

CONFLICT OF NORMS IN IMPLEMENTING FINES FOR CURRENT THEFT ELECTRICITY IN THE INDONESIAN LEGAL SYSTEM BASED ON THE PERSPECTIVE OF JUSTICE

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Abstract

The purpose of this study is to analyze the legal provisions for the crime of electricity theft based on statutory regulations and to analyze the ideal concept of fines against companies committing electricity theft from a justice perspective. The method used is normative legal research. Based on the research results, it is known that the legal provisions for the crime of electricity theft based on statutory regulations are implemented through two mechanisms: an administrative or civil mechanism and a criminal mechanism. Administrative regulation is implemented through the Regulation of Electricity Usage (P2TL) which is based on Article 17 of the Regulation of the Minister of Energy and Mineral Resources Number 27 of 2017 as amended by the Regulation of the Minister of Energy and Mineral Resources Number 18 of 2019 and followed up through the Regulation of the Board of Directors of PT PLN (Persero) Number 028 of 2023 which has been ratified through the Decree of the Director General of Electricity Number 539.K/TL.04/DJL.3/2023. In its implementation, PT PLN (Persero) has the authority to impose additional bills for violations of P1, P2, P3, and P4 as a form of recovery of losses due to unauthorized use of electricity. From a criminal aspect, the regulation of the crime of electricity theft is regulated in Article 51 paragraph (3) of Law Number 30 of 2009 concerning Electricity which stipulates that anyone who uses electricity that is not their right in an unlawful manner is threatened with a maximum prison sentence of seven years and a maximum fine of Rp. 2,500,000,000.00. The enforcement of this criminal law is carried out by the Indonesian National Police and Civil Servant Investigators (PPNS), while the authority to impose criminal penalties rests with the court.

Keywords: Implementation, Fines, Electricity Theft

INTRODUCTION

Electrical energy is a strategic resource that plays a vital role in supporting people's lives and national development. Electricity is not only seen as an economic commodity, but also as an instrument for fulfilling basic human rights guaranteed by the state. Therefore, the management and distribution of electrical power must be carried out fairly, sustainably, and responsibly to ensure general welfare as mandated by Article 33 of the 1945 Constitution of the Republic of Indonesia. In this context, any form of misuse or unlawful extraction of electrical power, particularly by companies, not only harms the state and electricity providers but also violates the sense of social justice of the wider community.

The phenomenon of electricity theft by companies is a complex legal issue with multidimensional impacts. Unlike household-scale electricity theft, corporate electricity theft is generally systematic, planned, and involves significant economic interests. This practice often involves modifying measuring instruments, illegally connecting to the electricity grid, or manipulating electricity usage recording systems to reduce company operational costs (Mertokusumo, 2010). Consequently, the losses incurred are not only financial for electricity providers such as PT PLN (Persero), but also impact the stability of the national electricity system and reduce potential state revenues.

From a criminal law perspective, electricity theft has long been classified as an unlawful act. The Criminal Code (KUHP) through an extensive interpretation of Article 362 of the Criminal Code as amended by Articles 476 to 479 of Law Number 1 of 2023 concerning the Criminal Code, defines any person who takes an item that is partially or wholly owned by another person, with the intention of possessing it unlawfully (Soesilo, 1996). This regulation was then strengthened more specifically in Law Number 30 of 2009 concerning Electricity, which expressly prohibits any act of using electricity that is not their right and provides a basis for criminalization, including large fines. However, the problem that arises lies not solely in the existence or absence of legal norms, but in how these sanctions are applied fairly, proportionally, and effectively, especially against legal subjects in the form of corporations.

The imposition of fines on companies that steal electricity is often seen as the primary solution in law enforcement in the electricity sector. Fines are considered more relevant than imprisonment, considering that corporations, as legal entities, do not have a physical body (Muladi & Priyatno, 2012). However, in practice, fundamental questions arise regarding whether the imposition of such fines truly reflects justice or has the potential to create new injustices. On the one hand, fines that are too light will not have a deterrent effect and tend to be treated as "operational costs" by the company. On the other hand, fines that are too heavy without considering proportionality and the company's concrete conditions can impact business continuity, terminate employment, and cause losses to other parties not directly involved in the crime (Arief, 2016).

The perspective of justice in imposing fines on companies that steal electricity is a crucial issue that requires in-depth study. Justice in the context of criminal law is not only interpreted as retribution for unlawful acts (retributive justice), but must also consider aspects of utility (utilitarian justice) and restoration (restorative justice) (Rawls, 1971). The imposition of fines should not be solely aimed at punishment, but also encourage compliance with the law, recoup state losses, and prevent similar acts from occurring in the future.

Below you can see three examples of cases of fines for electricity theft that occurred, as follows:

1. Case Number 95/Pid.Sus/2020/PN Jkt.Utr which was tried at the North Jakarta District Court. This case began with the discovery of illegal electricity usage practices in a number of buildings and containers located in the Jalan Raya Marunda Number 5 area, North Jakarta. Based on the results of the inspection and control carried out by PT PLN

(Persero) through the Electricity Use Control (P2TL) activity, illegal electricity connections were found which resulted in losses for the state and PT PLN (Persero). In its decision, the Panel of Judges stated that the defendant Teguh alias Tagor had been legally and convincingly proven guilty of committing an electricity crime as charged in the first indictment. For his actions, the defendant was sentenced to 2 (two) years and 4 (four) months in prison and a fine of Rp1,000,000,000.00 (one billion rupiah). If the fine is not paid, it will be replaced with 6 (six) months in prison.

2. Supreme Court Decision Number 399 K/Pdt/2020 states that this case is a dispute between PT Lippo Karawaci Tbk as the manager of the Aryaduta Hotel Pekanbaru with PT PLN (Persero) Riau and Riau Islands Pekanbaru Area. The dispute began with the implementation of Electricity Usage Control (P2TL) by PLN which found alleged violations in the customer's electrical installation so that PLN issued a follow-up bill of Rp9,654,414,286.00. PT Lippo Karawaci rejected the bill on the grounds that PLN's inspection did not have a legal basis and sufficient evidence and contained procedural defects. Therefore, the company filed a lawsuit with the Pekanbaru District Court on the grounds of unlawful acts and requested the cancellation of the follow-up bill and the Letter of Acknowledgment of Debt. At the first level, the Pekanbaru District Court granted part of the plaintiff's lawsuit by declaring the follow-up bill and the Letter of Acknowledgment of Debt invalid. However, on appeal, the Pekanbaru High Court overturned the decision and rejected the entire lawsuit, considering that PLN's actions were in accordance with applicable procedures and provisions. PT Lippo Karawaci then filed an appeal with the Supreme Court. The Supreme Court considered that the implementation of P2TL and the issuance of follow-up bills by PLN had been carried out in accordance with legal provisions. In addition, electrical installations and substations under the control of customers are the responsibility of customers to be maintained and monitored to prevent changes that affect electricity measurements. Based on these considerations, the Supreme Court through Decision Number 399 K/Pdt/2020 rejected PT Lippo Karawaci's cassation application and upheld the Pekanbaru High Court's decision. As a result, the follow-up bill of Rp9,654,414,286.00 remains valid and binding, and the cassation applicant was ordered to pay court costs of Rp500,000.00.
3. The Surabaya District Court Decision Number 1125/Pid.Sus/2019/PN Sby is a concrete example of the misuse of electricity by a corporation in its business activities. This case involved PT Cahaya Indo Persada as the defendant, a corporation engaged in the production of stainless steel tableware, such as spoons, forks, and knives. In carrying out its production activities, the company requires a large supply of electricity obtained from PT PLN (Persero) as the state electricity provider. However, in its implementation, it was found that there were unlawful acts in the form of the use of electricity that did not comply with applicable regulations, resulting in enormous losses for PT PLN (Persero). Based on the results of a technical analysis conducted by PT PLN (Persero), it was discovered that the electronic device or module installed in the two kWh meters caused the recorded electrical energy to only be around 0.33 percent of the total electrical energy actually used. Thus, the company was still able to use large amounts of electricity to support its production process, but the payments made to PT PLN (Persero) did not reflect the actual amount of electrical energy consumed. As a result of these actions, PT Cahaya Indo Persada obtained unlawful profits by reducing the electricity payment obligations that should have been paid to the state through PT PLN (Persero). The actions carried out by the corporate defendant resulted in enormous losses for PT PLN (Persero). Based on the results of calculations carried out in accordance with the provisions of the Regulation of Electricity Use (P2TL), the total

losses experienced reached Rp13,059,707,115 (thirteen billion fifty-nine million seven hundred seven thousand one hundred and fifteen rupiah). These losses consisted of losses to customers on behalf of PT Cahaya Citra Alumindo amounting to Rp11,858,483,011 and customers on behalf of UD Cipta Karya amounting to Rp1,201,214,104. These losses indicate that electricity crimes not only have an impact on the administrative aspect alone, but can also cause enormous economic losses for the state electricity provider company and ultimately affect the interests of the wider community as electricity users.

