



## Relationship Between Money Laundering Crime and Corruption Crime as Originate Crime From the Criminal Perspective

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### ABSTRACT

The purpose of this research is to understand and analyze an act that can be categorized as a money laundering crime complete with all its elements. Then also understand and analyze the relationship between money laundering crimes and corruption crimes. The research method used is the normative legal research method through literature study with the data source, namely secondary data. The research results show that the crime of money laundering cannot be separated from the original act, namely the crime of corruption. In processing a money laundering crime, it is not necessary to prove the predicate crime first, because the object of the money laundering crime is the assets resulting from the predicate crime

## INTRODUCTION

Talking about crime certainly cannot be avoided in society (human) life. The community is the party who is very vulnerable to becoming victims of a crime. The emergence of crime in community life has raised concerns for the community. Why not, crimes that occur can threaten life, property and honor. For this reason, under any circumstances, people want no crime of any kind to occur in their lives. The community then works together to protect their environment from all kinds of crime. The government has also issued various regulations so that people do not act as they please in their lives. When a society or individual commits a crime, there are legal consequences that they will receive, namely the state will impose sanctions on the perpetrator. So the sanctions given are the legal consequences of the actions of the perpetrator of a crime.

If we talk about legal consequences, then the legal consequences themselves are all the consequences that occur from all legal actions carried out by legal subjects against legal objects or other consequences caused by certain events which by the law in question itself have been determined or considered as a legal consequence. Or in other words, legal consequences are the consequences caused by legal events. (H. Muchsin, 2006: 31).

In society, a person committing a crime can originate from within the perpetrator himself or from outside the perpetrator. From within the perpetrator himself, it could be due to uncontrolled emotional levels, heartache and low education. Meanwhile, externally, it could be due to economic, environmental factors and could also be due to the influence of developments in existing information technology.

Crime basically grows and develops in various forms and modes. This is because crime originates from the values in people's lives. There is no crime without society. Where there is society, crime sometimes almost always follows it. Whatever the form and mode of crime that occurs, what is certain is that crime is human behavior or actions that deviate from applicable norms or laws. Crimes that occur in society, whatever their form or type, will be given legal sanctions which are carried out in a system, in this case called the criminal justice system. This criminal justice system is a system that carries out procedural processes in criminal law to determine and determine whether a suspect who is the perpetrator of a criminal act is guilty or not guilty.

To determine whether someone is guilty, that person is processed through a system known as the Indonesian criminal justice system. Therefore, this system becomes an instrument in which there are law enforcement elements that will tackle crime. In terms of controlling crime, of course this system tries to overcome it so that it is in the correct legal corridor. This means that every perpetrator of a crime is processed according to the correct law and is not resolved through other channels outside existing legal provisions. Crime handling must be in accordance with existing laws and be fair.

Therefore, for this system to be considered successful if the majority of public reports and complaints from crime victims can be resolved by bringing the perpetrators to court and being found guilty and given punishment. (Petrus Irwan Panjaitan & Chairijah, 2009: 55).

Crime is a problem that is closely related to the problem of criminalization which is defined as the process of determining a person's actions that were not previously criminal acts to become criminal acts. This determination process is a matter of formulating actions that are outside of a person. (Rasyid Ariman and Fahmi Raghil, 2016: 57). An act is considered a crime or unlawful act whose if the elements of an offense have been fulfilled. The perpetrators can be held accountable. The existing elements are the essence of the crime itself or the act committed which is preceded by the perpetrator's inner attitude at the time of committing the act. Perpetrators of crimes will be given sanctions according to what they have done with sorrow and suffering. The imposition of a criminal sentence on a criminal causes him or herself to experience unpleasant conditions and conditions.

## LITERATURE REVIEW

The imposition of sorrow and suffering is a consequence of a criminal act committed by the perpetrator of the crime. Whether someone can be punished depends on the act they committed. Actions where there are criminal elements of the legal action. In an act that is committed, when the elements of the act are fulfilled, it becomes a crime as a human behavior either individually or in a group which is contrary to existing laws and regulations. Among the crimes committed by legal subjects is the crime of money laundering.

