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Implementation of the Money Laundering Law as a Predicate Crime during the Covid-19 Outbreak

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Abstract

Cases of criminal acts of corruption and Money Laundering have such fundamental ties. In this case the act of corruption is a part of the special criminal law in addition to having special specifications or different from the general criminal law or other, such as a deviation of procedural law and when viewed from the material regulated, the act of corruption directly or indirectly there is a the case or further criminal action from the existence of this criminal act of corruption resulting in a loss that affects the country's economy, namely by committing the crime of money laundering as an act of laundering or busting the trace rather than the original criminal activity. In addition, in these two acts there is a form of indictment which is very important in the Money Laundering Act because this is very much a part of the determination by the judge in proving an element of guilt from the offender, therefore, the preparation of an appropriate indictment in the Criminal Act of Laundering The money in which the part can't be ignored. So, in the development of the case, we need to know a lot about the continuity of corruption in the money laundering law, the use of money laundering legislation in its handling of corruption to optimize the efforts to recover state losses, and also the mechanism of imposing criminal penalties in proving the crime of money laundering without first proving the crime predicate as the most important element in imposing sanction.

Keywords

Corruption; Money Laundering; Crime; Predicate Crime

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Introduction

The wealth owned by a person can be obtained from the existence of a corruption crime where its use cannot be directly used in the presence of something indicated as a form of money laundering criminal activity. In this case, all corruption actors seek to try to cover up the safe origin of the wealth by manipulating it into the financial system. The problems taken in this journal are the continuity of corruption crimes in the money laundering law, the use of money laundering laws in the countermeasures of corruption crimes to optimize efforts to recover state losses, and the mechanism for imposing criminal penalties in proving money laundering crimes without first proving the predicate crime. Regarding matters related to other crimes related to money laundering and the results of the study concluded that criminal acts other than corruption related to money laundering, narcotics, fraud, forgery of letters are also predicate crimes with the legal basis of transferring the burden of evidence absolutely in law number 8 of 2010 article 69.

The Indonesian state is part of many countries that are easy to become a means of targeting illegal money legalization, this is because our country has many aspects that have the potential to be interested in money laundering criminals which are due to the weak social system and the existence of legal and financial system loopholes in this country which have a serious impact on the stability of the country's economy even though it has set quite strict rules. The eradication efforts carried out have been through the form of investigation, investigation, prosecution, monitoring, and coordination with the help of community participation in accordance with applicable laws and regulations in Indonesia. In Indonesia itself adheres to a positive law whose position of corruption is also regulated in the criminal code. In cases of corruption crimes, there is a connection to the assets of money laundering crimes which in its current development has expanded to various sectors. This money laundering act is a follow-up crime of its predicate crime where the original crime will be a basis for whether it can be criminalized in accordance with the law.

The existence of a provision that describes the meaning that the criminal act of money laundering is an act of crime that stands alone but, in its evidence, this still requires the existence of an original criminal act that produces the entirety of the property to be seized as a penalty of compensation fines. In the case of money laundering crimes for law enforcement officials, they must prove where the property and or assets come from a criminal act of origin or predicate crime.

Theoretically, it is quite strong for the occurrence of state crimes in handling the Covid-19 pandemic disaster in Indonesia. In a pandemic moment like this, it can be a great opportunity for anyone who has the right to hold a policy and a budget to carry out corrupt practices. Because, policy holders such as regional heads are given the flexibility to spend goods and services outside the market price because goods and services will be needed and will also become extinct. The potential to commit corruption crimes, among others, when the government begins to pour aid funds for residents who have experienced economic weakness due to the Covid-19 pandemic and doing such as embezzlement of aid funds that may have been transferred problematically in their implementers, the amount of assistance is not in accordance

with what is received or social aid funds that do not reach the hands of the people (Telaumbanua, 2020).