Based on these three decisions, it is clear that crimes and violations in the electricity sector remain a serious problem because they cause significant losses for PT PLN (Persero) and the state. These three cases demonstrate the various methods used to obtain electricity illegally, whether by individuals or corporations. These three decisions demonstrate that law enforcement in the electricity sector is carried out through two instruments: criminal sanctions against perpetrators of electricity theft and civil or administrative sanctions in the form of follow-up bills for electricity used illegally. These decisions also emphasize the importance of the Electricity Usage Control (P2TL) activity as a supervisory instrument used by PLN to prevent state losses and maintain the reliability of the national electricity system. In addition, the existence of strict sanctions against perpetrators, both individuals and corporations, is a form of effort to realize legal certainty, justice, and a deterrent effect in order to protect the interests of the state and the community as electricity users.

The development of the doctrine of corporate criminal liability has also influenced perspectives on justice in corporate criminalization. Corporations are no longer viewed simply as collections of individuals, but as independent legal entities capable of committing culpable culpability (*mens rea*) through policies, decisions, or organizational culture (Sjahdeini, 2006). Therefore, corporate criminalization, including fines, must be based on the extent of the corporation's culpability, not solely on the magnitude of the losses incurred. Without this approach, criminalization risks losing its moral and social legitimacy.

The main provisions regarding the prohibition and sanctions against electricity theft are contained in Law Number 30 of 2009 concerning Electricity Article 51 paragraph (3) that (3) Any person who uses electricity that is not his right in an unlawful manner shall be punished with imprisonment of a maximum of 7 (seven) years and a maximum fine of Rp. 2,500,000,000.00 (two billion five hundred million rupiah). Furthermore, Article 54 paragraph (1) states that any person who operates an electricity installation without an operational certificate as referred to in Article 44 paragraph (4) shall be punished with imprisonment of a maximum of 5 (five) years and a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah). Article (2) states that any person who produces, distributes, or sells equipment and uses electricity that does not comply with Indonesian national standards as referred to in Article 44 paragraph (5) shall be subject to a maximum prison sentence of 5 (five) years and a maximum fine of Rp. 5,000,000,000.00 (five billion rupiah). This provision is in line with the development of modern criminal law which no longer limits the subject of criminal law to individuals, but also includes legal entities. Thus, companies that systematically commit electricity theft can be held criminally responsible and sentenced to a fine as a form of protection for the public interest and social justice.

Outside of specific regulations, electricity theft can also be reviewed under Articles 476 to 479 of Law Number 1 of 2023 concerning the Criminal Code, which states that anyone who takes an item that is partially or wholly owned by another person, with the intention of possessing it unlawfully. This interpretation is supported by the opinion of criminal law experts who state that the intangible nature of electricity does not eliminate its characteristics as an object that has economic value and can be controlled unlawfully.

Article 147 of Law Number 1 of 2023 concerning the Criminal Code states that goods are tangible or intangible objects, movable or immovable objects including water and demand deposits, electricity, gas, data and computer programs. The criminal act of theft as regulated in Article 476 of Law Number 1 of 2023 concerning the Criminal Code states that any person who takes an item that is partly or wholly owned by another person, with the intention of possessing it unlawfully, shall be punished for theft, with a maximum imprisonment of 5 (five) years or a maximum fine of category V. Explanation of Article 476, what is meant by "taking" is not only interpreted physically, but also includes other forms of taking. functionally (non-physical) leading to the intention of possessing another person's goods unlawfully. For example, stealing money by transferring or using electricity without rights. What is meant by owned is having rights to the goods. In Article 478 of Law Number 1 of 2023 concerning the Criminal Code, if the crime as referred to in Article 476 and Article 477 paragraph (1) letters f and g is not committed in a house or closed yard where there is a house, and the value of the goods stolen is not more than IDR 500,000.00 (five hundred thousand rupiah), shall be punished for petty theft, with a maximum fine of category II.

Regulation of the Board of Directors of PT PLN (Persero) Number 028 of 2023 concerning the Regulation of Electricity Use which has been approved by the Ministry of Energy and Mineral Resources of the Republic of Indonesia through the Decree of the Director General of Electricity Number 539.K/TL.04/DJL.3/2023. The Regulation of the Board of Directors is a further implementation of Article 17 of the Regulation of the Minister of Energy and Mineral Resources Number 27 of 2017 concerning the Level of Service Quality and Costs Related to the Distribution of Electricity by PT PLN (Persero), as amended by the Regulation of the Minister of Energy and Mineral Resources Number 18 of 2019.

The Directors' Regulation stipulates the imposition of Supplementary Bills (TS) for P2TL violations, which are classified into several violation categories, namely Class I Violations (P1), Class II Violations (P2), Class III Violations (P3), and Class IV Violations (P4). The amount of Supplementary Bills is calculated based on a specific formula that takes into account connected power, electricity tariffs, load costs, and other parameters that have been determined in PLN's internal regulations. Therefore, the value of Supplementary Bills imposed on violators may vary according to the type and level of violation committed. The Supplementary Bills are essentially not a definite calculation of unmeasured electrical energy due to violations, but rather a form of administrative consequence or civil sanction determined by PLN to recover losses and maintain orderly use of electricity.

The legal basis for corporate criminal liability can also be found in various laws and criminal law doctrines. The concept of corporate criminal liability emphasizes that corporate wrongdoing can be proven through company policies, management actions, or organizational culture that encourage criminal acts. In the context of electricity theft, management decisions to manipulate the electricity system or avoid legitimate payments constitute corporate wrongdoing, which can be subject to criminal penalties, including fines.

Furthermore, the Conflict of Norms on the Application of Fines for Electricity Theft in the Indonesian Legal System Based on a Justice Perspective must also take into account the principles of punishment recognized in criminal law, such as the principle of legality, the principle of proportionality, and the principle of justice. These principles require that the amount of the fine imposed is not only oriented towards retribution, but also considers the company's economic capacity, the level of culpability, and the impact of the act on society and the state. Thus, the legal basis for imposing fines is not rigid, but must be interpreted systematically and fairly.

In Indonesia, the imposition of fines on companies involved in electricity theft also faces the challenge of inconsistent law enforcement. In some cases, large corporations with significant economic and political power are perceived as receiving more lenient treatment

than small businesses or individuals (Lubis, 2014). This situation creates a perception of injustice and undermines public trust in the legal system. The principle of equality before the law requires that every legal subject, without exception, be treated equally before the law.

