

The Urgency of Implementing Asset Confiscation in Corruption and Money Laundering for Law Enforcement in Indonesia

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ABSTRACT

This study's primary goal is to outline the role of the Indonesian National Police in combating the widespread violations of the Money Laundering Criminal Act by examining the Central Java Regional Police Department's investigations and examining the variables that affect how those investigations are carried out. Based on the study's goal and problem, this is descriptive research. Utilizing qualitative research kinds and sociological juridical research methodologies, the investigation was analyzed. According to Article 74 of the Law of Money Laundering, the research highlighted that money laundering investigations are conducted efficiently and promptly. This is achieved via the implementation of systematic work management, which is necessary to promote efficient and effective work in order to handle a case more swiftly and measurably. The purpose is to make it easier for investigators to look into riches obtained via illegal activity, which is inextricably linked to gathering evidentiary tools for the investigation of all 183 Jo 184 illegal Procedure Code and article 73 Law on Criminal Procedure. 2) Legal considerations, legal action, legal reasoning, or facilities that assist law enforcement and community members are reasons that inspire the investigator to look into illicit money laundering.

INTRODUCTION

Recently, money laundering has become a global issue and a problem. According to a general definition, money laundering is the act of turning significant crimes like gambling, smuggling, corruption, and drug use into clean riches by hiding the source of the money.

Indonesia is among the numerous nations that struggle to stop money laundering. Even Indonesia has been implementing an anti-money laundering regime approach since April 17, 2002, when it ratified Law Number 15 of 2002 about money laundering criminal crime. This law was later revised by Law Number 25 of 2003 (Money Laundering Criminal Offenses of Law) and again changed by Law Number 8 of 2010 about Prevention and Eradication of Money Laundering Crimes. However, Indonesia is still listed among the major Asia Pacific money laundering nations in the International Narcotics Control Strategy Report (INCSR), which was released in March 2003 by the Bureau for International Narcotics and Law Enforcement Affairs, U.S. Department of State.

A free foreign exchange policy that permits anybody to have an overseas exchange and use it for a variety of purposes without having to provide it to an Indonesian bank is one of the elements contributing to the rise in money laundering criminal charges in Indonesia, according to several reports and publications. In addition, the demands of globalization, particularly the global developments in the financial services sector as a result of the liberalization process, have made it possible for criminals to enter open financial markets due to the lack of professional law enforcement officials and the weakness of law enforcement. Technological developments in information systems, particularly the internet, enable organized crime and make transnational organized crime easier to carry out. (Arifin, 2018; Muhtada & Arifin, 2019).

Even though the money laundering legislation has already reduced the prohibitions of banking secrets, they are nevertheless frequently implemented rigidly. Due in large part to the financial services industry's lack of implementation of the know your customers (KYC) concept, bank clients may choose to adopt an anonymous or pseudonym. (Arifin, 2018; Wibowo, 2018).

It is possible to engage in money laundering through layering, which makes it difficult for law enforcement to identify instances of money laundering. In this instance, the funds that were deposited in one bank are moved to another, both domestically and internationally. Law enforcement and legal laws pertaining to the secrecy of the connection between the accountant and his client, as well as between the lawyer and his client, are no longer able to track the transfer because it was carried out several times.

According to Yenti Garnasih, bank secrecy and verification are the two main issues with the execution of this anti-money laundering regulation. Customers are protected by the bank confidentiality legislation and have the right to privacy when it comes to bank confidentiality. According to the element of proof, money laundering is a double offense rather than a single one. It is necessary to demonstrate both the illegality of the money and the money laundering (follow-up crime) in order to demand an act of money laundering. In

other words, without further supporting factors, the Money Laundering Crime cannot be enforced.

THEORETICAL REVIEW

The function of theory in this dissertation research is to provide guidance and explain the observed symptoms.

