Journal of Social Work and Science Education
Volume 5 (3) 2024, 1055-1075
E-ISSN 2723-6919, P-ISSN 2746-0827

Legal Enforcement of Corruption Criminal Act PT Asuransi Jiwasraya (Case Study of Decision 2931 K/Pid. Sus/2021)

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Article History: Received on 2 August 2024, Revised on 22 August 2024, Published on 8 October 2024

Abstract: This study aims to evaluate the judicial decision in the corruption case involving PT Asuransi Jiwasraya (Persero) based on Verdict Number 2935 K/Pid.Sus/2021, as well as examine the liability of insurance companies in cases of policy payment failures. The research employs a normative legal method with a statute approach, relying on secondary data from documents and legal literature. Data analysis is conducted qualitatively by categorizing and selecting data, which is then analyzed deductively and presented descriptively. The findings indicate that the judge in Verdict Number 2935 K/Pid.Sus/2021 affirmed the legal violations that harmed the policyholders. The liability of the insurance company can be addressed preventively through regulations that provide legal certainty and repressively through criminal law enforcement and civil lawsuits by policyholders for PT Asuransi Jiwasraya (Persero)'s default. Law enforcement authorities are expected to be more proactive and stringent in handling corruption cases, and the government needs to enhance regulations related to policyholder protection, including the establishment of a Policy Guarantee Institution Act. Educating the public about their rights as insurance policyholders is also crucial for raising awareness and vigilance. Further research is necessary to explore the factors contributing to insurance companies' failures to fulfill their obligations and the effectiveness of existing regulations. Implementing these recommendations is anticipated to create a more just and transparent legal environment, providing better protection for the public.

Keywords: Corruption, Customer Protection, Insurance, Jiwasraya

A. Introduction

Corruption has become a serious problem in many countries, including Indonesia, and has had a detrimental impact on the country's economy. The economic losses due to corruption offenses are enormous and have a broad impact, not only on state finances but also on the economy as a whole (Akimova et al., 2020). These impacts include decreased investment, increased transaction costs, distortion of resource allocation, and decreased economic efficiency (Wang et al., 2020). These losses can

also affect public trust in government and public institutions, which in turn can disrupt social and political stability.

Life insurance plays a vital role in helping people manage the financial risks associated with life and death. Life insurance products can provide financial protection for families left behind by a breadwinner, as well as help achieve long-term financial goals such as children's education and retirement preparation. Customer funds are money entrusted by customers to insurance companies to invest. Misuse of these funds can harm customers and undermine public confidence in the insurance industry.

Jiwasraya's financial scandal erupted in 2018 when it was revealed that there was a significant investment fund deficit. Investigations concluded that there was a practice of falsifying documents and manipulating financial statements to cover up the shortfall. The case had a detrimental impact on customer funds, with investment funds that should have been profitable instead suffering huge losses. This raised serious concerns in the community and shook confidence in the insurance industry in Indonesia (Panuntun & Adristi, 2020).

The Jiwasraya case highlights the need for reforms in corporate governance and supervision of insurance companies in Indonesia (Trihatmoko & Susilo, 2023). Regulatory improvements and increased supervision are needed to prevent the recurrence of similar cases in the future and to restore public confidence in the insurance sector. In verdict Number 2935 K/Pid.Sus/2021, the judge has handed down a verdict that confirms the violation of the law that harmed the customer. Law enforcement officials must immediately carry out legal protection by holding the perpetrators criminally, civilly, administratively, and ethically liable.

This study aims to see what the judge's decision in the crime of corruption involving PT Asuransi Jiwasraya (Persero) in judge's decision Number 2935 K/Pid.Sus/2021. In addition, this research also aims to see how the responsibility of insurance companies in cases of policy payment failure.

B. Methods

This study uses a normative legal research method that focuses on normative case studies in the form of legal behavioral products. Normative legal research includes an inventory of positive law, legal principles and doctrines, legal discoveries in concreto cases, legal systematics, synchronization levels, comparative law, and legal history (Ali, 2021) . The approach used in this study is the statute approach because normative research requires analysis of various legal rules that are the focus and central theme of the research (Kasim, 2020). The data sources used are secondary data, which include document or literature studies, with primary sources in the form

of documents or sources of information created at or around the time being studied, including Supreme Court Decision No. 29/Pid.Sus-TPK/2020/Pn. Jkt/Pst and legislation related to corruption.

Data collection techniques are carried out through document studies or library materials, which involve a study of laws and regulations, literature books, and written works from legal experts. The data obtained are analyzed using qualitative methods, namely by grouping and selecting data based on their quality and truth, then systematically arranged and studied using deductive thinking methods that are connected to theories from literature studies (Muthiah et al., 2020). The results of the analysis are presented descriptively, describing the actual conditions in the field, so that a descriptive-qualitative description of the research results is obtained, which is then used to answer the formulation of the problem in this study.

C. Results and Discussion

PT Asuransi Jiwasraya, established in 1859, is one of the oldest life insurance companies in Indonesia. Established during the Dutch colonial period under the name Nederlandsch-Indische Levensverzekerings en Liffrente Maatschappij (NILLMIJ), the company originally aimed to provide life insurance services for Dutch citizens living in the Dutch East Indies (now Indonesia) (Supenti & Suparno, 2021). In 1960, the company was nationalized by the Indonesian government, and its name was changed to PT Asuransi Jiwasraya. For more than a century, Jiwasraya has been one of the major players in the life insurance industry in Indonesia. The company has been providing comprehensive and reliable life insurance services to the people of Indonesia, helping them plan their financial future. Jiwasraya offers a range of life insurance products, including traditional life insurance, health insurance, and insurance-related investment products (Tjiam et al., 2021). The company is known for its commitment to continuous innovation and providing insurance solutions that suit customers' needs and preferences.

PT Asuransi Jiwasraya is the only state-owned life insurance company that can provide faidah guarantees in the form of death insurance, old age insurance, health insurance, and accidents, either in the form of individual coverage or group coverage. The company has a head office in Jakarta, offices at the provincial level, and branch offices at the district or city level spread throughout Indonesia so that it can provide services that are easily accessible and affordable to people throughout the country.

