

Criminal Liability of Corporations in Criminal Acts of Production and Distribution of Industrial Goods/Services Not in Accordance with Indonesian National Standards (Study of Decision Number 138/Pid.Sus/2023/Pn Skh)

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Abstract. *Corporate criminal liability in special laws outside the Criminal Code contains legal weaknesses in the implementation stage of law enforcement. This study aims to analyze the legal construction, corporate criminal liability, and the challenges and solutions to the criminal case of production and distribution of goods or services that do not comply with SNI in Decision Number 138/Pid.Sus/2023/PN Skh. The sociological legal research method was used to identify the problematic issues in the a quo case. The analytical orientation uses a statutory regulatory approach related to the legal issue. The theory of law enforcement and corporate criminal liability is elaborated in such a way as to explain the problems studied. The findings obtained, first, the legal construction of the a quo case applies Article 120 paragraph (1) in conjunction with Article 53 paragraph (1) letter b of Law Number 3 of 2014 concerning Industry, Article 113 in conjunction with Article 57 paragraph (2) of Law Number 7 of 2014 concerning Trade and Article 62 paragraph (1) in conjunction with Article 8 paragraph (1) letter a of Law Number 8 of 1999 concerning Consumer Protection. The Panel of Judges believes the defendant violated the provisions of the Industrial Law. Second, criminal liability in the a quo case uses a strict liability approach. Third, the main obstacle is the overlapping legal formulation of corporate crimes in special laws outside the Criminal Code. The proposed solution is harmonization of joint regulations in law enforcement of corporate crimes.*

Keywords: *Criminal; Corporation; Liability.*

1. Introduction

The Unitary State of the Republic of Indonesia (NKRI) is a democratic state based on the rule of law. This choice implies that all elements related to the implementation and administration of the state are regulated through the legal system. This means that the NKRI is governed by the Constitution, the division of powers among high state institutions, the rights and obligations of citizens, social justice, and other principles.¹

Pancasila is the philosophical foundation of the Indonesian state and its legal system. Pancasila is the source of all legal sources, serving as the fundamental norm of the state (staatsfundamentalnorm). Following Pancasila are the verfassungsnorm, namely the 1945 Constitution, the Grundgesetznorm (People's Consultative Assembly Decrees), and the Gesetznorm (Laws).² This essentially explains that the Republic of Indonesia is a state based on law which has legal sources and order that have been formulated since the Republic of Indonesia was founded in 1945.

The explanation of the contents of the Preamble to the 1945 Constitution, formulated in the Republic of Indonesia News Year II No. 7, explains that: "...The Preamble to the 1945 Constitution contains the main ideas covering the current situation the spirituality of the Constitution of the Republic of Indonesia and the realization of a legal ideal, which encompasses both written basic law (the Constitution) and unwritten basic law (conventions). If these main ideas are concretized in the articles of the 1945 Constitution." This phrase can be interpreted to mean that the Preamble to the 1945 Constitution is the source of positive Indonesian law.³ Because the source of all legal sources is formulated in the Preamble to the 1945 Constitution, all laws and regulations in force in Indonesia must not conflict with the Preamble to the 1945 Constitution.

One of the legal systems in force in Indonesia is the criminal law system. The application of criminal law is necessary for legal certainty, justice, and expediency. The business and industrial sectors require all three legal objectives. The rapid development of the industrial sector and the complexity of the circulation of goods and services in global and national markets require standardization as a means of protecting consumers and ensuring fair trade practices.⁴

The Indonesian National Standard (SNI) is an important mechanism in guaranteeing product quality and consumer protection in the business and

¹Kaelan, 2016, Pancasila Education, Paradigma, Yogyakarta, p. 180

²Ibid, p. 181

³ Ibid, p. 182

⁴Sudariyanto, MA 2018. Corporate Criminal Liability in the Industrial Sector. Pulpit of Justice. <https://doi.org/10.30996/mk.v0i0.1605>.

industrial world.⁵ The aim of SNI is to ensure production efficiency, national competitiveness, healthy and transparent business competition, business certainty, and technological innovation.⁶ In addition, SNI is also designed to increase protection for consumers, business actors, workers, the community, and the state from the aspects of safety, security, health, and environmental sustainability.⁷ Thus, SNI is present as an answer to occupational health and safety (K3) issues and concern for environmental issues.