The Applied Theory used in this study uses three theories, namely the Theory of Certainty, Protection and Justice. The Theory of Certainty is the legal certainty of certain (conditions), provisions or provisions. Legal certainty is a question that can only be answered normatively.

METHODOLOGY

The Regional Police Department of Central Java, Indonesia (POLDA Jateng) was the subject of empirical legal study. The study looks at how the Central Javan Regional Police Department handles money laundering cases. The following are the issues with this study:

1. How is the Central Java Police Regional Money Laundering Crime Investigation Implemented to Prevent Central Java Money Laundering Crime?
2. What influenced the investigator's decision to look into a money laundering crime?

RESULTS AND DISCUSSION

Central Java Regional Police Investigate Money Laundering to Stop It in the Central Java Region

As per "the principle of fair and quick, simple, low cost and free, honest and not in favor of applying the provisions of the law in all areas of justice," the remaining investigators believe they are more competent and valuable in their line of work. Law Number 8 of 2011's Investigation of Money Laundering Crime (TPPU) pertains to the Prevention and Eradication of Money Laundering Crime and is governed by Chapter VIII laws. A description of Article 73 The term "criminal investigations" refers to the work of the Ministry of Corruption (KPK), the Ministry of Justice and Directorate of Law Republic Indonesia, the Legislation and Authorities in the Ministry of Law Republic Indonesia, and the Directorate General of the Republic Indonesia. The IPDA states that the Central Java Regional Police's investigators' job is to handle money laundering cases. In his capacity as Panit I of Unit 2 of Subdit 4 of Ditreskrimsus of the Central Java Regional Police, Arif Setyawan receives public complaints regarding the existence of money laundering crimes, receives reports from the Central Financial Reporting and Analysis Center (PPATK), and conducts investigations into money laundering crimes in accordance with criminal investigations of misconduct where evidence of commencement is found. Enough criminal acts of money laundering when conducting investigations of criminal acts according to their authority. Whereas Article 75 is: When an investigator discovers evidence of a money laundering crime that is sufficient to notify the original criminal act, the investigator notifies the original criminal act and combines the investigation of criminal laundering with the investigation of an unprecedented criminal action.

The general explanation of Law Number 8 of 2010 serves as the foundation for these views and arguments. It states that as the law developed, the act of money laundering became more complex, expanded beyond the borders of state jurisdiction, employed a wider range of methods, made use of the financial system, and increased the number of financial institutions. PPTTPU Article 69 UU:

It is not necessary to demonstrate that there is more before taking legal action in order to conduct investigations, prosecutions, and inspections in the sphere of justice for acts of laundering. The evidence supporting the initiation of adequate money laundering crime cases and the genesis of money laundering are highlighted in Article 75. Where may the Investigation Procedure yield adequate evidence?

According to the findings of the most recent inquiry into the crime of money laundering, there were six cases, although only three of those cases included money laundering. Therefore, only three of the six TPPU instances that PPATK reported met the requirements of the TPPU article to be sent to the Public Prosecutor. According to IPDA Arif Setyawan, Unit 2 Sub Directorate of Ditreskrimsus Central Java Police, three of the other examples do not qualify as money laundering, but they may be divided into three cases that meet the requirements and provide proof. The investigator shall safeguard reporters and witnesses in accordance with the provisions of Articles 83 and 86 of the Law Money Laundering Crime. This problem brought to light the ambiguity surrounding the meaning of bank secrecy. On November 10, 1998, Law No. 10/1998 was passed, amending Law Number 7 of 1992. However, the phrases "financial condition" and "lack of clarity" remain unclear. According to the definition of bank secrecy in Law No. 10 of 1999 concerning the Amendment of Money in Law No. 7 of 1992 concerning Banking, the bank's confidentiality includes all information "with regard to" and whether or not all information in the case of deposits and savings.