The form of crime as above is increasingly complex and systematically structured, which further causes obstacles to its discovery, then the person who committed the case will certainly continue to strive to secure the assets of the fruit property from the crimes he has committed through many kinds of things of course in a sophisticated way, the usual thing to do is to carry out money laundering activities or m oney laundering. Of course, with something like this they will try to wash something that is obtained illegally into a legal thing. After going through money laundering, the perpetrator of the crime can hide the true origin of the funds or money from the crime that was committed freely as if it could be seen as part of the right work in the absence of anything unlawful (I Kurniawan, 2012). In the law on Money Laundering Crime No. 25 of 2003 Article 1 Paragraph 1 describes money laundering as a tool for the act of placing, transferring, paying, spending, giving, donating, entrusting, taking out of the country, exchanging or other acts on property that he knows or can be suspected as the result of a criminal act with the intention of concealing, or disguising the origin of property so that as if to be a legitimate treasure. Meanwhile, in Indonesia, the assets from the proceeds of the crime are obtained through corruption, while corruption itself was originally found in another language, namely from Latin with the word *Corruptio-Corrumpere* which means to damage, poke, distort, which can be taken into meaning, namely, then in this case the core crime that is very prominent in a money laundering crime is corruption (Muhlizi, 2012).

This has caused corruption crimes to become no stranger to what often occurs in Indonesia. And resulted in the country's finances and economy experiencing losses of up to tens of trillions of rupiah per year. One of the updates to the promulgation of the money laundering law No. 25 of 2003 is of course to narrow the efforts of corruptors to secure money from their crimes (I Ismaidar & P Yudi, 2019). Thus, in the long run, it is hoped that corruption crimes can be reduced, especially during this Covid-19 pandemic. The above actions are certainly very dangerous because money laundering is a means to legalize money from someone's crime to eliminate traces of illegal money. In addition, money laundering can also have a lot of influence on national and international balance sheets. Through efforts to prevent money laundering practices, it is hoped that there will be a system that can reduce illegal activities such as smuggling, corruption, financing acts of terrorism, tax evasion, and others (I Ismaidar & P Yudi, 2019).

Such actions certainly fall within the scope of organized crime, in relation to money laundering which is a criminal act in the economic sphere which in essence gives an idea of the direct relationship that criminality is a continuation of an activity and economic growth. Money laundering is not only a national problem anymore but is already an international problem, so it is very important to be placed at the center of legal regulation. Almost all crimes related to the economy are committed with profit motives. Therefore, to make the perpetrator deterred or to reduce the crime, it is necessary to do so by finding the facts of the crime so that the perpetrator cannot enjoy it and the crime also disappears.

Efforts made in the elimination of acts of corruption can be through the provisions of a law that is currently in force, although it is still typical that it is still ongoing today and is not easy to overcome because the sanctions obtained by corruptors are very unlikely. Therefore, the typical T-shirt needs to be controlled by means of a non-statutory strategy in order to assist in efforts to overcome it. So that typical countermeasures require a more effort than the system they have used today for maximum results (Priyanto & Lies Endarwati, 2014).

Therefore, it is important to review the continuity of corruption crimes and money laundering laws in the mechanism for imposing criminal penalties in proving money laundering crimes without first proving their original crimes to overcome corruption in relation to predicate crimes amid the Covid-19 outbreak. From the background description that has been submitted, there are several problems discussed in this study, namely: How does the criminal act of corruption relate to the crime of money laundering; How is the use of the Money Laundering Law in combating corruption to optimize efforts to recover state losses?; and What is the mechanism for imposing criminal penalties in proving the criminal act of money laundering without first proving the criminal act of its origin in the midst of the Covid-19 pandemic?

Method

The method The form of the type of research that researchers use in conducting this research is Normative Juridical research, which is research that prioritizes the study of positive legal provisions and general legal principles. Normative legal research is research based on legal materials both primary and secondary. This research was conducted through research or documents of laws and regulations, books, legal journals, and various court decisions related to this research problem (Soekanto & Mamudji, 2001).

