



Law Enforcement Against Perpetrators Of Money Laundering In Narcotics Cases From The Perspective Of Criminal Law And Islamic Criminal Law In The Jurisdiction Of The Jambi Regional Police

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ABSTRACT

This thesis discusses the law enforcement of money laundering crimes arising from corruption cases from the perspectives of criminal law and Islamic law within the jurisdiction of the Regional Police of Jambi Province. Money laundering is considered a serious organized crime that threatens economic stability, weakens public trust in financial institutions, and negatively affects national development. The study aims to analyze the implementation of law enforcement against money laundering offenses, identify the obstacles encountered in the enforcement process, and examine money laundering from the perspective of Islamic criminal law. This research employs a normative juridical method with a descriptive-analytical approach. The study relies on primary, secondary, and tertiary legal materials obtained through library research, supported by field research through interviews with relevant respondents. The collected data were analyzed qualitatively to provide a comprehensive understanding of the legal issues related to money laundering crimes. The findings indicate that the enforcement of laws against money laundering crimes has been conducted through the application of various legal instruments and criminal justice mechanisms. However, several obstacles remain, including weak coordination among law enforcement agencies, difficulties in tracing illicit financial transactions, limited facilities and infrastructure, and low public awareness regarding financial crimes. From the perspective of Islamic law, money laundering is categorized as *jarimah ta'zir* because it involves concealing unlawful wealth and violates Islamic principles prohibiting the acquisition and use of property through unlawful means. Therefore, stronger law enforcement, institutional cooperation, and moral responsibility are necessary to combat money laundering and corruption effectively.

Keywords: Law Enforcement, Money Laundering, Narcotics Cases

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INTRODUCTION

As we know, entering the millennium, combating the crime of money laundering has become a continuously promoted agenda, both internationally, regionally, and nationally, carried out by various countries around the world. This includes the Indonesian government's current efforts to combat money laundering.¹

Money laundering is simply defined as the process of converting or transforming the proceeds of crime, also known as dirty money, such as from drugs, corruption, tax evasion, gambling, smuggling, and other activities, into a form that appears legitimate so that it can be used safely.²

Money laundering is currently on the rise. This is undeniable because money laundering is an activity categorized as organized crime that significantly impacts the stability of a country. Its impact can disrupt market stability, reduce public confidence in the international financial system, and ultimately reduce economic growth. Ultimately, every country in the world must unite in its determination to Combating it.³

In the financial sector, which is international in scope, criminals now have many options regarding where and how they want their criminal proceeds to appear "clean" and "legitimate" under the law. Developments in international banking technology, which have paved the way for local/regional banking networks to grow into global financial institutions, have provided money launderers with the opportunity to utilize these service networks, resulting in illegal proceeds becoming legal in the international financial market.

Currently, money laundering activities transcend jurisdictions that offer a high level of confidentiality or utilize various financial mechanisms where money can "move" through banks, money transmitters, business activities, and even be sent abroad, thus becoming clean-laundered money. Money laundering is not only a law enforcement issue but also a threat to a country's national and international security. In this regard, efforts to prevent and eradicate money laundering have become an international concern, including through bilateral and multilateral cooperation. Indonesia is one of the countries that is very attractive to money launderers, among other things, due to the still-developing financial system in Indonesia and the implementation of bank secrecy regulations for depositors and their savings in banks. Furthermore, the payment system in Indonesia, which still emphasizes cash transactions, allows individuals to bring large amounts of foreign banknotes into Indonesia and exchange them for rupiah and invest the money in legitimate assets (wealth) without fear of investigation into the origin of the money, opening up opportunities for money laundering.

Another factor contributing to money laundering is the adoption of a free foreign exchange system. With a free foreign exchange system, any individual or legal entity is free to bring in or take out foreign currency from Indonesia. Under this system, residents who acquire and hold foreign exchange are not required to

sell it to the state. This policy was adopted in light of the limited funds needed to finance development, leading the government to implement policies aimed at attracting foreign investors to invest in Indonesia.⁴

While the free foreign exchange system has positive effects, such as an influx of foreign capital into Indonesia, it also has negative implications, such as the lack of investigation into the origins of the invested money. Therefore, it is not known whether the money originated from illegal activities.