The problem in "Conflict of Norms on the Implementation of Fines for Electricity Theft in the Indonesian Legal System Based on the Perspective of Justice" is basically included in the conflict of legal norms, namely the conflict or inconsistency between legal norms originating from statutory regulations and norms originating from administrative policies or agreements implemented by PT PLN (Persero). This conflict arises because the act of electric current theft on the one hand is a criminal act regulated in Law Number 1 of 2023 concerning the Criminal Code (KUHP) and Law Number 30 of 2009 concerning Electricity whose resolution is carried out through criminal justice mechanisms, while on the other hand PT PLN applies sanctions in the form of fines or follow-up bills based on the Regulation of the Board of Directors of PT PLN and the provisions of the electricity purchase agreement between PLN and customers. As a result, for the same act, two consequences can be imposed at once, namely criminal sanctions and administrative or civil fines.

The conflict of norms that occurs is not a conflict between religious norms, morality, or decency, but rather a conflict within the scope of more specific legal norms, namely a conflict between criminal norms and administrative norms and contractual norms. From a justice perspective, this issue raises questions about proportionality and legal certainty, because perpetrators of electricity theft are not only subject to criminal penalties but also burdened with the obligation to pay fines or additional bills whose value often far exceeds the losses incurred. This condition can give the impression of double punishment and unclear regarding the legal basis used in determining the amount of fines. Therefore, the conflict of norms in the application of fines for electricity theft is a conflict of legal norms that occurs between criminal norms and administrative norms and civil agreements, which ultimately gives rise to problems regarding justice, legal certainty, and benefit in the Indonesian legal system.

Based on the description, it can be concluded that the Conflict of Norms on the Implementation of Fines for Electricity Theft in the Indonesian Legal System Based on the Perspective of Justice cannot be separated from the discourse of legal justice. A comprehensive and in-depth study is needed to assess the extent to which the criminalization policy is in line with the principles of justice, legal certainty, and benefit. Therefore, this paper is prepared to examine the application of fines to companies that commit electricity theft from the perspective of justice, by examining the normative, theoretical aspects, and their practical implications in the Indonesian criminal law system.

RESEARCH METHODS

This research is a normative legal study that aims to analyze the conflict of norms in the application of fines for electricity theft in the Indonesian legal system from a justice perspective. The approaches used include a statutory approach to examine various legal provisions governing sanctions for electricity theft, as well as a conceptual approach by examining legal doctrines, principles, and theories related to legal certainty, justice, and norm harmonization.

The data used is secondary data consisting of primary legal materials in the form of the 1945 Constitution of the Republic of Indonesia, Law Number 30 of 2009 concerning Electricity, Law Number 1 of 2023 concerning the Criminal Code, Regulation of the Minister of Energy and Mineral Resources Number 27 of 2017 as amended by Regulation of the Minister of Energy and Mineral Resources Number 18 of 2019, Decree of the Director General of Electricity Number 539.K/TL.04/DJL.3/2023, and Regulation of the Board of Directors of PT PLN (Persero) Number 028 of 2023. Secondary legal materials include

books, scientific journals, research results, and relevant documents, while tertiary legal materials are in the form of legal dictionaries and the Big Indonesian Dictionary.

The legal materials were collected through library research, supported by unstructured interviews as supporting data. All legal materials were analyzed descriptively and qualitatively through legal interpretation and synchronization of legislation. Conclusions were drawn using the deductive method, which examines general legal norms to find solutions to specific legal problems.

RESULT AND DISCUSSION

A. Legal Regulations Regarding the Crime of Electricity Theft Based on Statutory Regulations

Electricity is one of the basic needs of modern society that has high economic value and plays a strategic role in supporting social life, industry, trade, education, and public services. As an energy source controlled by the state as mandated by Article 33 paragraph (2) of the 1945 Constitution of the Republic of Indonesia, the management and utilization of electricity must be carried out in an orderly, efficient manner, and in accordance with applicable legal provisions. In practice, the increasing development of electricity needs is also accompanied by the emergence of various forms of electricity abuse known as the crime of electricity theft. Electricity theft is an act of taking or using electricity illegally by directly connecting the electricity flow without going through a meter, manipulating measuring and limiting devices (APP), illegally changing installations, or using electricity without permission, thus causing losses to the state and PT PLN as the provider of electricity supply businesses.

Article 33 paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This constitutional provision is the philosophical basis that the implementation of electricity does not merely have an economic dimension, but also has a social dimension and a legal dimension that must be protected by the state. This legal protection includes the provision of continuous electricity, electricity safety, and protection against various forms of unlawful acts that cause losses to the state, PT PLN (Persero), and the public as consumers.

One form of unlawful act that often occurs in the electricity sector is electricity theft or what is known in PT PLN's practice as electricity usage violations (P2TL). The crime of electricity theft is essentially the act of using electricity that is not one's right unlawfully through various means, such as making direct connections without a meter, manipulating the limiting and measuring device (APP), damaging the kWh meter seal, using magnets to slow down the meter rotation, or modifying the installation so that electricity usage is not recorded properly. These actions cause the electricity used to be not measured correctly, resulting in losses for the electricity provider.

From a criminal law perspective, the question arises as to whether electricity can be categorized as an object subject to theft. This issue has long been debated because electricity lacks a physical form like most objects. However, developments in modern criminal law doctrine indicate that electricity can be considered a commodity or object because it has economic value, can be bought and sold, can be transferred to another party, and can be controlled by an individual.

According to Simons (1937), what is meant by objects in criminal law is not always limited to tangible objects, but rather includes anything that has economic value and can become an object of property rights. In line with this opinion, Van Bemmelen (1954) stated that electricity can be equated with movable objects because its existence can be transferred and utilized by humans so that the illegal extraction of electrical energy can be qualified as theft. In Indonesia, the same opinion was expressed by Roeslan Saleh (1983) who stated that electrical energy is an object that can be the object of criminal acts because it has economic

value and can be traded.

Regulations regarding the crime of electricity theft in Indonesia are regulated through two mechanisms: civil (administrative) and criminal. These two mechanisms are two distinct processes that can be applied simultaneously to a single incident of electricity theft.

Criminal provisions regarding electricity theft are contained in Law Number 30 of 2009 concerning Electricity. This law is the main legal basis that regulates the provision of electricity and various forms of violations in the electricity sector. Provisions regarding electricity theft are specifically regulated in Article 51 paragraph (3) which states that anyone who uses electricity that is not their right in an unlawful manner shall be punished with a maximum imprisonment of 7 (seven) years and a maximum fine of IDR 2,500,000,000.00 (two billion five hundred million rupiah).

The formulation of Article 51 paragraph (3) of Law Number 30 of 2009 shows that the use of electricity without permission is a special crime (*lex specialis*) which has its own criminal threat. The elements contained in this article include the element of "every person", the element of "using electricity", the element of "not having the right", and the element of "unlawfully". The definition of "every person" in criminal law does not only include individuals, but also legal entities or corporations that benefit from the illegal use of electricity.

The criminal threat in Article 51 paragraph (3) consists of a maximum prison sentence of seven years and a maximum fine of IDR 2.5 billion. The imposition of these criminal penalties is not the authority of PT PLN, but rather the authority of law enforcement officers through the process of investigation, inquiry, prosecution, and examination in court. Thus, the amount of imprisonment and fines is entirely the authority of the judge based on the facts revealed in court.

In addition to being regulated in Law Number 30 of 2009 concerning Electricity, the regulation of electricity theft can also be linked to general provisions regarding theft as regulated in Article 476 of Law Number 1 of 2023 concerning the Criminal Code. This article states that anyone who takes goods that are wholly or partially owned by another person with the intention of possessing them unlawfully shall be punished for theft with a maximum imprisonment of five years or a category V fine. However, because the Electricity Law has specifically regulated the unlawful use of electricity, the principle of *lex specialis derogat legi generali* applies, namely special provisions override general provisions. Thus, in cases of electricity theft, Article 51 paragraph (3) of Law Number 30 of 2009 is used.

In addition to criminal mechanisms, regulation of violations of electricity use is also carried out through administrative or civil mechanisms implemented by PT PLN (Persero). The legal basis for the implementation of the Regulation of Electricity Use (P2TL) is contained in Article 17 of the Regulation of the Minister of Energy and Mineral Resources Number 27 of 2017 concerning the Level of Service Quality and Costs Related to the Distribution of Electricity by PT PLN (Persero), as amended by the Regulation of the Minister of Energy and Mineral Resources Number 18 of 2019.