Decision of the Panel of Judges 2935 K/Pid.Sus/2021 in the PT Jiwasraya Case

In deciding the Jiwasraya case, the judge had a number of considerations that were based on in-depth legal discovery and interpretation. These considerations include

several key aspects that form the basis for the verdict. The subject of the offense in criminal law can be a natural person (naturelijk persoon) or a corporation (rechtpersoon). While the Criminal Code still limits the subject of offense to natural persons, various laws outside the Criminal Code have long recognized the existence of corporations as subjects of offense, such as the Corruption Eradication Law. Article 1, point 3, of this law expands the meaning of every person to include corporations, which are an organized collection of persons and/or assets, whether or not they are legal entities.

The panel of judges, in the legal considerations of the case a quo, stated as follows: Considering that the public prosecutor had brought to trial a man named Dr. Hendrisman Rahim, After the panel asked the defendant, the identity of the defendant was consistent with that contained in the indictment of the public prosecutor, and based on the testimony of witnesses, it was confirmed that the defendant was the one referred to in the indictment of the public prosecutor, therefore there was no mistake about the person brought to trial.

Considering that the public prosecutor, in his indictment, which has been read out in court, mentioned the name of the defendant with a job as a lecturer without mentioning his position, which expressly represents the corporation. Based on the legal facts, the position of the defendant in the trial of the case a quo is in his capacity as a person, so the position of the defendant in the trial is as a person or individual. This consideration confirms that the defendant was found guilty of committing the crime of corruption and the crime of money laundering as in the primary and subsidiary charges in his position as a private person or individual. In fact, the defendant's unlawful act, according to the judge's legal consideration, was related to the misuse of customer fund investment by PT Asuransi Jiwasraya (Persero) during the period 2008–2018.

In this legal action, the defendant's capacity is not as a person but as the former President and Director of PT Asuransi Jiwasraya (Persero). The clarity of the defendant's position in a criminal case is important because it is related to the characteristics of the criminal offense and the criminal liability system. If the criminal offense in the case a quo was committed by the defendant in his capacity as President Director of PT Asuransi Jiwasraya (Persero), it implies a comprehensive understanding of the nature of the corporation itself and the characteristics of criminal offenses by corporations that distinguish them from criminal offenses by individuals.

Investigations conducted by the Attorney General's Office revealed that Dr. Hendrisman Rahim and a number of other executives were involved in high-risk investments and the manipulation of financial statements to cover up the company's losses. In the Corruption Court Decision at the Central Jakarta District Court

Number 31/Pid.Sus-TPK/2020/PN Jkt.Pst, dated October 12, 2020, Dr. Hendrisman Rahim was named as a defendant. During his tenure as President and Director of PT Jiwasraya in the 2008–2018 period, he was involved in corrupt practices and financial manipulation that harmed thousands of customers.

The cassation application in the PT Asuransi Jiwasraya case was accepted because it was submitted in accordance with legal procedures. The public prosecutor filed a cassation application on March 8, 2021, and the cassation memory was received on March 19, 2021, while the defendant filed a cassation application on March 16, 2021, and the cassation memory was received on March 29, 2021. Both cassation requests were submitted within the time period stipulated by law, so they are formally acceptable.

First, the judge considered that the actions taken by the defendants, including Hendrisman Rahim, were based on comprehensive and professional analyses. The defendants, together with other related parties, conducted a series of non-transparent and manipulative share transactions, which appeared to generate profits for PT Asuransi Jiwasraya in a short period of time but actually harmed the company.

The Supreme Court's consideration of not accepting the reasons for cassation from the Public Prosecutor and the Defendant, Dr. Hendrisman Rahim, is because the decision of the Judex Facti of the Corruption Court at the DKI Jakarta High Court, which upheld the decision of the Central Jakarta District Court, has applied the rules of law correctly and been tried in accordance with the provisions of the law. The public prosecutor filed a cassation because he considered that the sentence was too lenient and not in accordance with the application of the law, while the defendant filed a cassation because he felt that there were errors in the assessment of legal facts and the method of trial. The Supreme Court considered that the reasons for the cassation could not be accepted because the Judex Facti's assessment of the legal facts and application of the law were correct.

The Judex Facti Decision has also considered juridically relevant legal facts appropriately and correctly according to the legal facts revealed before the court, namely starting from after the Board of Directors of PT Asuransi Jiwasraya was appointed and inaugurated in accordance with GMS Decree No. KEP-14/MBU/2008 dated August 8, 2008, including Defendant Hendrisman Rahim as President Director, Witness Harry Prasetyo as Finance Director, and Witness Syahmirwan as Head of Investment and Finance Division. Bapepam-LK stated that PT Asuransi Jiwasraya was in insolvency (Desovi & Kasyfi, 2021) and requested restructuring of all product portfolios (Haryanti, 2023), a portfolio database to be integrated with information technology, balancing product promises with investment management

(investment mismatch between assets and liabilities), and optimizing the operations of branch offices.

As a result of the actions of the Defendant together with the witness Heru Hidayat, the witness Benny Tjokrosaputro, the witness Harry Prasetyo, and the witness Syahmirwan, there was a total state financial loss of Rp16,807,283,375,000.00 (sixteen trillion eight hundred seven billion two hundred eighty-three million three hundred seventy-five thousand rupiah), with details of state financial losses on investment in BJBR, PPRO, SMBR, and SMRU shares amounting to Rp4. 650,283,375,000.00 (four trillion six hundred fifty billion two hundred eighty-three million three hundred seventy-five thousand rupiah) and state financial losses on investment in mutual funds amounting to Rp12,157,000,000,000.00 (twelve trillion one hundred fifty-seven billion rupiah).

The material actions of the defendant in such a way have fulfilled all the elements of the criminal offense of Article 2 Paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning amendments to Law Number 31 of 1999 in conjunction with Article 55 Paragraph (1) to 1 of the Criminal Code in the Primair Indictment.

Likewise, the decision of the Judex Facti of the Court of Appeal, which changed the length of sentence imposed by the Judex Facti of the District Court on the Defendant to imprisonment for 20 (twenty) years and a fine of Rp1,000,000,000.00 (one billion rupiah), provided that if the fine is not paid, it will be replaced by imprisonment for 4 (four) months, did not exceed its authority and had adequately considered all the circumstances surrounding the Defendant's actions, both aggravating and mitigating circumstances, and the nature of the actions committed by the Defendant.

