DUTY OF CIVILIANS SECURITY AGENCIES THAT SUFFER LOSSES DUE TO CIVIL CORRUPTION

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ABSTRACT

Objective: The media at the time focused on corruption practices in Indonesia’s BUMN sector. Weak supervisory functions by the BUMN Supervisory Body have led to inefficient oversight of the Directorate, which is one of the sources of corruption in the BUMN sector. Therefore, in the event that a loss results from corruption, the BUMN's supervisory bodies are required to assume criminal accountability.

Theoretical Framework: However, there are flaws and barriers in the application of criminal law that make it necessary to restructure the system of criminal responsibility against the supervisory bodies of the BUMN in order to impose criminal liability on them.

Method: A court decision that brings criminal accusations against Indonesian firms provided the data for this study. After identification under consideration and court ruling, a legal technique is used to assess the data and identify a solution to the issue.

Results and Conclusion: According to the study's findings, a supervisory body's failure to keep an eye on directors who engage in corrupt behavior is considered a "hole of omission," or a gap that puts the crime of inaction or passive acts in jeopardy.

Implication of the Research: This research will have an impact on law enforcement related to criminal acts of corruption against State-Owned Enterprises (BUMN).

Originality/Value: It is possible to create a just legal system where justice is the fundamental component of the law and the execution of the law itself by imposing criminal liability on supervisory authorities that fail to perform their oversight obligations against the Directorate in the management of BUMN.

Keywords: Sustainable Development, Corruption Crimes, Supervision, Criminal Liability, State-Owned Companies.

DEVERES DA AGÊNCIA DE SEGURANÇA CIVIL SOFRENDO PERDAS POR CORRUPÇÃO CIVIL

RESUMO

Objetivo: Os meios de comunicação social da época centraram-se nas práticas corruptas no setor BUMN na Indonésia. A fraca função de supervisão do Conselho de Supervisão da BUMN resulta numa supervisão ineficiente da Direção, que é uma das fontes de corrupção no setor da BUMN. Portanto, se ocorrerem perdas como resultado de atos criminosos de corrupção, os supervisores da BUMN são obrigados a assumir responsabilidade criminal.

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Duty of Civilians Security Agencies that Suffer Losses Due to Civil Corruption

Quadro Teórico: No entanto, existem fragilidades e obstáculos na aplicação do direito penal pelo que é necessário organizar um sistema de responsabilidade criminal para que os órgãos de fiscalização do BUMN possam impor-lhes responsabilidade criminal.

Método: Os dados utilizados nesta investigação são decisões judiciais que apresentam acusações criminais contra empresas indonésias. Após a identificação em questão e decisão judicial, são utilizadas técnicas jurídicas para avaliar os dados e identificar soluções para o problema.

Resultados e Conclusão: Com base nas conclusões do estudo, a falha do órgão de supervisão em supervisionar os diretores envolvidos em comportamento corrupto é considerada uma “brecha de negligência”, ou uma brecha que põe em perigo crimes não cometidos ou ações passivas.

Implicação da Pesquisa: Esta investigação terá impacto na aplicação da lei relacionada com actos criminosos de corrupção contra Empresas Estatais (BUMN).

Originalidade/Valor: É possível criar um sistema jurídico justo onde a justiça seja uma componente fundamental da lei e a implementação da própria lei possa ser realizada através da imposição de responsabilidade criminal às autoridades de supervisão que não cumpram as suas obrigações de supervisão para com a Direcção no terreno de gestão do BUMN.


FUNCIONES DE LA AGENCIA DE SEGURIDAD CIVIL QUE SUFRE PÉRDIDAS POR CORRUPCIÓN CIVIL

RESUMEN

Objetivo: Los medios de comunicación en ese momento se centraron en las prácticas corruptas en el sector estatal en Indonesia. La débil función de supervisión del Consejo de Supervisión de las empresas estatales da como resultado una supervisión ineficiente de la Dirección, que es una de las fuentes de corrupción en el sector empresarial. Por lo tanto, si se producen pérdidas como resultado de actos delictivos de corrupción, los supervisores de las empresas estatales están obligados a asumir la responsabilidad penal.