Legal issues related to SNI violations by corporations pose a serious threat to public safety. The production and distribution of goods or services that do not meet standards can disrupt public welfare, public safety, and economic stability.⁸ This phenomenon of corporate crime, which is systematic, structured and white collar crime, can cause significant economic and humanitarian harm.⁹ These symptoms can be interpreted as meaning that SNI violations have implications for economic and human resources.

The legal limitations on standardization are formulated in the Republic of Indonesia Law Number 20 of 2014 concerning Standardization and Conformity Assessment (SNI Law) Article 1 number 1 as follows:

“Standardization is the process of planning, formulating, establishing, implementing, enforcing, maintaining, and supervising standards that are carried out in an orderly manner and in collaboration with all stakeholders.”

Meanwhile, the meaning of stakeholders is limited, as formulated in Article 1 number 18 below:

“Stakeholders are parties who have an interest in Standardization and Conformity Assessment activities, consisting of consumers, Business Actors, associations, experts, scholars, ministries, non-ministerial government agencies, and/or Regional Governments.”

Understanding the objectives and principles of Law No. 20 of 2014, it can be explained that the main material regulations therein include (1) Institutions, (2) Standardization, (3) Conformity Assessment, (4) Cooperation, (5) Community

⁵ Ciptawan, C., Ginting, B., Sunarmi, S., & Siregar, M. 2023. Consumer Legal Protection Efforts for Products That Do Not Meet Indonesian National Standard Obligations. *Locus: Journal of Legal Science Concepts*, 3(1). <https://doi.org/10.56128/jkih.v3i1.39>

⁶ Ibid.,

⁷Ibid.,

⁸Op.cit., Sudariyanto, MA

⁹Rodliyah, R., Suryani, A., & Husni, L. 2021. The Concept of Corporate Criminal Liability (Corporate Crime) in the Indonesian Criminal Law System. *Journal of Legal Compilation*, 5(1). <https://doi.org/10.29303/jkh.v5i1.43>

Participation, (6) Guidance, (7) Supervision, and (8) Standardization and Conformity Assessment Information Systems. This material is formulated in 76 articles of provisions.

The history of corporate law, which positions corporations as legal subjects, has gone through several stages of development. Initially, Indonesian criminal law adhered to the adage "society delinquare non potest." This principle means that legal entities cannot commit crimes. This principle limits criminal liability to individuals, or natural persons.¹⁰

This thinking is rooted in the assumption that only humans have evil intentions (*mens rea*) and can be subject to corporal punishment such as imprisonment, which cannot be applied to non-human entities.¹¹ In addition, another indicator is the formulation of the crime in the Criminal Code which often uses the phrase "whoever" which can be interpreted as referring to an individual.¹² This evidence is the main idea that there is no opportunity to criminalize a corporation.

The development of corporate crime, which has widespread social and economic impacts, has led to a paradigm shift in this thinking. Corporate crime, being organized and complex, has implications for a wide distribution of victims, for example, in cases of pollution or fraud.¹³ From the perspective of this significant threat to the welfare of society, corporations began to be recognized as subjects of criminal law through laws outside the Criminal Code or *lex specialis*.¹⁴ Law Number 7 of 1955 concerning Economic Crimes became the starting point for this recognition.¹⁵ In its preamble, it is stated that "effective regulations are being established regarding the investigation, prosecution, and adjudication of acts detrimental to the economy." Thus, Law No. 7 of 1955 is a milestone in the history of legal regulation of economic crimes.

Article 15 of Law No. 7 of 1955 states that:

(1) If an economic crime is committed by or on behalf of a legal entity, a company, an association of other people or a foundation, then criminal charges are made and criminal penalties and disciplinary measures are imposed, both against the legal entity, company, association or foundation, both against those

¹⁰Ibid.,

¹¹Suartha, IDM 2017. Criminal Law Policy in Corporate Criminal Liability in Indonesia. *Udayana Master Law Journal*, 5(4), 766. <https://doi.org/10.24843/jmhu.2016.v05.i04.p10>

¹²Ibid.,

¹³Prahassacitta, V. 2009. Criminal Liability of Affiliated Parties in Corruption Crimes. Case Study of the Legal Entity Administration System of the Indonesian Ministry of Law and Human Rights. Thesis, Faculty of Law, University of Indonesia.

¹⁴Op.cit., Rodliyah, R., Suryani, A., & Husni, L. 2021

¹⁵<https://putusan3.mahkamahagung.go.id/direktori/putusan/f9999e5f24d2a5413fbee203d4146cfe.html>

who gave the order to commit the economic crime or who acted as leaders in the act or omission, or against both.