Article 17 of the ESDM Ministerial Regulation authorizes PT PLN to enforce electricity usage regulations for both customers and non-customers who violate electricity usage regulations. Based on these provisions, PT PLN then established PT PLN (Persero) Board of Directors Regulation Number 028 of 2023 concerning Regulation of Electricity Usage, which has been ratified through Decree of the Director General of Electricity Number 539.K/TL.04/DJL.3/2023.

Board of Directors Regulation Number 028 of 2023 regulates various forms of violations classified into four types, namely violations of categories P1, P2, P3, and P4. Violation P1 is a violation that affects the power limit but does not affect the measurement of electrical energy. Violation P2 is a violation that affects the measurement of electrical energy

but does not affect the power limit. Violation P3 is a violation that affects the power limit and also affects the measurement of electrical energy. Meanwhile, violation P4 is a violation committed by non-customers, namely using electricity without a legal relationship with PT PLN.

The Directors' Regulation stipulates that follow-up bills will be imposed on violators. These follow-up bills are calculated using a specific formula, taking into account connected capacity, electricity tariffs, load costs, and other factors. These follow-up bills do not represent a calculation of the actual amount of electricity stolen, but rather represent compensation or an administrative sanction imposed by PT PLN.

Thus, follow-up bills in P2TL actually have a civil or administrative legal character and not a criminal one. Follow-up bills cannot be equated with criminal fines as referred to in Article 51 paragraph (3) of Law Number 30 of 2009. Criminal fines are sanctions imposed by a judge based on a court decision that has obtained permanent legal force, while follow-up bills are a form of loss recovery carried out by PT PLN based on the civil legal relationship between the electricity provider and the customer.

This difference demonstrates that the administrative and criminal P2TL processes are two distinct mechanisms. Payment of a follow-up bill by a customer does not eliminate criminal liability for the electricity theft perpetrator. Conversely, the imposition of a prison sentence and a fine by the court also does not eliminate the perpetrator's obligation to pay the follow-up bill to PT PLN.

This situation does not conflict with the principle of *ne bis in idem* because the two mechanisms have different legal characteristics. Follow-up bills are administrative sanctions aimed at recovering losses from PT PLN, while imprisonment and fines aim to deter perpetrators and protect the public interest. Therefore, both mechanisms can be applied simultaneously in a single electricity theft incident.

In criminal proceedings, the authority to investigate and prosecute lies with the Indonesian National Police and Civil Servant Investigators (PPNS) in the electricity sector. After the investigation is completed, the case file is handed over to the public prosecutor for prosecution in court. The judge will then determine whether the defendant is proven guilty and determine the amount of imprisonment and fines to be imposed. Therefore, PT PLN does not have the authority to impose criminal penalties on perpetrators of electricity theft. PT PLN's authority is limited to implementing P2TL (Planning for Electricity Theft) and collecting follow-up bills based on Directors' Regulation Number 028 of 2023. The authority to impose criminal penalties rests with the judiciary through the due process of law mechanism.

From the perspective of the legal protection theory put forward by Philipus M. Hadjon (1987), the existence of legal regulations regarding electricity theft is a form of repressive legal protection provided by the state to guarantee legal certainty regarding the rights of electricity providers while protecting the interests of the wider community. This legal protection is realized through various statutory provisions governing the crime of electricity theft from both general and specific criminal law aspects.

Legal regulations regarding the crime of electricity theft are not based on a single regulation, but rather constitute a legal system comprising various laws and regulations. These regulations can be found in Law Number 1 of 2023 concerning the Criminal Code, Law Number 30 of 2009 concerning Electricity, implementing regulations in the electricity sector, and PT PLN's internal regulations regarding the regulation of electricity use.

Viewed from the perspective of general criminal law, the crime of theft is in principle regulated in Article 476 of Law Number 1 of 2023 concerning the Criminal Code which stipulates that anyone who takes goods in whole or in part belonging to another person with the intention of possessing them unlawfully shall be punished for theft with a maximum

imprisonment of five years or a category V fine. This provision is an update of Article 362 of the old Criminal Code. Although the formulation of the article uses the term "goods", in the development of doctrine and jurisprudence, electrical energy has been recognized as an object that has economic value so that it can be an object of theft.

According to Andi Hamzah (2015), electricity theft essentially fulfills the elements of theft because it involves taking, the presence of an object with economic value, and the intention to possess it unlawfully. The taking in the context of electricity theft is not done physically like taking ordinary goods, but rather through the illegal use of electricity, which results in the transfer of economic benefits from the rightful party to the perpetrator. Thus, electricity theft still fulfills the elements of the crime of theft.

However, more specific regulations regarding electricity theft are stipulated in Law Number 30 of 2009 concerning Electricity. This law is a *lex specialis* that specifically regulates the provision and use of electricity, including criminal sanctions for various violations in the electricity sector. This law was enacted to replace Law Number 15 of 1985, which was deemed no longer in line with developments in community needs and electricity technology.

Article 51 paragraph (3) of Law Number 30 of 2009 states that anyone who uses electricity to which they are not entitled in an unlawful manner shall be punished with a maximum imprisonment of seven years and a maximum fine of IDR 2,500,000,000.00. This provision shows that the law makers pay special attention to electricity theft because this act not only harms electricity providers but also disrupts the electricity distribution system and can endanger public safety.

According to Teguh Prasetyo (2019), the specific provisions regarding electricity theft in the Electricity Law are a manifestation of the principle of *lex specialis derogat legi generali*, namely that specific provisions override general provisions. Therefore, if a crime of electricity theft occurs, the provisions used as the basis for criminal punishment are Law Number 30 of 2009 concerning Electricity.

In addition to unauthorized use of electricity, Law Number 30 of 2009 also regulates various other forms of violations related to electricity. Article 49 regulates the operation of electricity supply businesses without a permit. Article 50 regulates violations of electricity safety regulations. Article 54 regulates the operation of electricity installations without an operational certificate. Thus, the sanctions system in the Electricity Law is not only oriented towards electricity theft, but also maintains the safety and reliability of the national electricity system.

From a modern criminal law perspective, the threat of criminal penalties for electricity theft serves not only to retaliate against the perpetrator, but also as a means of deterrence. This aligns with the relativistic theory proposed by Franz von Liszt (1915), which states that criminal penalties aim to prevent recurrence of crimes. The threat of seven years' imprisonment and billions of rupiah in fines under the Electricity Law represents a form of general deterrence to discourage electricity theft.

From the perspective of the utilitarian theory put forward by Jeremy Bentham (1907), punishment must be able to provide the greatest benefit to society. Electricity theft not only harms PLN financially but also impacts the quality of electricity service to the public, causing unstable voltage, triggering distribution disruptions, and even causing fires due to illegal installations. Therefore, punishing perpetrators of electricity theft is an effort to safeguard the interests of the wider community.

In addition to the criminal aspect, regulations regarding electricity theft also have an administrative dimension. PT PLN, as an electricity provider, implements an Electricity Usage Control (P2TL) mechanism for customers who commit violations. In practice, violations are divided into several categories: violations that affect power limits, violations

that affect electricity metering, and violations committed by non-customers. These violations are subject to follow-up bills or compensation in accordance with applicable regulations. Therefore, in addition to criminal sanctions, perpetrators of electricity theft may also be subject to administrative sanctions in the form of an obligation to pay losses to PT PLN.

According to Sudikno Mertokusumo (2010), the simultaneous existence of administrative and criminal sanctions is a form of legal protection that complements each other because each has a different function. Administrative sanctions aim to redress losses, while criminal sanctions aim to provide a deterrent effect on perpetrators.

