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Legal Politics of Overcoming the Crime of Money Laundering in Equitable Law Enforcement

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A B S T R A C T
In simple terms, money laundering is an effort made to disguise or make unclear hot or dirty money (dirty money), namely money originating from illegal practices such as corruption, trafficking of women and children, terrorism, bribery, smuggling, selling illegal drugs, gambling, prostitution, banking crimes and other unhealthy practices. The term Money Laundering (ML) denotes the process carried out by criminals to encourage the true origin of the proceeds obtained from criminal activities and to make their money appear to be clean money or legitimate income.
A good law must be able to become a social engineering tool that is able to create or change a bad or unfavorable situation to a better one, so that society will increasingly feel the benefits of the law. So, what is meant by the term law is a tool of social engineering is not just a theory as written by Roscoe Pound. If you want to pay special attention to the development of law in Indonesia, you can also see it from the laws created by the government. The development of this legislation can be seen from 3 (three) government periodizations, namely: old order government, new order government, and post-reformation government.

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INTRODUCTION

The provisions of Article 69 of Law no. 8 of 2010 have sparked significant discussion and debate in the regulation of combating money laundering crimes. According to Article 69 of Law no. 8 of 2010, inquiries, settlements, and examinations in court related to the crime of money laundering do not require proof of the original offense beforehand.

Several practitioners and scholars disagree with the utilization of this article, as they argue that in order for an investigation and prosecution to take place in court, it is imperative to establish the existence of the predicate crime, also referred to as the original crime.

The TPPU Law applies the notion of double criminality, recognizing that money laundering is a type of cross-border or transnational crime. The endorsement of the adoption of the dual criminality principle holds significant importance in regards to international collaboration in the effort to eliminate money laundering offenses.

In writing this research, the author raised the problem formulation, what is the legal politics of eradicating the crime of money laundering in Indonesia so that justice can be achieved?

LITERATURE REVIEW

The existence of human life is inherently intertwined with the principles and regulations of the legal system. Law has long been acknowledged as playing a crucial role in establishing a secure environment for humans to coexist peacefully and ensure their survival throughout the course of human civilization. The desire to be kind to fellow human beings leads to a relationship between individuals based on national and moral principles, but the same desire encourages people to create rules for living together that are by these moral principles. This is done by forming a system of norms that must be obeyed by people belonging to a certain society.

If you want to pay special attention to the development of law in Indonesia, you can also see it from the laws created by the government. The development of this legislation can be seen from 3 (three) government periodizations, namely: old-order government, new-order government, and post-reformation government. “The existence of law is determined by human existence. Humans are born, grow up, and mature in their world. Humans determine everything they want and need, digging deeply for meaning in every action and thought.”

Human society, no matter how simple, always requires structuring by regulating behavior within society, the compliance and enforcement of which cannot be completely left to the free will of each individual (Ibi societas ibi ius). "Because of that, in society, a system of social control naturally arises over the behavior of its citizens." Branislaw Malinowski defined law as a body of binding obligations, which are respected as rights of one party and recognized as obligations of another party, the exercise of power through specific mechanisms of reciprocity and publicity inherent in the structure of society.

Human life in society is covered by norms, namely the rules of life that influence human behavior in society. In social life, four types of norms or rules are distinguished, namely:

1. Religious norms;
2. Moral norms;
3. Politeness norms;
4. Legal norms.

An effective legislation should possess the capacity to function as a social engineering instrument, capable of transforming undesirable or unfavorable circumstances into more favorable ones, so enabling society to progressively experience the advantages brought about by the law. The term "law is a tool of social engineering" refers to the idea that law can be used as a means to shape and influence social behavior. This concept, as articulated by Roscoe Pound, is not merely a theoretical concept. The relationship between social change and the legal sector is reciprocal, meaning that social change has an impact on changes in the legal sector, and conversely, legal changes also have an impact on social change.

