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A JURIDICAL ANALYSIS OF CRIMINAL LIABILITY FOR INDIVIDUALS WHO PARTICIPATE IN THE UNLAWFUL USE OF ELECTRICAL ENERGY WITHOUT LEGAL AUTHORIZATION

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Abstract: *This study examines the juridical analysis of criminal liability for individuals who jointly commit the unlawful use of electricity to which they are not legally entitled. The research focuses on the legal framework governing the criminal liability of participants in electricity-related offenses, the application of criminal liability and participation (medepleger) in Decision No. 497/Pid.Sus/2024/PN Mdn and Decision No. 1379/Pid.Sus/2024/PN Lbp, and the judges' legal considerations in determining whether the elements of the criminal offenses in both decisions have been fulfilled. This study employs normative legal research using a descriptive-analytical method, with statutory, conceptual, and case approaches. Legal materials were collected through library research and document analysis and were subsequently analyzed qualitatively. The findings indicate that the criminal offense of unlawfully using electricity without legal entitlement is regulated under Law No. 30 of 2009 concerning Electricity, particularly Article 51 paragraph (3), while the provisions on participation under the Indonesian Criminal Code provide a legal basis for assessing the involvement of multiple persons in a criminal offense. The application of criminal liability and participation must be based on each individual's actual role, contribution, knowledge, intent, and conscious cooperation in the commission of the offense. A person's position as a corporate officer, employee, or member of a corporation does not, in itself, establish criminal involvement. The judges' legal considerations in determining whether the elements of a criminal offense have been fulfilled must connect the provisions of the alleged offense with the facts and evidence presented during the trial. Differences in judicial outcomes and sentencing must be justified by the evidence concerning each offender's role, culpability, contribution, and other relevant circumstances. Therefore, criminal liability for individuals who participate in the unlawful use of electricity without legal entitlement must be determined through a careful assessment of the elements of the criminal offense and individual culpability, rather than being based solely on a person's formal position within a corporation.*

Keywords: *Criminal Liability, Participation, Medepleger, Electricity, Unlawfulness.*

Abstrak: Penelitian ini mengkaji analisis yuridis mengenai pertanggungjawaban pidana terhadap individu yang turut serta melakukan tindak pidana penggunaan tenaga listrik yang bukan haknya secara melawan hukum. Penelitian ini berfokus pada pengaturan hukum mengenai pertanggungjawaban pidana terhadap pihak yang turut serta dalam tindak pidana ketenagalistrikan, penerapan konsep pertanggungjawaban pidana dan penyertaan (medepleger) dalam Putusan Nomor 497/Pid.Sus/2024/PN Mdn dan Putusan Nomor 1379/Pid.Sus/2024/PN Lbp, serta pertimbangan hukum hakim dalam menentukan terpenuhi atau tidaknya unsur-unsur tindak pidana dalam kedua putusan tersebut. Penelitian ini menggunakan metode penelitian hukum normatif yang bersifat deskriptif-analitis dengan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan kasus. Bahan hukum dikumpulkan melalui studi kepustakaan dan analisis dokumen, kemudian dianalisis secara kualitatif. Hasil penelitian menunjukkan bahwa tindak pidana penggunaan tenaga listrik yang bukan haknya secara melawan hukum diatur dalam Undang-Undang

Nomor 30 Tahun 2009 tentang Ketenagalistrikan, khususnya Pasal 51 ayat (3), sedangkan ketentuan mengenai penyertaan dalam Kitab Undang-Undang Hukum Pidana menjadi dasar hukum untuk menilai keterlibatan beberapa orang dalam suatu tindak pidana. Penerapan pertanggungjawaban pidana dan penyertaan harus didasarkan pada peran nyata, kontribusi, pengetahuan, kehendak, serta kerja sama yang disadari oleh masing-masing individu dalam pelaksanaan tindak pidana. Kedudukan seseorang sebagai pengurus, pekerja, atau bagian dari suatu korporasi tidak dengan sendirinya membuktikan keterlibatannya dalam tindak pidana. Pertimbangan hukum hakim dalam menentukan terpenuhi atau tidaknya unsur-unsur tindak pidana harus menghubungkan ketentuan pasal yang didakwakan dengan fakta dan alat bukti yang terungkap di persidangan. Perbedaan hasil putusan dan penjatuhan pidana harus didasarkan pada bukti mengenai peran, kesalahan, kontribusi, serta keadaan relevan lainnya dari masing-masing pelaku. Oleh karena itu, pertanggungjawaban pidana terhadap individu yang turut serta dalam tindak pidana penggunaan tenaga listrik yang bukan haknya secara melawan hukum harus ditentukan melalui penilaian yang cermat terhadap unsur-unsur tindak pidana dan kesalahan individual, bukan semata-mata berdasarkan kedudukan formal seseorang dalam suatu korporasi.

Kata kunci: Pertanggungjawaban Pidana, Penyertaan, Medepleger, Tenaga Listrik, Perbuatan Melawan Hukum.

INTRODUCTION

Electrical energy is one of the essential necessities of modern society and business activities, including industry, trade, services, and technology-based operations that require substantial amounts of electrical power. Its use must be based on legally recognized rights and applicable legal provisions to ensure legal certainty and protect the interests of electricity providers and the public. The unlawful use of electrical energy without proper entitlement may give rise to criminal consequences if the elements of a criminal offense prescribed by legislation are satisfied. Therefore, the legal framework governing electricity constitutes an essential basis for determining the lawfulness of electricity consumption and the criminal liability of the parties involved. (Republic of Indonesia, 2009, Article 51 paragraph (3)).

Astuti explains that the doctrine of participation in criminal offenses concerns the extension of criminal offenses and criminal liability to individuals involved in the commission of a criminal act. (Astuti, 2021). Accordingly, the unlawful use of electrical energy must be examined not only in terms of the act itself but also in terms of determining who may be held criminally liable under the applicable law.

The issue of criminal liability becomes more complex when the unlawful use of electrical energy involves cooperation among several individuals in a business enterprise. In such circumstances, the determination of the responsible parties cannot be based solely on their employment relationships or positions within a company. Rather, it must take into account the nature of their conduct, the extent of their involvement, and the culpability of each individual. Pratiwi discusses participation in criminal offenses as an important aspect of determining the involvement of multiple individuals in the commission of a criminal act. (Pratiwi, 2022). Therefore, the concept of joint perpetration (*medepleger*) must be examined to distinguish individuals who genuinely participate in the commission of a criminal offense from those who merely have a connection with the environment in which the offense occurs.