On the other hand, the bank secrecy provisions stipulated in the Banking Law are considered inadequate to protect the public interest, which demands transparent prosecution of crimes that harm the state. Instead, they can be used as a means of cover for criminals who use banks to store or transact proceeds of crime. In several countries, money laundering has been categorized as a crime, carrying severe penalties and effectively combating it. However, in Indonesia, there are no clear regulations declaring it a crime.

As we enter the millennium, money laundering has become a persistent agenda, promoted internationally, regionally, and nationally, by various countries around the world, including the Indonesian government, which is currently intensifying its efforts to combat money laundering. It cannot be denied that the crime of money laundering is an activity categorized as an organized crime that significantly impacts the economic stability of a country. Its impact can disrupt market stability, reduce public trust in the international financial system, and ultimately reduce the rate of economic growth. Therefore, every country in the world should unite in its determination to combat it.⁵

In practice, the modus operandi of money laundering almost always uses banks as its target. Given the globalization of banking through payment systems and electronic banking, which transcends the boundaries of a country's jurisdiction by exploiting and taking refuge in bank secrecy, which is generally always highly respected by banks, it is a potential target and used as an instrument to facilitate access to the crime of money laundering.

Given the dangers posed by money laundering, which can disrupt the stability and growth of the domestic and international economy, it is essential to anticipate and address it immediately. The Indonesian government has taken anticipatory measures to minimize the potential for money laundering by promptly creating, establishing, and enacting various laws and regulations.

One such law is the issuance and enactment of Bank Indonesia Regulation Number 3/10/PBI/2001 concerning the Implementation of the Know Your Customer Policy. This principle is implemented by banks to identify customers, monitor customer transaction activities, including reporting suspicious transactions. This principle is also implemented to prevent banks from being used as a modus operandi for money laundering.

Furthermore, the government has created, established, and enacted a law,

namely Law Number 15 of 2002, which regulates the Crime of Money Laundering.

METHODOLOGY

This research uses a normative juridical legal research approach as the primary framework for analyzing the problem. Normative legal research, often referred to as doctrinal legal research, positions law as a closed and coherent system of norms. The primary focus is an in-depth literature study through the analysis of various primary legal documents, such as court decisions and regulations, so this research does not require field surveys or sociological statistical data.

The normative juridical approach in this research is implemented through a statute approach. This approach involves examining all regulations related to the legal issue under study, from the Medical Practice Law, the Hospital Law, to the Consumer Protection Law. The goal is to examine the extent to which these regulations synchronize and harmonize in guaranteeing patient rights in Indonesia.

RESULT AND DISCUSSION

Law Enforcement Against Money Laundering in Narcotics Cases Carried Out Within the Jurisdiction of the Jambi Regional Police

As explained, law enforcement is a process of implementing efforts to uphold or effectively implement legal norms as guidelines for behavior in traffic or legal relations in social and state life.

Viewed from a subject perspective, law enforcement can be carried out by a broad range of subjects and can also be interpreted as law enforcement efforts involving all legal subjects in every legal relationship. Anyone who implements normative rules or does or does not do something based on applicable legal norms is implementing or enforcing the law.

In a narrower sense, from a subject perspective, law enforcement is defined solely as the efforts of certain law enforcement officials to guarantee and ensure the upholding of the law. If necessary, law enforcement officials are permitted to use coercive force.

Law enforcement efforts in response to a crime are carried out comprehensively by law enforcement officials in all areas. An example is law enforcement efforts against money laundering and narcotics crimes. In today's era, there are still numerous cases related to money laundering and narcotics crimes, requiring optimized law enforcement in this area.

In many cases, the sale of illegal drugs or narcotics is considered the predicate crime that leads to money laundering. However, the predicate crimes of money laundering do not stem solely from drug trafficking. Uncovering money laundering cases also requires uncovering the underlying crime. Money laundering in Indonesia is regulated by Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering.

