisonment of not less than 3 (three) years and not more than 8 (eight) years and a fine of not less than IDR 5,000,000,000.00 (five billion rupiah) and not more than IDR 100,000,000,000.00 (one hundred billion rupiah).
- f. These provisions specifically regulate the elements of banking crimes compared to Articles 2 and 3 of the Corruption Crime Law which are still too broad and ambiguous. The handling of financial crimes in banks will be more legally certain and respect the separate legal entity principle if law enforcement is based on the Banking Law. The application of Articles 2 and 3 of the Corruption Crime Law in criminal cases occurring in State-Owned Banks is a form of extensive interpretation of those provisions. Such interpretation is only necessary when there is no clear law governing the matter. Extensive interpretation is not necessary when a law already exists that is more specific (Banking Law) and clear.
- g. Article 49 of the Banking Law contains concrete indicators or elements related to banking crimes. Therefore, it can provide clearer guidance for investigators, prosecutors, and judges in determining whether the elements of the crime are fulfilled. For example, in the case of falsification of bank transaction/account records committed by Januar Rizqi, one of the employees of Bank Mandiri. Based on the

¹⁴ Setiawan, Muhammad Raihan Putra, and Hufron Hufron. "Application of the Principle of Separate Legal Entity in relation to the Responsibility of the Beneficial Owner for Unlawful Acts Committed by a Limited Liability Company." *International Journal of Social Sciences and Humanities* 2, no. 3 (2024): 119-123.

¹⁵ Muarif, Anwarul. "Applying the Limited Liability Principles: Fiduciary Duties and Accountability of Limited Liability Company Director." *Yustisia Tirtayasa: Jurnal Tugas Akhir* 4, no. 3 (2024): 1-17.

¹⁶ Rahayu, Mella Ismelina Farma. "Mengurai Kepastian Hukum: Deadlock Dan Implikasinya Terhadap Pemegang Saham Dalam Perseroan Terbatas Dengan Kepemilikan Berimbang." *Journal Of Syntax Literate* 9, no. 4 (2024).

¹⁷ Desi, Natasya, and Sofa Laela. "Analisis Yuridis Atas Implementasi Kebijakan Pelaporan Pemilik Manfaat Perseroan Terbatas di Indonesia." *IBLAM LAW REVIEW* 4, no. 3 (2024): 234-247.

¹⁸ Mokalu, Aiko Syaloom. "Pertanggungjawaban Direksi Terhadap Tindak Pidana Perbankan." *Lex Privatum* 13, no. 4 (2024), pp. 143-155

Decision of the Medan District Court Number: 2161/Pid.Sus/2023/PN Mdn, Januar was convicted of committing a banking crime under Article 49 paragraph (1) of the Banking Law and sentenced to 6 years in prison and a fine of 10 billion rupiah. A case of falsifying bank transaction/account records also occurred at Bank BRI, Tanjung Sakti Unit. This act was committed by its employees Vera Maya and Apen Wibowo by transferring/moving the money in the customer's account into a holding account that had been created in the name of the perpetrator using the standard PIN. The funds in the holding account were then used for the personal benefit of the perpetrators. This case was also tried under Article 49 paragraph (1) of the Banking Law. Based on Decision Number 135/Pid.Sus/2023/PN Lht, the defendants were proven to have committed a banking crime. For their actions, Vera Maya was sentenced to 8 years and 6 months in prison, while Apen Wibowo was sentenced to 10 years in prison. Each was also fined 10 billion rupiah.

- h. Criminal cases at State-Owned Banks that are charged under corruption law and banking law actually have similar modes of operation. Cases of account breaches (as described above) can be charged as corruption if the approach taken is that of state financial loss. However, if the approach is based on the characteristics of banks and customer losses, then investigators and/or prosecutors will place more emphasis on the aspect of banking crimes as regulated in Article 49 of the Banking Law. This shows that there are still differences in the application of law in cases of financial crimes occurring in the banking sector.
- i. The correct application of law to a criminal act is essential to realize the legal ideals of ensuring certainty, justice, and utility in society. The application of the Corruption Crime Law in financial crime cases at State-Owned Banks can be seen as a form of marginalization of the existence of State-Owned Banks (Limited Liability Companies) as independent legal subjects. Because the application of the Corruption Crime Law to BUMN Banks places more emphasis on the characteristics and interests of the state as the shareholder. This action disregards the status of the Limited Liability Company as a legal entity with its own characteristics and interests. Therefore, the application of the Corruption Crime Law to State-Owned Banks constitutes a denial of the principle of separate legal entity.

Closing

Conclusion

Based on the analysis that has been described above, the following conclusions are obtained:

Why is financial crime at State-Owned Banks classified as a Corruption Crime? Financial crimes at BUMN Banks are classified as Corruption Crimes because they use the approach of state financial loss as referred to in the general explanation of the Corruption Crime Law, which states that state assets that are separated and under the control, management, and accountability of State-Owned Enterprises are part of state finances. Based on this view, losses of State-Owned Banks that arise due to criminal acts committed by Commissioners, Directors, and/or employees are considered state losses that can be prosecuted under the Corruption

Crime Law.

How is the application of the Corruption Crime Law to State-Owned Banks based on the principle of separate legal entity? The application of the Corruption Crime Law to financial crimes at State-Owned Banks shows that the characteristics of the state as a public legal entity are prioritized and penetrate into the State-Owned Bank entity as an independent legal subject. This reality causes no clear separation between the state and State-Owned Banks as two different legal subjects. In fact, banks and limited liability companies have legal provisions and principles that differ from the administration of the state. Therefore, the application of the Corruption Crime Law to financial crimes in the banking sector constitutes a denial of the principle of separate legal entity.

Suggestion

The calculation of state financial losses in financial crimes at State-Owned Banks should not be equated with the losses of the State-Owned Bank itself and/or customer losses. Because a State-Owned Bank is an independent legal subject and the state as the majority shareholder is only responsible up to the amount of capital that has been invested. Thus, the accountability mechanism in State-Owned Bank in the form of a limited liability company must be subject to the Limited Liability Company Law and the Banking Law.

The conflict of norms between the Corruption Crime Law and the Banking Law in handling crimes in State-Owned Banks must be immediately resolved by using the principle of *lex specialis derogat legi generali*. So that the existence of State-Owned Banks is truly recognized as an independent legal subject (*separate legal entity*).

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