Hasudungan, Chandra, and Ismed examine the criminal liability of individuals who jointly participate in criminal offenses and emphasize the

importance of assessing each participant's involvement within the applicable framework of criminal law. (Hasudungan, Chandra, and Ismed, 2023). This principle is relevant to electricity-related criminal cases because an individual should not be held criminally liable solely on the basis of their position or employment relationship. Rather, criminal liability must be established through evidence demonstrating the individual's role and involvement in the alleged criminal offense.

This issue can be examined through Decision Number 497/Pid.Sus/2024/PN Mdn, which concerns the direct use of electrical energy from the network of PT PLN (Persero) without passing through an officially authorized kilowatt-hour (kWh) meter to operate Bitcoin server machines at several business locations belonging to PT Comodo Metic Decentralized (PT CMD). In this case, Pantas Eliakim Tampubolon, who served as Director of Human Resources (HRD) at PT CMD, was charged with jointly participating in the unlawful use of electrical energy without legal entitlement. His position within the company, his supervisory responsibilities over employees, and his appointment of an electricity coordinator are important aspects to be examined in determining whether his involvement satisfies the requirements for criminal liability. (Medan District Court Decision Number 497/Pid.Sus/2024/PN Mdn).

The determination of criminal liability in this case must be linked to the provisions on participation in criminal offenses invoked by the Public Prosecutor. Article 55 paragraph (1) point 1 of the Indonesian Criminal Code governs individuals who commit, cause another person to commit, or jointly participate in the commission of a criminal offense. (Republic of Indonesia, Indonesian Criminal Code, Article 55 paragraph (1) point 1). In this context, examining the doctrine of participation is important to determine whether the defendant's position, conduct, and relationship with other parties provide a sufficient legal basis for establishing criminal liability as a joint perpetrator. (Pratiwi, 2022).

According to Decision Number 497/Pid.Sus/2024/PN Mdn, the use of electrical energy without an official kWh meter resulted in potential losses to PT PLN UID North Sumatra amounting to IDR 20,140,126,696, equivalent to 12,266,316 kWh. The Public Prosecutor charged Pantas under Article 51 paragraph (3) of Law Number 30 of 2009 concerning Electricity in conjunction with Article 55 paragraph (1) point 1 of the Indonesian Criminal Code. (Medan District Court Decision Number 497/Pid.Sus/2024/PN Mdn). The panel of judges found the defendant legally and convincingly guilty of jointly participating in the unlawful use of electrical energy without legal entitlement and sentenced him to five years and six months of imprisonment and a fine of IDR 1,000,000,000. This decision raises a legal question concerning how the involvement of an individual who did not personally carry out the physical connection to the electricity supply can be classified as joint participation in a criminal offense.

In analyzing this issue, criminal liability must be distinguished from a person's mere association with the company in which the criminal offense occurred. The doctrine of participation must be applied by considering the conduct and the form of involvement of each individual in the commission of the offense. (Astuti, 2021). Accordingly, the assessment of the defendant must be based on the facts established at trial, the relationship between the defendant's conduct and that of the other participants, and the elements of the alleged criminal offense, rather than solely on the defendant's position within the company's organizational structure. (Hasudungan, Chandra, and Ismed, 2023).

In addition to the aforementioned case, Decision Number 1379/Pid.Sus/2024/PN Lbp serves as a comparative case for examining the

interpretation of the elements of the criminal offense involving the use of electrical energy without legal entitlement. Based on the background of this research, the case concerns the interpretation of the element "any person" and the element relating to the use of electrical energy to which the user is not legally entitled, within the framework of Law Number 15 of 1985 concerning Electricity. (Decision Number 1379/Pid.Sus/2024/PN Lbp). This case is relevant to examining how the legal subject who may be held criminally liable is determined and how the elements of the offense are connected to the facts established during the trial.

The interpretation of the elements of a criminal offense is an essential part of determining whether an individual's conduct may give rise to criminal liability. Article 19 of Law Number 15 of 1985 concerning Electricity provides the legal basis discussed in the case. (Republic of Indonesia, 1985, Article 19). In relation to the doctrine of participation, the identification of the responsible legal subject must also take into account the individual's role and involvement in the offense, so that the application of the law does not rely solely on a person's position or association with a company. (Pratiwi, 2022).

A comparison of these two decisions is important because both concern the unlawful use of electrical energy in business activities, although the applicable legal frameworks and forms of involvement require separate analysis. Decision Number 497/Pid.Sus/2024/PN Mdn applies Law Number 30 of 2009 concerning Electricity and links the defendant's criminal liability to the provisions on participation under Article 55 paragraph (1) point 1 of the Indonesian Criminal Code. (Medan District Court Decision Number 497/Pid.Sus/2024/PN Mdn). Meanwhile, the background of this research associates Decision Number 1379/Pid.Sus/2024/PN Lbp with Law Number 15 of 1985 concerning Electricity. (Decision Number 1379/Pid.Sus/2024/PN Lbp).

The differences in the legal frameworks and factual circumstances of these cases necessitate an analysis of the relevant legal provisions, the interpretation of the elements of the criminal offenses, and the application of the principles of criminal liability in each case. Law Number 30 of 2009 concerning Electricity constitutes one of the principal legal instruments to be examined in cases involving the unlawful use of electrical energy. (Republic of Indonesia, 2009). Furthermore, the doctrine of participation must be examined to determine the extent to which an individual's involvement may be legally classified as joint perpetration of a criminal offense. (Astuti, 2021).

Based on the foregoing, this research aims to analyze the legal framework governing the criminal liability of individuals who jointly participate in the unlawful use of electrical energy without legal entitlement, the application of the concept of joint perpetration (*medepleger*) in Decision Number 497/Pid.Sus/2024/PN Mdn and Decision Number 1379/Pid.Sus/2024/PN Lbp, and the legal reasoning of the judges in determining whether the elements of the criminal offenses have been satisfied. Research on the doctrine of participation highlights the importance of examining the form of each participant's involvement in establishing the basis for criminal liability. (Pratiwi, 2022). Accordingly, this research is expected to provide a clearer understanding of the limits of individual criminal liability in business activities, particularly in distinguishing actual participation in a criminal offense from a mere employment relationship or organizational position.