The money laundering incident that occurred at the Jambi Regional Police can be seen in the Jambi District Court Decision Number 1093/Pid.Sus/2014/PN.Jbi. The defendant, Heriyanto Bin Sulaiman, was convicted of money laundering and narcotics crimes. In this case, the defendant was declared to have intentionally committed money laundering for narcotics crimes as regulated in Article 2 paragraph (1) letters c and d in conjunction with Article 3 in conjunction with Article 4 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes in conjunction with Article 114 paragraph (1) and (2) in conjunction with Article 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. The Panel of Judges sentenced the defendants to 8 (eight) years in prison and a fine of Rp. 1,000,000,000 (one billion rupiah). This criminal responsibility is based on the element of intent by the perpetrator (*dolus*), namely the perpetrator knew that his actions were prohibited by law but still carried out these actions so that there was no justification or excuse for him to avoid punishment.

Criminal sanctions against perpetrators of money laundering and narcotics crimes are imposed through the judicial process. Criminal law enforcement efforts against perpetrators of money laundering and narcotics crimes, in this case, the panel of judges sentencing the perpetrator of money laundering and narcotics crimes, pay close attention to several elements of guilt that must be met to hold them accountable for their actions.

The imposition of a sentence on a perpetrator of money laundering and narcotics crimes depends on whether they can be held accountable, in accordance with the elements of the crime: mental health, knowledge that their actions violate the law, and the ability to consciously determine their own will, so that they can be punished by the judge. The purpose of the sentence imposed by the panel of judges is not retribution but rather to provide guidance for the defendant who has committed the wrong and to enable them to take responsibility for their actions.

Based on the verdict handed down by the panel of judges above, the author believes the panel of judges has acted in accordance with the objectives of the criminal justice system: a system within a society that addresses crime, with the goal of preventing people from becoming victims of crime, resolving crimes that occur so that society is satisfied and perpetrators do not repeat their crimes.

The criminal justice system is a judicial network that utilizes criminal law as a tool, encompassing both substantive and formal criminal law, as well as criminal enforcement law. However, this substantive institution must be viewed within a social framework or context. Its overly formal nature, if based solely on the pursuit of legal certainty, will lead to disastrous injustice. Therefore, what is referred to as precise justice, material measures, clearly grounded in general principles of justice, must be truly considered in law enforcement.

The Crime of Money Laundering in Narcotics Cases from an Islamic Criminal Law Perspective

As explained in the previous chapter, money laundering is an attempt to conceal or disguise the origin of money or assets obtained from criminal activity through various financial transactions to make it appear as if they originated from legitimate activities.

There are three stages in "purifying" the proceeds of crime in money laundering. First, the proceeds of crime are converted into a less suspicious form by placing them in the financial system through various means (placement). The second step is to conduct complex, layered, and anonymous financial transactions with the aim of separating the proceeds of crime from their source into various accounts, making the origin of the funds difficult to trace. In other words, this conceals or disguises the origin of the proceeds of crime (layering). The third and final step is where the perpetrator reintroduces the obscured funds into legitimate assets, either for immediate enjoyment, investment in various forms of material and financial wealth, use to finance legitimate business activities, or to refinance criminal activities (integration).

Money laundering is a crime characterized by a multiplicity of crimes. It is characterized by the fact that money laundering is a follow-up crime, while the primary crime, or the original crime, is referred to as a predicate offense or core crime. Some countries define it as an unlawful activity, namely the original crime that generates the money that is then laundered.

Money laundering is an attempt to conceal or disguise the origin of money, funds, or assets derived from criminal activity through various financial transactions to make it appear as if they originated from legitimate activities. This practice originated in America in the 1930s, when a criminal mafia purchased a laundry company to launder its proceeds, thus developing the term "money laundering."

In general, perpetrators of criminal acts attempt to conceal or disguise the origin of assets resulting from criminal activity in various ways to make it difficult for law enforcement to trace their criminal assets. This allows them to freely use these assets for both legitimate and illegitimate activities. Therefore, the crime of money laundering (TPPU) not only threatens the stability and integrity of the economic and financial systems, but can also endanger the foundations of social, national, and state life based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

The losses resulting from money laundering are so significant that various countries have taken steps to prevent the crime. The fight against money laundering by both organized crime and individuals not affiliated with organized crime has reached a much more serious level than it was 15 years ago. The first international cooperation body was the Financial Action Task Force on Money Laundering (FATF), established by the G7 Summit in France in July 1989. Among other things, it expanded the scope of Reporting Parties to include gem and jewelry/precious metal

traders and motor vehicle traders.