In the development of law enforcement practices, cases of electricity theft are frequently found among both residential and industrial customers. Common methods include installing cables directly in front of the meter, tampering with meter seals, reversing the kWh meter, using magnets to slow down the meter rotation, and modifying metering devices to display lower-than-actual electricity usage. These actions result in significant losses for the state.

One case that has garnered attention is the uncovering of electricity theft by an industrial company that modified metering devices to prevent accurate electricity usage from being recorded. In this case, PLN suffered losses of hundreds of millions of rupiah. Law enforcement was carried out through a police investigation and subsequently prosecuted using the provisions of the Electricity Law. This case demonstrates that electricity theft is no longer merely an administrative violation but a criminal offense that causes significant economic losses.

According to Barda Nawawi Arief (2014), criminal law should be viewed as part of a criminal policy aimed at protecting society from various forms of crime. In the context of electricity theft, this protection is aimed at maintaining national energy security and the country's economic interests. Therefore, law enforcement against electricity theft must be carried out consistently.

From an economic legal perspective, electricity is a commodity with a market value, so its use must be based on a valid legal relationship between the consumer and the electricity provider. Any unauthorized use constitutes the taking of economic benefits that are the right of another party. According to Satjipto Rahardjo (2006), the law must be able to protect the interests that develop within society, including economic interests related to energy supply.

Electricity is a vital sector of production for the country and plays a vital role in the lives of many. Therefore, the provision of electricity in Indonesia is under the supervision of the state through PT PLN (Persero), a state-owned enterprise authorized to provide electricity to the public. In practice, misuse of electricity through unauthorized use, known as electricity theft, remains common. This practice is not only carried out by individuals but also by business entities or companies using various methods, such as manipulating measuring instruments and limits, installing direct connections, or altering installations that result in a reduction in the measurement of the actual electrical energy used.

Normatively, regulations regarding electricity theft in Indonesia are regulated in Law Number 30 of 2009 concerning Electricity. Article 51 paragraph (3) states that anyone who uses electricity that is not their right in an unlawful manner shall be punished with a maximum imprisonment of 7 (seven) years and a maximum fine of IDR 2,500,000,000.00 (two billion five hundred million rupiah). This provision shows that the law makers place the act of electricity theft as a criminal act that has a serious impact on the sustainability of the national electricity system.

The use of the phrase "every person" in this provision has a broad scope. According to Article 1, number 21 of Law Number 1 of 2023 concerning the Criminal Code, "every person" includes both individuals and corporations. Therefore, a company, as a legal entity, can be held criminally liable if proven to have committed electricity theft through policies,

orders, or actions taken by its management or any party acting for and on its behalf.

In addition to being regulated in the Electricity Law, electricity theft can also be qualified as a criminal act of theft as regulated in the Criminal Code. Article 479 of Law Number 1 of 2023 stipulates that any person who takes goods that are wholly or partially owned by another person with the intention of unlawfully possessing them shall be punished for theft with a maximum imprisonment of five years or a category V fine. Although electricity does not have a physical form like objects in general, the development of criminal law doctrine has recognized electricity as an object that can be stolen because it has economic value and is an item that can be utilized.

In addition, electricity theft is also related to the civil legal relationship between customers and PT PLN (Persero). Based on Article 29 of Law Number 30 of 2009, electricity consumers are obliged to use electricity according to its intended use and maintain the security of their electrical installations. If consumers commit violations, PT PLN (Persero) is authorized to carry out Electricity Usage Control (P2TL) based on PT PLN (Persero) Board of Directors Regulation Number 088-ZP/DIR/2016 concerning Electricity Usage Control. Through this mechanism, customers who commit violations can be subject to additional bills as a form of administrative and civil accountability before criminal proceedings are carried out.

The existence of these various legal instruments demonstrates that the regulation of electricity theft crimes adopts a dual approach: an administrative approach and a criminal approach. The administrative approach is intended to recover losses for the state or PT PLN (Persero), while the criminal approach aims to provide a deterrent effect on perpetrators.

From the perspective of Criminal Theory, the threat of criminal penalties against electricity theft is an implementation of both absolute and relative theories. According to Immanuel Kant (1986), criminal penalties are imposed because someone has committed a crime, and therefore the perpetrator must receive retribution commensurate with their crime. Therefore, companies that commit electricity theft deserve criminal penalties because they have obtained unlawful profits and harmed the state and the public as consumers of electricity.

On the other hand, the relative theory views that the purpose of punishment is not merely retribution, but rather to prevent the recurrence of criminal acts. Van Hamel stated that punishment aims to maintain public order through general deterrence and specific deterrence. (Lamintang, 2014). In the context of electricity theft, criminalizing companies aims to create a deterrent effect so that other business entities do not commit similar acts.

The development of modern criminal law has given rise to a hybrid theory that combines elements of retribution and deterrence. Muladi (2010) argues that the goal of criminal punishment must balance community protection, perpetrator development, and the restoration of social balance. Therefore, criminal punishment for corporations that commit electricity theft should not only be aimed at punishing the perpetrators but also at recovering the losses incurred as a result of the crime.

The regulation of electricity theft crimes is also closely related to the Theory of Legal Certainty. According to Hans Kelsen (1961), the law must provide clear guidelines regarding rights and obligations, as well as the consequences of any violations. Legal certainty is necessary so that the public knows what actions are prohibited and what sanctions will be imposed for violations.

The provisions of Article 51 paragraph (3) of Law Number 30 of 2009 actually provide certainty regarding the types of prohibited acts and the criminal penalties they carry. However, this regulation still has weaknesses because it does not specifically regulate corporate criminal liability. As a result, in law enforcement practice, difficulties are often encountered in determining which party should be held responsible, whether the board of

directors, the management, or the company as a legal entity.

In fact, Law Number 1 of 2023 recognizes corporations as subjects of criminal law. Article 45 of Law Number 1 of 2023 states that corporations are subjects of criminal acts. Furthermore, Article 46 stipulates that criminal acts committed by corporations are accountable to the corporation and/or its management. This regulation demonstrates progress towards legal certainty in corporate criminal liability.

In practice, electricity theft by companies is often carried out systematically through altering metering devices, installing illegal connections, or reducing meter recording capacity. These actions cause significant losses for PT PLN (Persero) and the state. Therefore, legal certainty in criminal enforcement is essential to prevent unequal treatment between individual and corporate perpetrators.

Based on the perspective of the theory of punishment and the theory of legal certainty, it can be understood that the regulation of the crime of electricity theft aims to provide protection for state interests, create a deterrent effect, and guarantee legal certainty regarding the responsibility of perpetrators, including corporations that profit from the unlawful use of electricity.

Regulation of electricity theft is also related to the principle of legality, as stipulated in Article 1 of Law Number 1 of 2023 concerning the Criminal Code. The principle of legality implies that a person can only be punished if their actions have been previously regulated by law. The criminal provisions in the Electricity Law ensure legal certainty regarding the prosecution of perpetrators of electricity theft.

In the title "Conflict of Norms in the Implementation of Fines for Electricity Theft in the Indonesian Legal System Based on a Justice Perspective", what is meant by conflict of norms is the existence of a conflict or inconsistency between the legal provisions governing sanctions against perpetrators of electricity theft, especially between general criminal provisions and the mechanism for imposing fines or compensation applied by PT PLN (Persero). This conflict raises issues regarding legal certainty, proportionality of sanctions, and justice for both the perpetrator and the injured party.

Theft of electricity is an act that can be qualified as a criminal act of theft as regulated in Article 476 of Law No. 1 of 2023 concerning the Criminal Code, which states that anyone who takes something that is wholly or partially owned by another person with the intention of possessing it unlawfully, is threatened with a maximum prison sentence of five years or a fine. In practice, theft of electricity is equated with theft because electricity is considered an object that has economic value.

PT PLN (Persero) implements a mechanism for imposing follow-up bills (TS) or administrative fines based on PT PLN's Board of Directors Regulations and provisions regarding electricity usage regulation. Through this mechanism, customers found guilty of violating electricity theft are required to pay a bill or fine, the amount of which is determined based on the category of violation and the extent of the losses incurred. In some cases, perpetrators are still prosecuted through law enforcement.

