

Legal Proof of Capital Market Manipulation in Indonesia: Case 34/Pid.Sus-TPK/2020/PN.Jkt.Pst Analysis

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Abstract. *The legal framework contained in Articles 90 to 93 of the Law Number 8 of 1995 on Capital Market affirms the prohibition of market manipulation practices. Nevertheless, the effectiveness of law enforcement is often hindered due to the complexities involved in proving market manipulation, which include the perpetrators' sophisticated modus operandi, limitations of legal instruments, and weaknesses in investigative mechanisms. The PT Asuransi Jiwasraya case, as adjudicated in Judgment in the Criminal Corruption Case No. 34/Pid.Sus-TPK/2020/PN.Jkt.Pst dated October 12 th, 2020, illustrates the evidentiary complexities of market manipulation, given that such offenses were committed by white-collar criminals in a structured manner, employing nominees so that transactions appeared administratively legitimate. This research adopts a normative juridical method, using a statutory approach and case study analysis to examine regulatory weaknesses and propose an applicable evidentiary model. The findings reveal that the absence of specific evidentiary rules, the weakness of tracing mechanisms for market manipulation, and the limited capacity of law enforcement authorities constitute major obstacles in addressing such cases in Indonesia. The study proposes an ideal evidentiary model grounded in judicial decision analysis and the strengthening of the role of law enforcement authorities. These findings underscore the urgency of reforming capital market regulations to ensure more effective enforcement against market manipulation and to restore public confidence.*

Keywords: Capital; Evidence; Law; Manipulation; Market.

1. Introduction

The capital market plays a strategic role in supporting national economic development by providing an efficient means of raising long-term funds for both corporations and the government. Capital market regulations and laws serve as fundamental instruments for creating a conducive investment climate, protecting investor interests, and ensuring that all investment activities are conducted transparently, fairly, and reliably (Kennedy, 2024). Without effective regulation, the capital market has the potential to become an arena for detrimental practices, such as market manipulation, insider trading, and legal uncertainty, which will ultimately undermine public trust and hamper national economic growth. One of

the most important elements in the capital market ecosystem is information. Transparency and openness of information are key requirements for efficiency and fairness in securities transactions. Investors can only make informed decisions if they are based on true, accurate, and unmistakable information (Kennedy, 2024). When transparency is neglected, it opens the door to manipulative practices that create a false picture in the market. One practice that can distort capital market information is market manipulation.

In Indonesia, the practice of market manipulation has been strictly regulated in Law Number 8 of 1995 concerning Capital Markets, as last amended by Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law (hereinafter referred to as the "Capital Market Law"). Articles 91 and 92 of the Capital Market Law prohibit any party, either directly or indirectly, from creating a false or misleading picture regarding trading activities, market conditions, or securities prices on the stock exchange (Setiajaya & Adam, 2022). In fact, Article 104 of the Capital Market Law threatens perpetrators of market manipulation with a maximum prison sentence of 10 years and a fine of up to IDR 15,000,000,000. In addition, supporting implementing regulations such as Financial Services Authority Regulation Number: 49/POJK.04/2016 concerning Investor Protection Funds and Financial Services Authority Regulation Number: 65/POJK.04/2020 concerning Return of Illegal Profits provide a legal basis for investors to demand compensation. Based on a 2020 report monitoring trends in corruption prosecutions by Indonesia Corruption Watch (ICW), four corruption cases were recorded in the capital market sector with 27 suspects, consisting of 13 individuals from corporations and 14 individuals from diverse backgrounds (Setiajaya & Adam, 2022). Since 2002, there have been at least five cases of market manipulation in Indonesia: PT Dharma Samudera Fishing Industries, PT Primarindo Asia Infrastruktur, PT Sekawan Intripratama Tbk, PT Sidomulyo Selaras Tbk, and PT Asuransi Jiwasraya. This fact demonstrates that capital market manipulation crimes in Indonesia are real and should not be underestimated. These five cases have one thing in common: the slow detection of market manipulation practices. Legal action is only taken after significant losses have emerged and have a major impact on investors and the capital market as a whole. This delay allows for the manipulation to continue.