In its efforts to prevent money laundering, Indonesia has issued several laws and regulations to curb the rampant number of money laundering crimes in Indonesia. These include Law Number 15 of 2002 concerning Money Laundering, Law Number 25 of 2003 concerning Amendments to Law of the Republic of Indonesia Number 15 of 2002 concerning Money Laundering, and Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering.

Money Laundering, according to Islamic Criminal Law, is known as *fiqh* (Islamic jurisprudence). Islamic crime is called *jinayah* (criminal offense), but jurists often also use the term *jarimah* (criminal offense). The word *الجنايات* is the plural form of *جناية*, which is derived from the verb *جنى - جنى*, meaning to take/pick. Meanwhile, *jarimah* comes from the words *ج* and *ر*, which means *عَظَمَ وَوَقَّ بَسَكَ*, the synonym for *رَجَّحَ* is work, the definition of effort here is specifically for efforts or actions that are not good and efforts that are hated by humans.

In terms of the term *jinayah*, it refers to the results of a person's actions that are prohibited, as explained by 'Abdul Qadir 'Audah that *jinayah* is a term for actions that are prohibited by *sharia*', whether the action concerns life, property or something else. Meanwhile, the definition of *jarimah* according to the term as expressed by al-Mawardi is actions that are prohibited by the *syara'* which are threatened with the punishment of *had* or *ta'zir*.

According to Ahmad Hanafi, an act is considered a crime if the act can harm the existing rules in society or its beliefs, harm the lives of members of society or their objects, their good name, their feelings or other considerations that must be respected and maintained, the basis for the prohibition of committing a crime is maintaining the interests of society itself.

CONCLUSION

Law Enforcement Against Money Laundering Crimes in Narcotics Cases Carried out in the jurisdiction of the Jambi Regional Police has been carried out, one of which is against the perpetrators of money laundering crimes against narcotics crimes in Case Number: 1093 / Pid.Sus / 2024 / PN.Jbi, namely based on the perpetrator's mistake that fulfills the elements of being against the law and there is no reason to eliminate the unlawful nature of the act committed. Criminal responsibility is carried out by sentencing the defendant who has been legally and convincingly proven guilty of committing money laundering crimes against narcotics crimes in Case Number: 1093 / Pid.Sus / 2024 / PN. Jbi. The form of criminal responsibility for law enforcement that has been carried out is that the defendant is convicted, the Panel of Judges sentenced the defendants to 8 (eight) years in prison and a fine of Rp. 1,000,000,000 (one billion rupiah).

Criminal liability is based on the element of intent by the perpetrator (*dolus*), meaning the perpetrator knew that their actions were prohibited by law but still committed them, leaving them without justification or excuse to avoid punishment.

Problems encountered in enforcing the crime of money laundering stemming from narcotics crimes include: a. Difficulty in Proving the Origin of Assets b. Use of Other Parties' Identities or Accounts c. Complex and Multi-Layered Financial Transactions d. Lack of Coordination Between Law Enforcement Agencies e. Utilization of Modern Technology and Financial Systems f. Differences in Regulations Between Countries. Efforts made to address problems in enforcing the crime of money laundering include: 1. Strengthening Inter-Agency Cooperation; 2. Improving Investigative Capabilities; 3. Optimizing the Utilization of the Money Laundering Law; 4. International Cooperation; 5. Follow the Money Approach

Money Laundering in Narcotics Cases, from an Islamic Criminal Law perspective, falls under the category of *ta'zir* crimes, where punishments not yet established by Islamic law are left to the judge, both in terms of their determination and implementation. In determining *ta'zir* penalties, judges only make general decisions. This means that the legislator does not specify penalties for each *ta'zir* crime, but rather establishes a set of penalties, ranging from the lightest to the most severe.

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