The punishment in lieu of fines imposed by the Judex Facti is still too light, so it is considered fair to be corrected considering that the incident caused is quite large and to avoid disparity with similar cases that are as long as in the ruling of this decision. In addition, the reason for the defendant's case relates to the assessment of the results of the evidence, which is an appreciation of reality. This cannot be considered in the examination at the cassation level, because the examination at the cassation level only concerns whether a rule of law has not been applied, whether a rule of law has not been applied properly, whether the manner of trial has not been carried out in accordance with the provisions of the law, or whether the court has exceeded the limits of its authority as referred to in Article 253 Paragraph 1 of the Criminal Procedure Code.

Although the severity of the punishment imposed is in principle the authority of the Judex Facti, if there are relevant facts that aggravate or mitigate the defendant that have not been considered by the Judex Facti or the Judex Facti did not sufficiently

consider the matter, the Supreme Court may correct the punishment imposed on the defendant. However, in this case, the Judex Facti has sufficiently considered the aggravating and mitigating circumstances, and the punishment imposed is also appropriate. The Supreme Court considered that the Decision of the Corruption Court of the DKI Jakarta High Court Number 2/PID.SUS TPK/2021/PT DKI, dated February 24, 2021, which amended the Decision of the Corruption Court of the Central Jakarta District Court Number 32/Pid.Sus-TPK/2020/PN Jkt.Pst, dated October 12, 2020, needs to be corrected regarding the punishment in lieu of fines imposed on the defendant. In the new verdict, the punishment in lieu of a fine will better reflect justice and legal certainty.

The Supreme Court considered that the defendant, Dr. Hendrisman Rahim, and his colleagues had been proven guilty of committing corruption that caused losses to the state. Based on the evidence and facts revealed in the trial, the defendant had manipulated the investment and financial statements of PT Asuransi Jiwasraya, causing huge state losses. Therefore, the Supreme Court decided to reject the cassation petition from Cassation Petitioner II, namely the defendant Dr. Hendrisman Rahim, as well as Cassation Petitioner I, namely the public prosecutor at the Central Jakarta District Attorney's Office.

The Supreme Court decided to amend the Decision of the Corruption Court of the DKI Jakarta High Court Number 2/PID.SUS-TPK/2021/PT DKI, dated February 24, 2021, which previously amended the Decision of the Corruption Court of the Central Jakarta District Court Number 32/Pid.Sus-TPK/2020/PN Jkt.Pst, dated October 12, 2020. This decision was revised in relation to the fine substitution, where the Supreme Court stipulated imprisonment for 20 (twenty) years and a fine of Rp1,000,000,000.00 (one billion rupiah). If the fine is not paid, it will be replaced with imprisonment for 6 (six) months. For the crime of corruption committed, the Supreme Court also charged the defendant to pay court costs at the cassation level in the amount of Rp2,500.00 (two thousand five hundred rupiah). This decision was made based on various relevant legal considerations, including Article 2 Paragraph (1) in conjunction with Article 18 of Law Number 31 Year 1999 on the Eradication of Corruption, which has been amended by Law Number 20 Year 2001, as well as other relevant laws and regulations.

The Criminal Offences Contained in the Jiwasraya Case Refer to the Court Decision That Has Been Finalised

In general, economic crime and corporate crime do not involve violence, but involve the practice of breach of trust, manipulation, misdirection, concealment of reality, fraud and circumvention of regulations by finding legal loopholes (Achim & Borlea, 2020). The Jiwasraya case involved various criminal offences committed by the defendants that cost the state a huge amount of money. Based on the finalised Court

Decision (Decision Number 2935 K/Pid.Sus/2021), the following criminal offences were revealed in this case:

The Crime of Money Laundering

The concept of money laundering occurs when a person receives material benefits in the form of money derived from illegal activities (Rusanov & Pudovochkin, 2021). For example, receiving money from gratuities, corruption, cross-border smuggling of goods, or drug trafficking. The profits made from such crimes are usually large. If the money is used directly, it will raise suspicion and impropriety in its use. Therefore, the perpetrators of money laundering need to perform a cleansing process by disguising and hiding the origin of the money. One commonly used method is to invest the money in legitimate and legal businesses. This way, the money that originally came from illegal activities can be considered as proceeds from legitimate and legal businesses. This aims to disguise the traces of illegal money and make it difficult for the authorities to trace them (Teichmann & Falker, 2021).

The offense of money laundering is the process of 'cleaning' money or property with the intention of hiding its origins from criminal activities. Factors that encourage the rise of money laundering have led to various patterns or modes of action, such as the purchase of property, transfers abroad, participation in company capital, depositing money in banks, and paying insurance premiums. Specifically regulated in the Law on Prevention and Eradication of Money Laundering, money laundering has its own typology. In the Jiwasraya case, there are several forms of money laundering, namely:

Placement and Use of Funds

The placement and use of corruption proceeds by Heru Hidayat and Benny Tjokrosaputro demonstrates a systematic attempt to conceal the origin of the funds and divert the proceeds of crime into assets that appear legal. These actions not only harmed the state financially but also undermined the integrity of the financial and legal systems. The Supreme Court, through its judgment, affirmed that such actions will be dealt with firmly and the perpetrators will be punished in accordance with the applicable laws and regulations. By upholding appropriate penalties, the Supreme Court seeks to maintain public confidence in the justice system and prevent the recurrence of similar criminal offenses in the future. Heru Hidayat and Benny Tjokrosaputro were the main subjects in this criminal offense. They used the proceeds of corruption from PT Asuransi Jiwasraya for their personal gain. Heru Hidayat is the owner of several companies, such as PT Treasure Fund Investama, PT Maxima Integra Investama, PT Maxima Agro Industri, PT Inti Agri Resources, PT Graha Resources, and PT Trada Alam Minera Tbk. Meanwhile, Benny Tjokrosaputro

utilized a network of companies and bank accounts to channel the proceeds of corruption.