Legal subjects include humans who can be held criminally responsible for every crime they commit. In general, a crime is committed and the perpetrator can be punished if the crime meets the criminal elements. Both in the form of general crimes and special crimes, such as money laundering crimes. In this criminal act, assets are obtained from other criminal acts. So that parties with an interest in this case, for example law enforcement officials, will find it difficult to trace it. The perpetrator hid the origin of his wealth. So, as a legal subject who commits a criminal act, when discussing criminal responsibility there must first be a criminal act committed, namely the crime of money laundering. Therefore, criminal responsibility can be imposed on the perpetrator of a crime when he first commits a criminal act. Thus, discussing criminal responsibility must be preceded by an explanation of the criminal act by a perpetrator. Because a person cannot be held criminally responsible without first committing a criminal act. (Bima Gunatara et al, 2023:50).

If you look at the last few years, crimes involving money have emerged. Both in the world of banking and other fields. Even though money laundering is clearly an illegal activity that provides protection against illicit money. This crime aims to change the results of crimes such as narcotics, corruption, smuggling and other acts involving wealth. Even though it is reasonable to suspect and know that it is the result of a prohibited act, so here there is an intention to hide it as if the assets were legitimate.

In the event that the crime of laundering occurs, it is clear that this crime is different from crimes of a general nature as regulated in the Criminal Code as crimes of a general nature. General crimes are not always preceded by an initial crime. It is possible that the crime was committed spontaneously at that time, for

example because of the intention of the perpetrator. The law regulates the forms of crime that occur, both general and specific. Now it remains to be seen how the existing laws have the ability to punish them, of course this all depends on the law enforcement officials who implement these laws in accordance with their duties and authority.

According to Yenti Garnasih, in her paper entitled "Money Laundering Crime: In Theory and Practice", (paper at a seminar in the framework of the national deliberation and Mahupiki seminar, organized by Mahupiki in collaboration with several universities, September 2013). There is a close connection between the crime of money laundering and predicate offenses. This means that disclosing the criminal act of money laundering also means disclosing the original criminal act. (Yonatan Askandar Chandra and Siradj Okta, 2016: 155). Placing the criminal act of corruption as a predicate crime is a manifestation of the legislators' view that corruption is the nation's most pressing problem and has priority in handling it.

In the event that a crime of money laundering occurs, the government, in this case law enforcement officials, is certainly asked to be serious about eradicating it. Therefore, the crime of corruption as a predicate crime must be investigated. The problem facing the nation today is how to free the country from acts of corruption. For this reason, it is very urgent that it be handled in an effort to take action, prevent it and provide punishment.

Based on what the author has described above, in this research the author can then describe the main problems, namely; First, how can an act be categorized as a crime that fulfills the elements of a money laundering crime? Second, how is the crime of money laundering related to the crime of corruption?

## **METHODOLOGY**

The author in this research used a normative juridical research method which is descriptive analysis. The descriptive nature of analysis in this research is to describe and analyze the data that has been researched. The data source used is a data source in the form of secondary data obtained through literature study. Secondary data consists of primary, secondary and tertiary legal materials. After the materials are obtained and collected, data analysis is carried out to answer the problems in the research. Data analysis was carried out in a qualitative juridical manner using statutory and conceptual approaches.

## **RESULTS AND DISCUSSION**

### **Definition and Elements of the Crime of Money Laundering**

Indonesia is a legal state as confirmed in the Constitution of the Republic of Indonesia. As a state of law, of course the law must be made the commander-in-chief to achieve justice in society. Moreover, justice has become part of the objectives of law in addition to certainty and usefulness.

This means that law as a tool to achieve something that humans want also has a goal. There are two types of theories that discuss the meaning of law. The ethical theory introduced by Aristotle argues that law is solely to bring about justice, while the utility theory by Jeremy Bentham states that only in order will

everyone have the opportunity to realize the greatest amount of happiness. (Hans Kelsen, 2005: 53).

In order to achieve justice and happiness for society, law enforcement is the most important point to continue to be carried out and implemented by the state. All parties must comply with applicable laws without exception. Apart from that, in the context of law enforcement, the application of the law fairly, equally and regardless of social position and status is something that must be implemented by the state. When law enforcement is in line with community expectations, then the community has received protection from the state in the legal field.

In this case, the principle of equality before the law applies. The law must not look at a person's social status. The same law applies to everyone. Because fair law enforcement reflects the implementation of equality before the law in order to create legal certainty.