(2) An economic crime is also committed by or on behalf of a legal entity, a company, an association of people or a foundation, if the act is committed by people who, either based on an employment relationship or based on another relationship, act within the legal entity, company, association or foundation, regardless of whether the people each commit the economic crime individually or whether they are jointly involved in the crime.

(3) If a criminal charge is brought against a legal entity, a company, an association of persons or a foundation, then the legal entity, company, association or foundation at the time of the prosecution is represented by a manager or, if there is more than one manager, by one of them. The representative may be represented by another person. The judge may order that a manager appear in person in court, and may also order that the manager be brought before the judge.

(4) If a criminal charge is brought against a legal entity, a company, an association of people or a foundation, then all summonses to appear and all submission of summons letters will be made to the head of the board or at the residence of the head of the board or at the place where the board meets or has an office.

Article 15 of this law explicitly states that penalties may be imposed not only on individuals but also on legal entities, corporations, associations and foundations.¹⁶ This formulation marks a paradigm shift in criminal law in Indonesia from the fictional theory that states that corporations are not legal subjects to legal subjects that can be held criminally responsible.

This shift in the legal paradigm demonstrates the addition of new subjects. Furthermore, it adapts the fundamental nature of criminal responsibility to complex collective entities. The fact that this shift primarily occurs in specific laws, rather than the fundamental Criminal Code, highlights the ongoing tensions and legislative solutions needed to address modern challenges without completely overhauling traditional principles.¹⁷ This fragmented approach can lead to inconsistencies and challenges in interpretation and enforcement, as different laws may adopt varying models or doctrines of corporate liability.

Supreme Court Regulation of the Republic of Indonesia Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations (Perma No.

¹⁶Nurdipa, I., & Zulfiani, A. 2025. Application of the Identification Doctrine in Determining Corporate Criminal Liability for Corruption Crimes. Referendum: Journal of Civil and Criminal Law, 2, 104–118.

¹⁷Op.cit., Suartha, IDM 2017

13 of 2016) aims to provide guidelines to law enforcement officials in handling corporate crimes. Second, it fills the legal gap, particularly in the criminal procedure law (KUHAP) for corporate crimes. Third, it encourages the effectiveness and optimization of handling corporate criminal cases.

Supreme Court Regulation No. 13 of 2016 clarifies several laws and regulations that establish corporations as legal subjects. It contains provisions on the procedures and methods for examining criminal offenses, from the investigation, prosecution, and verdict stages of corporate criminal cases. This regulation contains eight chapters and 37 articles. The Supreme Court Regulation stipulates that corporate crimes consist of principal and/or additional penalties. The Supreme Court Regulation explicitly defines the principal penalty as a fine. Meanwhile, additional penalties are in accordance with applicable laws.

Decision Number 138/Pid.Sus/2023/PN Skh, in essence, explains that the defendant was convicted by the Panel of Judges for a case suspected of being a criminal act in the field of Industry and/or Trade and/or Consumer Protection, namely:¹⁸

"Any person who intentionally produces, imports, and/or distributes goods and/or industrial services that do not meet the Indonesian National Standard (SNI), technical specifications, and/or guidelines for procedures that are enforced in the industrial sector and/or business actors who trade goods domestically that do not meet the SNI that has been enforced in a mandatory manner or technical requirements that have been enforced in a mandatory manner and/or business actors are prohibited from producing and/or trading goods and/or services that do not meet or are not in accordance with the required standards and provisions of laws and regulations.

The legal norms violated by the perpetrator are Article 120 paragraph (1) in conjunction with Article 53 paragraph (1) letter b of Law Number 3 of 2014 concerning Industry and/or Article 113 in conjunction with Article 57 paragraph (2) of Law Number 7 of 2014 concerning Trade and/or Article 62 paragraph (1) in conjunction with Article 8 paragraph (1) letter a of Law Number 8 of 1999 concerning Consumer Protection. The case position of this case occurred on March 16, 2023.

Decision Number 138/Pid.Sus/2023/PN Skh, which serves as the legal basis for the final legal decision, stated that the defendant committed a crime by intentionally producing and distributing goods that did not meet the Indonesian National Standard (SNI). The panel of judges sentenced the defendant to seven months in prison and a fine of one hundred million rupiah, which, if not paid, would be replaced with one month's imprisonment.