Marco Teórico: Sin embargo, existen debilidades y obstáculos en la aplicación del derecho penal, por lo que es necesario organizar un sistema de responsabilidad penal para que los órganos de control de las empresas estatales puedan imponerles responsabilidad penal.

Método: Los datos utilizados en esta investigación son decisiones judiciales que presentan cargos penales contra empresas indonésias. Después de la identificación bajo consideración y la decisión judicial, se utilizan técnicas legales para evaluar los datos e identificar soluciones al problema.

Resultados y Conclusión: Según los resultados del estudio, el hecho de que el órgano de control no supervise a los directores involucrados en conductas corruptas se considera una “laguna de negligencia”, o una laguna que pone en peligro delitos no cometidos o acciones pasivas.

Implicación de la Investigación: Esta investigación tendrá un impacto en la aplicación de la ley relacionada con actos criminales de corrupción contra Empresas Estatales (BUMN).

Originalidad/Valor: Es posible crear un sistema jurídico justo donde la justicia sea un componente fundamental de la ley y la implementación de la ley misma pueda llevarse a cabo imponiendo responsabilidad penal a las autoridades de control que no cumplan con sus obligaciones de supervisión hacia la Dirección en el campo de gestión de empresas estatales.

Palabras clave: Desarrollo Sostenible, Delitos de Corrupción, Supervisión, Responsabilidad Penal, Empresas Estatales.

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1 INTRODUCTION

Today's corruption in Indonesia is getting more structured and methodical. There are numerous instances of BUMN corruption occurring in Indonesia right now (Cahyani & Puspitasari Wardoyo, 2022). The RI Police, the Prosecutor's Office of the Republic of Indonesia, and the Indonesian KPK are handling a number of corruption-related criminal cases within the BUMN company (Labolo et al., 2023). These cases are being handled from the stages of investigation, inquiry, prosecution, and even dismissal in court, which results in a decision with permanent legal force. Since the BUMN company is one of the offenders of economic activity in the national economy based on economic democracy, which is crucial in the national economy to achieve the well-being of the people (Bonto et al., 2015), the court verdicts on corruption crimes in the company have become of particular significance.

There are three types of offenders listed in the verdict on corruption charges at the BUMN company. The first type of offender is one who acts on behalf of the company as a whole. The BUMN's supervisory bodies are the subject of this investigation. The Commissioner is in charge of monitoring in the Persero-shaped BUMN. The Commissioner bears complete accountability for overseeing the BUMN. The commissioner is a Persero entity whose job it is to supervise and counsel the Direction on Persero management matters. Commissioner oversight is required to prevent the Directorate from making foolish decisions, such engaging in illegal corruption that could endanger employees. The Supervisory Board is entirely in charge of overseeing the Supervisory Board and does so in its entirety (Schwartz-Ziv & Weisbach, 2013).

Officially, the Commissioner and the Board of Supervisors are in charge of monitoring the company's discretion and advising the Management (Yopie & Erika, 2021). The Commissioner and the Board of Supervisors are bound to apply the principles of professionalism, efficiency, transparency, independence, accountability, responsibility, and obligation in the performance of their duties. They also have to adhere to the Basic Budget and the provisions of the legislation's regulations. The Commissioner and the Board of Supervisors are required to act responsibly, in good faith, and with due regard for BUMN when performing the supervisory and advising functions of the Directorate. If the Supervisory Body member is found to be at fault or neglects to perform their duties as assigned, they will also bear personal responsibility for the Company's loss. It is anticipated that the supervisory body's oversight will prevent bribery and corruption from becoming prevalent in any action or policy that the board of directors undertakes (Aras, 2016).
Additionally, Sri Mulyani Indrawati, the Republic of Indonesia's Minister of Finance, stated as much, highlighting the number of senior State Property Agency (BUMN) (Indrawati et al., 2024), employees detained and accused of being implicated in corruption cases by the Anti-Corruption Commission (KPK). According to Finance Minister Sri Mulyani, BUMN has to improve the Commissioner's and the Board of Supervisors' internal monitoring of the business. According to Article 70 (1) of the BUMN Act, which states that the Commissioner and the Board of Supervisors of the Board are required to form a committee of audit that works collectively and serves to assist the Commissioners and the Supervisory Board in the performance of their duties, internal oversight is intended to establish and strengthen the role of the audit committee as an auxiliary body of the board of commissioners. It is ineffective, nevertheless, as a multitude of factors contribute to dishonest practices in BUMN company management (Adnan, 2021).

