

Analysis of Fraud as a Violation of Business Ethics From a Positive Legal Perspective in Indonesia

✉¹Affifatul Munawiroh & ²Rumawi

¹Islamic State University Sunan Kalijaga of Yogyakarta, Indonesia

²Islamic State University Kiai Haji Achmad Siddiq of Jember, Indonesia

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ABSTRACT

This research is an analysis of fraud based on library research, while the theme of this research is Fraud Analysis as a Violation of Business Ethics from a Positive Legal Perspective in Indonesia. There are three problem formulations. First, what are the forms of fraud in business ethics? Second, how is fraud as a violation of business ethics from a positive legal perspective in Indonesia? Third, what are the implications of fraud as a violation of business ethics in Indonesia? The content analysis approach is used to examine the forms of fraud, the positive legal perspective of fraud in Indonesia, and the implications of fraud as a violation of business ethics in Indonesia. The results and discussion in this study indicate that fraud has a bad influence on the economy in Indonesia. Therefore, regulations regarding business ethics and consumer protection are made to protect and benefit the wider community.

Keyword: Fraud, Business Ethics, and Positive Law.

1. INTRODUCTION

Indonesia is a country rich in natural and human resources. Besides, Indonesia is also rich in ethnic, cultural, racial, religious and linguistic diversity so that each has its own characteristics and uniqueness. This diversity arises from each region that forms different attitudes, speech, culinary, and customs. With these differences, Indonesia has a policy and law drawn up by the government as a basis for living together.

From a legal perspective, a regulation is made as an effort to protect and benefit

the Indonesian people. In the advanced industrial era 5.0, Indonesia needs a legal umbrella to protect business actors and consumers. The rise of advanced science and technology has made many Indonesian people start to have businesses both in national and international trade. Regulations related to the business world are very much needed to ensure the protection of business actors or producers and consumers.

The existence of regulations related to business ethics will make it easier for

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✉ Corresponding author :
Email: affifatulmunawiroh93@gmail.com

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Page. 49-55

business people to act fairly and correctly in running their business. This is necessary because in doing business there is a lot of fraud, forgery, theft, and even corruption. Therefore, there must be firmness and determination of justice to maintain economic stability in Indonesia.

There are several previous studies regarding fraud in business ethics. There are at least three studies that have a correlation with research on fraud in business ethics from a positive legal perspective in Indonesia. The first is a study conducted by Annisa Asriati and Hasan Hidayat entitled "Perilaku Fraud Mahasiswa dan Persepsinya Terhadap Aspek-Aspek Umum Etika Bisnis dan Tujuan Pendidikan Etika Profesi Akuntansi Ditinjau Dari Jenis Kelamin." This study discusses several acts of fraud that occur in the business world which are distinguished by gender. The second is a study conducted by Asep Suryana and Dadang Sadeli entitled "Analisis Faktor-Faktor yang Mempengaruhi Terjadinya Fraud." This study discusses fraud from the attitude aspect that occurs in the educational work environment in Indonesia. The third is a study conducted by Provita Wijayanti and Rustam Hanafi entitled "Pencegahan Fraud Pada Pemerintahan Desa." This study discusses fraud that has become a culture in the Village Government environment that needs preventive measures.

What distinguishes previous research from this research is that previous research discussed acts of fraud from the perspective of gender, acts of fraud in the realm of education, and prevention of fraud in the Village Government, while this study discusses fraud in business ethics from a positive legal perspective in Indonesia. This study examines more deeply the regulations related to the existence of fraudulent acts committed in running a business.

Based on the description of the background above, the formulation of the problem in this study is as follows: First, what are the forms of fraud in business

ethics? Second, how is fraud as a violation of business ethics from a positive legal perspective Indonesia? Third, what are the implications of fraud as a violation of business ethics in Indonesia? Meanwhile, the purpose of this study is to describe the forms of fraud in the business world, fraud from a positive legal perspective in Indonesia, and the implications of fraud as a violation of business ethics in Indonesia.

2. RESULTS AND DISCUSSION

Fraud in Business Ethics

Fraud is committed by a person or group to gain an advantage. Fraud is an act, in various ways, carried out, using human intelligence, by a person to take advantage of the unrighteous act. Fraud has an impact on the risk of financial loss, therefore companies involved in fraud often experience bankruptcy.

According to Arus Akbar, fraud is an act that is carried out intentionally to violate internal provisions, including systems, procedures, and policies, that have the potential to harm business actors and companies both materially and morally. In the business world, the opportunity to commit fraud is very large. Meanwhile, the sources of business ethics are values, norms, and local wisdom formed by the community around the business actor. For the business world, the problems that arise due to fraud are enormous. Some forms of fraud are as follows:

Illegal Taking of Assets

Illegal taking of assets is taking assets from a company illegally. The illegal taking of assets is divided into three:

- a. Kitting (embezzlement of funds), a type of fraud by way of inflating funds or developing funds (free money). This often happens in the business world, one of which is by falsifying data on the income and expenses of a company.
- b. Lapping (theft), a type of fraud by way of stealing or looting money when the money is already in the company's treasury. In this case, the fraud that is often carried out is counterfeiting checks from companies, additional

inancing that is not in accordance with reality, and charging bills that are not in accordance with the conditions on the ground.