Elements Influencing the Money Laundering Investigator

Ipda Arif Setiawan, Panit I Unit 2 Subdit 4 Ditreskrimsus Central Java Regional Police, stated in an interview that the following factors influence investigators looking into money laundering:

1. Law
2. Law enforcement
3. Establishments that aid police enforcement
4. The community

Legal restrictions, which are outlined in article 72 of the money laundering statute but take a long time to be approved by authorities like a bank, are one of the challenges that hinder the investigation of money laundering crimes. In addition, the lender can really transfer funds from another bank's deposit only in a brief amount of time. Expertly implementing the regulations controlling bank secrecy at the investigative level has not yet been accomplished.

This is consistent with the opinion of Husein (2004), who argues that despite Law No. 8 of 2012's assertion that a "general interest" can serve as justification for opening up or breaking through bank secrecy provisions, there is a "general interest" that can serve as justification for doing so in the field, as well as for the advancement and relative efficacy of its implementation. Taxpayers, debtors (guarantors), and suspects/defendants in the computation of minutes may only instantly move and account for other parties, such as inter people or their families, due to the ongoing development of bank services.

The crime of money laundering has a significant effect on the nation's security and economic stability. In addition to causing financial harm to the nation, this crime erodes the integrity and reputation of the financial system. Money laundering is the process of making unlawfully obtained funds look legitimate by hiding their source and then investing or saving them. Because it includes the flow of illicit cash, which may harm financial markets and produce economic instability, this crime has a detrimental effect on economic stability.

By means of the Proceeds of Crime Act 2002, Australia has likewise adopted a comparable strategy. Even in the absence of a criminal conviction, this statute permits the seizure of assets thought to be obtained by illicit activity. The goal of this technique is to increase law enforcement's efficacy while obstructing the flow of illegal funds.

The Proceeds of Crime Act of 2002's asset confiscation procedure consists of the following steps: Investigation: Investigators find assets thought to be the profits of crime and gather proof. This calls for cooperation between intelligence, financial, and law enforcement organizations. Application submission: To take assets, the authorities file an application with the court. This application has to be supported by substantial and convincing evidence. Hearing in court: After reviewing the application, the judge determines whether the asset may be taken. The rights of those parties who might be interested in the asset are also taken into account by the court. Seizure: The assets are taken by the government if the petition is granted by the court. This can include money, real estate, cars, and other possessions. Asset management: Careful attention is paid to seized assets. The assets may be sold by the authorities, or the money raised from the sale may be used for certain initiatives like preventing crime. Return of assets: The court may order the return of an asset if the owner can demonstrate that it was not obtained through criminal activity.

Indonesia has implemented a number of laws in an attempt to combat money laundering, including: The Prevention and Eradication of Money Laundering Crimes Law Number 8 of 2010: This is the primary statute that governs Indonesia's efforts to prevent and eradicate money laundering offenses. This law serves as the primary legal foundation for all money laundering-related activities and is highly pertinent. Regarding the Criminal Procedure Law (KUHAP), Law Number 8 of 1981: Investigation, prosecution, and trial are among the general criminal procedural processes governed by this statute. The KUHAP offers a legal framework for dealing with all criminal crimes, including money laundering, therefore even if it does not specifically address money laundering, it is nevertheless important. legislation Number 23 of 1999 of the