2 MATERIALS AND METHODS

2.1 THE MOST EXCITING PART OF THE COMMISSIONER APPOINTMENT PROCESS IS THE DESIGNATION OF SUPERVISING BODIES

At the moment, commissioner appointments are the focal point of the appointment process for supervisory organizations. The public dispute surrounding the appointment of a commissioner has made the argument fascinating (Krause & O’Connell, 2019). Generally speaking, Erick Thohir's selection of the BUMN Commissioner during the Ministry of BOMN era is notable for three (three) reasons. Among them from 2019 until the present are: a. The selection of the BUMN Commissioner, who led the previous squad to victory in the annual presidential election (2019–2024) (Lytovchenko et al., 2021). a. The BUMN Commissioner, who is currently serving, is appointed. b. The BUMN Commissioner's appointment, who was previously under investigation for corruption.

Commissioners are appointed on the basis of their qualifications, competence, capacity, and integrity. Generally speaking, Ministerial Regulation No. 10 of 2020 on the terms and circumstances of appointment and dismissal of members of the Board of Commissioners and the Supervisory Board of the BUMN lays out the procedures governing the appointment of BUMN Commissioners. Due to the extensive gaps in the rule, conflicts of interest and moral failings may be overlooked when appointing commissioners. Integrity and conflict of interest should be taken into consideration when amending the BUMN Minister's Rules (Haikal, 2023).
Should this persist, BUMN will fall short of fulfilling its mission to promote the welfare of the general population. In this instance, the law is enforced according to the following principle: every member of a Supervisional Body, such as the Commissioner or Board of Supervisors, is individually liable (personal liability) for any losses that result from a member of the Body performing their supervisory or advisory duties in an incorrect or negligent manner.

Attempts to combat corruption within the BUMN through the use of current legislative tools continue to fail. A scenario like this would undermine democracy as a fundamental component of national life, undermine the principles of justice and legal certainty, and progressively stray from the objective of creating a peaceful society (Giroux, 2015). In the context of the growth of corruption, systematic political change is one of the causes contributing to the rise in corruption activities in some countries (O’Hara, 2014) This shift weakens or destroys not only social and political institutions but also legal institutions (Giroux, 2018).

2.2 CONCEPT OF CRIMINAL LIABILITY FOR BUSINESSES

According to Roeslan Saleh, criminal responsibility is defined as an objective offense that is present in the crime and that the perpetrator subjectively qualifies for punishment for (Sujiantoro & Refangga, 2023). The foundation of error serves as the foundation for creators, while the base of crime serves as the foundation for legality (Cornell et al., 2016). This implies that the offender will only face consequences if it is shown that he committed the offense (Apel, 2013). Since the perpetrator of a criminal act is held accountable, criminal responsibility is a fundamental idea in criminal law.

The foundation of error serves as the basis for holding the producer responsible. Mens rea, according to Mahrus Ali, is the Latin term for wrongdoing. The common law system's mens rea theory is predicated on the idea that an act does not render a person guilty unless they have a malicious mind. In English, the theory is expressed as follows: an act does not establish guilt unless the mental state is legally culpable. According to this idea, a person cannot be punished unless two requirements are met: first, there must be an unlawful physical act (actus reus) and second, there must be a wicked or defamatory internal attitude.

Criminal culpability is the result of one's criminal actions. A man's crime constitutes his strict duty. A criminal act that has been done by someone gives rise to criminal culpability. In actuality, criminal culpability is a response mechanism established by criminal law to a breach of an agreement to forbid a certain behavior. The criminal threats contained in the criminal legislation of corruption that are specifically imposed or dropped on the offender, the
Commissioner BUMN, are examined using the principle of criminal culpability. The legal subject accused of committing a crime does not automatically have a criminal threat against them; the court must meet certain requirements before dropping the threat. The legal system that threatens Commissioner BUMN with criminal penalties for failing to carry out these duties will be examined using this approach. As a result, this theory of criminal liability is highly pertinent when applied as an analytical tool to investigate the supervisory bodies of BUMN's criminal accountability for the occurrence of state losses in criminal acts of corruption.