Legal certainty has two meanings, namely the matter of the law being able to be determined in concrete matters, the party seeking justice wants to know what the law is in specific matters, before he starts with the case. Then another meaning, namely legal certainty, means legal security. This means protection for parties against arbitrariness by judges. (Bachsan Mustafa, 2016: 19). Judges when trying a criminal case, for example the crime of money laundering, must of course try it in accordance with existing legal provisions. The perpetrators must of course be tried because they harm the existing financial system. If the perpetrator is proven, he will be punished according to the crime he committed.

Money laundering is the most dominant type of crime or criminal act carried out primarily through the financial system. (Iwan Kurniawan, 2014: 3). In the event that a money laundering crime occurs, the applicable law must be applied and given to the perpetrators regardless of who does it. Law enforcement for the crime of money laundering must be carried out in accordance with the money laundering law in force in Indonesia. In the event that a money laundering crime occurs, the actual concept of anti-money laundering is that the perpetrator and the proceeds of the crime can be traced through an investigation and then the results are confiscated by the state.

The money laundering crime law regulates the provision of punishment to perpetrators of money laundering crimes. Penalties for perpetrators of money laundering are categorized into several criminal acts that trigger the crime of money laundering.

Several criminal acts that trigger the crime of laundering as regulated in the Laundering Crime Law in Indonesia are corruption, bribery, narcotics, psychotropic substances, labor smuggling, immigrant smuggling, banking smuggling, capital market smuggling, insurance smuggling, , customs, excise, human trafficking, illegal arms trafficking, terrorism, kidnapping, theft, embezzlement, fraud, money counterfeiting, gambling, prostitution, taxation, forestry, environmental, maritime and fisheries, or other criminal acts that are threatened with a prison sentence of 4 (four) years or more. (Hibnu Nugroho, Budiyo, Pranoto: 2016: 2).

Punishment for perpetrators of money laundering crimes needs to be carried out firmly. Punishment is an action carried out by the state against legal subjects who commit an act that is contrary to applicable law. Punishment is the imposition of sanctions and the determination of sanctions as an effort to deter people who commit a crime and in the future will no longer repeat the same act or other evil acts.

According to Andi Hamzah, punishment aims to scare people so that they do not commit crimes, either by scaring many people (general preventive) or by scaring certain people who have already committed crimes so that in the future people will not commit crimes again. (Andi Hamzah, 1983: 26). In criminal justice, the state is the only one who has the authority to impose punishment, so that measures for the implementation of justice can be achieved with clear parameters and justice will not escape punishment. (Syaiful Bakhri, 2011: 154). Law, as the bearer of the value of justice, is a measure of whether a legal system is fair or unfair. In fact, the value of justice is the basis of law as law. (Ananda Lestari Putri Lubis, 2011: 43). In order for justice to be achieved, action against perpetrators of money laundering crimes must be carried out properly in accordance with existing legal provisions.

It is important that the punishment of perpetrators of money laundering crimes be carried out seriously and earnestly because money laundering activities have serious impacts. We must continue to be aware of the impact of this crime, because it can harm the country's economy. As one of the major crime groups, it is known in society. This crime describes efforts made by a person or legal entity to legalize dirty money obtained from the proceeds of crime.

Money laundering has a negative impact on economic development. (Vandana Ajay Kumar, 2012: 115). There is an impact of money laundering crimes on the stability of the economic system. This is because this crime is a multidimensional and transnational crime which often involves large amounts of money. On the other hand, this crime is organized, ultimately overcoming it is the responsibility of each country. Therefore, bilateral and multilateral cooperation is carried out. (Doni Adi Supriyo, Kaboel Suwardi, 2020: 137-138).

Money laundering criminals use various methods to hide the proceeds of their crimes and disguise their origins so that in the end it is difficult to track and trace them. Perpetrators freely use the proceeds of crime for various kinds of unlawful activities. In this way it becomes clear that the crime of money laundering aims to ensure that the proceeds of the crime are not known to other parties. This crime has had a negative effect on many communities, especially in the economic and business sectors. This activity utilizes financial institutions which can invest and transfer money from the proceeds of criminal acts.