The proceeds of this corruption were placed in various bank accounts in the names of certain individuals (nominees) and used to purchase various high-value assets. For example, Heru Hidayat used the funds to purchase land and buildings in strategic locations such as Jalan Hang Tuah Raya Kebayoran Baru, Jalan Patal Senayan Number 23 South Jakarta, Jalan Subang No. 5 Menteng, BSD, and Alam Sutera. Apart from property, the funds were also used to purchase luxury vehicles and foreign currency. Benny Tjokrosaputro also did the same thing, using the proceeds of corruption to buy land and property and conducting illegal financial transactions through Medium Term Notes (MTN) with various companies.

This act of placing and using the proceeds of corruption violates Article 3, Article 4, and Article 5 of Law No. 8/2010 on the Prevention and Eradication of Money Laundering Crimes (Anti-Money Laundering Law). Article 3 of the Anti-Money Laundering Law regulates the placement of funds from financial offenses into the financial system. Article 4 regulates the concealment or disguise of the origin, source, location, allocation, or ownership of funds originating from criminal offenses. Article 5 regulates the use of funds from criminal offenses to conduct transactions that appear to be lawful.

Illegal Medium-Term Note (MTN)

In Benny Tjokrosaputro's money laundering scheme, one of the methods used was illegal Medium-Term Note (MTN) transactions. This action is part of a systematic effort to conceal the origin of the proceeds of corruption and convert them into assets that appear legitimate (Kamga, 2021). Benny Tjokrosaputro was the main subject of this criminal offense. As one of the brains behind the Jiwasraya scandal, he utilized his network of companies to execute illegal MTN transactions. Benny used the companies he controlled to conduct complex financial transactions, with the aim of disguising the origin of funds that actually came from corruption. While the legal object in this criminal offense is MTN transactions carried out through companies such as PT Armidian Karyatama, PT Hanson International, and PT Pelita Indo Karya, This MTN transaction was carried out with the aim of laundering the proceeds of corruption and giving the impression that the funds came from legitimate activities. Benny Tjokrosaputro utilized corporate structures and the complexity of financial transactions to obscure traces of the true origin of the funds.

Benny Tjokrosaputro's actions violate Article 3, Article 4, and Article 5 of Law No. 8/2010 on the Prevention and Eradication of Money Laundering Crimes (Anti-Money Laundering Law). Article 3 of the Anti-Money Laundering Law regulates the placement of funds from financial offenses into the financial system. Article 4

regulates the concealment or disguise of the origin, source, location, allocation, or ownership of funds originating from criminal offenses. Article 5 regulates the use of funds from criminal offenses to conduct transactions that appear to be lawful. Benny Tjokrosaputro used companies such as PT Armidian Karyatama, PT Hanson International, and PT Pelita Indo Karya to carry out MTN transactions. Through these transactions, the proceeds of corruption from Jiwasraya were placed and rotated among various financial instruments. Benny used various strategies, including issuing MTNs secured by company assets he owned, to create the impression that the funds were legitimate and came from normal business activities.

Corruption Offences

The economic crisis that hit Indonesia caused a difficult situation and triggered various irregularities related to finance. One of them is the violation of the Maximum Lending Limit (LLL) set by banking institutions to business groups. In addition, there was misdirection through advertising, defamation, and unilateral increases in product prices, which then became a habit in business activities in the community. This condition causes corporate crime in Indonesia to be structured and systematized, with the main perpetrators being corporations. In addition to these offenses, bribery by large corporations also occurs frequently and has a damaging impact. The purpose of this bribery is for the government to prioritize the interests of the corporation giving the bribe over the interests of the community. As a result, political and social conditions in society can be disrupted and worsened. The crime of corruption has certain specifications that cause it to not be classified as a general criminal offense (Albanese et al., 2019); when viewed from the perspective of procedural law arrangements, there are legal irregularities in it. Therefore, corruption offenses must be eradicated because these offenses can cause leaks and irregularities involving the economy and state finances.

Abuse of Authority

The abuse of power by Dr. Hendrisman Rahim, Harry Prasetyo, and Syahmirwan not only caused financial losses to PT Asuransi Jiwasraya but also large-scale losses to state finances. Dr. Hendrisman Rahim, as President and Director of PT Asuransi Jiwasraya, was the main figure in this criminal act. He was accompanied by Harry Prasetyo, Finance Director of PT Asuransi Jiwasraya, and Syahmirwan, Head of Investment Division of PT Asuransi Jiwasraya. The three collaborated to abuse their authority in managing the company's investments. The legal object of this criminal offense is the investment decisions made by PT Asuransi Jiwasraya. These decisions were not based on in-depth and professional studies but were made for the personal interests of these officials. They directly appointed investment managers without going through a transparent and fundamental selection process. This irresponsible investment decision caused huge losses to the company and the state.

The defendants' actions violated Article 3 of Law Number 31 of 1999 on the Eradication of Corruption, as amended by Law Number 20 of 2001 (the Anti-Corruption Law). This article regulates the abuse of authority by public officials to enrich themselves or others, which can harm state finances or the state economy. In this case, PT Asuransi Jiwasraya officials used their authority to make investments that were not in accordance with the principles of good governance. Dr. Hendrisman Rahim and Harry Prasetyo directly appointed four investment managers, namely PT Andalan Artha Advisindo Management (PT AAAM), PT Batavia Prosperindo Asset Management (PT BPAM), PT Danareksa Investment Management (PT DIM), and PT Trimegah Management (PT TM). This selection was made without in-depth analysis of the investment manager's qualifications and capabilities. In addition, the investment decisions taken also did not consider the existing risks, resulting in significant losses to PT Asuransi Jiwasraya.

Investment and Financial Statement Manipulation

The manipulation of investments and financial statements by Dr. Hendrisman Rahim, Harry Prasetyo, Syahmirwan, Heru Hidayat, and Benny Tjokrosaputro represents a serious breach of capital market regulations. These actions not only harmed PT Asuransi Jiwasraya financially but also created distrust among investors and damaged the integrity of the capital market. Shares, or securities, are long-term financial instruments that allow companies to raise funds from the public. The buying and selling of shares require a forum called the capital market, which is an institution in the financial services sector. In capital market activities, the principle of disclosure makes it very important to provide relevant information to investors so that they can analyze and calculate the potential profits from stock investments (Rizki Satria, 2020). In the context of crimes in the capital market, the criminal offense has unique characteristics because it relates to the use of false information by criminals. They use such information to read the market situation and take personal or group advantage. This can cause serious and widespread impacts on capital market activities due to the difficulty of proving the criminal acts that occurred.