As normative juridical research, the research materials used are in the form of primary legal materials and secondary legal materials. The primary legal materials in the form of related laws and regulations in this case are Law Number 8 of 2010 concerning The Crime of Money Laundering, Law Number 31 of 1999, and Law No. 20 of 2001 concerning the Eradication of Corruption Crimes. Secondary legal materials include journals and scientific articles that provide understanding and understanding in supporting the discussion of primary legal materials. The results of the study will be processed in a deductive synthesis where previously sorting legal materials according to their characteristics, and then legal evaluation and interpretation were carried out to determine legal issues in the research object (ZA Amiruddin, 2004).

Discussion

1. Relationship between Corruption and Money Laundering

Corruption is a criminal act as a crime that causes consequences that damage and paralyze the character of Indonesian citizens' lives (Al-Fatih, 2018). The result of corruption is that it causes a loss to finances and all aspects of life are very dangerous for the future life. Cases of corruption criminal acts that have occurred a lot are in the interests of the state that have a very urgent nature which has always been the basis for

courts that take special care of corruption cases to continue to update the law and find new legal products that are increasingly effective to eradicate it so that there are not more losses suffered by the state due to abuse of authority in corruption cases. Money laundering cases are not far apart and have a close relationship with corruption cases. Proof of this can be found in article 2 paragraph 1 in law number 8 of 2010 concerning the prevention and eradication of money laundering crimes. The details in the money laundering law and its proof of the original predicate crime are regulated in articles 3-5 where in the formulation chapter it is clearly seen that the criminal act of money laundering has a distinctive uniqueness and is not the same as other criminal cases. In addition, the crime of money laundering is also claimed to be a follow-up crime or an ongoing criminal act while the main crime or the proceeds of crime from the money laundering process are known as core crimes, in which case a sense can be found that money laundering cannot occur without the original crime first (Latief, 2018).

In this case, predicate crime is a crime whose proceeds from the crime are committed and processed by laundering money or money laundering which in this case is regulated in the provisions of the money laundering law contained in article 2. The article explains that there are 26 types of crimes and all these crimes are subject to criminal penalties of 4 years and above. With this, it is necessary to understand that the crime of money laundering is a follow-up crime whose occurrence is very dependent on the existence of the original crime or predicate crime even though between the two is classified as a stand-alone crime or separate crime so that at the time of implementation the examination it is better to be carried out simultaneously which is then made into a file that is compiled cumulatively (Waluyo, 2017).

The understanding of this can have a direct involvement in the evidence i.e. each of the original and continuing crimes must be proved because it is pointed to in a cumulative indictment by means of making one on a realistic approach where if there is a person who commits several criminal acts while the relationship between each of his deeds stands alone, in his obligation to combine the charges may see in the provisions of the money laundering law in articles 74 and 75 (Waluyo, 2017).

From the article, there is a provision that explains that the crime of corruption is one of the original crimes or predicate crimes that are related and sustainable to the crime of money laundering. Which is where the crime of corruption or the original crime triggers the occurrence of money laundering crimes. It has been described in a provision in the legislation, namely the law on the criminal act of money laundering that from the existence of a money laundering case there is property sourced from the crime of corruption, narcotics, bribery, smuggling of goods, banking crimes, trafficking in persons and prostitution, tax fields, forest products and the whole, and other criminal crimes listed in this legislation which are in the prosecution of The penalty can be subject to imprisonment for 4 years imprisonment and more where in this case what is done by the perpetrator is within the territory of the Indonesian state or outside the Indonesian state in accordance with the rules and regulations of the criminal law in Indonesia itself.