The case of PT Asuransi Jiwasraya (hereinafter referred to as "Jiwasraya"), which was decided based on the Corruption Crime Case Decision Number 34/Pid.Sus-TPK/2020/PN.Jkt.Pst, dated October 12, 2020 (hereinafter referred to as "Decision No. 34/2020"), is clear evidence of how complex market manipulation practices are in Indonesia. Supervision by the Indonesia Stock Exchange (hereinafter referred to as "BEI") and the Financial Services Authority (hereinafter referred to as "OJK") recorded that shares with the codes MYRX, TRAM, SMRU, IIKP, and LCGP experienced Unusual Market Activity (UMA) repeatedly between 2012 and 2018, with price spikes that were not supported by the company's fundamentals. The trial facts prove that the manipulation practices were carried out through various modes, such as pump and dump, cornering, wash sale, to pre-arranged trade. The complexity of proof arises because administratively the transactions are recorded as valid in the stock exchange system, so the difference between fair and manipulative transactions can only be revealed through investigation of motives, transaction patterns, and affiliations between the actors. The

problem is further complicated by the fact that the perpetrators are not ordinary individuals, but rather white-collar criminals (Asril, 2020) with financial capacity and financial engineering expertise. They use nominees, affiliates, and cross-account trading to create a false sense of liquidity, making stock ownership and movement appear legitimate. This situation forces law enforcement officials to trace the flow of funds and legal relationships between parties, which requires specialized resources, technology, and expertise. Without a clear legal framework to prove the case, market manipulation practices will be difficult to prosecute even when strong indications are apparent. Market manipulation is prohibited because it has the potential to undermine the integrity and stability of capital markets. The Technical Committee of the International Organization of Securities Commissions asserts that market manipulation destroys market integrity and erodes public confidence by distorting prices, disrupting hedging functions, and creating the illusion of unreal market activity. Public trust is the foundation of capital markets; without it, market liquidity and efficiency will be compromised. Therefore, preventing market manipulation practices cannot be underestimated, as it is an action to protect the fundamental rights of capital market investors (Rahmah, 2019).

Losses from capital market crimes are not only financial but also affect the integrity of the market system itself. The Jiwasraya case demonstrates how manipulation practices can burden state finances through losses to state-owned financial institutions. Market manipulation distorts prices, disrupts supply and demand mechanisms, and undermines the market's function as a sound investment vehicle. Therefore, law enforcement against these practices must be a priority to ensure continued public trust (Asril, 2020). There is a fundamental problem in Indonesian capital market law: the need for proof. How can market manipulation be proven and how can investors assess the extent of losses? The absence of a proof mechanism can lead to a deadlock in the law enforcement process. Therefore, this study attempts to analyze the practice of market manipulation in Decision No. 34/2020, with the aim of formulating an ideal and adaptive model of legal proof for implementation in Indonesia. With this research, it is hoped that an ideal and adaptive legal proof model for capital market manipulation practices can be obtained for implementation in Indonesia.

2. Research Methods

The research method used is a normative juridical method or doctrinal research, namely research that focuses on the study of laws and regulations and library materials related to a particular legal issue (Soejono & Abdurahman, 2003). This research focuses on applicable legal norms, both in the form of regulations and doctrines or legal theories relevant to the practice of capital market manipulation in Indonesia (Benuf & Azhar, 2020). The research specification used is descriptive-analytical, namely describing the applicable laws and regulations, linking them to legal theory and the practice of implementing positive law. In addition, this study also conducts a critical analysis of the practice of capital market manipulation in Indonesia (Soemitro, 1990). The type of data used is secondary data, obtained from second-hand sources such as journals, books, reports, and other library materials. This data includes primary legal materials (the Capital Market Law, OJK regulations, and other implementing regulations) (Waluyo, 2002), secondary legal materials (research results, legal expert opinions, articles in

books, journals, and other media) (Tan, 2021), and tertiary legal materials (legal dictionaries, encyclopedias, and so on). Data collection techniques are carried out through literature studies, namely collecting relevant information from written sources, both printed and electronic, to support research and understand developments in legal science related to the research topic (Robson, 2014).

3. Results and Discussion

3.1. Analysis of Market Manipulation Practices in Decision No. 34/2020

The case referred to in Decision No. 34/2020 is one of the cases that reveals the complexity of market manipulation practices in Indonesia. Based on monitoring by the Indonesia Stock Exchange and the Financial Services Authority (OJK), shares with the codes MYRX, TRAM, SMRU, IIKP, and LCGP were recorded as experiencing repeated Unusual Market Activity (UMA) from 2012 to 2018. Extreme price spikes and drops, unsupported by company fundamentals, are indicative of price manipulation practices. This fact shows that the pattern of market manipulation is not visible but occurs through repetitive, systematic, and organized transaction schemes. The trial examination noted that the manipulation was carried out using various methods, such as pump and dump, cornering, wash sales, and pre-arranged trades. All of these methods created the false impression that certain stocks were actively traded, when in fact, transactions occurred only between colluding parties. The complexity of proof arises because administratively, the transactions remain legally recorded in the stock exchange system. The distinction between legitimate transactions and manipulative transactions can only be determined through a thorough investigation into the motives, transaction patterns, and affiliations between the perpetrators. Proving the truth is increasingly difficult because the perpetrators are not ordinary individuals, but rather individuals with high financial and intellectual capacity, known as white-collar criminals. They possess financial engineering expertise to manipulate stock price movements to suit their interests. The scheme is structured, involving numerous accounts, nominees, and affiliates, so that stock ownership and movement appear legitimate. This distinguishes market manipulation from common crimes, as proving it requires in-depth technical expertise.