¹⁸Police Report Number: LP/A/10/III/2023/SPKT.DITKRIMSUS/POLDA Jawa Tengah

2. Research Methods

Method is the process, principles and procedures for solving a problem, while research is a careful, diligent and thorough examination of a phenomenon to increase human knowledge. Therefore, research methods can be interpreted as the process of principles and procedures for solving problems faced in carrying out research.¹⁹ The aim of legal research is to broaden insight and increase the depth of the substance of legal science.²⁰

3. Results and Discussion

3.1. Criminal Acts of Production and Distribution of Industrial Goods or Services Not in Accordance with SNI by Business Actors in the Jurisdiction of the Central Java Regional Police

The criminal act of production and distribution of industrial goods or services that do not comply with SNI in the Central Java Regional Police area is based on Police Report No. LP/A/10/III/2023/Spkt.Ditkrimsus/Polda Jawa Tengah. The position of the a quo case can be described as follows:²¹

“It is strongly suspected that any person who intentionally produces, imports, and/or distributes industrial goods and/or services that do not meet SNI, technical specifications, and/or guidelines for procedures that are enforced in a mandatory manner in the industrial sector is committing a crime in the industrial sector (underlining by the author).

The next allegation is that business actors who trade goods domestically do not comply with the mandatory SNI or the mandatory technical requirements (underlined by the author).

And business actors are prohibited from producing and/or trading goods and/or services that do not meet or do not comply with the required standards and provisions of laws and regulations (underlined by the author).

As referred to in Article 120 paragraph (1) in conjunction with Article 53 paragraph (1) letter b of Law Number 3 of 2014 concerning Industry and/or Article 113 in conjunction with Article 57 paragraph (2) of Law Number 7 of 2014 concerning Trade and/or Article 62 paragraph (1) in conjunction with Article 8 paragraph (1) letter a of Law Number 8 of 1999 concerning Consumer Protection in relation to the activity of producing and/or trading vertical cylindrical plastic water tanks (water reservoirs) which are suspected of not complying with the

¹⁹Soerjono Soekanto, 1985, Introduction to Legal Research, UI-Press, Jakarta, p. 6

²⁰Artidjo Alkostar, 2018, Prophetic Legal Research Methods, UII Press, Yogyakarta, p. 21

²¹Results of an interview with Andri Cahyo, Investigator at the Directorate of Special Crimes at the Central Java Regional Police

mandatory SNI which occurred at CV Rejo Makmur Asri at Jln. Pramuka No. 10, Kel. Wirun, Mojolaban District, Sukoharjo Regency."

The results of the investigation and inquiry by the police can be described in the following analysis:

First, the legal construction established by investigators from the Central Java Regional Police's Criminal Investigation Directorate in the a quo case applies three laws, namely Law Number 3 of 2014 concerning Industry, Law Number 7 of 2014 concerning Trade, and Law Number 8 of 1999 concerning Consumer Protection. The legal norms applied by the police can be explained as follows:

1. Article 120 paragraph (1) in conjunction with Article 53 paragraph (1) letter b of Law Number 3 of 2014 concerning Industry.

The legal formulation of Article 120 paragraph (1) of Law Number 3 of 2014 concerning Industry is as follows:

"(1) Any person who intentionally produces, imports and/or distributes industrial goods and/or services that do not comply with SNI, technical specifications and/or guidelines for procedures that are enforced in the industrial sector as referred to in Article 53 paragraph (1) letter b, shall be punished with imprisonment for a maximum of 5 (five) years and a maximum fine of IDR 3,000,000,000.00 (three billion rupiah)."

This provision is addressed to "every person." The norm of the definition of every person in the Industrial Law is "Every person is an individual or corporation." As formulated in Article 1 number 7 of the Industrial Law. Meanwhile, the legal definition of a corporation is limited to the meaning as in Article 1 number 8 of the Industrial Law: "A corporation is a group of people and/or organized assets, whether a legal entity or not a legal entity."

The legal implications regarding the legal limitations of each person indicate that the norm of Article 120 paragraph (1) of Law Number 3 of 2014 concerning Industry is directed at individuals and/or corporations. The facts of this text show that corporations are legal subjects in the provisions of this article.

Article 120 paragraph (1) of the Industrial Law is a prohibitive norm. This is proven by the formulation of the phrase "shall be punished." This means that the legislator uses criminal means to punish perpetrators of the crimes referred to in the article.

The objects of the norms prohibited in this article include elements of intent (*dolus*) in terms of producing, importing, distributing industrial goods and/or services that do not meet SNI, technical specifications, and/or guidelines for procedures that are enforced on a mandatory basis in the industrial sector.