This situation creates a conflict of norms because two forms of sanctions are applied to the same act. On the one hand, the perpetrator is required to pay a follow-up bill or an administrative fine to PLN as compensation, while on the other hand, the perpetrator can still be subject to criminal charges under Law No. 1 of 2023 concerning the Criminal Code.

The conflict of norms is also evident in the differences in character between criminal law and administrative law. Criminal law aims to provide retribution and a deterrent effect against perpetrators of crimes in order to protect the public interest, while the imposition of additional bills by PLN is essentially aimed at recovering the company's losses due to the illegal use of electricity. However, in practice, the amount of the fines imposed often exceeds the actual value of the losses, making them more like additional criminal sanctions, even

though the legal basis for them is derived solely from internal company regulations. This raises the issue of norm hierarchy because internal company regulations must not conflict with higher-level laws and regulations according to the principle of *lex superior derogat legi inferiori*.

From a justice perspective, this conflict of norms indicates an imbalance between the interests of protecting PT PLN as an electricity provider and the rights of the perpetrator as a legal subject. According to Aristotle's theory of justice, sanctions must be imposed proportionally according to the level of wrongdoing and the losses incurred. Meanwhile, according to John Rawls's theory of justice, the law must provide fair treatment and not impose an excessive burden on either party. If someone has been charged a large additional bill and is still sentenced to imprisonment or a fine, there is the potential for injustice due to the imposition of multiple sanctions.

The conflicting norms in the application of fines for electricity theft lie in the conflict between the criminal provisions in Law No. 1 of 2023 concerning the Criminal Code and the mechanism for imposing follow-up bills or administrative fines by PT PLN (Persero), which in practice can lead to dual sanctions. From a justice perspective, these regulations require harmonization to create a balance between legal certainty, protection of PT PLN's interests, and fulfillment of the principles of justice and proportionality for perpetrators of electricity theft.

Furthermore, regulations regarding electricity theft reflect the law's function as a tool of social engineering, as argued by Roscoe Pound (1954). Through the threat of strict penalties, the law seeks to change public behavior to ensure that electricity is used in an orderly manner and in accordance with applicable regulations. Thus, the law serves not only to punish but also to shape society's legal culture.

From the perspective of progressive law developed by Satjipto Rahardjo (2009), law enforcement against electricity theft cannot be solely focused on punishment, but must also consider preventive measures through public education, increased supervision, and simplified access to electricity services for the underprivileged. Such an approach is crucial to prevent recurring electricity theft due to economic factors and low public legal awareness.

Thus, it can be understood that legal regulations regarding the crime of electricity theft in Indonesia have been comprehensively regulated through general criminal law and special criminal law. Law Number 1 of 2023 concerning the Criminal Code provides a general basis for the crime of theft, while Law Number 30 of 2009 concerning Electricity specifically regulates the unlawful use of electricity and the penalties that arise. The existence of these two regulations demonstrates that the state pays serious attention to protecting electricity as a strategic resource with high economic value and a vital role in people's lives.

Regulating Electricity Usage through civil and criminal mechanisms are two different law enforcement systems. The civil or administrative route aims to recover losses and enforce order in the use of electricity through the imposition of Follow-up Bills based on the Regulation of the Board of Directors of PT PLN (Persero) Number 028 of 2023, while the criminal route aims to provide a deterrent effect to perpetrators through the application of Article 51 paragraph (3) of Law Number 30 of 2009 concerning Electricity. Although they have different characters and objectives, both mechanisms can be applied simultaneously to one act of violation of electricity usage without causing legal conflict because each has a different legal basis and scope of regulation.

Legal regulation of the crime of electricity theft in Indonesia is carried out through two different channels, namely the administrative or civil channel and the criminal channel. The administrative channel is implemented based on Article 17 of the Minister of Energy and Mineral Resources Regulation Number 27 of 2017 as amended by the Minister of Energy and Mineral Resources Regulation Number 18 of 2019 and the Regulation of the Board of

Directors of PT PLN Number 028 of 2023 through the Electricity Usage Control (P2TL) mechanism and the imposition of follow-up bills. Meanwhile, the criminal channel is regulated in Article 51 paragraph (3) of Law Number 30 of 2009 concerning Electricity which threatens the perpetrator with a maximum prison sentence of seven years and a maximum fine of IDR 2.5 billion. These two mechanisms have different legal characters but can be applied simultaneously to provide legal protection for the implementation of electricity and realize legal certainty, justice, and benefits in society.

B. The Ideal Concept of Fines for Companies Committing the Crime of Electricity Theft from a Justice Perspective

The rapid development of the industrial world and economic growth have led to a significant increase in the need for electrical energy. Electricity is no longer seen simply as a household necessity, but has become a production factor that determines the continuity of company activities. Companies' dependence on electricity has resulted in energy costs becoming a significant expense component. In practice, many companies attempt to reduce operational costs by engaging in various illegal activities, one of which is electricity theft. The methods employed by companies are generally more complex than those carried out by individuals, such as manipulating the limiting and measuring device (APP), installing illegal connections before the kWh meter, changing the power measurement system, and engineering installations to reduce the recording of actual electricity usage. These actions not only result in significant economic losses for PT PLN (Persero), but also have the potential to disrupt the stability of the national electricity system and create injustice for other consumers who use electricity legally.

The phenomenon of electricity theft by companies is essentially a form of corporate crime. According to Marshall B. Clinard and Peter C. Yeager (1980), corporate crime is any unlawful act committed by a corporation or individual acting for and on behalf of a corporation to obtain economic gain for the company. Corporate crime has characteristics that differ from conventional crime because it is carried out in an organized manner, involves the company structure, and causes widespread losses. In the context of electricity theft, companies gain economic benefits through illegal reductions in operational costs, while losses are borne by the state, PT PLN as a state-owned enterprise, and the public in general.

Legally, the regulation regarding the unlawful use of electricity is regulated in Article 51 paragraph (3) of Law Number 30 of 2009 concerning Electricity which stipulates that anyone who uses electricity that is not their right unlawfully shall be punished with a maximum imprisonment of seven years and a maximum fine of IDR 2,500,000,000.00. This formulation is basically aimed at legal subjects in general, both individuals and legal entities. However, in practice the application of criminal fines to corporations that commit electricity theft still raises various problems, especially related to the measure of justice, proportionality, and the effectiveness of sanctions.

From a modern criminal law perspective, corporations have been recognized as subjects of criminal law that can be held accountable for the crimes they commit. The recognition of corporate criminal liability stems from the development of industrial society, which has led to various crimes no longer being committed individually, but rather through legal entities or corporate organizations. According to Sutan Remy Sjahdeini (2007), corporations are legal subjects that have rights and obligations like humans, so corporations can also be burdened with criminal responsibility if they commit acts that violate the law.

The recognition of corporations as perpetrators of criminal acts is further emphasized in Law Number 1 of 2023 concerning the Criminal Code. Article 45 stipulates that corporations are subject to criminal acts. Furthermore, Article 46 emphasizes that criminal acts can be committed by corporations if the act is committed by a person with an

employment relationship or other relationship within the corporation who acts for and on behalf of the corporation within the scope of the corporation's business or activities. This provision indicates that companies that commit electricity theft can be held criminally liable as corporations.

In the Indonesian criminal law system, fines are the primary type of punishment that can be imposed on corporations. Article 80 of Law Number 1 of 2023 states that the primary punishment for corporations is a fine. Furthermore, Article 118 provides for the possibility of additional penalties in the form of confiscation of profits obtained from the crime, payment of compensation, revocation of permits, dissolution of the corporation, and even placing the company under supervision. Thus, the concept of criminalizing companies is no longer solely oriented towards punishment in the form of fines, but also aims to recover losses and prevent recurrence of criminal acts.