2.3 POSITIONING THIS STUDY

This study offers a method of criminal culpability that can be used against BUMN organizations that engage in activities that harm the state's finances. To put it briefly, earlier studies have shed light on corporate criminal liability and the methods by which a company can be recognized as a subject of law capable of committing a crime. Nonetheless, certain studies have identified elements that may make businesses and corporate entities accountable for legal actions. Stated differently, the success factor designates the BUMN entity that endeavors to avert a behavior that might result in legal ramifications and criminal penalties. One potential solution to this issue is the option to waive criminal liability against the BUMN body upon fulfillment of the necessary elements for corporations.

Normative law research and empirical law research are combined in the research specification to address the research issue. This dissertation has both prescriptive and descriptive research features (Jang et al., 2018). This study calls for prescriptive or evaluation of the application of corruption criminal law enforcement policies against Commissioners in addition to describing corruption regulation and its implementation. Methods of Research conducted using the Comparative Approach, the Method of Case Approach, and the Statutory Approach to the Law. In-depth interviews, document analyses, and library studies are the methods of data collection utilized in this study to get secondary data. In order to gather information about the state of corruption cases that have been settled through repressive actions taken by Polri and the Special Prosecutor's Office handling corruption charges, such as Bareskrim Mabes Polri, the State Attorney, and the Young Special Criminal Prosecutors, in-depth interviews with a number of reliable informants were conducted. After that, data and already-existing legal material are examined and sorted into fundamental patterns, categories, and reproductive units in order to identify themes and develop work hypotheses based on the data. Qualitative rather than Quantitative Data Analysis for Legal Research.
3 RESULTS

3.1 THE BUMN SUPERVISORY BODY'S QUALIFICATIONS SERVE AS A PENALTY FOR CORRUPTION IN DIRECTORATE SUPERVISION

The Commissioner's and the Supervisory Board's roles are essential to accomplishing the goal of creating a BUMN (Napitupulu et al., 2023). The two positions, one for each type of corporation and one for the general company, serve as the management's supervisory organs when it comes to creating policies and running the BUMN's management system. Because the Commissioners/Council of Supervisors and management serve as a check and balance, the makeup of the BUMN is therefore formally regarded as perfect. Furthermore, the BUMN Act grants the Commissioner and the Board of Supervisors the authority to counsel the board of directors on matters pertaining to corporate governance (Wicaksono, 2022). The Commissioner will oversee the Directorate while it carries out its responsibilities, and in the event that the Directorate makes a mistake or acts ignorantly, the supervisory body will offer guidance and advise. The Commissioner will then provide input and guidance. All activities taken by the BUMN organs, including the Directorate, must adhere to the current legal regulations. These regulations serve as a guide for the bodies of the BUMN as they carry out their tasks. The Law of BUMN, which is based on the Basic Budget, as well as other legislative regulations that restrict the actions that can be taken, serve as references for the BUMN organs when performing such actions (Nasution & Sirait, 2018). All actions by the BUMN organs, including the Direction, shall not deviate from applicable rules of law.

Any behavior that violates BUMN body legislation may result in a corruption-related criminal offense. A criminal conduct that harms the state's finances is called corruption. The Supervisory Board is entirely in charge of overseeing the Supervisory Board and does so in its entirety. In addition to following the Basic Budget and the Rules of Procedure, the Commissioner and the Board of Supervisors are required to apply the following values: independence, professionalism, efficiency, transparency, accountability, responsibility, and liability. The law's article 6 paragraphs (1), (2), and (3) explicitly mention the following about the BUMN monitoring provisions: 1. The Commissioner and the Board of Supervisors are responsible for overseeing BUMN. 2. The Supervisory Board and the Commissioners bear complete accountability for overseeing BUMN's objectives and goals. The Commissioner and the Supervisory Board are in charge of overseeing BUMN, according to Article 48 of Government Regulations, (Kendenan et al., 2023) No. 23 of 2022 on Amendments to...
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Government Ordinance No. 45 of 2005 on the Establishment, Management, Oversight, and Dissolution of State-owned Enterprise Bodies. b. Persero surveillance is conducted in accordance with the rules and guidelines that apply to employees with restricted authority. In this situation, the supervisory body will fulfill its obligations to counsel and oversee individuals who violate the law while conducting BUMN business. The supervisory body of BUMN will undertake an investigation into the occurrence of the criminal offense of corruption if it fails to carry out its responsibility to advise and oversee the directors who break the law while executing BUMN's operations.