The increase in money laundering crimes by utilizing the financial system to hide or obscure the origin of funds resulting from criminal acts will further have a negative impact on people's lives, especially in the economic and business sectors. (Iwan Kurniawan, 2014: 3). Apart from the impacts as mentioned above, another thing that is no less important is that the perpetrators of money laundering crimes try to hide or disguise their origins so that the assets resulting from their crimes are sometimes difficult for law enforcement officials to trace so

that they can be traced. freely use these assets for other activities that are halal or against the law. In the various modes carried out, the actual crime of money laundering is so that the money and property obtained from the proceeds of the crime are not known to other parties. The other party does not know that the money and property are the proceeds of a criminal act.

Money laundering criminals use various methods to hide the proceeds of their crimes and disguise their origins so that in the end it is difficult to track and trace them. Perpetrators freely use the proceeds of crime for various kinds of unlawful activities. In this way it becomes clear that the crime of money laundering aims to ensure that the proceeds of the crime are not known to other parties. This crime has had a negative effect on many communities, especially in the economic and business sectors. This activity utilizes financial institutions which can invest and transfer money from the proceeds of criminal acts. Therefore, this crime must be prevented and eradicated by giving appropriate punishment to the perpetrators. When the elements are fulfilled, and the examination process finds supporting facts that the perpetrator actually committed the crime, then the court must impose a sentence according to the existing provisions. There are elements of the perpetrator and the action and the consequences of the crime. One of these elements is mentioned regarding the existence of financial transactions with the aim of disguising the origin of the wealth from being haram as if it were legitimate. Once again, when the court examines and tries this money laundering crime case, of course it must be able to prove the existing elements.

The court is tasked with examining and adjudicating cases. Examining a case means finding valid and correct legal facts regarding the case that occurred. Correct legal facts are facts that can logically be accepted as true based on the law of correct thinking. Legitimate legal facts are facts whose validity can be legally accepted based on the law of evidence. (A. Mukti Arto, 2018: 140).

From what has been explained above, there are elements in the crime of money laundering that must be known, where in this case there is an objective element, namely placing, transferring, paying or spending, entrusting, donating, entrusting, taking abroad and other actions that should be suspected. stem from criminal acts. Meanwhile, the subjective element is seen from deliberate, conscious actions so that it is reasonable to suspect that a crime has been committed and has the intention of hiding and disguising the wealth.

### **The Relationship Between Corruption Crimes and Money Laundering Crimes**

Types of criminal acts that produce assets which are referred to as proceeds of criminal acts as intended in Article 2 paragraph (1) of Law no. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, which is known as a "predicate crime". Money laundering is an underlying crime of a predicate crime. "Predicate criminal acts will be the basis for whether a transaction can be charged under the anti-money laundering law." (Ivan Yustiavandana, Arman Nevi, Adiwarmarman, 2010: 54). According to Barda Nawawi Arif, "predicate crime or predicate offense are offenses that result in criminal proceedings or proceeds of crime which are then laundered." (Ivan Yustiavandana, Arman Nevi, Adiwarmarman, 2010).

Referring to the article above, it becomes clear that corruption is actually the original crime of money laundering. Therefore, the priority of eradicating it is something that is very urgent to do. Don't let corruption continue to flourish in state life. Corruption is the cause of the destruction of people's lives. It is a crime that can cause suffering and trouble to the people continuously.

Corruption is something that is rotten, evil and destructive, immoral in nature. (Rodliyah and Salim, 2017: 27). Corruption actors have taken people's rights by force and inhumanely. The state money that was corrupted was actually intended for the benefit of building people's lives to be better and more prosperous. Therefore, once again corruption must be a continuous priority for the state to eradicate it.

Why is this a priority, because currently corruption is not just about meeting basic needs, but has developed into a life of luxury. (Monang Siahaan, 2020: 210). If acts of corruption are oriented towards obtaining a luxurious life, then this is something that worries the people. Because corrupt behavior has ignored people's rights in poverty alleviation, education and health. This means that the money that was corrupted could actually be used to help people who have difficulty getting access to education and health. If state money is not corrupted then the money can be allocated to people in need.

The issue of corruption is a state problem that urgently needs to be handled seriously, so that the crime of money laundering does not emerge later. This is very important to do, because the problem of corruption and money laundering has a negative impact on a nation's economy. A lot of state money is used for illegal activities and is detrimental to society. In fact, these funds can actually be used for the welfare of the people, for example in terms of overcoming education and health problems as well as poverty that always approach the people. In this way it becomes clear that this crime will have a broad impact on the foundations of people's lives. It threatens economic integrity.