2. The Use of Money Laundering Act to Eradicate Corruption in Indonesia to Optimize Efforts to Recover State Losses

It should be remembered and always considered that the existence of a criminal act of money laundering can occur after the occurrence of a criminal act from the initial or original crime (predicate crime) where the crime is from the initial criminal act such as narcotics, trafficking and prostitution, but the most important thing this time is about the initial crime because of a corruption crime committed by people who abuse their authority to enrich themselves through the property he guards where the property is a property of a state asset that must be guarded and protected. The case of money laundering chosen by the perpetrator after committing the initial crime is an appropriate target by him in order to eliminate his traces in a crime and so that the proceeds of his crime turn into legal property from the existence of a banking or financial system through a bank. The implementation of money laundering is taken as a way out with the aim that the crime committed cannot be known by the authorities because after the existence of financial manipulation, the property of the corruption crime automatically turns into a legitimate source of wealth and in this case is also valid before the juridical law and is not the result of unlawful acts after the manipulation.

There have been many efforts taken in efforts to overcome and eradicate corruption cases in Indonesia, namely repressively-preventively to the renewal of a method to eradicate it. In this case, what is done by the government is by returning state losses, where the amount of property lost as a result of corruption crimes is very large in nominal, of course, it is not very easy in terms of return. In this case, the problem of money laundering is a very frequent cause, on the other hand, in the efforts of its own courts in cases of corruption crimes have gained a fixed legal force. With all the property, the perpetrator will be lost because it was confiscated by the state as a form of compensation for his actions when his court proceedings began.

The countermeasures and eradication of criminal money laundering cases have an important part of their position in terms of returning losses of state property regarding efforts to eradicate and stop the current corruption crimes. The criminal act of corruption, of course, has implications for state financial losses. Not only harming the economic sector, it also affects other sectors in the Indonesian state. Perpetrators of corruption crimes can be subject to criminal sanctions with violations of legal provisions in Article 18 of Law Number 20 of 2001 concerning the Eradication of Corruption Crimes Jo article 65 paragraph (1) of the Criminal Code (Ayumiati, 2012).

In cases of corruption cases to remove the traces, the perpetrator simultaneously commits acts by enriching himself or by means through other people or a corporation which in these actions can damage state finances and the economy of the country whose actions are closely related to each other. The implementation of the money laundering law in this typographical countermeasure for the recovery of state losses from corruption crimes is contained in the Supreme Court Decision number: 1605 K/ Pid.Sus/2014 the district court judge has implemented Law number 8 of 2010 against corruption cases with a criminal penalty of 5 years in prison, a fine, paying replacement money and depriving the perpetrator of assets from the proceeds of the crime. Because the criminal act of money laundering in addition to causing a very damaging effect on the joints of Indonesian citizens, this case also has a considerable

impact on losses to damage an economy in a country, namely in Indonesia, which of course will also have an impact on economic stability in Indonesia which then increases various other criminal crimes committed by Indonesian citizens themselves if the implementation of a law that setting it up is not effective in its handling. It has been explained in the legislation on the criminal act of money laundering that it asserts in this case regarding the government and its private sector is not one of its parts, but in this case the point of solving the problem is the improvement of the system starting from the economic system for its stability and the finances owned by the state itself (Ayumiati, 2012).

The imposition of a fine or compensation to the perpetrator is an effective way to recover state money losses from the existence of corruption crimes, related to the replacement money contained in article 18 in paragraph 1 letter b of Law number 20 of 2001 resulting in a simple formulation regarding the total amount of liability is as much as the result obtained for the typical crime, furthermore, the amount of the surrogate's money can be added up from the money assets of the perpetrator's wealth based on the property found for the crimes charged against him. To determine the amount of surrogate money, the judge must first be careful in sorting out which part is the entirety of the perpetrator's assets resulting from a typical crime and which property is not corruption property. Then after the holding of the sorting the judge then calculates how much money must be paid as accountability money which will be borne to him (BN Hibnu, 2016).

Regarding the optimization of the recovery of state assets with replacement money, it is also accompanied by a business that can cause a deterrent effect to the perpetrator and to the second party, namely the corporation or family or people included in the corruption which is not infrequently used as a container for the object of collection of dirty money from typical crimes and as a forum for money laundering by m-banking to them (Saputra, 2021).