This offense is classified as negative or passive. Passive acts or passivity in breach of a legal requirement (rechtsplicht) to take action constitutes a criminal offense. According to Van Hamel, if someone is legally required to take action, their inaction may be seen as the cause of the consequence (Hammell, 2015). The definition of a "legal obligation" is defined as one that arises from the law and is based on decisions made at work, in the workplace, and in society at large. The legal duties mentioned here are those of the supervisory body as stipulated in Government Regulation No. 23 of 2022 on Amendments to Government Ordinance No. 45 of 2005 on the Establishment, Management, Oversight, and Dissolution of State-owned Enterprise Agencies and Article 6 of Act No. 19 of 2003 on State-owned Enterprise Agencies. The concept of causation in the act of permitting, failing to carry out, or omitting is known as the "omission hole," wherein it is stated that the "hole of ordinary omission" has been satisfied by the person who ought to have carried out an action, and it is confirmed that the failure to carry out an obligation will lead to an omission delict that centers on the attitude of non-compliance or omission of a duty or order (order) of the law. The objective element is the perpetrator's external element and is made up of the human act, which is the active act or positive act, and the omission, which is the passive act. These actions cause or leave the result, which can include the harmful or damaging effect and even deprive the rights to life, body, freedom, property, honor, and other losses that are protected by the law. Based on the aforementioned explanation, it can be concluded that the supervisory body's action qualifies as an omission delict, or a gap that raises the possibility of a crime against the failure to do something (Schreck & Berg, 2021). It is alleged that the supervisory body does nothing because it does not carry out the directorate's oversight responsibilities in the management of BUMN and because the directorate has committed illegal acts that have a negative impact on BUMN's finances. In order to ensure that the direction that performs its tasks does not stray from the laws or the GCG's guiding principles, a professional and accountable supervisory body is required to carry out the duties and functions of supervision (Marлинаa, Mahmud Mulyadi, 2020).
3.2 THE SUPERVISORY BODY OF BUMN BEARS EMERGENCY CRIMINAL LIABILITY IN THE EVENT THAT THE DIRECTORATE COMMITS A CORRUPTION CRIME THAT RESULTS IN FINANCIAL LOSSES

Every entity inside the organization is required to perform the assigned and decided upon duties and responsibilities. Corporate entities that serve merely as figurehead directors are condemned by the US; that is, these entities exist but do not assist in carrying out their responsibilities (Eisenberg, 2017). If the Indonesian BUMN Supervisory Body fails to carry out its responsibilities in accordance with the rules or the company's Basic Budget and Household Budget, it is considered a liability. It is illegal for the BUMN supervisory authority to extort someone. Since the BUMN Supervisory Body is paid by the state finances to supervise and counsel the Directorate, it is illegal for it to neglect its responsibilities or to let corruption crimes carried out by the corporate directorate.

4 DISCUSSION

Criminal law has been used as an instrument and an attempt to combat crime. In fact, the use of criminal law to curb crime is one of the oldest methods to be called "the older philosophy of crime control". In this context, criminal law is a policy aimed at preventing, controlling and curbing a crime. When the Cantian philosophy was first applied to criminal law, its fundamental tenet was the power to impose compliance as a means of punishing an offence. According to the Cantinian school of thought, the offender should not just be given a shorter sentence because he is prepared to collaborate, but rather, the punishment should be reduced as much as feasible. H.L.A. Hart also adopted Imanuel Kant's theory, which holds that mediation must be unpleasant or painful in order to intentionally target lawbreakers. The punishment must result in the loss or suffering that the offender intends to experience on purpose. This is the fundamental tenet of the law of retribution and the basis for the theory of retributive law. The guiding idea is that everybody who makes a mistake should be punished; if someone steals money, they should also be punished; if someone does an act of corruption, they should not have to pay back the money they stole; instead, they can immediately eliminate the consequence for their actions.