Money laundering is the act of concealing or obscuring illicit funds, commonly referred to as "dirty money," which is obtained through illegal activities such as corruption, human trafficking, terrorism, bribery, smuggling, drug trafficking, gambling, prostitution, financial fraud, and other illicit practices. Money laundering, or ML, is the practice used by criminals to conceal the true source of illegally obtained funds and make them appear as legitimate income.

The government's endeavors to eliminate the crime of money laundering extend beyond the implementation of Law No. 15 of 2002, which addresses this offense. The government has further enhanced this legislation by modifications made to Law No. 25 of 2003. Nevertheless, the amendments made through Law No. 25 of 2003 were short-lived. The government, in its earnest pursuit to combat money laundering, implemented more rigorous measures by enacting a new legislation, Law No. 8 of 2010, specifically addressing the prevention and eradication of this crime.

The TPPU Law incorporates the principle of dual criminality, recognizing that money laundering is a transnational offense. "The affirmation of adopting the principle of dual criminality holds significant importance for international collaboration in combating money laundering." "Money laundering has evolved into a form of white-collar crime that is not limited to financial institutions, including both banks and non-bank financial institutions, in small geographic areas. It can be carried out by individuals or corporations across national borders or without any specific constraints."

The requirements of Article 69 of Law No. 8 of 2010 have sparked significant debate and controversy in the regulation of money laundering eradication and prevention. According to Article 69 of Law No. 8 of 2010, investigations, prosecutions, and court examinations related to money laundering do not require prior proof of the initial crime.

Article 69 must be interpreted to mean that, for the state, it is only concerned with "seizing" the defendant's assets which are suspected to have arisen from criminal acts, not providing the same legal protection as the state's interests. If the interests of confiscating the defendant's assets/property are prioritized, this issue is a matter of the morality of the criminal law. If you look

at the sound of Article 69 of the TPPU Law, perhaps the institution that makes the law wants to promote the values of law enforcement, but if we compare it with the opinion expressed by Romli, one thing that must be taken into account is that if you want to enforce the law, it is best to do not conflict with other norms to support law enforcement.

Law enforcement is the implementation of legal objectives into actuality. Legal wants are just the views of the law-making body that are expressed in these regulations. Indeed, numerous instances of money laundering stemming from corrupt activities are initially brought to trial, with law enforcement agencies conducting investigations and prosecutions in accordance with the provisions outlined in Article 69 of the TPPU Law. These rules are necessary in order to investigate and prosecute the crime of money laundering without having to wait for the original crime or predicate crime to be proven and have lasting legal force.

Money laundering criminal cases were investigated without waiting for the original case to be proven first, not only in the case of Djoko Susilo but also in the case of Wa Ode Nurhayati, a member of the Republic of Indonesia's DPR from the National Mandate Party. Wa Ode Nurhayati's original criminal act was a bribery case. Wa Ode Nurhayati was charged with money laundering based on the decision in Cassation case Number 884 K/PID.SUS/2013, which has permanent legal force. This occurred without waiting for the bribery case to be proven. The charge relates to the budget for the Regional Infrastructure Adjustment Fund (DPID) for the 2011 fiscal year. The Corruption Eradication Commission has announced that the decision in the Wa Ode Nurhayati case will serve as a precedent for the Corruption Eradication Committee's investigations into other money laundering criminal cases.

This case involves the artist/celebrity Indra Kenz and is part of a recent initiative to combat police involvement in money laundering crimes. The case began with the binomo application, where the suspect was accused of engaging in online gambling, committing fraudulent acts, spreading hoaxes, and ultimately engaging in money laundering. Indra Kenz was recently convicted by the Tangerang District Court for the offense of money laundering.