This research is also expected to clarify the application of electricity legislation and the doctrine of participation in assessing the criminal liability of individuals who perform different roles within a business enterprise. The criminal liability of joint perpetrators must be

assessed in accordance with the applicable legal provisions and the facts and judicial reasoning established in each case. (Hasudungan, Chandra, and Ismed, 2023). Accordingly, this research is entitled **"A Juridical Analysis of Criminal Liability for Individuals Who Participate in the Unlawful Use of Electrical Energy Without Legal Entitlement."**

METHODS

This study employs a normative legal research method with a descriptive-analytical approach to examine legislation, legal concepts, and court decisions relating to criminal liability. The approaches used include the statutory approach, the conceptual approach, and the case approach (Muhaimin, 2020). The data used consist of secondary data comprising primary, secondary, and tertiary legal materials (Salim and Nurbani, 2019). The primary legal materials include relevant legislation, as well as Court Decision Number 497/Pid.Sus/2024/PN Mdn and Court Decision Number 1379/Pid.Sus/2024/PN Lbp. The secondary legal materials comprise books, academic journals, and legal literature, while the tertiary legal materials include legal dictionaries and encyclopedias. Data collection was conducted through library research and document analysis (Muhammad, 2004). The data were then analyzed qualitatively by examining relevant legal provisions, the concepts of criminal liability and participation in a criminal offense (medepleger), as well as the judges' considerations in both court decisions, in order to address the research problems (Nasution, 2011).

RESULTS AND DISCUSSION

Legal Regulation Of Criminal Liability For The Unlawful Use Of Electricity Without Legal Entitlement

The legal regulation of the unlawful use of electricity without legal entitlement forms part of the criminal law policy aimed at protecting the provision and utilization of electricity. Electricity plays a strategic role in society, economic activities, industry, trade, and public services (Moeljatno, 2015). Therefore, the use of electricity is not merely a matter of the relationship between electricity providers and consumers, but also concerns the public interest, grid security, public safety, and the protection of the economic rights of electricity providers. The state regulates the electricity sector through Law Number 30 of 2009 concerning Electricity as the legal basis for the administration and supervision of electricity utilization. Criminal law policy essentially serves to protect the interests of society by establishing prohibited conduct and prescribing sanctions for violations (Muladi and Priyatno, 2010).

The utilization of electricity must be based on a legally valid relationship between the electricity provider and the user. The use of electricity without a legitimate legal entitlement may give rise to legal issues if the elements of a criminal offense prescribed by legislation are satisfied (Moeljatno, 2015). Government Regulation Number 14 of 2012 concerning Electricity Supply Business Activities, as amended by Government Regulation Number 23 of 2014, regulates various aspects of electricity supply, including licensing, transmission, distribution, sales, and electrical installations. The determination of whether a criminal offense has occurred must be based on an examination of the applicable legal provisions and the concrete facts, rather than on the assumption that any unusual use of electricity is necessarily unlawful. The principle of legality requires criminal liability to be assessed in accordance with the wording of the applicable legal provisions (Chazawi, 2021).

The principal legal basis for the criminal offense examined in this study is Article 51 paragraph (3) of Law Number

30 of 2009 concerning Electricity, which regulates the unlawful use of electricity without legal entitlement. This provision must be analyzed through four elements: "any person," "uses electricity," "without legal entitlement," and "unlawfully." The element "any person" concerns the subject who may be held criminally liable, while "uses electricity" refers to the act of utilizing electrical energy. The elements "without legal entitlement" and "unlawfully" require proof that the person lacked a legitimate right to use the electricity and that the conduct was contrary to the law (Moeljatno, 2015). Each element must be examined in accordance with the wording of the statutory provision and the facts established at trial. Analyzing the elements of a criminal offense is essential in determining whether a person's conduct can legally be classified as a criminal offense (Chazawi, 2021).

The unlawful use of electricity without legal entitlement may take the form of direct connections that bypass authorized measuring devices, unauthorized tapping of electricity from a power network, manipulation of meters or electrical installations, or the use of electricity without valid authorization. Nevertheless, not every dispute concerning electricity usage constitutes a criminal offense. Late payments, recording errors, discrepancies in billing calculations, and contractual disputes do not automatically establish the elements of a criminal offense (Moeljatno, 2015). In Court Decision Number 1379/Pid.Sus/2024/PN Lbp, the submitted material describes a direct connection to an electrical installation upstream of the measuring and limiting device, resulting in electricity consumption that was not recorded by PLN's kilowatt-hour (kWh) meter. These facts must be assessed in relation to the elements of Article 51 paragraph (3), rather than merely being labeled as illegal electricity usage. Criminal liability must be determined on the basis of the statutory elements and proof of the specific conduct (Chazawi, 2021).

The regulation of criminal offenses in the electricity sector is also related to installation safety, licensing, supervision, and the distinction between administrative violations and criminal offenses. Unauthorized connections or modifications to electrical installations may cause economic losses and create risks to the power network and human safety. Inspections of electrical installations and measuring devices, electricity consumption data, documentation, official inspection reports, and statements from relevant personnel may help establish how electricity was obtained and used. However, such technical evidence must still be linked to the elements of the offense and the involvement of the accused. The term "electricity theft" should not automatically be equated with the specific criminal offense under Article 51 paragraph (3) without analyzing the statutory provision being applied. Accurate legal classification is an essential part of applying the principle of legality and assessing the elements of a criminal offense (Chazawi, 2021).

The regulation of participation in the criminal offense of unlawfully using electricity without legal entitlement connects the provisions of special criminal law with the general provisions of criminal law. Article 51 paragraph (3) of the Electricity Law establishes the prohibited conduct, while the rules on participation are used to assess the criminal liability of several persons involved in carrying out the offense. When an offense is committed by more than one person, the underlying criminal offense must first be established, after which the position and role of each person must be determined. Criminal law distinguishes between direct perpetrators, persons who order or cause another person to commit an offense, persons who jointly commit an offense, and persons who assist in its commission. These distinctions are important in determining the basis of each

person's criminal liability (Moeljatno, 2015).