The capital market is vulnerable to manipulation and fraud. Criminals use various means to make profits by deceiving and manipulating the market. The difference between market manipulation and fraud lies in the consequences: in market manipulation, stock prices are falsified so that they do not reflect their true value, while in fraud, the victim suffers losses due to false information or falsified circumstances. In circumvention and fraud in the field of capital markets, there are two types of criminal offenses: first, deceiving or tricking others in various ways, and second, making statements that are not in accordance with the facts or concealing important information to influence investors' decisions. This demonstrates the complexity and risks involved in capital market activities and the

importance of effective law enforcement to protect investors and maintain the integrity of the capital market.

The Jiwasraya case has allegations of Ponzi investment in it. Ponzi investment is a fake investment that uses a method of providing profits to investors from money obtained from the same investor or from investment money made by other investors, so that the payment of investment profits does not come from profits obtained in carrying out business activities carried out by the institution in question. The scheme used in Ponzi investment can be likened to 'digging a hole and then closing a hole', which operates by finding new premiums to pay profits to old premium customers. In terms of financial statements, companies that carry out this Ponzi investment scheme perform window dressing to show good performance by including premiums as income instead of debt. Before selling products by showing a definite interest lure, the actions taken first by the old Jiwasraya Board of Directors and its regulators should have calculated the benefits and risks of its products carefully with the aim of preventing defaults by the company, which ultimately caused losses to investors or customers.

The classes of market manipulation offenses are: a) creating a capital market scheme that is not real in nature by: i. conducting a share transaction that does not cause the ownership to change, or ii. Buying and selling securities or shares by offering a certain price, while other parties who are parties cooperated by the perpetrator also make offers similar to the offers that have been offered by the perpetrator (Article 91 of Law No. 8 of 1995 on Capital Market (hereinafter abbreviated as Capital Market Law); b) Conducting transactions in securities more than twice on the stock exchange so as to cause the price of securities to fluctuate with the aim of influencing other parties to hold, sell, or buy the securities, not based on actual buying and selling requests. (Article 92 of the Capital Market Law); c) Making statements that are materially incorrect (false information) so as to affect the price of securities and influence other parties to buy and sell securities.

Market manipulation is an action by creating a false picture or misleading information related to market conditions, trading activities and prices of securities or shares on the stock exchange with the aim of influencing the price of shares or securities on the affected stock exchange. So that the motive for this action is to reduce, increase and maintain the price of shares or securities. This action is carried out by involving other parties who make offers to buy and sell securities or shares at almost the same price as the perpetrator so that the price of the shares can be affected and in accordance with the wishes of the perpetrator and of course the transactions carried out do not result in changes in ownership because this action is carried out with the cooperation between the perpetrator and other parties.

The Capital Market Law classifies quasi-share trading transactions as a criminal offense of market manipulation. This illustrates that one of the crimes in the field of capital markets is market manipulation that results in quasi-stock trading. The patterns contained in market manipulation include: 1) Spreading false information to influence the share price of a particular company. An example is the spreading of rumors about the possible liquidation of a company, which causes a drastic drop in the market price of shares; 2) Spreading incomplete or misleading information (misinformation). For example, the spread of rumors that a company will not be liquidated by the government, when in fact the company will be taken over by the government; 3) Conducting transactions with the aim of giving the impression that the shares of a particular company are actively traded. In this pattern, transactions are carried out to change the share price to a certain level desired by the perpetrator without any real change in ownership. For example, the Board of Directors of a company orders other parties to make transactions that make the company's shares appear liquid. Market manipulation is an action that harms the trust and stability of the capital market and can cause losses to investors. Therefore, such actions must be followed strictly in accordance with applicable laws.

In this case (as per the verdict), Dr. Hendrisman Rahim, Harry Prasetyo, Syahmirwan, Heru Hidayat, and Benny Tjokrosaputro were the main subjects of this criminal offense. They worked together to manipulate the share price through transactions that were arranged in such a way that it appeared as if the company was making a profit. The legal object of this criminal offense is the manipulated share price. Stocks such as TRAM, SMRU, IIKP, and MYRX were used in a 'pump and dump' scheme. The defendants purchased these shares, inflated their prices through arranged transactions, and then resold them at manipulated prices. These actions created the impression that PT Asuransi Jiwasraya was making a profit, when in fact no real profit was being made.

The defendants' actions violated Article 104 in conjunction with Article 91 and Article 104 in conjunction with Article 92 of Law Number 8 of 1995 concerning capital markets. These articles prohibit actions that create a false or misleading picture of trading activities, market conditions, or the price of securities on the Stock Exchange. The manipulation of stock prices carried out by the defendants clearly violated this provision because it created a misleading illusion of profit for investors and the public. The defendants used the names of other people as nominees to conduct stock transactions. For example, TRAM shares owned by Heru Hidayat were purchased by PT Asuransi Jiwasraya through the broker PT HD Capital Tbk. This transaction was carried out without going through the Head Office Internal Note, and then the shares were resold to PT Treasure Fund Investama at a higher price. The results of this transaction show that PT Asuransi Jiwasraya made a profit in a short time, even though the profit was only an illusion resulting from stock price manipulation.

Formation of Fake Fund Management Contracts

The formation of a fake fund management contract by Dr. Hendrisman Rahim, Harry Prasetyo, Syahmirwan, and Joko Hartono Tirto is an act that clearly violates the law and is detrimental to the state. This action shows manipulation that is carried out intentionally to disguise losses and provide false profits. Dr. Hendrisman Rahim (President Director of PT Asuransi Jiwasraya), Harry Prasetyo (Finance Director of PT Asuransi Jiwasraya), Syahmirwan (Head of Investment Division of PT Asuransi Jiwasraya), and Joko Hartono Tirto are the main subjects in this crime. They collaborated to draft and sign an illegitimate fund management contract. The legal object in this crime is the Fund Management Contract between PT Asuransi Jiwasraya and PT Treasure Fund Investama, a securities company owned by Heru Hidayat. This fund management contract was designed to record a higher share acquisition price than the actual market price, thus giving the impression of unreal profits.