Article 69 of Law no. 8 of 2010 contradicts the intended meaning of Article 2 paragraph (1) of the same law, which defines "proceeds of a crime" as assets acquired through criminal activities. By carefully examining the wording of Article 2 of Law No. 8 of 2010 Regarding TPPU, it becomes apparent that the unlawful act has been fully executed and has led to the acquisition of riches. An conduct can be deemed a criminal act only when a court has rendered a decision. The wording included in Article 69 of Law no. 8 of 2010 not only contradicts Article 2 paragraph (1), but also contradicts Article 3, Article 4, and Article 5 paragraph (1) of the same law. In 2014, M. Akil Mochtar filed a judicial review of this dispute with the Constitutional Court.

Problem Formulation

Furthermore, from the description above, in this research, the author tries to analyze inconsistencies, or perhaps it could also be said to be a form of clash of norms contained in Law no. 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, which is expected to be able to

become a tool of social engineering or what is usually referred to as law is a tool of social engineering. For this reason, the author formulates the problem related to the title of the author's legal research as follows:

What is the legal politics of eradicating money laundering in Indonesia so that justice can be achieved?

RESEARCH RESULT

The legal politics of eradicating the crime of money laundering in Indonesia so that justice can be achieved

Before discussing further the government's legal politics in eradicating the crime of money laundering which can achieve justice. The author would like to first explain the components that can be used as indicators to see the discussion in the problem formulation in this paper.

History of Money Laundering Crimes

Money laundering as a white-collar crime has been around for a long time. The crime of money laundering has been around since 1697, when a pirate named Henry Every carried out a robbery against a Portuguese ship called the Gung-i-Suwaie, from which he obtained valuable items in the form of diamonds worth £325,000 pounds sterling. Henry Every then settled in a small town called Devonshire in Bideford and invested the money from the robbery in diamond trading transactions in Bideford. The diamond trade is a means of laundering money belonging to other robbers on land so that the proceeds of the crime appear to come from diamond trading activities.

The term money laundering comes from the activities of mafias who buy clothes laundering companies (laundromats) as a place to invest or mix their huge criminal proceeds from extortion, illegal sales of liquor, gambling, and prostitution. Furthermore, to explain the history of the practice of money laundering, it is stated that this term refers to the actions of the drug, narcotics, gambling, and prostitution mafia, which processes the proceeds of their crimes to be mixed with legitimate business, as was done by Al Capone in the 1930s. This action aims to ensure that the proceeds of crime are clean or appear to be legitimate money. This criminal group diversifies its business with the proceeds of its crimes by taking over certain legal business activities with very high financial profits.

Nevertheless, Al Capone did not face legal charges and get a prison sentence for this particular offense, but rather for engaging in tax evasion. The term money laundering originated from the activity performed by Al Pacino. Due to the absence of laws criminalizing money laundering at that time, concealing the profits from illegal activities was regarded as a means to avoid fulfilling tax responsibilities, also known as tax evasion. Nevertheless, it is worth noting that the act of money laundering had already been executed much before that time. A prime example is the utilization of this approach by French fugitives during the 17th century, who sought to conceal or safeguard riches obtained through capital flight.

During the 1980s, the proceeds from criminal activities, particularly in the illegal drug trade, experienced significant growth, reaching billions of

rupiah. This led to the coining of the phrase "narco dollars" to describe the unlawful funds created from narcotics trafficking. In 1988, the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, also referred to as the UN Drug Convention, was convened to address and eliminate the criminal activity of money laundering, which is categorized as a global crime.

Prior to the establishment of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances in 1998, the United States had implemented many measures to combat money laundering, including the Bank Secrecy Act in 1970 and the Money Laundering Control Act in 1986. Money laundering The 1986 Money Laundering Control Act was enacted in response to the concerns of American legal entrepreneurs who were unable to effectively compete with money launderers who had unrestricted financial resources. The government, recognizing the detrimental effects of money laundering, implemented this statutory regulation as a means to address the issue of first money laundering. Money laundering has a long history, but it was not until 1988 that a method to eliminate it, specifically in relation to the profits from drug-related crimes, was found. This was achieved through the establishment of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, commonly referred to as the 1988 Vienna Convention.