Republic of Indonesia pertaining to Bank Indonesia: This legislation governs the powers and operations of Bank Indonesia. Bank Indonesia has a responsibility in overseeing the financial system, which may involve identifying and reporting questionable activities that may be connected to money laundering, even if it doesn't officially address the topic. Regulations governing the foreign exchange rate system and foreign exchange trade are outlined in Law Number 24 of 1999. This is also indirectly significant as money laundering offenses may be detected and prevented with the aid of regulations and oversight of foreign exchange movements and transactions. Law of the Republic of Indonesia Number 20 of 2001 amends Law of the Republic of Indonesia Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption: Extremely pertinent, as money laundering and criminal corruption are frequently tightly linked. The proceeds of corruption are often laundered to hide their illegal origins. Regarding Mutual Assistance in Criminal Matters, Law Number 1 of 2006: It is pertinent because it offers a framework for global law enforcement collaboration, particularly in situations involving money laundering, which frequently entails transnational crimes. Regarding the Ratification of the 1999 International Convention on the Suppression of the Financing of Terrorism, Law Number 6 of 2006: Despite being mainly focused on terrorism finance, there is a strong connection with Law Number 7 of 2006 concerning Ratification of the 2003 UN Convention Against Corruption: Relevant since this agreement addresses money laundering associated with the proceeds of corruption and contains measures to prevent and remove corruption. Law Number 13 of 2006 pertaining to Victims' and Witnesses' Protection: indirectly significant as it shields victims and witnesses who may help identify money laundering offenses.

The policy of applying the reverse burden of evidence legislation, which states that the accused must demonstrate that the assets he holds are unrelated to illegal activity, complements the many restrictions mentioned above.

The reverse burden of proof is specifically regulated for the confiscation of property that is highly suspected of coming from the proceeds of corruption by Article 38B of Republic of Indonesia Law No. 31 of 1999 in conjunction with Republic of Indonesia Law No. 20 of 2001. The state can fight corruption and recover damaged assets with the help of this system, but it must be applied with sufficient respect for the values of justice and human rights.

Well-known instances in Indonesia, such the corruption case of Nazaruddin. The judges' panel, which included Ibnu Basuki Wibowo, Sinung Hermawan, Didik Purnomo, Ugo, and Sofialdi, decided to seize Nazaruddin's assets, which were allegedly implicated in money laundering, for around Rp 600,000,000,000. With the exception of many properties that Nazar allegedly acquired before to joining the House of Representatives, the judge said.

The Supersemar Foundation money laundering case comes next. It has been established that the Supersemar Foundation misappropriated state monies intended for scholarships, which were instead distributed to seven businesses and the Kosgoro business group. The state was able to take around Rp 4,400,000,000,000, or four and a half trillion rupiah, in total. Bank accounts, cars, and other items are examples of these assets.

Both examples demonstrate how the reverse burden of evidence rule can be used to seize assets thought to be the result of criminal activity. The state lost Rp 7,400,000,000,000.- (seven point four trillion rupiah) in the Bank Century case, demonstrating that there are instances in which the execution of this legislation is ineffectual. The state's losses, however, were not equal to the assets that were confiscated. The sole amount of Bank Century's assets seized was Rp 86,000,000,000.- (eighty-six billion rupiah). This case turned into a never-ending tale.

Furthermore, corruption in the law enforcement system itself frequently contributes to difficulties in applying and upholding the law. Another example is the absence of support from the legal system and procedural barriers in small-scale asset seizure cases involving local politicians or businesspeople.

In this context, a number of crimes, including bribery, corruption, illegal logging, narcotic and psychotropic drug use, and money laundering, are accused of producing riches unlawfully. Accordingly, it is not required to disclose assets suspected of being the proceeds of crime, as stated in the explanation of Article 3 of Republic of Indonesia Law No. 15 of 2002 as modified by Law No. 25 of 2003 about the Crime of Money Laundering.

To seize assets stemming from corruption-related money laundering, the prosecutor's office uses three rules. The following regulations are applicable to the Attorney General's Office of the Republic of Indonesia: Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering (UU TPPU), Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption (UU Tipikor), and Regulation of the Indonesian Attorney General's Office Number 7 of 2020 concerning Guidelines for Asset Recovery. A long-standing crime, money laundering has grown increasingly intricate and challenging for law enforcement to investigate.

Although the suspect must provide proof of the assets, it is crucial to keep in mind that the process of confiscating assets must be conducted in a clear and transparent legal framework, while also adhering to the principles of justice and human rights as outlined in Pancasila. This is so that its ability to promote welfare and prosperity may be fulfilled without compromising Pancasila's core values.