The analysis of the norms of Article 120 paragraph (1) of Law Number 3 of 2014 concerning Industry explicitly formulates the criminal act of Production and Distribution of Industrial Goods or Services Not in Accordance with SNI. Even verbatim the formulation of the article states the phrase "not in accordance with SNI".

The criminal sanctions in the formulation of this article state that cumulatively the maximum prison sentence is 5 years and a maximum fine of 3 billion rupiah.

Thus, Article 120 paragraph (1) of Law Number 3 of 2014 concerning Industry, the legal norms are directed at individuals and/or corporations. The criminal offenses formulated are producing, importing, distributing industrial goods and/or services that do not meet SNI, technical specifications, and/or guidelines for procedures that are enforced mandatory in the industrial sector. Meanwhile, criminal responsibility is in the form of intent or dolus. The criminal sanctions formulated are in the form of imprisonment and fines.

The analysis of the norms of Article 62 paragraph (1) of the Consumer Protection Law explicitly formulates the criminal act of Production and Distribution of Goods or Services that do not comply with SNI. The choice of diction of the formulation of the article mentions the phrase "does not meet or does not comply with the required standards". The text evidence of the formulation is contained in Article 8 paragraph (1) letter a which can be understood as being systematically constructed with Article 62 paragraph (1) of the Consumer Protection Law.

The criminal sanctions in the formulation of this article state as an alternative a maximum prison sentence of 5 years or a maximum fine of 2 billion rupiah.

Thus, Article 62 paragraph (1) of the Consumer Protection Law, the legal norm is aimed at business actors, including individuals and corporations. The criminal acts formulated are qualified as violations in certain articles.

Criminal liability for business actors is not explicitly formulated. In other words, the provisions only outline the actions or crimes prohibited by the norm. The criminal sanctions prescribed are imprisonment or fines, indicating an alternative formulation pattern.

The legal formulation of Article 8 paragraph (1) letter a of Law Number 8 of 1999 concerning Consumer Protection states:

"(1) Business actors are prohibited from producing and/or trading goods and/or services which:

a. does not meet or does not comply with the required standards and provisions of laws and regulations;"

Analysis of the norm of Article 8 paragraph (1) letter a of the Consumer Protection Law can be understood as the provision is aimed at business actors. The norm is in the form of a prohibition because it is clearly formulated using the diction "prohibited". The qualification of the prohibited violation offense is "producing and/or trading goods and/or services which does not meet or does not comply with the required standards and provisions of laws and regulations" (underlining by the author).

The table above explains several research findings related to units of analysis within the criminal law system, including criminal acts, criminal responsibility, and sentencing. These details are as follows:

(1) The unit of analysis is "legal subject" in the a quo case. The three legal norms are in the form of provisions in Article 120 paragraph (1) in conjunction with Article 53 paragraph (1) letter b of Law Number 3 of 2014 concerning Industry and or Article 113 in conjunction with Article 57 paragraph (2) of Law Number 7 of 2014 concerning Trade and or Article 62 paragraph (1) in conjunction with Article 8 paragraph (1) letter a of Law Number 8 of 1999 concerning Consumer Protection, it can be understood that the legal subject is an individual or a Corporation. However, the juridical formulation of the legal norms is different. The Industrial Law explicitly mentions "Individuals and or Corporations". While in the Trade Law and the Consumer Protection Law, it is only formulated as a business actor with different information. The Trade Law defines a business actor as "A Business Actor is every individual Indonesian citizen or business entity in the form of a legal entity or not a legal entity established and domiciled within the legal territory of the Unitary State of the Republic of Indonesia that carries out business activities in the field of Trade." (underlining by the author).

The Consumer Protection Law limits the definition of business actors as: "Business actors are every individual or business entity, whether in the form of a legal entity or not a legal entity, which is established and domiciled or carries out activities within the legal territory of the Republic of Indonesia, either alone or together through an agreement to carry out business activities in various economic fields." (line from the author).

(2) In the analysis unit of criminal offense qualification, the three legal norms applied by investigators in the a quo case differ in their formulations, both in the qualifications of the offense and in the formulation of prohibited acts. The explanation is as follows:

a) The Industrial Law does not define the qualifications for a crime, whether it is a crime or a violation. The definition of a crime is: "producing, importing, or distributing industrial goods and/or services that do not meet the Indonesian National Standards (SNI), technical specifications, and/or guidelines that are enforced in the industrial sector."

