
LEGAL ANALYSIS OF LABOR CRIMES REGARDING LAW NUMBER 1 OF 1970 CONCERNING WORK SAFETY FOR OTHER PEOPLE IN THE WORKPLACE

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Abstract

Fulfillment of protection for workers is the responsibility of the government, workers and employers which is then outlined in regulations and must then be implemented by each company, the government and companies must synergize to ensure the safety and health of workers. However, work safety for others in the workplace must also be the responsibility of the corporation to guarantee protection for everyone else in the workplace. This study aims to analyze the application of corporate criminal law and legislation in the case of not implementing optimal K3 protection for workers/laborers, what factors are the criminal liability of corporations in the occurrence of labor crimes for others, and the legal analysis of labor crimes against everyone else in the workplace according to Law No. 1 of 1970 concerning Occupational Safety.

Based on this research, it is concluded that the application of corporate criminal law and legislation in terms of not implementing the protection of K3 workers/laborers has not been running optimally, namely the lack of company awareness of the protection of K3 workers/laborers so that there are still many companies that violate the law and do not implement the K3 provisions which can result in work accidents. Factors of corporate criminal responsibility in the occurrence of labor crimes against everyone else, namely the corporation as the perpetrator of the crime, corporate administrators, giving orders, controlling holders, beneficial owners of the corporation, differences in interests between the corporation and workers. Juridical analysis of labor crimes against everyone else in the workplace according to Law No. 1 of 1970 concerning Occupational Safety, namely according to Article 14 letter c of Law No. 1 of 1970 concerning Occupational Safety 4 states that "Managers are required to provide free of charge all personal protective equipment required for workers under their leadership and provide it to every other person who enters the workplace, accompanied by the necessary instructions according to the instructions required according to the instructions of the supervisory employee or occupational safety expert", therefore the corporation must also be responsible for protecting every other person who is in the company's workplace and the corporation can be found guilty of the crime committed and punished.

Keywords: *Crime, Employment*

INTRODUCTION

Occupational Safety and Health are all conditions and factors that can impact the Occupational Safety and Health of workers and other people in the workplace, which is regulated in the Republic of Indonesia Law No. 1/1970 concerning occupational safety which defines a workplace as a room or field, closed or open, moving or fixed where workers work. Included in the workplace are all rooms, fields, yards and their surroundings which are parts of or related to the workplace.

In its implementation, K3 has quite a lot of functions and is beneficial for both companies and workers. Some of the general functions of K3. As a guideline for identifying and assessing the risks and hazards to safety and health in the work environment, helping to provide advice in planning, organizing processes, workplace design, and work implementation, as a guideline in monitoring the health and safety of workers in the work environment, providing advice on information, education, and training regarding occupational health and safety, as a guideline in creating hazard control

designs, methods, procedures and programs, as a reference in measuring the effectiveness of hazard control measures and hazard control programs. The implementation of Occupational Safety and Health as a whole can minimize the risk of workplace accidents. In reality, many obstacles are still often faced, both from the company as described previously and from the workers.

Fulfilling worker protection is the government's responsibility, which is then outlined in regulations and must then be implemented by every company. The government and companies must synergize to ensure the safety and health of workers. Granting these rights to workers/laborers is intended to provide service guarantees if a worker/laborer's family member becomes ill or requires other medical assistance, such as pregnancy and childbirth, or those who have a work-related accident. Furthermore, the government's social security program (Jamsostek) is not only organized to protect workers and their families. This program can also provide protection to residents around the factory.

Based on the problems mentioned above and also the lack of research on corporate responsibility for victims of work accidents, especially corporate responsibility for guaranteeing protection for everyone else in the workplace.

In accordance with the background above, the problem formulation in this research is:

1. How is the application of corporate criminal law and legislation in the case of non-implementation of K3 protection for workers/laborers which has not been running optimally?
2. What are the factors of corporate criminal liability in the occurrence of employment crimes against other people?
3. What is the legal analysis of employment crimes against any other person in the workplace according to Law No. 1 of 1970 concerning Occupational Safety?