From a justice perspective, imposing criminal fines on companies that steal electricity is not sufficient based solely on the maximum amount stipulated by law. Justice requires that the sanctions imposed be proportionate to the level of culpability and the profits the company obtains from the crime. This thinking is in line with the theory of distributive justice put forward by Aristotle. According to Aristotle (1925), distributive justice is giving each person their due proportion, while corrective justice aims to restore the losses caused by an unlawful act. In the context of electricity theft by companies, distributive justice requires that companies that profit more from electricity theft be subject to heavier fines, while corrective justice demands that PT PLN and the community recover the losses suffered.

John Rawls (1971), through his theory of justice as fairness, argued that justice must be realized through a balanced distribution of rights and obligations in society. According to Rawls, a legal policy can be considered just if it provides protection to the most disadvantaged party. In the crime of electricity theft, the disadvantaged party is not only PT PLN but also the public as legitimate electricity users. Therefore, the ideal concept of fines against companies should not only be oriented towards the interests of the perpetrators but also consider the interests of the wider community.

In law enforcement practice, the maximum fine of IDR 2,500,000,000.00 as stipulated in Article 51 paragraph (3) of Law Number 30 of 2009 is often not commensurate with the profits obtained by the company from electricity theft. In large companies with very high electricity consumption, the profits obtained from such actions can reach tens of billions of rupiah. If the criminal fine is only limited to IDR 2.5 billion, then the sanction does not provide a deterrent effect and is contrary to the principle of justice. According to Richard A. Posner (2007) in the theory of economic analysis of law, the purpose of criminal sanctions is to create costs greater than the profits obtained by the perpetrator from the crime so that the perpetrator does not have an economic incentive to commit the crime. Thus, fines against companies that steal electricity should be based on the value of the profits obtained unlawfully.

A similar view was expressed by Steven Shavell (2004), who stated that the ideal fine should exceed the economic benefit obtained by the perpetrator to achieve its deterrence function. If the profit from electricity theft is Rp10 billion while the fine is only Rp2.5 billion, then the company still benefits economically from the crime. Therefore, the ideal concept of fines for companies should use a proportional fine approach, namely the amount of the fine is adjusted to the value of the state's losses, the company's profits, and the company's economic capacity.

In modern corporate criminal law, a company's economic capacity is a crucial factor in determining fines. According to Celia Wells (2001), fines imposed on corporations must take into account the company's turnover, assets, and profits to avoid unfair competition between small and large companies. This principle has been implemented in various countries

through day-fine or turnover-based fine systems, where fines are calculated based on a percentage of the company's revenue. Under such a system, large companies are subject to higher fines than smaller companies committing the same crime.

This concept is essentially reflected in Supreme Court Regulation Number 13 of 2016 concerning Procedures for Handling Criminal Cases by Corporations. Article 4 of PERMA Number 13 of 2016 stipulates that a corporation can be held criminally liable if it obtains profits or benefits from a criminal act, allows a criminal act to occur, or fails to take the necessary steps to prevent a criminal act from occurring. This provision indicates that the primary measure of corporate criminal liability lies in the profits obtained by the company. Therefore, the ideal concept of fines should take these profits into account.

In addition to distributive and corrective justice, the ideal concept of fines should also be based on the theory of restorative justice. According to Tony Marshall (1999), restorative justice is a process involving all stakeholders to restore the losses caused by a criminal act. In cases of electricity theft by a company, restitution of PT PLN's losses should be a top priority. Therefore, in addition to a fine to the state, the offending company should also be required to pay full compensation for all the electricity used illegally.

Several cases in Indonesia have revealed companies manipulating electricity meters to reduce their electricity bills. One example is the case of an industrial processing company in East Java, which was found to have altered electricity metering devices, resulting in billions of rupiah in losses to PLN. In this case, the company was ordered to pay additional bills and was subject to criminal proceedings. However, the magnitude of the sanctions imposed was still deemed unfair, as they were disproportionate to the economic benefits the company had earned over the years. This situation demonstrates that regulations regarding criminal fines still require reform.

Regulations regarding the Regulation of Electricity Use (P2TL) in Indonesia are basically implemented through two different legal instruments, namely through civil (administrative) mechanisms and criminal mechanisms. These two instruments have different legal bases, objectives, and legal consequences, but can be applied simultaneously to a single incident of electricity violation. The application of these two mechanisms is a form of legal protection for the implementation of electricity as a branch of production that is important for the state and controls the livelihoods of many people as mandated in Article 33 paragraph (2) and paragraph (3) of the 1945 Constitution of the Republic of Indonesia.

The primary legal basis governing the operation of electricity is Law Number 30 of 2009 concerning Electricity. Article 1, number 2, states that electricity is a form of secondary energy that is generated, transmitted, and distributed for all kinds of purposes, but does not include electricity used for communications, electronics, or signals. This provision indicates that electricity is an object with economic value and is a commodity that can be utilized by the community through a legal relationship between electricity providers and users.

The legal relationship between PT PLN (Persero) and consumers is regulated in Article 29 of Law Number 30 of 2009 concerning Electricity. In paragraph (1) it is emphasized that consumers have the right to receive good service, receive continuous electricity with good quality and reliability, receive electricity to which they are entitled at a reasonable price, receive repair services in the event of an electricity disruption, and receive compensation in the event of a blackout due to errors or negligence in operation by the holder of the electricity supply business license. Furthermore, Article 29 paragraph (2) regulates the obligations of consumers to implement security against dangers arising from the use of electricity, maintain the security of consumer-owned electricity installations, and use electricity according to its intended purpose.

In order to implement these provisions, the Minister of Energy and Mineral Resources issued Regulation of the Minister of Energy and Mineral Resources Number 27 of 2017

concerning the Level of Service Quality and Costs Related to the Distribution of Electricity by PT PLN (Persero). This provision was later amended through Regulation of the Minister of Energy and Mineral Resources Number 18 of 2019. One of the important provisions is contained in Article 17 which authorizes PT PLN (Persero) to implement the Control of Electricity Usage (P2TL) against customers and non-customers who violate the use of electricity.

As an implementation of Article 17, PT PLN (Persero) stipulates PT PLN (Persero) Board of Directors Regulation Number 028 of 2023 concerning the Regulation of Electricity Usage which has been approved by the Directorate General of Electricity of the Ministry of Energy and Mineral Resources through Decree of the Director General of Electricity Number 539.K/TL.04/DJL.3/2023. The Board of Directors Regulation regulates the procedures for inspection, proof, classification of violations, and imposition of Follow-up Bills (TS) for violations of electricity usage.

In the Board of Directors Regulation Number 028 of 2023, violations of electricity usage are classified into four groups, namely Class I Violations (P1) in the form of violations that affect power limits, Class II Violations (P2) in the form of violations that affect energy measurements, Class III Violations (P3) in the form of violations that affect power limits and energy measurements, and Class IV Violations (P4) in the form of unauthorized use of electricity. For each of these violations, a Supplementary Bill is imposed, the amount of which is calculated based on a certain formula by taking into account the connected power, electricity tariff, load costs, and other parameters that have been stipulated in the regulations. Therefore, the Supplementary Bill imposed by PT PLN (Persero) is not a definite calculation of lost or unmeasured electricity, but rather an administrative consequence that aims to recover losses and maintain orderly electricity usage.

In addition to administrative mechanisms, violations of electricity usage can also be subject to criminal sanctions. These criminal provisions are regulated in Chapter XIV of Criminal Provisions of Law Number 30 of 2009 concerning Electricity. Article 51 paragraph (3) states that anyone who uses electricity that is not their right in an unlawful manner shall be punished with a maximum imprisonment of 7 (seven) years and a maximum fine of IDR 2,500,000,000.00 (two billion five hundred million rupiah). This provision shows that the unauthorized use of electricity is seen as a criminal act that is detrimental to electricity providers and disrupts the implementation of national electricity.