- b) The Trade Law does not define the qualifications for a crime as a crime or a violation. The definition of the crime is: "trading goods domestically that do not meet the mandatory SNI standards or the mandatory technical requirements."
- c) The Consumer Protection Law defines the qualification of the offense as "violation" and the phrase "Criminal Act of Production and Distribution of Goods or Services that do not comply with SNI." The choice of diction in the formulation of the article includes the phrase "does not meet or does not comply with the required standards."

Thus, of the three legal norms mentioned above, only the Consumer Protection Law does not contain legal consequences regarding the qualification of a crime. This is because the Consumer Protection Law's unit of analysis explicitly defines the criminal act as a violation. This facilitates harmonization of criminal provisions within its parent system (the Criminal Code).

(3) In the "criminal liability" analysis unit, it appears that, of the above legal norms, only the Industrial Law explicitly states the element of fault (criminal liability) as intent (dolus). Meanwhile, the other two laws do not mention it. This indicates an inconsistency in the formulation of the element of fault in the three laws.

(4) Unit of analysis of criminal sanctions. The three legal norms in the laws above appear to have similarities in terms of criminal sanctions, namely imprisonment and/or fines. The maximum prison sentence applied is the same, namely 5 years. However, the application of fines differs: the Industrial Law has a maximum of 3 billion Rupiah, the Trade Law (5 billion Rupiah), and the Consumer Protection Law (2 billion Rupiah). The formulation of criminal sanctions also differs: the Industrial Law is cumulative, the Trade Law is cumulative-alternative, and the Consumer Protection Law is alternative.

This statement indicates that the research findings confirm the differences in the formulation of the offense in the a quo case. In general, legal norms are aimed at the same legal subjects, namely individuals or corporations. This proves that the provisions for corporate liability are regulated in Special Laws outside the Criminal Code. However, the implementation of the varied formulation of the offense above has legal consequences in the implementation of law enforcement regarding the harmonization of the main criminal law system in the Criminal Code, particularly the issues of attempted crimes and the statute of limitations (except for the norm in the Consumer Protection Law which explicitly qualifies it as a violation offense).

Second, Analysis of the legal construction of the application of corporate criminal liability in the a quo case. In this second analysis, the author constructs an explanation of the a quo case as follows:

1. In the author's opinion, CV Rejo Makmur Asri can be held criminally liable for the production and/or distribution of industrial goods or services that do not comply with SNI in Indonesia. However, its implementation faces various challenges, including (1) the legal weaknesses of overlapping related PUUs and (2) limited jurisprudence.

2. The facts of the case, position of Police Report No: LP/A/10/III/2023/Spkt.Ditkrimsus/Polda Jawa Tengah, explain that:

a. Text facts: Article 120 (1) in conjunction with Article 53 (1) of Law No. 3/2014 (Industrial Law) explicitly regulates this and is in the form of a prohibition norm.

b. Article 8 (1) letter a in conjunction with Article 62 (1) Law No. 8/1999 (Consumer Protection Law) is a prohibition norm.

c. Article 73 of Law No. 20/2014 (Standardization and Conformity Assessment Law) is a prohibition norm.

d. Article 113 in conjunction with Ps 57 (2) Law No. 7/2014 (Trade Law) is a prohibitive norm.

e. The jurisprudence of the calcium carbide and pertalite mixed with water case, which has become a permanent legal force, can essentially be a source of legal findings in the a quo case.

3. Thus, the author's opinion can be connected with the facts of the investigation in the a quo case, through the following legal principles and legal doctrines:

a. The principle of strict and vicarious liability essentially states that without mens rea (evil intent) from an individual or corporation, because they are not human, the actus reus, or actions of an agent within the scope of employment, can be held criminally liable. Second, actions taken on behalf of a corporation can be attributed to that corporation.

b. The identification doctrine explains that the attribution of errors by the main management of a CV/Corporation as a decision maker on behalf of the company can be held criminally responsible.

c. There is recognition that corporations are legal subjects in special PUU outside the Criminal Code in the definition norms and explanations of the general provisions of the PUU.

Thus, in terms of corporate criminal liability, CV Rejo Makmur Asri in the a quo case can be held criminally liable through the concepts of strict liability and vicarious liability. This is based on legal provisions that state that corporations are legal entities that can be held criminally liable.