In order to do this, a thorough investigation will be carried out through the dissertation "The Urgency of Implementing Asset Confiscation in Enforcing the Law on Corruption and Money Laundering." It is anticipated that this research would improve knowledge and enable successful application in the areas of money laundering and corruption.

The purpose of theory in this literature is to offer direction and elucidate the symptoms that have been seen. Three (three) theoretical components serve to guide the investigation, specifically: explains how different components of a theory relate to one another. uses a deductive approach, which begins with something abstract and universal and ends with something concrete and specific. gives a description of the symptoms it mentions.

The study's theoretical framework has to be explicitly focused on elucidating the necessity of asset seizure in order to enforce the laws against corruption and money laundering. The Pancasila Law theory, a legal theory with

Pancasila ideals as its ontological, epistemological, and even axiological underpinning, serves as the primary theory or grand theory employed in this investigation. Legal principles must serve as the foundation for law as a product (legal structure). Among Pancasila's legal tenets are:

According to the concept of divinity, no legal product should be in conflict with, deny, or be antagonistic to religion or the belief in God Almighty..

1. Human dignity and citizen protection are required under the principle of humanity.
2. The idea of unity and nationality, according to which Indonesian law must recognize the country's variety and cultural diversity in order to bring the country's citizens together.
3. Democracy's foundational tenet is that authority must submit to the law, not the other way around. Deliberation, intelligence, and wisdom must be the cornerstones of the democratic system.
4. The social justice concept, which states that every person is entitled to the same legal protections and responsibilities.

Applying Pancasila values wisely and in line with Indonesia's contemporary circumstances is the connection between the issue formulation in this research and its link to the philosophy of Pancasila Law. In order for it to determine if money laundering has occurred by taking into account the Pancasila principles.

Critical Legal Theory is the intermediate theory applied in this investigation. The conflict paradigm and the consensus paradigm are two opposing paradigms that are attempted to be integrated, according to Roberto M. Unger. Marxist critique of liberal law, which is seen as serving exclusively the capitalist system, is precisely carried on by this eclectic approach that combines neo-Marxist and phenomenological structuralist viewpoints. In essence, the legacy of CLS thinking attempts to package a theory that seeks to challenge conventional wisdom, particularly with regard to norms and standards that are already ingrained in current legal theory and practice and are frequently taken for granted, specifically legal norms and standards derived from the liberal legal justice teachings.

According to an interview with Ipda Arif Setiawan, Panit I Unit 2 Subdit 4 Ditreskrimsus Central Java Regional Police, the following initiatives are being taken to address the challenges that investigators have while looking into money laundering cases:

Against the Legal Barriers

- a. Bank The agreement is reached by gathering investigators, banks, and consumers in one location while restating the judiciary's most significant rulings regarding the presence of bank secrecy restrictions.
- b. The duty to safeguard witnesses and reporters.

First, reporting money laundering crimes as an initial finding of criminal investigations is one method to address legal issues pertaining to the duty to

safeguard reporters and witnesses in the investigation of money laundering crimes. Second, the project was not completed in a way that would have allowed for instant publication, and third, for security and safety concerns, the taxation was placed at National Police Headquarters under police monitoring.

Investigators' perceptions of money laundering crimes were still not entirely accurate.

In the meanwhile, it is necessary to overcome the legal obstacles that are connected to the way investigators see the money laundering crime. The PPATK's information is still incomplete. Investigating how to work with PPATK to present the testimonies through PPATK mediation so that they are not flawless and how to work with PPATK to give the proofs through PPATK mediation so that they are not incomplete are two ways to get around the legal limitations that relate to conflict with the PPATK mediation form. Then, in order to ascertain who may be accused of seeing and witnessing, the investigators examined them through interviews before implementing involuntary treatments.