Money laundering is a transnational crime that occurs not just within the confines of a single country, but also across international borders. Transnational crime, often known as cross-border crime, involves perpetrators hiding the assets obtained from their illegal activities and subsequently reintroducing them into circulation as if they were legitimate earnings. Hence, on June 22, 2001, the Financial Action Task Force (FATF) added Indonesia, along with 19 other nations, to the list of Non-Cooperative Countries or Territories (NCCTs) that do not cooperate in addressing money laundering matters. The remaining nineteen countries include Egypt, Russia, Hungary, Israel, Lebanon, Philippines, Myanmar, Nauru, Nigeria, Niue, Cook Island, Dominican Republic, Guatemala, St. Kitts and Nevis, St. Vincent and the Grenadines, and Ukraine.

Arrangements Regarding TPPU Prevention

The inception of regulations pertaining to the offense of money laundering in Indonesia occurred with the enactment of Law no. 15 of 2002, which specifically addresses the Crime of Money Laundering. One of the points mentioned is that there is a growing trend of crimes that generate substantial income, including both domestic crimes within Indonesia and transnational crimes. In addition, Indonesia enacted anti-money laundering legislation as a result of being included in the FATF's list of Non-Cooperative Countries and Territories (NCCTs) in June 2001. FATF stands for the Financial Action Task Force on Money Laundering (FATF), a task force consisting of 31 member countries and 2 regional organizations.

The inclusion of Indonesia as one of the countries on the NCCTs list published by the FATF is a form of international pressure on Indonesia which has not yet issued a criminalization policy for money laundering. The inclusion

of a country on the NCCTs list can have negative consequences for the financial system of the country concerned, for example increasing financial transaction costs in conducting international trade, especially in developed countries or other countries rejecting Letters of Credit (L/C) issued by banks in the country. who is affected by these countermeasures? Indonesia's entry into the NCCTs list is because Indonesia is considered to fulfill (fully met) 9 (nine) criteria and partially fulfill (partially met) 4 (four) criteria.

Based on the weaknesses identified by the FATF, Indonesia was included in the NCCTs list, in general these weaknesses are as follows:

- no law criminalizes the crime of money laundering;
- not yet established a Financial Intelligence Unit (FIU);
- there is no obligation to report suspicious financial transactions submitted to the FIU;
- provisions regarding Know Your Customer principles have just been introduced, but are still only related to the banking sector;
- and lack of international cooperation.

Law no. 15 of 2002, which addresses the offense of money laundering in Indonesia, encompasses more than just criminalizing this activity. The modifications implemented to enhance these regulations are still being refined. Thus, with the aim of achieving improved reforms, Law no. 25 of 2003 focuses on making amendments to Law no. 15 of 2002, which deals with the offense of money laundering. The purpose of this adjustment is to enhance the effectiveness of anti-money laundering measures and align them with international standards. These changes indicate that the establishment of rules regarding money laundering in Indonesia is influenced by international pressure and cannot be considered independently.

In order to enhance the effectiveness of Indonesia's anti-money laundering system, it is necessary to focus on reinforcing the four interconnected pillars that form its foundation. The four main pillars are:

1. *First, laws and regulations;*
2. *Second, information technology systems and human resources;*
3. *Third, analysis and compliance;*
4. *Fourth, domestic and international cooperation.*

The development of the world of crime which is increasingly complex and carried out cross-border better known as transnational, which is no longer only carried out through financial services institutions, but has also spread to other potential sectors, means that existing laws seem to have already been implemented. are not qualified and can no longer work optimally in eradicating money laundering crimes. Departing from the aim of optimizing these laws and regulations, the Government and the DPR issued a new law. In addition, the Financial Action Task Force (FATF) on Money Laundering has issued international standards that are a benchmark for every country in preventing and eradicating the crime of money laundering and the crime of financing terrorism, known as the Revised 40 Recommendations and 9 Special Recommendations (Revised 40+ 9) FATF.