METHOD

The research method used in this study is the normative juridical method, namely an approach carried out through a review of applicable positive legal norms, specifically Law Number 1 of 1970 concerning Occupational Safety and other laws and regulations related to labor crimes and corporate criminal liability. This research was conducted by exploring relevant literature, legal documents, and case studies to examine how legal norms apply to occupational safety protection not only for workers but also for everyone else in the workplace. This approach was chosen to gain a deep understanding of the principles, concepts, and legal provisions that regulate corporate obligations to ensure occupational safety and their criminal liability in the event of violations.

RESULTS AND DISCUSSION

Implementation of Laws and Corporate Crime Laws in Cases of Non-Implementation of K3 Protection for Workers/Laborers Which Has Not Been Optimally Implemented

In order to realize occupational safety and health, the government issued laws and regulations, including: Law No. 1 of 1970 concerning Occupational Safety, Law No. 13 of 2013 concerning Manpower, and Government Regulation No. 50 of 2012 concerning the Implementation of the Occupational Safety and Health Management System (SMK3), as well as other regulations. The regulations related to occupational safety and health are nothing more than benchmarks or guidelines for proper behavior, which are actually a view and at the same time expectations. These benchmarks are often known as norms or rules that regulate the human self in social interactions in society. In line with this, it is deemed necessary for entrepreneurs/managers who represent corporations in managing their businesses to implement and implement Occupational Safety and Health in their workplaces.

According to research results, this can occur because the regulations in Indonesia relating to work accidents are not optimal, both in terms of the implementation of Occupational Safety and

Health regulations and in terms of law enforcement. If we look at the legal sanctions contained in Law Number 1 of 1970, Article 15 paragraph 2, the criminal threat for violation of regulations with a maximum imprisonment of 3 (three) months or a maximum fine of IDR 100,000 (one hundred thousand rupiah). This is quite different from other countries, when compared to legal sanctions in other countries such as in Malaysia in the Occupational Safety and Health Amendment Act (OSHA) 2022 the maximum fine for failing to ensure the safety, health, and welfare of employees in the workplace, or for not establishing safety and health policies, is subject to a fine of RM500,000 or equivalent to the current Indonesian exchange rate of IDR 1,817,181,500, the maximum fine for general penalties based on Article 51 OSHA RM100,000.

Factors of Corporate Criminal Responsibility in the Occurrence of Labor Crimes Against Other People

Often, a crime involves a corporation, where the crime is committed within the corporation's scope of work and is intended to benefit the corporation. Essentially, a crime can be identified by the harm it causes, which then gives rise to criminal liability.

In line with the concept of criminal acts, and corporate criminal liability is also basically born because of a criminal act committed by a corporation, and the act causes harm to others. It is not surprising that the concept of corporate criminal liability has become a topic of discussion among legal experts, not only nationally but also internationally, so we can use several relevant theories, including the Identification Theory, which states that a Corporation can be considered to have committed a crime directly through its managers who can be identified as a Corporate act so that Corporate liability is not a personal responsibility..

Business (corporate) crime undermines public trust in the business system because such crimes are integrated into the structure of legitimate business. In fact, generally speaking, the losses caused by corporate crime are far more serious than those caused by crimes committed by natural persons. Corporate crime results in far greater financial losses.

Criminalizing corporations cannot be solely intended as retribution for the corporation's crimes, but also as a means to achieve the beneficial goal of protecting society and promoting prosperity. Karl O. Christiansen explains that in formulating criminal policy, there are aspects other than punishment as retribution that are also necessary and crucial to consider, namely:

- a. The purpose of punishment is prevention.
- b. Prevention is not an end in itself, but a means to achieve higher goals, such as social welfare.
- c. Only violations of the law that can be attributed to the perpetrator as intentional or negligent are eligible for punishment.
- d. Punishment should be determined by its usefulness as an instrument for crime prevention.
- e. Punishment is prospective, pointing to the future; it can contain an element of reproach, but neither the element of reproach nor the element of punishment can be Retaliation is unacceptable if it does not serve to prevent crime for the benefit or welfare of society.

Therefore, the primary goal of law enforcement against corporations is not merely financial sanctions, but more importantly, to change the behavior of corporations in Indonesia, so that they can act and behave as law-abiding economic actors. It is also hoped that criminalizing corporations will encourage preventative measures by the corporations themselves, and by their employees and other business partners, to prevent them from engaging in deviant behavior in their business activities.