Medepleger, or joint perpetration, refers to a form of participation involving conscious cooperation between several persons in carrying out a criminal offense. A person does not necessarily have to perform every physical act constituting the offense to be held liable as a joint perpetrator; however, their involvement must be established through conduct and contributions connected to the commission of the offense (Chazawi, 2021). In cases involving the unlawful use of electricity, such contributions may include helping determine how electricity is to be obtained, providing the necessary facilities, assisting with an unauthorized connection, managing electricity usage, or knowingly conducting activities that utilize electricity obtained without legal entitlement. An employment relationship, presence at the location, or association with the principal perpetrator does not, by itself, establish joint perpetration (Moeljatno, 2015).

Joint perpetration must be distinguished from aiding and abetting because the two forms of participation are regulated separately. Under the former Indonesian Criminal Code, Article 55 governs persons regarded as perpetrators, including those who commit, order, or jointly commit a criminal offense, while Article 56 governs assistance in the commission of an offense (Chazawi, 2021). Under the Indonesian National Criminal Code, Law Number 1 of 2023, the forms of perpetration are regulated in Article 20, while assistance is regulated in Article 21. The National Criminal Code entered into force on January 2, 2026. Accordingly, for cases involving conduct committed and adjudicated in 2024, the analysis must take into account the law applicable at the time of the conduct and the relevant rules on the temporal application of criminal law. The newer provisions may be used for comparative analysis of legal developments, while continuing to observe the principle of legality (Moeljatno, 2015).

Proof of participation in electricity-related criminal offenses may focus on who controlled the premises, knew the condition of the electrical installation, provided the equipment, ordered or carried out the connection, used the electricity, and benefited from its use. Communications and coordinated actions before or during the commission of the offense may also form part of the factual circumstances assessed by the judge. However, none of these circumstances automatically establishes medepleger. The assessment must consider the relationship between the conduct, the person's knowledge and intention, and their contribution to the commission of the offense. Therefore, an employment relationship, position, ownership interest, or presence at the location cannot independently serve as the basis for criminal punishment without relevant evidence of involvement (Chazawi, 2021).

The relationship between the underlying criminal offense and participation can be analyzed in several stages. First, the prohibited conduct under Article 51 paragraph (3) of the Electricity Law must be identified. Second, the specific acts and roles of each person involved must be established. Third, the applicable form of participation must be determined under the relevant criminal law provisions. Fourth, the culpability of each accused person and the evidence supporting their involvement must be assessed. The rules on participation do not replace the elements of the underlying offense; rather, they explain the legal basis for holding several persons liable in connection with the same criminal offense (Chazawi, 2021). Accordingly, a court decision should explain each defendant's specific conduct, the nature of the cooperation, their knowledge of the circumstances surrounding the electricity usage, and the reasons for applying the relevant participation provisions (Moeljatno, 2015).

Criminal liability for the unlawful use of electricity without legal entitlement

within a corporate environment must be analyzed by connecting electricity-related criminal law, the rules on participation, and the provisions governing corporate criminal liability. Business activities may involve owners, executives, employees, technicians, operators, and other parties. The occurrence of a criminal offense within a company does not automatically eliminate individual criminal liability, nor does it automatically establish the guilt of all executives or the corporation itself (Muladi and Priyatno, 2010). The analysis must begin by establishing the underlying criminal offense, followed by determining the conduct, culpability, and role of each person and assessing the possibility of corporate criminal liability if the applicable legal basis and requirements are satisfied. Literature on corporate criminal law explains that the liability of a business entity must be analyzed through a legal framework connecting the criminal offense to the corporation and to the individuals acting within the scope of its activities (Rodliyah et al., 2020).

Within a corporate environment, medepleger may arise when several persons consciously cooperate and contribute to the commission of a criminal offense. One person may perform technical work on an electrical installation, while another provides the necessary facilities, manages operations, or directs the use of electricity (Chazawi, 2021). Such a division of responsibilities becomes relevant to criminal liability only when it is proven to form part of conscious cooperation in committing the offense of unlawfully using electricity without legal entitlement. Company executives or managers cannot automatically be considered guilty solely because of their positions, while technicians and employees are not automatically exempt from liability if they are proven to have knowingly participated in the offense. The assessment must be based on each person's specific conduct, knowledge, intention, and contribution (Moeljatno, 2015).

Individual criminal liability must be distinguished from corporate criminal liability. Individual liability is based on the conduct and culpability of the person concerned, whereas corporate liability requires a legal basis and evidence establishing a connection between the offense and the business entity's activities or interests. Law Number 1 of 2023 concerning the Criminal Code recognizes corporations as subjects of criminal offenses and regulates offenses committed within the scope of corporate activities (Muladi and Priyatno, 2010). Literature on corporate criminal liability discusses various approaches to assessing the relationship between an individual's conduct, the functions of corporate officers, corporate interests, and the culpability that may be attributed to a business entity. Nevertheless, a director's position or the benefits received by a company do not, by themselves, establish criminal guilt (Aripkah, 2020).

Evidence relevant to establishing criminal liability within a corporate environment may include corporate documents, organizational structures, appointment letters, allocations of duties, internal communications, electricity consumption data, payment records, electrical installation inspection reports, witness statements, expert testimony, and other technical evidence (Aripkah, 2020). Such evidence must be assessed comprehensively. An organizational structure may establish a person's formal position but does not necessarily prove criminal involvement. Conversely, a person without a formal position may still have played an actual role in the activities under investigation. An assessment of corporate criminal liability must also identify the relationship between the person's conduct and the business entity's activities and ensure that the applicable legal requirements have been met. Academic literature on corporate criminal liability emphasizes the importance of clear criteria for establishing culpability

and determining which parties may be held liable (Rodliyah et al., 2020).

Based on the foregoing discussion, the framework for criminal liability for the unlawful use of electricity without legal entitlement must be established through several stages: proving the elements of the offense under Article 51 paragraph (3) of the Electricity Law; identifying the perpetrator and the specific conduct; assessing the form of participation and the culpability of each person; and then examining the possibility of corporate criminal liability where the applicable legal basis and requirements are satisfied (Muladi and Priyatno, 2010). In Court Decision Number 1379/Pid.Sus/2024/PN Lbp, as described in the submitted material, Muliadi Barus was found guilty under the first alternative charge, namely Article 51 paragraph (3) of the Electricity Law. Accordingly, the decision should not be interpreted as having imposed a criminal penalty on the corporation if the operative part of the judgment imposed punishment only on the individual defendant. Distinguishing between individual and corporate criminal liability is essential to ensure that criminal law is applied on the basis of proven conduct, culpability, and a valid legal foundation (Aripkah, 2020).