In the Jiwasraya case, the use of nominees was key to the difficulty of law enforcement. The names of nominees were used to register transactions as if they were carried out by multiple parties. In reality, control and profits remained with the beneficial owner. This practice constitutes a form of legal smuggling that deceives market regulators. However, from an evidentiary perspective, authorities must trace the legal relationships, fund flows, and transaction patterns between the nominees and the actual beneficial owners, which requires significant resources and time. The losses resulting from market manipulation are also not simple. They involve not only capital losses for investors but also realized losses, burdening state financial institutions, as in the Jiwasraya case. Worse still, often the profits recorded are unrealized or potential gains, so investors don't realize the true losses until stock prices plummet. This demonstrates that the impact of market manipulation extends beyond financial considerations to the integrity of the capital market system as a whole. In their deliberations,

the panel of judges emphasized that market manipulation is a prohibited crime under Articles 91 and 92 of the Capital Markets Law. However, challenges arise because the Capital Markets Law does not provide a comprehensive formal definition of market manipulation. Unlike the European Union, the United States, or Australia, which clearly define manipulation as the creation of artificial prices or false signals, Indonesian law tends to only prohibit the act without providing measurable standards of proof. This legal vacuum weakens the position of law enforcement in the courts.

Proving market manipulation also faces methodological challenges. Proving price manipulation requires in-depth fundamental and technical analysis. However, manipulation often occurs in second- or third-tier stocks, which are inherently high-risk, making it difficult to determine whether price increases or decreases are the result of natural market mechanisms or manipulation. Without clear legal criteria, judges risk relying solely on economic assumptions rather than definitive legal standards of proof. The Jiwasraya case demonstrates that proving market manipulation is extremely complex, not only due to the sophisticated *modus operandi*, but also because the perpetrators are white-collar criminals skilled at circumventing the legal system. Without a clear legal framework for proof, manipulation will be difficult to prosecute, even when strong indications are present. Therefore, Indonesia needs to reform its capital market law with a more comprehensive model of proof, modeled after other countries, to restore public trust in the capital market.

3.2. The Legal Framework for Proving Capital Market Manipulation in Indonesia Based on Decision No. 34/2020

Based on Decision No. 34/2020, The main weakness of Indonesian capital market law is evident in the lack of a comprehensive formal definition of the areas and practices of market manipulation. The Capital Market Law only prohibits such practices without explaining in detail what is meant by artificial prices or misleading information. This condition differs from regulations in the United States, Australia, and the European Union, which expressly define market manipulation as any form of transaction or trading order that uses manipulative or deceptive methods that create false or misleading signals regarding the supply, demand, or price of securities, and causes prices to move at an unreasonable or artificial level (see United States of the American Securities Exchange Act of 1934 , Section 1(2)(a) of the European Union Market Abuse Directive of 2003 , and Section 104A of the Australian Corporate Act 2001). Therefore, the ideal legal framework in Indonesia needs to start from the formulation of a clear definition so that judges have a definite standard of proof (Soekanto, 1983).

In addition to the definition, legal indicators for assessing the occurrence of artificial prices must also be explicitly formulated. Without these indicators, it is difficult to distinguish whether stock price fluctuations are due to natural market mechanisms or manipulation by market participants. These indicators can include repetitive transaction patterns, unusual volumes, or price increases unsupported by the issuer's fundamentals. Formalizing these indicators in OJK regulations will facilitate law enforcement agencies in proving manipulation and provide legal certainty for market participants.