Non-Juridical Constraints

The Reporter Isn't Always a Victim

They have been carried out by giving the complainant assurances, that is, by engaging in illegal activities that are alleged to be crimes, in order to get over the non-legal problems associated with reporters' involvement in criminal acts of laundering that have not yet been shown to be victims of crime.

Research on human resources' capacity to advance humanity is scarce.

- a. They are carried out by enhancing human resources' capacity in order to get over the limitations imposed by non-legal specialists on the capacity of human investigators.
- b. Submitting inquiries to attend a seminar on the crime of money laundering.
- c. Deploying detectives to monitor the leisure laundering special education probe.
- d. Sending students to the legal market program to follow up on their study plan.
- e. Deploy investigators to get training in other nations, like the US Association.

CONCLUSIONS AND RECOMMENDATIONS

Based on the idea that Article 74 of the Law on Criminal Procedure Code in the Central Java region can carry out effective investigations in investigating the law in conducting Money Laundering Crime, the Central Java Regional Police's implementation of criminal investigations on money laundering in the context of addressing the Criminal Acts of the TPPU in the Central Java region can run the effectiveness of investigating the law in investigating the Money Laundering Crime. wealth resulting from criminal acts, since the process of tracking down assets is inextricably linked to the process of gathering evidence for an inquiry in compliance with Criminal Procedure Code Articles 183 and 184 as well as Article 73 on the Law on Legal Evidence. Nonetheless, there are still

legal standards (norms) governing the investigator's authority concerning the application of Articles 69, 74, and 75 of Law No. 8 of 2010, which have several possible interpretations, including the fact that investigators are not required to provide proof of their initial criminal acts.

When conducting criminal investigations into financial laundering, investigators are influenced by a number of elements, including community considerations, law enforcement factors, facility factors, or facilities that assist law enforcement. The following are some of the challenges that come up when investigating money laundering crimes:

1. Legal barriers
2. Bank secrecy provisions
3. It is believed that TPPU research is still in its infancy
4. PPATK data is insufficient
5. Non-judicial barriers, including:
 - a) The reporter has not been harmed, but
 - b) HRM's investigative and operational capacity is constrained.
6. The following details pertain to the extent of managing the investigators' financial issues in the money laundering case:
7. Opposing legalistic regulation
8. By putting investigators, banks, and consumers together in one location, the bank secrecy laws are implemented.
9. Reporting money laundering and police direct laundering as a collection is how the duty to protect reporters and witnesses is fulfilled, and protection is either done in the same way or at Police Headquarters under the supervision and the care of the police.

Investigations into MPTP have not always been well received, as evidenced by the Special Guidance on Money Laundering Crime and the socialization of investigators to Law No. 8 of 2010 addressing TPPU.

1. Although PPATK's information is incomplete, it is implemented by coordinating with them to provide witnesses through PPATK mediation, ensuring that they feel constrained with regard to the police.
2. Opposing the non-legalistic control
3. Reporting has not yet identified any victims; this is done by giving the reporter assurances that the reported planted acts are a direct result of the policy's discovery.
4. Students' limited human resource capability is addressed by enhancing human resources' capacity to research through seminars, graduate work, or training abroad, such as in the US.

According to the author, the efficient execution of money laundering investigations and their integration into the legal system is a simple, quick, and affordable solution. In each region or province, the government must set up an organization that aids in the investigation of money laundering crimes, such as the PPATP. By include provisions that govern authority and regulations, such as implicit regulation, authority, and regulation, the Money Laundering Act's ambiguous responsibilities and authority are avoided. The planned authority can

be implemented more successfully by other authorities. Increasing the number of investigators with the necessary qualifications in each institution or agency that has been granted the authority to conduct money laundering investigations and stepping up training and education initiatives are essential for optimizing TPPU investigations.

FURTHER STUDY

To provide deeper insights and wider applications, more study is invited to explore this area further, addressing any potential limits and broadening the scope of analysis.

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