Criminal Liability And Participation (Medepleger) In The Unlawful Use Of Electricity Without Legal Entitlement

In analyzing the criminal offense of unlawful electricity use, it is necessary to examine the nature of the conduct and the involvement of each individual. Where electricity is used without following the proper procedures in the course of a company's activities, it is necessary to identify who carried out the conduct, who controlled the activities, and who contributed to the commission of the criminal offense. This analysis relates to the doctrine of participation, which distinguishes between direct perpetrators, persons who instigate or direct others to commit an offense, persons who jointly commit an offense, and persons who assist in its commission. Accordingly, each individual's involvement must be assessed based on their specific role as established by the evidence, rather than merely on their relationship with the company (Pratiwi, 2022). Distinguishing the different forms of participation is necessary to ensure that the determination of a perpetrator is based on conduct and contributions that can be proven in judicial proceedings (Maharani, 2020).

In Decision No. 497/Pid.Sus/2024/PN Mdn, the research discusses the involvement of Pantas Eliakim Tampubolon, who served as Human Resources and Development (HRD) Director of PT Comodo Metic Decentralized (PT CMD). The company was associated with the operation of Bitcoin-mining machines, also known as Antminers, using connections to the electricity network of the State Electricity Company (PLN) without the proper kWh meter. The facts concerning the defendant's position, knowledge of the electricity usage, and connection to the company's activities must be examined comprehensively to assess the defendant's contribution to the criminal offense. A person's position may help explain the context of their authority, but it does not, by itself, establish that the person is a perpetrator or participant in a criminal offense (Medan District Court Decision No. 497/Pid.Sus/2024/PN Mdn, 2024). The determination of the defendant's culpability must be based on the conduct and elements of the criminal offense proven in court, rather than merely on the defendant's position within the company's organizational structure (Moeljatno, 2015).

The concept of *medepleger*, or joint perpetration, concerns participation in the commission of a criminal offense through conscious cooperation with another perpetrator. Therefore, a person who merely knows that a violation has occurred cannot automatically be

categorized as a joint perpetrator. It is necessary to assess whether cooperation existed and whether the individual made a relevant contribution to the commission of the criminal offense. This distinction is important to prevent the concept of joint perpetration from being applied too broadly to everyone who merely knows about or happens to be present near the criminal incident (Chazawi, 2021). Studies on criminal participation also emphasize the importance of distinguishing forms of involvement according to the role of each participant and their relationship to the commission of the criminal offense (Ananda, Muspira, and Gupran, 2023).

In addition to Decision No. 497/Pid.Sus/2024/PN Mdn, this research discusses Decision No. 1379/Pid.Sus/2024/PN Lbp, which concerns Muliadi Barus. According to the research material, the decision imposed criminal punishment on the defendant as an individual under the applicable electricity-related criminal provisions. Accordingly, this decision is relevant to the examination of individual criminal liability for the unlawful use of electricity to which the individual is not legally entitled. The analysis must focus on the conduct found to have been proven, the statutory provision applied, and the court's reasoning as set out in the decision. The two cases must be treated as separate judicial decisions because they involve different defendants, facts, and judicial reasoning. Conclusions concerning an individual's role and culpability must not be transferred from one case to another without a clear legal basis (Soekanto and Mamudji, 2015).

Criminal liability concerns whether a person may be blamed and held accountable for a criminal offense committed by that person. Proof of prohibited conduct must be followed by an examination of the perpetrator's culpability and capacity to be held criminally responsible, as well as consideration of whether any grounds of justification or excuse may apply. In cases involving unlawful electricity use, it must be established that the defendant's connection to the conduct satisfies the elements of the applicable criminal provision. This approach prevents criminal liability from being imposed solely on the basis of employment status or a person's relationship with another party involved in the violation (Moeljatno, 2015). In cases involving companies, the distinction between an individual's conduct and conduct attributable to a corporation must also be considered (Aripkah, 2020).

Culpability must be distinguished from mere knowledge of a particular situation. Knowledge that electricity is being used irregularly may be considered as one of the relevant facts, but it does not automatically prove that a person intentionally committed or jointly participated in a criminal offense. The assessment must consider the form of culpability required by the applicable criminal provision, the perpetrator's state of mind, and the conduct connecting that person to the commission of the offense. The distinction between intent (*dolus*) and negligence (*culpa*) is also important because they have different characteristics (Moeljatno, 2015). The examination of culpability must connect the perpetrator's state of mind with the conduct proven in court. Consequently, conclusions regarding criminal liability must not be based solely on assumptions or knowledge of the circumstances (Rusyuandi, Hadiyanto, and Ciptono, 2026).

Individual criminal liability must be distinguished from corporate criminal liability. In cases involving a company, it is necessary to determine whether the conduct may be attributed to a particular individual, to the corporation, or to both, in accordance with the applicable law. The identification theory and the functional-act theory may help explain the relationship between the actions of controlling personnel and the actions of a

corporation. However, the application of these theories must take account of the relevant legal basis and the facts of the case. Accordingly, corporate liability does not automatically establish the culpability of every company officer, just as the criminal liability of an officer does not necessarily mean that the corporation itself has been convicted (Wungkana, 2018). The determination of the scope of corporate criminal liability must take into account the applicable legal provisions and the relationship between the conduct in question and the legal subject being held responsible (Aripkah, 2020).

Article 55 paragraph (1) point 1 of the former Indonesian Criminal Code (KUHP) regulates several forms of participation, including committing an offense oneself, causing or directing another person to commit an offense, and jointly committing a criminal offense. These forms must be distinguished from aiding and abetting, as regulated under Article 56 of the former Criminal Code, because each has different characteristics of involvement. In determining whether a person qualifies as a *medepleger*, the analysis must focus on cooperation with another perpetrator and the individual's contribution to the commission of the criminal offense (Chazawi, 2021). The distinction between joint perpetration and aiding and abetting is necessary to ensure that the provisions on participation are applied in accordance with the form of involvement established by the evidence (Pratiwi, 2022).