The attempt to hold the BUMN Supervisory Body criminally liable in Indonesia is grounded in the country's aspiration to become a State of Welfare and its status as an independent, sovereign state. The welfare state. To achieve communal well-being, BUMN
plays a significant role in the national economy. This is exemplified by the Explanation of Act No. 19 of 2003 on State Property Enterprises, which states that it is the constitutional obligation of all parts of the country, including BUMN, to advance the welfare of all citizens, as required by the Opening of the Basic Law (UUD) 1945 and Article 33 of UUD 1945. The role of BUMN in producing high-quality goods and/or services at reasonable prices and able to compete in the global business competition is expected to provide great benefits for the prosperity of the people and improve the welfare of the people through state ownership of certain enterprise units.

It is simply very regrettable that certain losses resulting from corruption-related crimes in the nation hinder BUMN's efforts to maximize advantages for the prosperity and well-being of the people. One explanation is that the Supervisory Body's performance of the supervisory role is subpar. Philosophically, a just legal system where justice is the main objective of the law and law enforcement itself can be created by holding supervisors criminally liable for failing to perform their oversight obligations against the Directorate in the management of the BUMN. Based on the explanation, the government and the DPR RI, as the state's organizers, should be able to develop legislative regulations and a legal framework that can maximize BUMN supervision by holding the BUMN supervisory body criminally liable for any errors it makes—intentional or not—in failing to carry out its supervisory duties to the Direction of BUMN, which manages BUMN.

4.1 CRIMINAL LAW HAS BEEN EMPLOYED AS A TOOL AND IN AN EFFORT TO STOP CRIME

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4.2 CREATION OF THE BUMN SUPERVISORY BODIES' POLICY FOR THE SYSTEM OF CRIMINAL LIABILITY WITH REGARD TO FINANCIAL LOSSES FROM THE CORRUPTION CRIMES PERFORMED BY THE DIRECTORATE

Not a power state, but a state of law is what Indonesia is. The phrase "The State of Indonesia based on the law (rechtstsstaat) is not based on power alone (machtsstat)" appears specifically in the General Explanation of Section 1 of the Constitution of the Republic of Indonesia of 1945 (UUD 1945) on the System of State Governance. Following the third amendment, the 1945 UUD officially included the idea of Indonesia as a nation with a legal
system. According to Article 1 Paragraph 3 UUD 1945, Indonesia is a state of law, not only a grammar sense without any further implementation or explanation of the meaning of the State of law itself. Among other things, Indonesia is firmly committed to having the law reign over the lives of other nations. One way that the law is attempted to become the supreme authority in the life of nations is through the implementation of a legal enforcement system (Addison & Harold, 2017). Additionally, Indriyanto contends that the institutions and the law enforcement system must be affirmed in order to put the rule of law into practice. This chapter's discussion delves deeply into the criminal law reform that pertains to the supervisory bodies of BUMN's accountability system in situations of corruption-related criminal acts that cause losses to the state. This renewal has to do with a law, custom, or framework.

4.3 LAW RELATING TO CIVILE RESPONSIBILITY TO BOMN ORGANISATIONS: INVITATIONS

Prior to delving more into the topic, it is imperative to comprehend the definition of reform: it is an endeavor to realign and modify anything that will be accomplished by policy, necessitating the use of a policy technique (Park et al., 2013). Reform refers to make improvements to a system, such as aroganization, and behaving better than before. Regarding the explanation of the amendment above, it is anticipated that the rules will be revised in order to create a better system. There is a flaw in the way criminal sanctions are formulated in order to hold BUMN bodies accountable to the Supervisory Body of the BUMN. This flaw is related to the responsibility of BUMN bodies committing criminal acts of corruption that result in losses to the state because they failed to monitor all actions of the directions and also prevent the continuation of the corruption crimes committed by such directions. The legal foundation of the lex specialis de rogat lex generalis, which assigns a special role in organizing the negotiations before the civil body with the development of more specific regulations, must be adhered to by any reform of civil law pertaining to the system of civil liability.