Another crucial aspect is the ability to trace the flow of funds and affiliation between actors. Market manipulation is commonly carried out through cross-account trading or the use of multiple accounts to create the appearance of false liquidity (Rahmah, 2019). Therefore, the evidence system must emphasize the beneficial ownership test, namely determining who actually receives the economic benefits from the transaction. The authority of the Financial Services Authority (OJK) and the Financial Transaction Reports and Analysis Center (PPATK) to trace the flow of funds is absolutely necessary to uncover transaction manipulation. The practice of using nominees in stock transactions poses a significant obstacle to legal evidence. Nominees are used to disguise the identity of the true beneficial owner, making the transaction appear legitimate (Rahmah, 2019). Regulations in Indonesia remain lax in this regard, unlike the Netherlands, which has implemented an Ultimate Beneficial Owner (UBO) Register to ensure ownership transparency (see the Dutch Anti-Money Laundering and Terrorism Financing (Prevention) Act and the Implementation Decree of 2018). By adopting a similar model, Indonesia can close the legal loopholes often exploited by market manipulators. Proving market manipulation must also rely on capital market expert witnesses. Judges and law enforcement officials generally lack the technical competence to interpret complex transaction patterns. The presence of experts can provide objective explanations regarding the difference between fair and manipulative transactions. Furthermore, electronic evidence from the stock exchange trading system, such as order books, IP records, and communications between participants, must be legally recognized in procedural law. This will strengthen the effectiveness of evidence in court.

In terms of sanctions, Indonesian law already stipulates the threat of imprisonment and quite heavy fines (see Article 104 of the Capital Market Law). However, these sanctions are not sufficient to provide a deterrent effect because they focus only on the criminal aspect. In an ideal legal framework, civil sanction mechanisms need to be strengthened in the form of disgorgement of profits or the return of ill-gotten profits, as well as compensation for investors (Setiajaya & Adam, 2022). In addition, administrative sanctions in the form of cancellation of manipulative transactions, as practiced by the United States SEC, also need to be adopted to maintain market integrity (see the United States of America Securities Exchange Act of 1934 and the Foreign Corrupt Practices Act (FCPA) of 1977). An ideal legal framework should strengthen the role of the Financial Services Authority (OJK), which functions not only as a supervisor but also as a prosecutor in cases of market manipulation. The regulator-prosecutor model, as implemented in several jurisdictions, has proven effective in expediting case resolution. With broader authority, the OJK can conduct investigations, take administrative action, and even bring cases to the criminal court if strong evidence is found. This will address the gap in weak inter-agency coordination (see Section 20(b) of United States of America Securities Act of 1933 ; Section 21(d) of United States of America Securities Exchange Act of 1934 ; Sections 232 — 236 (Cap. 289) of the Singapore Securities and Futures Act ; Section 98 of the Malaysian Capital Markets and Services Act of 2007 ; Section 373 of the Malaysian Securities Commission Malaysia Act of 1993 ; Section 50 of the Australian Securities and Investments Commission Act of 2001 ; Section 1324 of the Australian Corporations Act of 2001).

In addition to institutional aspects, the legal framework must also address the preventive dimension by increasing capital market literacy. Investors who understand the signs of manipulation will be more critical in assessing stock price movements. Transparency of issuer information, openness of financial reports, and public oversight are crucial factors in creating a healthy legal culture (Soekanto, 1983). Therefore, preventing manipulation depends not only on law enforcement but also on the collective awareness of market participants. By formulating a clear definition of market manipulation, establishing legal indicators for artificial pricing, strengthening tracing of fund flows, regulating ownership transparency, and expanding the authority of the Financial Services Authority (OJK), Indonesia can build a more effective evidentiary framework. While the complexity of market manipulation by white-collar criminals cannot be completely eliminated, it can be mitigated with a robust legal system. Only in this way can public trust in the capital market be restored and the integrity of the national investment system maintained.

4. Conclusion

The Jiwasraya case demonstrates that market manipulation in Indonesia is a highly complex, structured, and difficult-to-prove crime committed by white-collar criminals using diverse methods and instruments such as nominees and transaction manipulation. Decision No. 34/2020 affirms market manipulation as a prohibited crime under Articles 91 and 92 of the Capital Markets Law. However, the lack of a clear definition and evidentiary standards often hinder law enforcement. The impact of market manipulation not only causes financial losses but also undermines the integrity of the capital market as a sound investment vehicle. Therefore, reform of Indonesian capital market law, encompassing its substance, structure, and legal culture, is necessary by adopting evidentiary practices from other countries to strengthen investor protection and maintain public trust in the capital market. The legal framework for proving capital market manipulation in Indonesia still faces fundamental weaknesses, ranging from the lack of specific rules regarding evidence, limited legal indicators related to artificial prices, to weak infrastructure for gathering evidence of market manipulation practices. Decision No. 34/2020 emphasizes the importance of reforming the legal system to be able to keep up with the complex and structured modus operandi of white collar crime. Reforms are needed not only in the substance of the law, but also in the structure and legal culture, by strengthening the authority of the Financial Services Authority (OJK), optimizing the beneficial ownership test, and recognizing some electronic evidence as valid instruments. By formulating a clearer, more comprehensive, and adaptive legal framework, Indonesia can reduce the scope for market manipulation, strengthen investor protection, and restore public confidence in the capital market as a pillar of national economic development.

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