The application of the concept of *medepleger* in cases involving unlawful electricity use must be carried out by examining the trial facts against the elements of the criminal offense charged. Facts concerning electricity connections, machine operations, the defendant's knowledge, and the defendant's role within the company may form part of the assessment. However, the relevance of each fact to the elements of participation must be explained. For example, knowledge that electricity is being used without a meter must not automatically be equated with joint perpetration unless the analysis also establishes cooperation and the defendant's contribution to the offense. Therefore, the court's reasoning should demonstrate the relationship between the evidence, the defendant's conduct, the elements of the offense, and the conclusion regarding the form of participation involved (Maharani, 2020).

In Decision No. 497/Pid.Sus/2024/PN Mdn, the application of the concept of *medepleger* must be analyzed by referring to the court's reasoning concerning the role of Pantas Eliakim Tampubolon. Meanwhile, Decision No. 1379/Pid.Sus/2024/PN Lbp must be analyzed based on Muliadi Barus's conduct and the basis of criminal liability applied in that decision (Medan District Court Decision No. 497/Pid.Sus/2024/PN Mdn, 2024).

Based on the foregoing discussion, criminal liability for the unlawful use of electricity must be determined through an analysis that distinguishes proof of the conduct, individual culpability, the form of participation, and the possibility of corporate criminal liability. The assessment of *medepleger* requires an examination of cooperation and relevant contributions, whereas corporate criminal liability requires a separate legal basis and analysis in accordance with the applicable law (Chazawi, 2021). The conclusions of the research must be drawn from the operative part of the judgment, the court's reasoning, the applicable legal provisions, and legal literature relevant to the issues under examination (Soekanto and Mamudji, 2015).

Decision No. 497/Pid.Sus/2024/PN Mdn and Decision No. 1379/Pid.Sus/2024/PN Lbp may be compared to examine the application of criminal liability in cases involving the unlawful use of electricity. Decision No. 497/Pid.Sus/2024/PN Mdn concerns Pantas Eliakim Tampubolon, whose role is discussed in the research in connection with his position as HRD Director of PT

Comodo Metic Decentralized and his association with the operation of Bitcoin-mining machines. Meanwhile, Decision No. 1379/Pid.Sus/2024/PN Lbp concerns Muliadi Barus as an individual defendant. Both decisions must be analyzed on the basis of their respective facts, operative parts, and judicial reasoning so that differences in the defendants' involvement can be explained accurately. Decision No. 1379/Pid.Sus/2024/PN Lbp must also be examined based on its judicial reasoning and operative part, particularly with regard to the criminal liability of Muliadi Barus as an individual (Lubuk Pakam District Court Decision No. 1379/Pid.Sus/2024/PN Lbp, 2024).

The two decisions are similar in that they are relevant to the examination of criminal liability in electricity-related criminal cases. However, the fact that both cases concern the same general field of criminal law does not automatically mean that the defendants' forms of involvement are identical. In the case involving Pantas Eliakim Tampubolon, the analysis must consider the basis for assessing his involvement in the company's activities and the application of the concept of *medepleger*. In the case involving Muliadi Barus, the analysis must focus on the conduct found to have been proven and the criminal provisions applied to him. This comparison demonstrates the importance of assessing criminal liability based on each defendant's conduct and culpability (Chazawi, 2021).

The principle of culpability-based criminal liability requires an evidentiary connection between the conduct, the culpability, and the person being held responsible. Therefore, differences in the defendants' roles must be considered before drawing conclusions about the application of the law in the two cases (Moeljatno, 2015).

An important distinction to examine is the application of the doctrine of participation in Decision No. 497/Pid.Sus/2024/PN Mdn compared with the reasoning and operative part of Decision No. 1379/Pid.Sus/2024/PN Lbp. Where the concept of *medepleger* is applied to a defendant, the analysis must explain the existence of conscious cooperation and a contribution to the commission of the criminal offense. Conversely, if the decision concerning another defendant is based on conduct committed by that defendant personally, the resulting basis of criminal liability must not automatically be equated with joint perpetration. This distinction is important for assessing whether the application of the criminal provisions corresponds to the conduct and involvement established in each case (Chazawi, 2021).

Corporate criminal liability must also be distinguished from individual criminal liability. A person's status as a company officer does not, by itself, prove that the person jointly committed a criminal offense, just as the conviction of an individual does not automatically mean that the corporation has been convicted (Aripkah, 2020).

Based on the comparison of the two decisions, the research may examine how the facts, roles, and culpability of each defendant form the basis of criminal liability. Decision No. 497/Pid.Sus/2024/PN Mdn is relevant to the assessment of Pantas Eliakim Tampubolon's involvement and the concept of *medepleger*, whereas Decision No. 1379/Pid.Sus/2024/PN Lbp is relevant to the analysis of Muliadi Barus's criminal liability as an individual. Conclusions concerning similarities and differences in the application of statutory provisions, the elements found to have been proven, and the court's reasoning must be consistent with the full contents of both decisions.

A comparison of the decisions therefore does more than identify similarities in the general type of offense. It can also be used to assess how the facts and the defendants' respective roles affect the application of criminal law. The

analysis must continue to distinguish proof of the principal criminal offense, proof of participation, and corporate criminal liability (Aripkah, 2020).

The Judge's Legal Considerations In Determining The Fulfillment Of The Elements Of A Criminal Offense In Decision No. 497/Pis.Sus/2024/PN Mdn And Decision No. 1379/PID.SUS/2024/PN Lbp

Ratio decidendi refers to the legal reasoning that forms the basis for a judge's determination of whether a criminal offense has been proven. An analysis of such reasoning requires an examination of the relationship between the applicable legal norms, the facts established during trial, the evidence presented, and the judge's conclusions in the judgment (Mappiasse, 2017). Therefore, the analysis should not focus solely on the operative part of the judgment but should also assess how the judge connects the established facts to the elements of the alleged criminal offense. Sound legal reasoning must be logical, systematic, and accountable so that the judgment reflects legal certainty, justice, and utility (Santosa, 2020).