3. Mechanism for Imposing Criminal Penalties in Proving the Crime of Money Laundering without First Proves the Crime of Its Origin

In conjunction with the way to enforce the law in a typical crime that coincides or coincides with the criminal act of money laundering or in this case the mutuality of the relationship is known as *Concurcus Realist* in which a person commits several criminal acts and then each of these acts becomes a separate unit as a criminal act and the act may not need to be of the same kind and may not need to be related (Deny Wahid, 2022). In the case of an investigation if the investigator succeeds in finding preliminary evidence that has proven the existence of a criminal act of money laundering and predicate crime, in that case the investigator can make one predicate crime investigation through notifying it to the financial transaction reporting and analysis center (PPATK) which in this case is contained in the regulation of article 75 of the law on the prevention and eradication of money laundering number 8 of 2010, so that the investigation of the two crimes can be carried out simultaneously (Haris & Al-Fatih, 2020). Based on article 75 of the law on the prevention and eradication of money laundering number 8 of 2010, in order to carry out an investigation, there must be preliminary evidence in which case the investigator must find sufficient preliminary evidence so that the investigator can combine and notify the financial transaction reporting and analysis center (J Johari, 2015).

Separate investigations into corruption and money laundering are highly dependent on preliminary evidence. So if the preliminary evidence tends to lead to the criminal act of money laundering, the investigator can do it separately, but if it leads to the crime of corruption as an original crime, a joint investigation must be carried out so that it will be proven simultaneously to the maximum (A Ramdan, 2017). Based on the law on the prevention and eradication of money laundering number 8 of 2010, the article states that in order to be able to carry out investigations, prosecutions, and examinations at trials of money laundering crime cases, it is not mandatory to prove the predicate crime first and in the provisions of this article to be able to solve cases of money laundering crimes. Regarding the proof of money laundering crimes, the Constitutional Court also emphasized that the investigation of money laundering crimes can be carried out without any proof of the existence of an original crime or predicate crime first, but after that the crime of money laundering has been proven, the original crime must be proven afterwards. This is regulated in the decision of the constitutional court number 77/PUU-XII/2014 which states that the proof of the criminal act of money laundering is not required to be proven in advance for the original criminal act or predicate crime which means that there is no need for proof because with the decision of an existing court, that is where a case already has a law with permanent force (A Ramdan, 2017).

From the explanation of the investigation into the criminal act of money laundering and the original criminal act or predicate crime can be carried out without prior proof of the initial criminal act or can be carried out separately, it gives rise to the criminal act of money laundering and typists can also be carried out also law enforcement specifically or with repressive actions with all actions carried out by law enforcement officials after the occurrence of the crime (H Halif, 2017). During Covid-19 outbreak, the authors found several corruption case, such as Social Assistance Case etc, however, those corruption case doesn't use money laundering act to solve the case (Indonesia, 2020). It's indicate that the government need to more analysis to eradicate corruption in Indonesia.

Conclusion

The offense in the money laundering law and its proof of its predicate crime is regulated in articles 3-5 where in the formulation it is clearly seen that the crime of money laundering has a distinctive specificity and is not the same as other criminal cases. In addition, the crime of money laundering is also claimed to be an ongoing crime while the main crime or the proceeds of crime from the money laundering process is known as core crime, which can then be taken as an understanding that money laundering cannot possibly occur without the original crime or predicate crime first. Based on the law on the prevention and eradication of money laundering number 8 of 2010 in the article, it states that in order to be able to carry out investigations, prosecutions, and examinations at trial of money laundering crime cases, it is not necessary to prove the predicate crime first and in the provisions of this article to be able to solve cases of money laundering crimes.

Everything has been regulated in the Constitutional Court Decision number 77/PUU-XII/2014 which states that proof of money laundering crimes does not must be proven

first for predicate crimes which means that there is no need for proof because a case will get a permanent legal force if it has received a decision from the court. And money laundering and typographical crimes can also be carried out by law enforcement specifically or by repressive actions with all actions carried out by law enforcement officials after the occurrence of the crime.

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