Since it was first criminalized until now there have been 3 (three) laws that regulate the crime of money laundering, namely:

a. Law no. 15 of 2002 concerning the Crime of Money Laundering;
b. Law no. 25 of 2003 Tends to Amendments to Law no. 15 of 2002 concerning the Crime of Money Laundering;
c. Law no. 8 of 2010 concerning the Prevention and Eradication of Money Laundering

Law No. 8 of 2010, which deals with the prevention and eradication of money laundering, enhances the role of the PPATK (Financial Transaction Analysis Reporting Center) in comparison to the previous legislation. PPATK serves as the official representation of the Financial Intelligence Unit (FIU) in Indonesia, as mandated by Law No. 15 of 2002. Its primary objective is to effectively combat money laundering offenses. The Financial Analysis Transaction Reports Center, abbreviated as PPATK, plays a crucial part in the method for eliminating money laundering in Indonesia. The correct functioning of PPATK is crucial for the effective application of the Money Laundering Crime Law (TPPU), particularly in the banking industry.

In addition to enhancing the functionality of the PPATK as stipulated in Law No. 8 of 2010, this legislation also broadens the range or extent of predicate offenses beyond money laundering charges. In addition to the term "predicate crime," several experts employ alternative terminology. To effectively combat predicate offenses, it is crucial to recognize that anti-money laundering is employed to uncover underlying criminal activities.

Government Criminal Law Politics

The concept of criminal law policy or politics can be understood through the lens of both legal politics and criminal politics. Sudarto defines Legal Politics as the endeavor to establish appropriate regulations that are responsive to the prevailing circumstances and conditions. It involves the state's policy-making process, carried out by authorized institutions, to create desired regulations that reflect the values and aspirations of society. Specifically, Penal policy or politics of criminal law encompasses the formulation of effective criminal laws, guidance for lawmakers, the application of laws by the judiciary, and the execution of criminal laws by the executive branch. Criminal politics is a strategic endeavor aimed at combating crime. Adopting a reasonable approach is essential for every policy decision. Criminal law politics refers to the process of effectively formulating criminal legislation and providing assistance to legislators and the execution of such laws.

1. Mulder defines "Strafrechtspolitiek" as a policy approach aimed at determining the necessary changes or updates to the existing criminal statutes.
2. What measures can be used to deter criminal acts?
3. The proper procedures for conducting investigations, prosecutions, trials, and criminal executions.

Peter Hoefnagels defined criminal policy as the systematic and logical arrangement of societal responses to criminal behavior. In addition, G. Peter Hoefnagels proposed other definitions of criminal policy

1. One of which states that criminal policy is the scientific study of responses to crime.

2. Criminal policy is the field of study focused on preventing and addressing crime.
3. Criminal policy is the scientific discipline concerned with shaping human behavior towards criminal activities.
4. Criminal policy is a logical and comprehensive approach to addressing crime.

According to Wisnubroto, criminal law policy or penal policy pertains to the following issues:

1. What strategies does the government employ to address crime through the implementation of criminal law?
2. How to tailor criminal legislation to align with socioeconomic situations.
3. What is the government's approach to using criminal law to regulate society?
4. Utilizing criminal law as a means to govern society in order to accomplish overarching objectives.

Barda Nawawi Arief argues that the matter of criminal law policy, or penal policy, is not simply a technical task of legislation that can be approached in a normative, legalistic, and methodical fashion. In addition to the normative legal approach, criminal law policy necessitates a factual legal approach that can be implemented through sociological, historical, and comparative methods. Moreover, it requires a comprehensive integration of various social disciplines and a holistic approach to social policy and overall national development.

The purpose of implementing legislation against money laundering is to identify and apprehend those who attempt to conceal their illicit activities by depositing funds in a financial institution. The primary objective of the TPPU Law is to eradicate criminal organizations by seizing assets that are derived from or enjoyed as a result of illegal activities. It operates under the assumption that any assets suspected of being obtained via criminal acts should not be in the control or enjoyment of the individual in question.