In Decision No. 497/Pid.Sus/2024/PN Mdn, the case concerns the use of electricity to operate Bitcoin mining machines at PT Comodo Metic Decentralized (PT CMD), with Pantas Eliakim Tampubolon, who served as the company's Director of Human Resource Development, as the defendant. The use of electricity in this case was associated with a direct connection to the PLN electricity network without the proper use of a kilowatt-hour (kWh) meter. Article 51 paragraph (3) of Law No. 30 of 2009 concerning Electricity serves as the legal basis for analyzing the unlawful use of electricity without entitlement. The elements requiring examination include the legal subject, the act of using electricity, the fact that the electricity was not lawfully entitled to the perpetrator, and the unlawfulness of such use. Each element must be established through lawful evidence and proven facts, rather than merely on the assumption that illegal electricity use has occurred (Haris, Hidayat, & Dasinglolo, 2019).

The element "every person" concerns the subject who may be held criminally liable, whereas the element concerning the use of electricity relates to the specific conduct committed. In the case involving Pantas Eliakim Tampubolon, his position as Director of Human Resource Development cannot be regarded as the sole proof that he committed a criminal offense. His position must be considered alongside other facts, including his knowledge of irregular electricity use, his connection to the company's operational activities, and his relationship to the Bitcoin mining machines that consumed the electricity (Mappiasse, 2017). Legal reasoning must distinguish facts concerning a person's position from facts establishing that person's conduct and culpability. Accordingly, the assessment of the defendant must be based on the entirety of the facts established at trial (Santosa, 2020).

Decision No. 1379/Pid.Sus/2024/PN Lbp concerns the defendant Muliadi Barus. According to the judgment materials referenced, the panel of judges found the defendant guilty of unlawfully using electricity to which he was not entitled, as charged under the first alternative charge pursuant to Article 51 paragraph (3) of Law No. 30 of 2009 concerning Electricity. The facts recorded in the case include a direct connection from the electricity network to the customer's installation upstream of the measuring and limiting equipment. The panel imposed a sentence of two months' imprisonment and a fine of IDR 10,000,000, with one month of imprisonment to be served in default of payment of the fine. This judgment is relevant to an analysis of the elements of the offense of using electricity without entitlement. However, it should not be

interpreted as a judgment applying the concept of *medepleger* or corporate criminal liability if neither formed the basis of the operative ruling.

The element "without entitlement and unlawfully" must be assessed by considering the legal relationship between the electricity user and the electricity provider. Electricity obtained through a direct connection without the proper metering mechanism may constitute an important fact in determining whether the use was supported by a lawful entitlement. Nevertheless, the judge must explain the relationship between the technical facts concerning the installation, the circumstances of electricity use, and the wording of the elements in the applicable criminal provision. The existence of cables or connections that do not comply with applicable requirements must not be separated from the evidence establishing who used the electricity or who was responsible for that use. Proper evaluation of evidence is essential because legal conclusions must be based on lawful evidence relevant to the elements under examination (Haris, Hidayat, & Dasinglolo, 2019).

The establishment of the elements of a criminal offense must also be distinguished from the assessment of the consequences arising from the conduct. The volume of electricity consumed, the amount of subsequent charges, or the financial losses associated with electricity use may constitute relevant facts in a case. However, such matters do not automatically become additional elements of the offense if they are not specified in the applicable criminal provision. The consequences of the conduct may also be considered when determining the severity of the sentence, provided that they are clearly supported by the evidence presented at trial (Santosa, 2020). The judge must objectively explain the aggravating and mitigating circumstances so that sentencing does not merely repeat the conclusion that the defendant's conduct violated the law. Such considerations must remain consistent with the objectives of law, namely legal certainty, justice, and utility (Mappiasse, 2017).

In Decision No. 497/Pid.Sus/2024/PN Mdn, the legal issue concerns not only proving the unlawful use of electricity but also establishing the defendant's connection to the commission of the offense. Article 55 paragraph (1) point 1 of the former Indonesian Criminal Code may be used to analyze participation in the form of joint perpetration, or *medepleger*. This concept concerns criminal offenses committed through cooperation between several persons, with each person's involvement assessed according to their contribution to the commission of the offense. Accordingly, the judge must distinguish between a person who directly performs the physical act, a person who cooperates in carrying out the offense, and a person who merely knows that the conduct has occurred. Knowledge alone does not automatically establish that a person participated in committing the offense (Faisal & Rustamaji, 2026).

The application of *medepleger* in the case involving Pantas Eliakim Tampubolon must be assessed based on all the facts considered by the judge. The defendant's position as Director of Human Resource Development, his knowledge of irregular electricity use, and his connection to the company's activities and Bitcoin mining machines are circumstances that must be analyzed collectively (Faisal & Rustamaji, 2026). However, the relevance of each circumstance to the defendant's contribution to the commission of the offense must be assessed individually. The central question is whether the established facts demonstrate conscious cooperation and sufficiently close involvement in carrying out the offense, rather than merely showing that the defendant held a position within the company's organizational structure. This approach is necessary to prevent the concept of participation from being applied too broadly on the basis of a

person's position or employment relationship alone (Mappiasse, 2017).

Individual criminal liability must be distinguished from corporate criminal liability. The fact that a criminal offense occurs in the course of a company's activities does not automatically make all its officers or employees criminally liable. To impose criminal liability on an individual, the conduct and culpability must be concretely attributable to that person (Mappiasse, 2017). In the case involving Pantas Eliakim Tampubolon, the analysis must focus on the legal reasoning connecting the defendant to the alleged offense. A person's position within the organizational structure may be one of the facts considered, but it cannot independently serve as the basis for a criminal conviction. This assessment underscores the importance of judicial reasoning grounded in individual facts and legally reviewable grounds (Santosa, 2020).

In Decision No. 1379/Pid.Sus/2024/PN Lbp, the panel of judges found Muliadi Barus guilty under the first alternative charge. Therefore, the analysis of his criminal liability must focus on whether the elements of the offense forming the basis of the operative ruling were fulfilled. This judgment should not be used to claim that the court established participation in the offense or corporate criminal liability if neither was the basis for the sentence imposed. The comparison with the case involving Pantas Eliakim Tampubolon should be limited and proportionate: the Muliadi Barus case is relevant to examining proof of the principal offense, whereas the Pantas Eliakim case also raises questions concerning the defendant's involvement and the application of the rules on participation. This distinction is important to ensure that the analysis accurately reflects the contents of each judgment (Haris, Hidayat, & Dasinglolo, 2019).