- c. Skimming (looting), a type of fraud by looting or seizing money before the money goes into the company's treasury. In this case, the money is taken before entering the accounting data. This is often found in the business world, so looting or taking some under the pretext of commission money has become a tradition.

Falsification of information in financial statements

Falsification of information in financial statements can be in the form of material misstatements and falsification of financial data. Material misstatements are errors in calculations and numerical data in financial statements, such as presenting income or financial assets that are higher than reality or vice versa. Meanwhile, falsification of financial data is to manipulate financial data by entering invalid data.

Corruption

Corruption is the most frequently discussed crime in Indonesia. Law Number 20 of 2001 concerning Amendments to Law No. 31 of 1999 concerning the Eradication of Corruption Crimes describes several acts of corruption.

Thus, corruption itself is a crime that can harm state finances. Corruption is

often referred to as an extraordinary crime. These acts of corruption include bribery, embezzlement in office, extortion in office, forgery, and obstruction of corruption handling. Actually, fraud can be detected using the fraud triangle.

The fraud triangle theory explains the factors that cause someone to commit fraud which consists of pressure, opportunity, and rationalization. The first reason someone commits fraud is because of the pressure that forces the person to commit fraud. The second reason someone commits fraud is because there is an opportunity to carry out the action. The third reason someone commits fraud is rationalization. The person thinks that other people are also doing the same thing. Here is the fraud triangle which can be seen in Figure 1.

Fraud is considered a right action because the perpetrator thinks that it is normal and other people also do the same. Therefore, ethics is needed to prevent fraud in business. Greed committed by fraud perpetrators can be minimized by applying ethics in business. However, ethics in business will not work well if there are no regulations that protect consumers and honest business actors.

Fraud is a Violation of Business Ethics from a Positive Legal Perspective

According to Budi Prihatminingtyas, business ethics is knowledge of the ideal

Figure 1. **The Fraud Triangle**



Source: www.payrolbozz.com

procedures for regulating and managing universally applicable norms and morality, both economically and socially. Things that need to be considered by business people in achieving the goal of good business ethics is to continue to pay attention to social and cultural interests of the community, because business is closely related to the wider community, namely consumers.

According to Velasquez, business ethics is the study of morals and standards applied in systems and organizations. Business ethics is used by modern society in terms of the production and distribution of goods and services and is applied to people who are in a company or corporation. Knowledge of ethics discusses not only about norms, morals, and values, but also about its application in institutions, companies, technology, activities, and everything related to business.

The world of industry and business includes matters relating to technology, culture, changing times, society, and all elements that are used every day in dealing with one human being with another human being. Ethics is related to a person's procedures in maintaining attitudes when dealing with other people. This is very necessary in business so that later profits can be obtained by both parties. If there is no ethics in business, someone will do anything without caring about the interests of others. Business actors will act selfishly according to what they want to get excess profits. Some of the principles and foundations of business ethics.

Principle of Honesty

The principle of honesty is a principle in business ethics that supports the company in achieving success in various aspects. In this principle of honesty, transparency is highly prioritized to maintain trust and honesty between one business actor and another. Honesty is a basic value that every businessman must have to support success in the business world. If it is not based on honesty, the business will not last long. The application of this business ethics principle

can be done by providing transparency in contracts with third parties, and employees must be notified if there is any damage in business matters. Meanwhile, consumers must also be notified if there are goods that are not suitable for sale.

Principle of Fairness

The principle of fairness is an act that is not one-sided, or equal. In this principle of fairness, a person has the right to be treated equally and there is no difference when running a business. Meanwhile, to get the same rights, every party in the business must contribute to the success of the business.

Principle of Loyalty

The principle of loyalty is a principle that prioritizes attitudes or actions that provide full support with steadfast compliance and a consistent attitude towards the progress of the company. Loyalty in general can be seen from totality and hard work with full sincerity in carrying out activities in the company and in accordance with the vision and mission that each company wants to achieve.

Principle of Autonomy

The principle of autonomy is an action taken by humans on the basis of an attitude that is believed to be good and right to do. Autonomous people are not only steady, fast and free in making their decisions, but also able to take responsibility for all decisions that have been made.

Principle of Moral Integration

This principle of moral integration is closely related to the integrity of a person. The values of this principle of moral integration are honesty, trustworthiness, and being able to manage time well. So this principle needs to be applied to maintain the good name and image of the company.

Principle of Responsibility

Everyone is responsible for what he has done. In business ethics, every life and behavior must have a responsibility. The existence of responsibility will change a person's mindset towards a fair business.