Criminal law enforcement against these violations is not the authority of PT PLN (Persero), but rather lies with law enforcement officers, namely the Indonesian National Police Investigators and Civil Servant Investigators (PPNS) as regulated in Article 54 of Law Number 30 of 2009 concerning Electricity. In this article it is stated that in addition to investigators from the Indonesian National Police, certain civil servant officials whose scope of duties and responsibilities are in the electricity sector are given special authority as investigators in accordance with the provisions of laws and regulations.

The criminal law enforcement process for electricity crimes is carried out through stages of inquiry, investigation, prosecution, and court hearing in accordance with the provisions of Law Number 8 of 1981 concerning Criminal Procedure. Therefore, the extent of the prison sentence or fine imposed on the perpetrator is entirely at the discretion of the judge based on the facts revealed in court and not within the jurisdiction of PT PLN (Persero).

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unauthorized use of electricity is seen as a criminal act that is detrimental to electricity providers and disrupts the implementation of national electricity.

The criminal sanctions stipulated in Article 51 paragraph (3) of Law Number 30 of 2009 in the form of imprisonment and a maximum fine of IDR 2,500,000,000.00 are basically intended to provide a deterrent effect on perpetrators of electricity theft. However, in the context of a company as the perpetrator of a crime, imprisonment cannot be applied directly because corporations do not have physical freedom like humans. Therefore, criminal fines are the main instrument in corporate criminal liability.

The problem that arises is that the maximum fine of IDR 2,500,000,000.00 is often disproportionate to the profits the company derives from electricity theft. In some cases, the state losses incurred far outweigh the potential fines. As a result, criminal sanctions lose their preventive function and are instead viewed as an operational cost that the company can afford.

From the perspective of Criminal Law Theory, criminal fines against corporations must fulfill the objectives of retribution and deterrence. According to Barda Nawawi Arief (2016), criminal penalties against corporations must be aimed at creating an effective deterrent effect and be proportionate to the level of culpability of the perpetrator. Therefore, the amount of the fine should be adjusted to the profits the company derives from the crime.

The ideal concept that can be implemented is a proportional fine system based on economic benefit (economic benefit approach). In this system, the amount of the fine is not determined solely by a certain maximum nominal limit, but rather by the percentage of the company's profits or the extent of the losses incurred. Thus, the company will not derive any economic benefit from the crime it commits.

In addition to fines, companies committing electricity theft must also be subject to additional penalties as stipulated in Article 118 of Law Number 1 of 2023, including payment of compensation, confiscation of profits obtained from the crime, revocation of business licenses, suspension of business activities, and announcement of a judge's verdict. These additional penalties are essential to restore the balance disturbed by the crime.

From a legal certainty perspective, the ideal concept of fines should be clearly defined in legislation. Regulations regarding corporate criminal liability for electricity theft need to be clarified by defining the mechanism for calculating losses, the responsible parties, and the parameters for proportional fines.

Hans Kelsen (1967) stated that laws must contain an element of clarity so they can be predicted and implemented consistently. Therefore, the revised Electricity Law needs to accommodate specific provisions regarding corporations as perpetrators of electricity theft. This legal certainty will provide guidance for law enforcement officials in imposing fair and consistent sanctions.

Furthermore, from the perspective of Justice Theory, the ideal concept of a fine must meet the principles of distributive justice and corrective justice. Aristotle (2009) differentiates justice into distributive justice and corrective justice. Distributive justice provides each person with their due and proportionate punishment, while corrective justice aims to restore the harm caused by a violation of the law.

In the context of corporate electricity theft, distributive justice dictates that companies that profit significantly from the crime be subject to harsher sanctions than perpetrators with lesser culpability. Meanwhile, corrective justice demands that losses suffered by the state and society be remedied through compensation and confiscation of the proceeds of crime.

John Rawls (1971), in his theory of justice as fairness, stated that justice must protect the interests of all parties and ensure a proportional distribution of burdens. Based on this theory, companies that profit illegally must bear greater consequences because their actions harm society at large.

The ideal concept for imposing fines on companies involved in electricity theft should encompass several aspects. First, the imposition of fines based on a percentage of the company's profits. Second, the obligation to pay compensation for losses to the state and PT PLN (Persero). Third, the confiscation of profits derived from the crime. Fourth, the revocation of business licenses for companies that commit repeated violations. Fifth, the announcement of the judge's decision to the public as a form of moral accountability.

This concept is in line with the theory of punishment because it is able to provide a deterrent effect, in accordance with the theory of legal certainty because it can be formulated clearly in statutory regulations, and fulfills the theory of justice because it provides a balance between the interests of the state, society, and the perpetrator.

Thus, the ideal concept of imposing fines on companies committing electricity theft should be guided by a corporate criminal justice system based on restorative justice and proportional justice. Sanctions serve not only to punish but also to remediate losses, prevent recurrence of the crime, and create legal certainty for all parties. Future reforms to electricity law need to provide more comprehensive regulations regarding corporate criminal liability to ensure a balanced achievement of the goals of punishment, legal certainty, and justice.

CONCLUSIONS

Legal regulation of the crime of electricity theft based on statutory regulations is carried out through two mechanisms, namely administrative or civil mechanisms and criminal mechanisms. Administrative regulation is implemented through the Regulation of Electricity Use (P2TL) which is based on Article 17 of the Regulation of the Minister of Energy and Mineral Resources Number 27 of 2017 as amended by the Regulation of the Minister of Energy and Mineral Resources Number 18 of 2019 and followed up through the Regulation of the Board of Directors of PT PLN (Persero) Number 028 of 2023 which has been ratified through the Decree of the Director General of Electricity Number 539.K / TL.04 / DJL.3 / 2023. In its implementation, PT PLN (Persero) has the authority to impose additional bills for violations of P1, P2, P3, and P4 as a form of recovery of losses due to the unauthorized use of electricity. As for the criminal aspect, the regulation of the crime of electricity theft is regulated in Article 51 paragraph (3) of Law Number 30 of 2009 concerning Electricity which stipulates that anyone who uses electricity that is not their right in an unlawful manner is threatened with a maximum prison sentence of seven years and a maximum fine of IDR 2,500,000,000.00. The enforcement of this criminal law is carried out by the Indonesian National Police and Civil Servant Investigators (PPNS), while the authority to impose criminal penalties lies with the court. Thus, the administrative process through P2TL and the criminal process are two different mechanisms, but both can be applied simultaneously to one incident of electricity theft because they have different legal objectives, namely recovering losses and providing a deterrent effect on the perpetrator.

The ideal concept of fines for companies committing the crime of electricity theft from a justice perspective should no longer use the maximum fine system as stipulated in Article 51 paragraph (3) of Law Number 30 of 2009 concerning Electricity. This provision does not fully reflect the principle of justice because it does not differentiate the amount of electricity used unlawfully, the value of the losses incurred, the profits obtained by the perpetrator, or the status of the perpetrator as a household or company customer. Therefore, the ideal fine regulation should be formulated based on the classification of the amount of electricity used, the value of the losses experienced by PT PLN (Persero), the amount of profit obtained by the perpetrator, and the level of error committed. Thus, companies that use electricity illegally in large quantities and obtain large profits can be subject to heavier fines compared to perpetrators with a lower level of violation.

Suggestion

The Government and the People's Representative Council of the Republic of Indonesia should amend Law Number 30 of 2009 concerning Electricity, particularly Article 51 paragraph (3), by formulating a more proportional criminal fine system based on the amount of electrical power used unlawfully, the amount of losses incurred, and the economic benefits obtained by the perpetrator. This regulation is important to create legal certainty and avoid disparities in sentencing between perpetrators with different levels of culpability.

Law enforcement officers, especially the Indonesian National Police, Civil Servant Investigators in the electricity sector, the Prosecutor's Office, and the Courts, should not only focus on imprisonment and fines in handling criminal acts of electricity theft committed by companies, but also pay attention to the magnitude of the losses incurred, the profits obtained by the perpetrators, and apply corporate criminal liability optimally in order to realize substantive justice.

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