The defendants' actions violated Article 2 Paragraph (1) in conjunction with Article 18 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption (Corruption Law), which has been amended by Law Number 20 of 2001. This article regulates the act of enriching oneself or others in a manner that is detrimental to state finances or the state economy. The defendants held secret meetings to discuss the formation of a fund management contract. Dr. Hendrisman Rahim, Harry Prasetyo, and Syahmirwan worked together with Joko Hartono Tirto to sign fund management contract Number 006/TFI/Fund Management Contract/VIII/2008 and Number 082.SJ.U.0808 with PT Treasure Fund Investama. This fund management contract was made without adequate analysis and was merely a formality to record the acquisition price of shares that was higher than the market price. In reality, the share prices in PT Asuransi Jiwasraya's portfolio were falling sharply, and this fund management contract was used to hide the actual losses.

In addition, Heru Hidayat, as the owner of PT Treasure Fund Investama, together with Benny Tjokrosaputro, used their companies to organize and control the stock and mutual fund investments owned by PT Asuransi Jiwasraya. On September 11, 2008, PT Asuransi Jiwasraya purchased TRAM shares from Heru Hidayat for Rp9,998,534,000.00 through the broker PT HD Capital Tbk, which is also owned by Heru Hidayat, without going through the Head Office Internal Note. On September 25, 2008, the shares were resold to PT Treasure Fund Investama at a higher price, creating the illusion of profit.

Law Enforcement Against Criminal Acts in Jiwasraya Case

The Jiwasraya case underscores the importance of strict law enforcement and strict supervision in the insurance industry. Customer protection must be a top priority, and any violations must be met with appropriate sanctions to prevent similar incidents in the future. Strict regulation and consistent implementation will help maintain the integrity of the insurance industry and protect the interests of all parties involved.

In terms of insurance, the legal relationship between the insurer and its customers is stated in the insurance agreement as stipulated in Article 246 of the Commercial Code. Obtaining insurance premiums is a preliminary requirement for the insurer to provide compensation for a loss, destruction of goods, or losses experienced due to an uncertain event. Article 255 of the Commercial Code requires that the insurance agreement be stated in written form and is a deed called a policy. The policy contains (i) insurance prerequisites and special agreements stated as the implementation of the rights and obligations of the insured and the insurer to achieve the insurance intention; and (ii) an agreement on the insurance policy agreement between the insured and the insured. An insurance policy is written evidence that has perfect evidentiary power to prove that insurance has occurred. The policy can be used as the main evidence if a problem occurs between the insurer and the insured. Based on the explanation of the Commercial Code and the Insurance Law, it can be seen that insurance contains four elements, including insured, which means making a promise to pay the premium to the insured party at once or divided at a certain time. Insurer, which means giving a promise to provide a certain amount of compensation to the participant, all at once or divided at a certain time if an uncertain event occurs. Accident, which means unknown in advance or uncertain. Interest, which means having the possibility of facing loss due to an uncertain condition.

Violations by the insurer are often related to the rejection of claims without a valid reason or failure to comply with the provisions of the insurance policy. The insurer is obliged to fulfill the obligation to pay valid claims in accordance with the provisions agreed to in the insurance policy. If the insurer rejects a claim without a justifiable reason or does not process the claim according to the specified time, the insured party has the right to file a civil lawsuit to claim their rights. This is regulated in Law No. 40 of 2014 concerning insurance, which stipulates that insurance companies must fulfill their contractual obligations fairly and transparently.

Law enforcement against criminal acts in the Jiwasraya case is very important to protect the interests of public investors and related shareholders, as well as to prove the effectiveness of existing legal regulations in handling the case. The Jiwasraya

case includes criminal acts in the capital market, so the institution authorized to supervise it is the Capital Market Supervisory Agency (BAPEPAM), whose authority has now been transferred to the Financial Services Authority (OJK). OJK can be considered a special police force in the capital market sector. The policy default incident that befell the insurance company PT. Jiwasraya Persero certainly cannot be separated from the role of the Financial Services Authority (OJK). Many parties have questioned how the OJK, especially the DPR, was harsh in this case. According to the statement conveyed by the chairman of the OJK board of commissioners, the case of policy default by Jiwasraya has been under OJK supervision since 2006, when the authority was still called Bapepam-LK.

The Financial Services Authority (OJK) as a supervisory institution and also as a regulator of financial services institutions in Indonesia must certainly have a role when there are problems that befall financial services institutions, both banking and non-banking, in Indonesia. Likewise, in the case of policy failure experienced by PT. Asuransi Jiwasraya Persero, OJK claims to have played a role in the process of resolving this case. As conveyed by the chairman of the OJK supervisory board, Wimboh Santoso, the OJK has created several rescue scenarios for PT. Asuransi Jiwasraya Persero. To create a scenario on how to overcome cash flow to pay all these customer claims, We all know that this is not easy, but there are still scenarios (Thariq et al., 2020).

The first scenario created is a short-term solution, namely the establishment of a subsidiary, namely PT. Jiwasraya Putra. The company, in the form of a subsidiary, has been given a concession to guarantee insurance from several SOEs that have previously collaborated with the Jiwasraya company, namely PT Bank Tabungan Negara (Persero) Tbk, PT Pegadaian (Persero), PT Kereta Api Indonesia (Persero), and PT Telkomsel. In addition, the existence of this subsidiary is also required to attract investors, with the aim of being able to help fund the policy claim obligations by PT. Asuransi Jiwasraya Persero that have matured through top up Cashflow. PT Jiwasraya Putra will later utilize this SOE collaboration to sell insurance products by utilizing customer-based access and distribution networks in the four companies.

Then the second scenario is a long-term solution. He said that this is still being discussed by stakeholders. "If the short term is resolved in the previous way, in the medium to long term, there must be a program on how to strengthen Jiwasraya's business. 102 As is known, Jiwasraya needs funds of around IDR 32.89 trillion in order to achieve a risk-based capital (RBC) ratio of at least 120 percent. In general, RBC is a measurement of the level of financial health of an insurance company, with the provisions of the OJK setting a minimum RBC limit of OJK also claims that they have carried out their function as a supervisory institution in this case. The OJK is of the opinion that the Jiwasraya recovery efforts were not carried out by the OJK but by the main shareholder, namely the Ministry of SOEs.