The analysis of this sub-chapter can be summarized as follows: first, the criminal act of production and distribution of industrial goods or services not in accordance with SNI by business actors in the Central Java Regional Police Jurisdiction, applying legal norms in the Industrial Law, Trade Law and Consumer Protection Law formulated by Police investigators, as cumulative-alternative due to the fact that the text states "and/or". Second, CV Rejo Makmur Asri in the a quo case can be subject to criminal liability through the concept of absolute criminal liability (strict liability) or substitute (vicarious liability).

Third, the panel of judges believes that based on the evidence presented in the case examination, the defendant violated the provisions of Article 120 paragraph (1) in conjunction with Article 53 paragraph (1) letter b of Law Number 3 of 2014 concerning Industry. This fact confirms that the defendant in committing the crime was more in accordance with the norms regulated in the Industrial Law. As proven by the panel of judges through trial evidence and the conviction of the panel of judges.

Fourth, the panel of judges' verdict was lighter than the prosecutor's demand. One consideration was that the purpose of sentencing is not to inflict suffering on the perpetrator of the crime, but rather to be preventive, educational, and corrective. The panel of judges was of the opinion that the prison sentence demanded by the public prosecutor was deemed too high and therefore considered appropriate and fair, and did not conflict with the public's sense of justice.

3.2. Obstacles and Solutions to the Investigation Process in Decision Number 138/Pid.Sus/2023/PN Skh

The criminal liability of corporations in the a quo case, particularly in the investigation process, describes the following legal facts:

"The suspect produced and sold vertical cylindrical plastic water tanks (water reservoirs) from April 2018 until March 14, 2023, when officers inspected CV Rejo Makmur Asri's address at Jln. Pramuka No. 10, Wirun Sub-district, Mojolaban District, Sukoharjo Regency."

The facts of this incident indicate that the production of water tanks that did not comply with SNI standards had been going on for five years (since April 2018). This means that this criminal case, perpetrated by a corporation, has been ongoing for years, and it was only through investigations by law enforcement that the case was uncovered.

The legal factual background can describe several important findings in analyzing the case. *a quo*. The previous discussion shows that the suspect in the a quo case is suspected of violating provisions in three laws: the Industrial Law, the Trade Law, and the Consumer Protection Law.

The disclosure of the legal case of the criminal act of producing and distributing water tank products that do not comply with SNI can be interpreted in three areas of legal objectives:

First: the philosophical aim of law is to create legal justice in society.

Second, the practical purpose of law, regarding the benefits of law.

Third, the sociological objective of law, namely its relationship with the laws that live in society.

The three dimensions of the objectives can be seen from the principles and objectives of the law used by investigators in the a quo case. (1) The Industrial Law, philosophically the legal objective in this law is "to increase the prosperity and welfare of society in a just manner". As formulated in Article 3 letter g. The objective that leads to justice is the core of the philosophical dimension of law, including how the water tendon industry in the a quo case is able to lead to the issue of justice. (2) The Trade Law in its considerations formulates the following objectives of justice "...economic democracy with the principles of togetherness, efficiency with justice, sustainability, environmental awareness, independence, and by maintaining the balance of progress and unity of the national economy.." (3) The Consumer Protection Law, in the issue of justice, formulates in Article 2 as follows "Consumer protection is based on benefits, justice, balance, security and safety of consumers, and legal certainty." Thus, the interpretation of the a quo case in the issue of justice is that if the traded and produced products have problems with the standard, namely SNI, then it can be said that the case is contrary to the first legal philosophy in the three laws that the suspect violated.

Regarding the second issue of the purpose of law, namely the practical purpose of law which contains the meaning of utility, then in the legal facts of the a quo case this can be confirmed from the following facts:

"In this case, Mr. Richard Wibowo Kurniawan knew that the vertical cylindrical plastic water tank (water tank) was a product that required SNI. Mr. Richard Wibowo Kurniawan produced and traded the REJO brand vertical cylindrical plastic water tank (water tank) which did not meet SNI because it was to meet the needs of life and to gain profit."

It appears that, based on the suspect's mens rea, the purpose of producing tendons that did not comply with the Indonesian National Standard (SNI) was to meet the needs of life and gain profit. This fact indicates that the suspect's actions contradict the practical purpose of the law, namely, benefit. Therefore, the suspect's actions are categorized as unlawful.