The importance and influence of economic integrity on increasing prosperity has been understood by many parties. In line with the globalization process, the issue of economic integration has become an important and unavoidable element in the policy making process at both the national and international levels. (Sjamsul Arifin, et el, 2008: 24). In practice, the crime of money laundering was initially carried out only on money obtained from the trafficking of narcotics and similar drugs. However, "the crime of money laundering is necessary to be carried out on money obtained from other criminal sources" (Sutan Remy Sjahdeini, 2003: 8).

Meanwhile, corruption is a crime that continues to grow and develop in Indonesia. The crime of corruption is considered an extraordinary crime and destroys the foundations of life in society. Corruption can no longer be tolerated. Corruption has become deeply rooted and systematic and has even become a culture in this country. Corruption has taken people's money illegally and against the law. With the occurrence of various corruption cases, especially those occurring within the government, this has resulted in a decline in public trust in the existing government. This will then have implications for the decline in the authority of the government in the eyes of the people.



Even more importantly, corruption will divide the unity and integrity of the nation, because each element of the nation will be suspicious of each other if there are indications of irregularities in state finances. (Andi Hamzah, 2005: 43). According to Ronny Rahman Nitibaskara, the literal meaning of corruption is rottenness, ugliness, depravity, dishonesty, bribeability, immorality, deviation from purity and so on. (Ronny Rahman Nitibaskara, 2000: 26). Corruption crimes, which are extra ordinary crimes, have more complexity than conversional crimes or even other special crimes. (Ifrani, 2017: 323).

Corruption causes the economic system to weaken due to uncompetitive products and the accumulation of foreign debt burdens. (Ferry Agus Sianipar, 2018: 620). In the crime of money laundering, there is a theory which says that there is no money laundering without a core crime. (Yenti Ganarsih, 2013: 1). Based on this theory, the proof of these two crimes is something that is interconnected with one another. Problems arise in the prosecution process which turns out to be not simple, regarding whether both must be proven or whether it is sufficient to prove the crime of money laundering without first proving the original crime. (Yonatan Iskandar Chandra Siradj Okta, 2016: 157). Both must be proven, because the crime of money laundering is preceded by the crime of corruption. The proceeds from corruption crimes are usually not immediately used and spent, but are first hidden or disguised, this is done by storing them in the financial system so that when they are released they appear to be legitimate.

Whatever the mode, form and consequences of the money laundering crime, it is certain that this crime cannot and should not be allowed to develop and increase. Therefore, the state, in this case law enforcement officials, must be able to overcome this by giving the harshest punishment in accordance with the facts and evidence found in court examinations. Law enforcement officers must carry out law enforcement functions for the interests and welfare of the community in providing guarantees of justice to the community.

This is important considering that the function of law is as a tool for development and renewal of society, so law also acts as a tool to change society in a better direction. The current reality is that the majority of people do not trust the law, both towards law enforcement officials and judicial institutions, so that people tend to take the law into their own hands. This action is partly due to a lack of public trust in the guarantees of justice provided by law. (Henny Nuraeny and Tanti Kirana Utami, 2021: 9-10).

From the description above, once again it can be seen that the crime of money laundering is a crime that begins with the crime of corruption as a predicate crime. In the end, it can be understood that the crime of money laundering is unlikely to occur if there is no predicate crime. Because it is known that the object of the crime of money laundering is assets resulting from predicate crimes.

## CONCLUSIONS AND RECOMMENDATIONS

That an act can be called a money laundering crime if the elements are first fulfilled, including transferring, donating, spending, entrusting, transferring, taking abroad and so on which are known or reasonably suspected to have originated from a crime. A person who intentionally and knowingly or naturally commits a crime and has the intention of hiding or disguising his assets.

If we look at existing legal provisions, there is a relationship between money laundering crimes and corruption crimes. As stated in the provisions of the existing corruption criminal regulations, there is a term called predicate crime. To process a money laundering crime, it is not necessary to first prove the origin of the crime. Because the object of the crime of money laundering is assets resulting from previous criminal acts.

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