No clear phrase was found that elucidates the rationale behind the establishment of money laundering criminal statutes in Indonesia. Similarly, none of the researchers who produce diverse literature on the offense of money laundering explicitly address the intended goals of enacting legislation against money laundering. Nevertheless, the introduction of legislation against money laundering can be attributed to Indonesia's inclusion on the NCCTs list by the FTAF in June 2001, which was a result of diverse backgrounds and historical factors. In addition, the FATF Plenary stated in its letter of July 2, 2004, that the process of ongoing monitoring will persist. An assessment was conducted to evaluate the progress made in implementing the Implementation Plan that was presented to the FATF in February 2004.

The Indonesian government is making ongoing changes to establish an anti-money laundering regime in response to international criticism from the FTAF. Money laundering poses a significant threat to the stability and integrity of both the economic and financial systems. Furthermore, it has the potential to undermine the fundamental principles of social, national, and state life, as established by Pancasila and the 1945 Constitution of the Republic of Indonesia.

The objective of criminalizing money laundering has undergone a change in significance. In Indonesia, the primary objective from the start was to meet global demand by enacting Law No. 8 of 2010, which focuses on preventing and eliminating money laundering. The purpose of Law No. 8 of 2010 is to enhance the government's anti-money laundering measures in collaboration with the international community. This is in response to the transnational nature of money laundering, which necessitates a stronger regulatory framework. The term "transnational criminal act" encompasses legal ramifications, as the enforcement of anti-money laundering measures is entirely contingent upon the local legislation of each individual country.

Another objective of implementing money laundering legislation in Indonesia is to serve as a means for the government to recoup state losses resulting from corrupt activities. The money laundering crime law aims to confiscate the assets of corruption perpetrators who have harmed the state. This law is used to charge individuals who are involved in corruption and also violate criminal acts. Illicit financial activity involving the concealment of the origins of illegally obtained funds.

Legal Theory of Justice

"The words most often used by jurists when praising or criticizing the law or its implementation are the words 'just' and 'unjust,' and they often write as if the ideas of justice and morality are two things that live side by side." Talking about justice certainly cannot be separated from the contribution of the thoughts of great philosophers such as Plato, Aristotle, John Rawls, and Gustav Radbruch to the development of legal science. Plato is famous for his thoughts on justice, namely law as a means of realizing justice. "So it can be said that law in Plato's theory is an instrument for bringing justice amid situations of injustice." Plato's view departed from the situation of the polis state that existed at that time. Where, at that time, the polis state was controlled by uneducated people, so according to Plato, if justice is to be realized, power must be held by aristocrats or philosophers.

In more real terms, Plato formulated his theory of law as follows:

1. Law is the best order to deal with a world of phenomena full of situations of injustice;
2. Legal rules must be collected in one book, so that legal confusion does not arise;
3. Every law must be preceded by a preamble about the motive and purpose of the law;
4. The task of the law is to guide citizens (through laws) to a pious and perfect life;
5. People who violate the law must be punished. But the punishment was not for revenge. Because, violation is a human intellectual disease due to stupidity.

Ariestotle's contribution to legal thought was about justice. Aristotle divided justice into two, namely:

1. Distributive justice (giving a share);
   Distributive Justice (giving a share) Regulates the distribution of goods and rewards to each person according to their position in

society, and requires equal treatment for those in the same position according to the law.

2. Corrective justice (making improvements)
   Corrective justice (providing improvements) or remedial (providing treatment), is primarily a measure of the technical principles that govern administration rather than the legal implementation of laws. In regulating legal relations, it is necessary to find general measures to deal with the consequences of actions, regardless of who the person is and their intentions can only be assessed according to an objective measure.

The term justice generally connotes the determination of the law or the king's obligations. However, justice in Islamic law covers various aspects. The principle of justice when interpreted as a principle of modernization, according to az-zuhaili, is that Allah's commands are not intended because of their essence, because Allah does not benefit from obedience nor does he suffer harm from human immoral acts.