The principles of business ethics are needed to support the progress of the company. The regulation drawn up by the Indonesian government that accommodates business ethics is Law no. 8 concerning Consumer Protection. Article 4 regulates consumer rights, while Article 5 regulates consumer obligations. In this regulation, parties who contribute to running a business have the right and obligation to protect the wider community.

With the Law on consumer behavior that has been stipulated, the principles of business ethics must be immediately encouraged. Someone who is unethical and does things that are harmful means that he is a person who is not in accordance with the code of work ethics. The regulations made by the government are intended to maintain economic stability and justice for business people. Thus there is protection for business people. So it can be concluded that business ethics and positive law go hand in hand.

In terms of business ethics, the government has provided protection for both parties: producers and consumers. So it is hoped that business people and consumers will be able to maintain their behavior in doing business. With this regulation, it is clear that every act of fraud will be subject to punishment. Before doing business, one must have a sense of tolerance and responsibility to communicate with each other and make business agreements with others properly. Law Number 8 concerning Consumer Protection Article 7 letter a encourages everyone to have good intentions in carrying out their business activities.

Sanctions for acts of fraud have been regulated in laws set by the Indonesian government. Meanwhile, running a business requires ethics that can be obtained from one's culture, religion, and intellect. When doing business, one must combine government regulations and internal ethics. Law No. 11 of 1980 concerning the Crime of Bribery Article 2 explains that a person who has committed a bribe can be sentenced to a maximum

of 5 years in prison and a maximum fine of IDR 15,000,000.00. Here the principle of business ethics is implemented, when someone violates ethics, he will get a punishment that comes from positive law in Indonesia.

From these regulations, it is clear that in doing business, business actors are indirectly required to act appropriately and honestly. In the sense that business ethics is a pattern of good actions from business actors, while positive law works on fraudulent acts committed by business actors. The government has provided protection to business actors and consumers for the common good. When fraud is carried out again and again, law enforcement must be firm in taking action and giving the fairest punishment. So, it can be interpreted that business ethics from a positive legal perspective is a pattern of business ethics that has implications for positive law that will regulate it.

Implications of Fraud as a Violation of Business Ethics

The act of fraud has bad implications for the country's economic stability. In committing fraud, perpetrators only use rationalizations that benefit both individuals and groups. When someone commits an act of fraud in running his business, he will not be able to achieve the desired results. One party will feel disadvantaged when there is fraud in business collaboration.

Perpetrators of fraud in Indonesia have indeed targeted every institution and organization. It is not easy to eliminate fraudulent behavior, because the punishment given to the perpetrators of fraud is not in accordance with the losses incurred and does not provide a deterrent effect for the perpetrators of the action. Massive efforts such as smuggling, theft, and looting of money by forging checks and company cash entry data will make it difficult for the company to develop.

The Indonesian government has established regulations regarding business ethics that will provide protection for

business people. With this regulation, acts of fraud in Indonesia will gradually be minimized. The next requirement to minimize fraud is from law enforcers who are required to take the fairest decisions for business actors who commit fraud.

When the regulations are clear and the entire community has legal protection from the Indonesian government, further handling is in the hands of Indonesian law enforcers. Law enforcers are required to be able to be fair and impartial towards business actors who pay bribes to law enforcers.

Fraud has bad implications for the Indonesian economy. Fraud that is carried out continuously will become a culture and have a bad impact on the next generation. Therefore, several elements are also required to participate in providing sanctions against corruptors or perpetrators of fraud so as not to harm the company. Strict supervision is needed to prevent corruption and other fraudulent acts.

The more sophisticated the technology used in managing the business, the more difficult it is for fraud perpetrators to find loopholes to commit fraud. This is because technology is able to calculate data related to company finances and detect errors automatically. Thus, there is no gap for perpetrators to cheat because all financial-related data has been systematically recorded in the existing system. To produce a superior generation who has good behavior, it is necessary to prepare courses in business ethics and other ethics.

3. CONCLUSION

Fraud is an act of intentionally taking or stealing money from the company's treasury. Fraud is a bad behavior that can jeopardize economic stability. To prevent fraud, business ethics is needed in running a business so that no party is harmed. Law Number 8 of 1999 concerning Consumer Protection and Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of

Corruption Crimes aim to regulate and provide protection to every business actor, while Law Number 11 of 1980 regulates the crime of bribery. All these regulations are needed to minimize fraud that has spread to all agencies or institutions in Indonesia. Business ethics in a positive legal perspective is defined as business ethics related to morals, culture, and local wisdom that teach behavior to respect others. Meanwhile, positive law moves from business actors who do not run according to established business ethics. So, if a business actor commits an act of fraud, he has violated business ethics and will receive legal sanctions from positive law. Fraud has bad implications for business ethics because committing fraud means not paying attention to the interests of fellow business actors.

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