4.4 CLARIFICATION OF THE LEGAL SUBJECTS’ STATUS BEFORE THE BUMN SUPERVISORY BODY

This discussion pertains to the type of criminal acts that are defined by Article 421 of the Penal Code and Article 23 of the Criminal Code of Corruption. These provisions do not impose any obligations on the Supervisory Body of the BUMN, which permits or executes the
delivery as a result of carelessness in overseeing the actions of all directions and also stops the directions from continuing their actions. Beginning with legal matters, the Commissioner and the Board of Supervisors’ legal positions inside the BUMN cannot be compared to those of the organs of private corporations, wherein the government does not hold a majority stake of more than 51% in the company's shares. In the hierarchy of offices with important roles in state maintenance, the Commissioners and the Supervisory Board of BUMN are categorized as State Organizers. Commissioners and other structural officers of BUMN are listed as being among the first groups of state organizers who are susceptible to corruption, collusion, and nepotism, even in the Explanation of Article 2 paragraf 7 of the Act No. 28 of 1999 on Maintaining a State Clean and Free from Corruption, Collusion, and Nepotism.

As a result of their role as state organizers, the Commissioner and the Board of Supervisors have an intrinsic responsibility for state maintenance, which naturally relates to the interests of the public at large. Regarding the penalties outlined in Article 421 of the Code of Penal Law and Article 23 of the Corruption Criminal Punishment Suppression Act, the Supervisory Body of BUMN shall not beheld accountable for carrying out or permitting extradition as a result of carelessness in overseeing all actions of directives and also preventing the continuation of the previous actions of such directives. Regarding the first justification, the topic is addressed to public workers rather than the BUMN supervisory body (MacKie-Mason & Waterman, 2013) Secondly, it is imperative to demonstrate the element of the commissioner's intentional act of letting something go.

A functional, economic, value-based, humanistic, and policy-oriented approach should be used in some criminal law reform initiatives. Through legislative and policy processes, it demonstrates a policy approach (Rusdi Antara et al., 2021). It's common knowledge that KUHP is a colonial legacy that prohibits corporations from becoming the target of crimes in general. The socio-political, socio-philosophical, and socio-cultural values that support and reinforce the normative and substantive weight of the criminal law in question—which is cited as ius contituendum but actually becomes ius constituitutum—need to be reoriented, reevaluated, and even reformulated by these adults.

5 CONCLUSIONS

When the supervisory body of a BUMN fails to carry out its oversight responsibilities against the Directorate, it is considered a criminal offense of corruption. The Directorate may also commit illegal acts that cause financial harm to the BUMN, which is the property of the
divided state. Article 6 of Act No. 19 of 2003 on State-owned Enterprises and Article 48 of Government Regulation No. 23 of 2022 on Amendments to Government Ordinance No. 45 of 2005 on the Establishment, Management, Oversight and Dissolution of State-owned Enterprises both declare the supervisory body's actions to be illegal. The supervisory body's actions are categorized as omission delicts, which raises the possibility of a criminal offense for doing nothing. If the BUMN's supervisory bodies fail to carry out their oversight responsibilities against the Directorate in the administration of the BUMN, they may face criminal penalties. The directorate has engaged in illegal activities that have a negative impact on the divided state's financial resources. From a philosophical standpoint, imposing criminal culpability on supervisory authorities that fail to carry out the Directorate's supervision responsibilities in the management of BUMN can establish a just legal system in which justice is the fundamental component of the law and its implementation.

There are still flaws in the system of criminal liability against the supervisory body of the BUMN for allowing something to happen or making a grant against the BUMN's orders that lead to the state losing money. These flaws are as follows: First, the topic is addressed to civil public officials rather than the BUMN's body of supervision. The second requirement is to demonstrate the element of arbitrariness regarding the oversight body's act of granting something or allowing something against the Directorate's legal obligations in managing the MUMN, which harms the BUMN's finances and is the property of the separated state. Furthermore, the supervisory organizations of BUMN that monitor corrupt crime instructions have not been subjected to the reverse burden of evidence system by law enforcement agencies.

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