In general, lay people and legal practitioners certainly understand the legal principle which states that there is no punishment without error, meaning that a person cannot be punished without having committed a mistake. Apart from that, there is another principle which states that a person cannot be punished before there is a legal regulation that regulates him or what is better known as "nullum delictum nulla poena sine prevea lege poenali", which can be copied into Indonesian word for word with "no offense, no there is a crime without a criminal provision that precedes it." "Confirmation of the application of the principle of no crime without fault (no crime without fault is a fundamental principle in holding the creator accountable for committing a criminal act). This is a further confirmation of human rights in the form of the presumption of innocence."

Regarding the criminal offense of money laundering in this study, it is essential to have a comprehensive understanding of the legal theory employed as an analytical instrument to identify an effective solution that can mitigate potential issues that may result from the implementation of a legal principle. Justice can only be comprehended when it is regarded as a state that is meant to be achieved by legal means. Striving for justice in the legal system is an ongoing and time-consuming endeavor. This endeavor is frequently controlled by factions contending within the overall structure of the political system to bring it into reality. According to John Stuart Mill, justice refers to laws that safeguard claims to uphold promises and ensure fair application.

The idea of justice has spawned numerous legal scholars who have exerted a significant impact on the advancement of legal research. From Socrates to Francois Geny, Natural Law ideas continue to uphold fairness as the pinnacle of law. The primary focus of Natural Law Theory is the pursuit of justice. Radbruch considers Sein and Sollen, which refer to 'being' and 'ought', as two complementary aspects of the same concept. The concept of Radbruch's theory of law and justice can be summarized as follows: 'Matter' constitutes the substance of law, while 'form' serves as a safeguard for this substance. The essence of justice is the fundamental substance that should comprise the content

of legal regulations. Legal rules serve as a mechanism to safeguard the integrity of justice. Radbruch posits that law, in its role as the carrier of justice, serves as a gauge for assessing the equity or inequity of a legal system. Furthermore, the value of justice serves as the foundation for the establishment of law. Justice possesses both normative and constitutive attributes within the realm of law. It is normative because it serves as a fundamental requirement that forms the basis for all respectable laws.

According to Radbruch, the law inherently includes the enduring need for justice and legal certainty. Finality inherently incorporates reason due to the objective of justice, which is to promote positive moral principles for humanity, particularly as an ethical component of the legal system. Justice is a subjective term that varies from person to person. What may be considered fair for one individual may not be fair for another. When someone claims to be administering justice, it is important that their actions align with the principles of public order and the acknowledged standards of justice. Of all these issues, the most notable one pertains to the concept of justice in respect to the law. It is evident that the law, or legal regulations, should be equitable, but in reality, this is frequently not the case. The unjust nature of the law is undeniable. In the Anglo-Saxon legal system, "the rule of law" takes precedence, and it is imperative to adhere to it, regardless of its fairness. This mindset aligns with the principles of empirical philosophical traditions. According to this philosophy, law, whether codified or not, refers to the rules established by a nation throughout time, which have resulted in specific legislation and judicial practices.

The inherent character of law necessitates its alignment with morality, hence rendering an immoral societal structure incompatible with a legal framework, under the assumption of an absolute moral code that holds universal validity. Morals encompass all assessments, evaluations, disposition, conduct, consciousness, pertaining to notions of goodness and badness, or correctness and incorrectness, derived from overarching principles that are employed according to human knowledge. In order to attain justice, it is necessary to have a tool that can effectively enforce the principles of justice as intended by the law, and to fulfill the objective for which the law was created.

An effective legal system should provide more than simply procedural fairness. An effective legislation must possess both competence and fairness. It should be capable of acknowledging the demands of the public and dedicated to achieving substantial justice. When applying the law, it is essential that there is a genuine intention, as the law may only be considered a valid rule if it is enforced by a competent judge through an intentional action.