The two judgments may be compared in terms of the applicable legal basis, the manner in which the judge establishes the act of using electricity, the assessment of the element "without entitlement and unlawfully," and the relationship between the offense and the defendant. In Decision No. 497/Pid.Sus/2024/PN Mdn, the analysis also examines whether the facts concerning the defendant's knowledge and involvement support the application of *medepleger* (Santosa, 2020). Meanwhile, the analysis of Decision No. 1379/Pid.Sus/2024/PN Lbp must adhere to the first alternative charge that the court found proven. Differences in judicial reasoning or sentences cannot be evaluated solely by comparing the outcomes. Instead, they must be examined in light of the facts, the elements established, the defendant's role, and the legal grounds stated in each judgment (Mappiasse, 2017).

From an evidentiary perspective, both cases underscore the importance of connecting the evidence to the elements of the criminal offense under examination. Technical facts concerning the electricity connection must be linked to the use of electricity and to the circumstances indicating that such use was not based on a lawful entitlement. The judge must then determine the relationship between the conduct and the defendant whose criminal liability is being considered. Where several persons are involved, each person's involvement must be assessed individually. Witness testimony, documentary evidence, circumstantial evidence, and the defendant's testimony must be evaluated in accordance with criminal procedural law and their relevance to the alleged elements. Thus, the evidentiary process must do more than establish that a violation occurred; it must also explain who may lawfully be held responsible for the conduct (Haris, Hidayat, & Dasinglolo, 2019).

Based on the foregoing discussion, the *ratio decidendi* in Decision No. 497/Pid.Sus/2024/PN Mdn and Decision No. 1379/Pid.Sus/2024/PN Lbp must be understood in light of the facts and legal

grounds specific to each case. Decision No. 497/Pid.Sus/2024/PN Mdn is relevant to analyzing the proof of unlawful electricity use, as well as issues concerning participation and the defendant's individual involvement. Meanwhile, Decision No. 1379/Pid.Sus/2024/PN Lbp is relevant to examining the elements of the offense of unlawfully using electricity without entitlement under the first alternative charge (Faisal & Rustamaji, 2026). Accordingly, a person's position within a company must not serve as the sole basis for criminal liability, while the application of *medepleger* requires proof of involvement relevant to the commission of the offense. The conclusions of the research must remain limited to matters actually considered and decided by the court (Santosa, 2020).

CONCLUSION

The legal regulation of the criminal offense of unlawfully using electricity without legal entitlement is governed by Law No. 30 of 2009 concerning Electricity, particularly Article 51 paragraph (3), the elements of which must be established through lawful evidence and concrete facts presented at trial. The determination of criminal liability cannot be based solely on the existence of an unauthorized electricity connection; rather, it requires proof of the conduct, its unlawful nature, and the involvement and culpability of the accused. Where a criminal offense is committed by several persons, the application of the concept of medepleger, or joint perpetration, must be based on conscious cooperation and contributions related to the commission of the offense, whereas mere knowledge, official position, or employment relationship does not automatically establish criminal involvement. Furthermore, individual criminal liability must be distinguished from corporate criminal liability, as the imposition of criminal sanctions on either individuals or corporations requires an appropriate legal basis and sufficient evidence. Therefore, cases involving the unlawful use of electricity must be handled carefully by considering the fulfillment of the elements of the offense, the applicable form of participation, the culpability of each party, and the legal provisions in force at the time the conduct occurred. This approach ensures that the application of criminal law upholds legal certainty and justice while protecting the interests of the public and electricity providers.

Criminal liability for the unlawful use of electricity must be determined based on the proof of the elements of the criminal offense, the conduct committed, and the culpability and involvement of each party as established during the trial. In determining the applicability of the concept of medepleger, or joint perpetration, it must be established that there was conscious cooperation and a tangible contribution by the parties involved in the commission of the criminal offense. Therefore, a person's knowledge, position, or employment relationship with a company cannot automatically serve as the basis for imposing criminal liability. Based on Decision No. 497/Pid.Sus/2024/PN Mdn, the involvement of Pantas Eliakim Tampubolon, as Human Resources and Development (HRD) Director of PT Comodo Metic Decentralized, must be analyzed in light of his role and contribution to the use of electricity for operating Bitcoin-mining machines. Meanwhile, Decision No. 1379/Pid.Sus/2024/PN Lbp, concerning Muliadi Barus, must be examined based on the conduct proven, the legal provisions applied, and the judge's legal considerations in determining his criminal liability as an individual. These two decisions must be analyzed separately, taking into account the legal facts, the elements of the criminal offense, and the form of involvement of each defendant. Furthermore, individual criminal liability must be distinguished from corporate

criminal liability, as the imposition of criminal punishment on an individual does not automatically establish the corporation's culpability, and vice versa. Therefore, the application of criminal law in cases involving the unlawful use of electricity must be based on sufficient evidence, an assessment of each party's culpability, and the appropriate application of the relevant legal provisions in order to ensure legal certainty and justice.

The judge's legal considerations in determining whether the elements of the criminal offense of unlawfully using electricity without entitlement have been fulfilled must be based on the consistency between the applicable legal provisions, the facts established during the trial, the admissible evidence, and the involvement and culpability of each defendant. In Decision No. 497/Pid.Sus/2024/PN Mdn, the assessment of Pantas Eliakim Tampubolon's involvement as Director of Human Resources and Development (HRD) of PT Comodo Metic Decentralized must take into account his role, knowledge, and contribution to the use of electricity for operating Bitcoin-mining machines, including when evaluating the applicability of the concept of medepleger, or joint perpetration. The application of this concept requires proof of conscious cooperation and a contribution to the commission of the criminal offense; therefore, a person's position or knowledge alone is insufficient to establish criminal liability. Meanwhile, Decision No. 1379/Pid.Sus/2024/PN Lbp, concerning Muliadi Barus, must be analyzed based on the conduct proven, the fulfillment of the elements of the criminal offense under the first alternative charge, and the legal considerations underlying the judge's decision. These two decisions must be examined separately in accordance with their respective facts and legal grounds, while distinguishing individual criminal liability from corporate criminal liability. Accordingly, the ratio decidendi of both decisions must be understood by examining the relationship between the legal facts, the proof of the elements of the criminal offense, the role of each defendant, and the application of the relevant legal provisions, so that the determination of criminal liability upholds legal certainty, justice, and the proper application of criminal law.

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