OJK plays a role in facilitating the recovery efforts proposed by the company's owners. OJK also issued a warning to the Ministry of SOEs and Jiwasraya about carrying out recovery so that it can be carried out as quickly as possible. This is done so that customer rights can be fulfilled immediately. Based on the information provided by OJK, OJK has provided maximum supervisory steps to resolve this problem. OJK itself has communicated well with customers regarding receiving their complaints to the Ministry of SOEs to accelerate rescue and recovery steps in the company's management and finances. The reason why the steps taken by OJK seem not to work is because they do not see how much authority OJK has. In the case that occurred in Jiwasraya, OJK is only a facilitator who must facilitate the recovery efforts carried out by the company, not an executor who carries out the recovery process, because this is the authority held by the shareholders and, in this case, the Ministry of SOEs.

If the insurance company is insolvent and fails to pay the policy, the controller has absolute responsibility to repay the entire insurance value promised to its customers. According to Hans Kelsen's theory of legal responsibility, a person is legally responsible for a certain act. In this case, the insurer must continue to carry out its obligations in accordance with the insurance agreement. The Jiwasraya case shows a violation of Article 31 of the Insurance Law, which prohibits actions that delay the settlement or payment of claims. This violation can be subject to administrative sanctions up to the revocation of business licenses and administrative fines.

Article 15 of the Insurance Law states that the Controller is responsible for losses suffered by the insurance company caused by parties under its control. In the case of Jiwasraya, the controller is the Ministry of SOEs. The Ministry of SOEs must be responsible for losses suffered by policyholders. Jiwasraya's insolvency was caused by mismanagement and financial misuse by the directors under the control of the Ministry of SOEs. Accountability can be carried out by providing compensation for late payments of 5.7% per annum (net) for the delay, which will be paid together with the cash value or principal premium of the insurance policy.

Legal Protection for Policyholders of PT. Asuransi Jiwasraya (Persero)

In an effort to protect the interests of the insured, policyholder, or participant, especially in cases of liquidation and revocation of the insurance company's business license, the law has guaranteed that the rights of the insured, policyholder, or participant have a higher legal standing than the rights of other parties, in accordance with Article 52 of the Insurance Law. Thus, legal protection for insurance policyholders is important to ensure justice and certainty in the relationship between insurance companies and their customers. In the banking system, the establishment of the Deposit Insurance Agency aims to protect the interests of customers from losses if, at any time, the banking company goes bankrupt. The principle of such

protection is also desired in the insurance industry, which is a financial institution that collects funds from the public and manages them for their benefit. In this case, the Deposit Insurance Agency in the banking sector has the same function as that required by the insurance industry.

The role of the policy guarantee institution is very important to protect the interests of insurance customers if, at any time, the insurance company goes bankrupt and to ensure that customer rights remain protected. Regulations related to policy guarantee institutions are regulated in the Insurance Law, Article 53, paragraph 1, which stipulates that "Insurance Companies and Sharia Insurance Companies are required to be participants in the policy guarantee program". However, the implementation of the policy guarantee program has not been fully realized as regulated by the law. Article 53, paragraph 4, of the Insurance Law emphasizes that regulations related to the implementation of the policy guarantee program must be formed no later than 3 years after the Insurance Law is enacted. However, it has now been 7 years since the Insurance Law was enacted, and the Law on the Implementation of Policy Guarantees has not yet been realized. This creates a vacuum in legal norms that has the potential to harm insurance customers due to the uncertainty of the protection they have.

In the case of PT. Asuransi Jiwasraya (Persero), which is a State-Owned Enterprise (SOE), according to Article 15 of the Insurance Law, the controller must be jointly responsible for losses to the insurance company caused by parties under its control, so the government as the controller who has the ability to determine the board of directors, board of commissioners, or equivalent to the board of directors or board of commissioners must be jointly responsible. Preventive measures involve efforts to ensure legal certainty for customers in the future. One example is the establishment of a policy guarantor institution, according to the mandate of Article 53, paragraph 1, of the Insurance Law, which has not yet been realized in Indonesia. The presence of this institution is expected to fill the gap in legal norms that apply to the implementation of the policy guarantee program.

On the other hand, repressive measures involve law enforcement, both criminally and civilly. Criminally, the legal process is carried out to thoroughly prosecute corruption or other violations that result in losses to PT Asuransi Jiwasraya. This case has resulted in legal proceedings against the parties involved to ensure that they are held accountable for their actions. In the civil realm, customers have the right to file a lawsuit on the basis of a breach of contract. Article 1267 of the Civil Code provides a legal basis for the injured party to demand fulfillment of the agreement or sue for the cancellation of the agreement with demands for compensation, costs, and interest. For example, attorney OC Kaligis successfully won a lawsuit against PT Asuransi Jiwasraya, ensuring the restitution of a large amount of money to customers.

PT Asuransi Jiwasraya customers need legal protection, starting from strengthening preventive measures to prevent future problems to strict law enforcement against violations that occur. The government and related institutions need to play an active role in forming appropriate regulations and ensuring effective law enforcement to support justice for all parties involved. According to Financial Services Authority Regulation Number 69/POJK.05/2016, insurance companies are required to complete claim payments no later than 30 days from the agreement, as stipulated in the policy. If the insurance company fails to fulfill its obligations, this can be considered a breach of promise (default), and the company can be held legally accountable. The delay or inability of the insurance company to fulfill its obligations can have serious legal consequences, either intentionally or unintentionally.

Insurance Dispute Resolution in Indonesia

Insurance dispute resolution in Indonesia can be done through several mechanisms. First, the insured party can file a complaint with the insurance company concerned. If there is no satisfactory resolution, the insured party can continue the complaint to the Financial Services Authority (OJK), which has the authority to resolve disputes in the financial industry, including insurance. In addition, the insured party can also file a lawsuit with the district court to claim their rights based on the insurance agreement that has been violated. Furthermore, Law No. 8 of 1999 concerning Consumer Protection also provides additional protection for insurance consumers. In the event of a violation of the insurance agreement that is detrimental to the consumer, the insured party can file a lawsuit through the Consumer Dispute Resolution Agency, which has the authority to resolve disputes quickly and simply. In addition, the insured party can also file a complaint with the Financial Services Authority, which has the authority to monitor and supervise insurance companies' compliance with applicable laws and regulations. The Financial Services Authority can impose administrative sanctions on insurance companies that violate the provisions, such as fines, restrictions on business activities, or even revocation of business licenses.