On the other hand, corporate crime is a double-edged sword. In responding to this issue, the government must not view corporations solely as increasing revenue and progress if they enter a country. They must also consider the impact on the economy, society, and the state if a corporation enters a region. This is where the state must be fair in both, not issuing policies that only benefit the corporation without prioritizing the interests of the surrounding community. This is not only a matter of the welfare of the surrounding community, but also the other impacts of a company's presence

within the community. And if this is forced, there must be regulations that tighten corporations' control so they cannot act arbitrarily in running their businesses.

Analysis of Labor Crimes for Other Persons in the Workplace According to Law Number 1 of 1970 Concerning Occupational Safety

An accident is an unexpected and unintended event. Unintended means that the event lacks any intentional element, let alone planning. Incidents of sabotage or criminal acts fall outside the scope of workplace accidents. Accidents are unexpected because they involve material losses or suffering, ranging from the lightest to the most severe. An accident is an undesirable event, occurring directly and unexpectedly, and can cause harm to individuals, the company, society, and the environment. Work-related accidents are accidents related to employment relationships within a company.

According to the provisions of Law Number 1 of 1970 concerning Occupational Safety, employers are responsible for implementing occupational safety. To prevent workplace accidents, workplace leaders are required to provide training for all workers, including preventing workplace accidents, dealing with fires, improving occupational safety and health, and providing first aid in the event of an accident.

Article 14 letter c of Law No. 1 of 1970 concerning Occupational Safety states that:

"The administrator is required to provide free of charge, all personal protective equipment required for workers under their leadership and provide it to every other person who enters the workplace, accompanied by the necessary instructions according to the instructions of the supervisory employee or work safety expert."

The importance of ensuring the safety of others is a form of government guarantee and protection for the public who may be affected by a corporation. This should be a serious concern, as every corporation, especially industrial companies, can have a negative impact on society if an accident occurs. It is important to note that workplace accidents that result in death are not resolved in court. They are only resolved through amicable settlements. I believe this is not the form of justice the victim received, considering that the victim in this incident was not a worker but was affected by the corporation. A case of this magnitude should be resolved in court, considering the importance of obtaining the fairest possible justice for the public through the state, namely in the courts.

Regarding sanctions against corporations, the PERMA Corporation limits the types of punishments that can be imposed on corporations if they commit a crime. Considering that in general, Indonesian criminal law recognizes two types of sanctions. The types of criminal penalties that can be imposed on each legal subject are principal penalties and additional penalties. Therefore, this is regulated in Article 25 of the PERMA on Corporations, which specifically states that the principal penalty that can be imposed on a corporation is only a fine, while the additional penalties that can be imposed on a corporation depend on and must be in accordance with existing criminal provisions that regulate the punishment of the corporation.

CONCLUSION

The results of the research above can be concluded as follows:

1. The application of laws and regulations on corporate crimes in terms of not implementing K3 protection for workers/laborers has not been running optimally, namely the lack of company awareness of K3 protection for workers/laborers so that there are still many companies that violate the law and do not implement the K3 provisions which can result in work accidents..
2. Factor-factors of corporate criminal responsibility in the occurrence of employment crimes against any other person, namely the corporation as the perpetrator of the crime, corporate administrators, those who give orders, those who hold control, those who benefit from the corporation, differences in interests between the corporation and workers.

3. Analysis of employment crimes for other people in the workplace according to Law No. 1 of 1970 concerning Occupational Safety, namely according to Article 14 letter c of Law No. 1 of 1970 concerning Occupational Safety, states that "The administrator is required to provide free of charge, all personal protective equipment required for workers under their leadership and provide it to every other person who enters the workplace, accompanied by the necessary instructions according to the instructions required according to the instructions of the supervisory employee or work safety expert", therefore the corporation must also be responsible for protecting every other person who is in the company's workplace and the corporation can be found guilty of a criminal act committed and punished.

Suggestion

1. It is recommended that every company implement K3 protection for workers/laborers in the company..
2. The Occupational Safety and Health Law must be evaluated, especially regarding the clarity of the legal subjects who will be held criminally responsible if they commit a crime (violation).
3. The government should do gradual and routine supervision of the implementation of Occupational Safety and Health in corporations to prevent work accidents from occurring.

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