The views regarding justice expressed in various ideas by philosophers must of course become a basis for the creation of law. Because talking about justice will never end, it will always leave gaps that must be corrected by legal thinkers. "Justice on one side will become injustice on the other side," Summum ius summa iniora which if translated freely means the highest justice is the highest injustice." As an observer of justice, Radbruch recognizes the existence of natural law that overcomes positive law, namely:

1. Every individual must be treated according to justice before a court;

2. Recognition and respect for human rights which must not be violated;
3. There must be a balance between offense and punishment.

If you pay attention to the thoughts of previous philosophers which are summarized in the theory of justice mentioned above. So, the essence of the theory presented is about how to place justice in the law. This can be seen from what Radbruch said, namely "The value of justice is the 'material' that must be the content of legal rules. Meanwhile, the rule of law is a 'form' that must protect the value of justice." "Law is the external manifestation of justice and justice is the internal authenticity and essence of the spirit of legal manifestation. So the supremacy of law is the supremacy of justice and vice versa, both are commutative."

Article 69 of Law no. 8 of 2010

Article 69 of Law no. 8 of 2010, which pertains to the prevention and eradication of money laundering, specifies the following: "To conduct investigations, prosecutions, and court examinations related to the offense of money laundering, it is not imperative to establish the underlying crime beforehand."

Article 69 of Law no. 8 of 2010 establishes the provisions that serve as the starting point for investigations, prosecutions, and court exams related to money laundering offenses. Since the enactment of Law no. 8 of 2010, the requirements outlined in Article 69 have facilitated the investigation, prosecution, and judicial examination of several suspected instances of money laundering. Indeed, numerous cases have been adjudicated by courts and have acquired binding legal authority. Refer to the money laundering criminal case involving Akil Mochtar, Ratu Atut, Tubagus Chaeri Wardana, and Indra Kenz.
Article 69 of Law no. 8 of 2010 serves as a means to initiate investigations, prosecutions, and court examinations related to money laundering offenses. This provision also creates a loophole, or perhaps a significant vulnerability, that can expose errors made by the state in law enforcement. The requirements in Article 69 create a gap or hole in legal certainty on the predicate offense that took place. What if the predicate criminal act, which served as the basis for conducting investigations, prosecutions, and court examinations, was ultimately found to be unproven. The provisions of Article 69 in Law no. 8 of 2010 immediately conflict with the provisions in Article 2 paragraph (1) of the same law.

According to Article 2, paragraph (1) of Law no. 8 of 2010, the term "proceeds of criminal acts" refers to assets that have been acquired as a result of engaging in criminal activities. If we analyze the sentence that mentions "Results" within the context of the article's provisions. When analyzing what is referred to as a "result," it is important to consider it within the framework of established laws. A result signifies something that is produced, generated, or brought about via exertion, mental processes, cultivation of crops, cultivation of rice fields, cultivation of forest areas, etc. It can also refer to income, consequence, or outcome.

According to the definition provided in the extensive Indonesian dictionary, it may be inferred that the term "result" signifies the completion of an activity or occurrence. If a business or activity is unfinished, it cannot be considered a "result". In cases involving illegal activities, it is necessary for assets obtained from such activities to be officially proclaimed as such through a court ruling that has a lasting legal effect. The court is the sole institution with the authority to determine whether an act constitutes a criminal offense or not. According to the author's study, there is a discrepancy between article 69 and article 2 paragraph (1) of Law no. 8 of 2010 about the Prevention and Eradication of Money Laundering.

CONCLUSIONS AND RECOMMENDATIONS

According to the information provided by the author in the comments section of this article. Therefore, it can be inferred that the government's efforts to combat money laundering do not now align with a legal framework that embodies a notion of fairness. If the government's criminal law policy against money laundering is founded on principles of fairness, it is imperative to delete or eliminate Article 69 of Law no. 8 of 2010. There are solely two methods to eliminate the provisions of this legislation. One approach is to conduct a judicial review at the Constitutional Court. The second proposal entails the government enacting new legislation to address the issue of money laundering.

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