D. Conclusion

The corruption case of PT Asuransi Jiwasraya (Persero) based on decision Number 2935 K/Pid.Sus/2021 shows a violation of the law that is detrimental to customers, so the judge emphasized the need for criminal, civil, administrative, and ethical accountability of the perpetrators. Legal settlement, although complex and time-consuming, must be carried out to ensure justice. Legal protection for policyholders can be carried out preventively through regulations that provide legal certainty, which is currently still lacking because the Law on the Policy Guarantee Institution has not been formed, and repressively through criminal law enforcement against perpetrators of corruption and civil lawsuits by customers for PT Asuransi Jiwasraya

(Persero)'s default in fulfilling claim payment obligations in accordance with the provisions of POJK Number 69/POJK.05/2016 article 40 paragraph 1.

Law enforcers must be more proactive and firmer, increasing capacity and integrity to ensure that perpetrators of corruption receive appropriate punishment. The government needs to complete regulations related to customer protection, including the formation of a law on policy guarantee institutions, and encourage insurance companies to increase transparency and internal supervision. Educating the public about their rights as insurance customers is also important to encourage them to be more vigilant and active in demanding their rights. Further research is needed to explore more deeply the factors that cause insurance companies to fail to fulfill their obligations and the effectiveness of existing regulations. The implementation of these suggestions is expected to create a more just, transparent legal environment and provide better protection for the public.

E. Acknowledgement

We would like to express our acknowledgment to our respondents, colleagues in Universitas Kristen Indonesia who helped us with this article.

References

Achim, M. V., & Borlea, S. N. (2020). *Economic and Political Determinants of Economic and Financial Crime* (pp. 73–176). https://doi.org/10.1007/978-3-030-51780-9_2

Akimova, L. M., Litvinova, I. F., Ilchenko, H. O., Pomaza-Ponomarenko, A. L., & Yemets, O. I. (2020). The Negative Impact of Corruption on the Economic Security of States. *Nternational Journal of Management*, *11*(5).

Albanese, J. S., Artello, K., & Nguyen, L. T. (2019). Distinguishing Corruption in Law and Practice: Empirically Separating Conviction Charges from Underlying Behaviors. *Public Integrity*, *21*(1), 22–37. https://doi.org/10.1080/10999922.2018.1423859

Ali, Z. (2021). *Legal Research Methods*. Sinar Grafika.

Desovi, R. A., & Kasyfi, A. (2021). Liability of Investment Manager Companies Involved in Corruption (Case Study of PT Asuransi Jiwasraya (Persero)). *JISIP (Jurnal Ilmu Sosial dan Pendidikan)*, *5*(2). https://doi.org/10.58258/jisip.v5i2.1983

Haryanti, R. (2023). Analysis of Financial Report Fraud of PT Asuransi Jiwasraya with Pentagon Fraud Analysis. *Sanskara Akuntansi dan Keuangan*, *1*(02), 92–99. https://doi.org/10.58812/sak.v1i02.70

Kamga, S. D. (2021). *Illicit Financial Flows from South Africa: Decolonial Perspectives on Political Economy and Corruption*. Routledge.

Kasim, R. (2020). Dehumanization in the Excessive Application of Criminal Law (overspanning van het straftrecht). *Jambura Law Review*, *2*(1), 1–29.

Muthiah, P., Naidu, R. S., Badzis, M., Nayan, N. F. M., Rahim, R. A., & Aziz, N. H. A.

(2020). *Qualitative Research: Data Collection and Data Analysis Techniques-(UUM Press)*. UUM Press.

Panuntun, B., & Adristi, F. I. (2020). The Jiwasraya and Asabri Scandal: A Description Analysis & Prevention Solutions from Investment Political Economic Perspective. *In Proceedings of the 2nd International Conference of Business*.

Rizki Satria, H. (2020). Consumer Protection Against Business Practices of Sharia Securities Issuers Based on the Principle of Capital Market Transparency. *ADIL: Jurnal Hukum*, *10*(2). https://doi.org/10.33476/ajl.v10i2.1225

Rusanov, G., & Pudovochkin, Y. (2021). Money Laundering in the Modern Crime System. *Journal of Money Laundering Control*, *24*(4), 860–868. https://doi.org/10.1108/JMLC-08-2020-0085

Supenti, D., & Suparno, S. (2021). Legal Protection of Insurance Customers Due to Inverse Managers Involved in Corruption Crimes. *In Proceedings of the 1st International Conference on Law, Social Science, Economics, and Education, ICLSSEE 2021, March 6th 2021*.

Teichmann, F. M., & Falker, M.-C. (2021). Money Laundering via Underground Currency Exchange Networks. *Journal of Financial Regulation and Compliance*, *29*(1), 1–14. https://doi.org/10.1108/JFRC-01-2020-0003

Thariq, M., Sukirno, S., & Prananingtyas, P. (2020). Implementation of Jiwasraya Insurance Supervision by OJK of West Sumatra Province in Padang City. *Notarius*, *13*(1), 111–126. https://doi.org/10.14710/nts.v13i1.29167

Tjiam, V., Chrisandy, W., Savira, H. N., & Alexander, K. (2021). Data Migration Technique Options on Reforming Jiwasraya's Existing Database. *Engineering, MAthematics and Computer Science (EMACS) Journal*, *3*(3), 137–142. https://doi.org/10.21512/emacsjournal.v3i3.7781

Trihatmoko, R. A., & Susilo, Y. S. (2023). Conditions, Challenges and Prospects of State-owned Enterprises in Indonesia: The Governance Perspective Based on Economic Constitution. *Applied Research in Quality of Life*, *18*(5), 2459–2484. https://doi.org/10.1007/s11482-023-10194-9

Wang, S., Zhao, D., & Chen, H. (2020). Government Corruption, Resource Misallocation, and Ecological Efficiency. *Energy Economics*, *85*, 104573. https://doi.org/10.1016/j.eneco.2019.104573