In the sociological dimension of law, there is a fact that the law that lives in society, "chooses" to buy cheap water tanks even though they do not meet SNI standards, this can be seen from the following witness statement:

"On March 11, 2023, the witness searched for a water tank at a low price on the Facebook marketplace. From the marketplace, the witness found a Facebook account named Kukuh WTP, which sold the REJO brand water tank at a lower price compared to other brands. Then, the witness communicated via WhatsApp to purchase the REJO brand water tank. The witness communicated to ask for the price and provide the delivery address to the witness's house at Sangkrah RT03/RW11, Sangkrah Village, Pasar Kliwon District, Surakarta City, Central Java Province. Then, on March 14, 2023, the REJO brand water tank was delivered to the witness's house."

This fact confirms that in terms of the legal aspects that exist in society, it appears that there is poor legal education in society, namely producing and trading non-standard water tanks which can ultimately endanger the safety, health and security protection of the community of users.

Evidence in the a quo case can be obtained from information on obstacles encountered during the investigation. The main obstacle identified was the legal formulation policy of a special law outside the Criminal Code, which was violated by the suspect. As previously analyzed by the author, the legal weaknesses of the corporate liability provisions in the special law can impact the law enforcement process.

The fact that investigators are creative in revealing the a quo case is a best practice that can be strengthened systematically using the following approach:

- a. Capacity building for law enforcement officials. This approach essentially provides ongoing training and workshops for investigators, prosecutors, and judges on the complexities of corporate crime, the theory of corporate criminal liability, and the technical aspects of SNI and conformity assessment. This capacity building will assist law enforcement officials in building stronger and more effective cases.
- b. Strengthening the institutional role of the National Standardization Agency. One approach is to increase the role of the National Standardization Agency (BSN) in market oversight and disseminate mandatory SNI to businesses, including Micro, Small, and Medium Enterprises (MSMEs). BSN data and recommendations can be important tools for law enforcement in identifying and proving SNI violations.
- c. Developing Guidelines for Proving Corporate Liability for Law Enforcement Officials. This approach involves developing more detailed guidelines or checklists for law enforcement officials regarding the types of evidence required

to prove each theory of corporate criminal liability in the context of SNI violations, including evidence of internal corporate policies, decision-making structures, and profit flows.

With the identification of the main obstacles in the investigation of the a quo case that connects three laws, namely the Industrial Law, the Trade Law and the Consumer Protection Law, which contain certain legal weaknesses in the corporate liability section, the solution going forward is urgently to harmonize the criminal law policy system regarding corporate liability. The facts of the investigation of the a quo case, provide an important lesson that overlapping legal formulations in statutory regulations result in less than optimal investigation effectiveness.

4. Conclusion

The author can conclude this thesis as follows: 1. Legal construction in the criminal act of production and distribution of industrial goods/services not in accordance with SNI by business actors in the jurisdiction of the Central Java Regional Police based on Police Report No: LP/A/10/III/2023/SPKT.Ditkrimsus/Polda Central Java, three laws are applied including first, Article 120 paragraph (1) in conjunction with Article 53 paragraph (1) letter b of Law Number 3 of 2014 concerning Industry. Second, Article 113 in conjunction with Article 57 paragraph (2) of Law Number 7 of 2014 concerning Trade. Third, Article 62 paragraph (1) in conjunction with Article 8 paragraph (1) letter a of Law Number 8 of 1999 concerning Consumer Protection. Decision Number 138/Pid.Sus/2023/PN Skh, the panel of judges in its decision sentenced the defendant with a legal construction in accordance with the first indictment of the Public Prosecutor. The defendant was sentenced to one year in prison and a fine of one hundred million rupiah. The panel of judges believed that the defendant violated the provisions of Article 120 paragraph (1) in conjunction with Article 53 paragraph (1) letter b of Law Number 3 of 2014 concerning Industry. 2. Corporate criminal liability in the a quo case, through the Strict Liability Theory approach. Investigator in proving the perpetrator of the crime by determining the suspect as the owner of the Corporation because based on the confession of the suspect, witnesses and experts, the perpetrator deliberately knew that the water tank products that the perpetrator produced and traded were required to meet SNI. 3. The main obstacle to investigating the a quo case stems from the legal weaknesses of the laws violated by the perpetrators of the crime. This means that the overlapping legal formulations in the three laws (the Industrial Law, the Trade Law, and the Consumer Protection Law) require specific competencies from investigators in uncovering the case. The solution going forward in law enforcement for cases similar to the a quo case is the urgent need to harmonize regulations related to corporate criminal liability. In principle, the punishment pattern consists of sanctions, determining when and who should be

held responsible for corporate crimes, thus enabling a pattern of legally certain sanctions in the form of financial sanctions, institutional sanctions, and sanctions to reduce the negative public stigma of the corporation.

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