

Application of the Elements of Money Laundering Crime in Indonesian Jurisprudence

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ABSTRACT – Money laundering is a growing global problem that has a significant negative impact on the economy and financial system of a country, including Indonesia. Despite the existence of regulations that provide clear guidelines, the implementation and application of the elements of the crime of money laundering in the Indonesian legal system still faces various challenges. This study aims to analyze the application of the elements of money laundering in Indonesian jurisprudence, as well as identify the main challenges in the evidentiary process, especially in terms of demonstrating the link between the laundered funds and the original criminal act. The research also aims to evaluate the role of relevant agencies, such as PPATK, in supporting the legal process of money laundering cases and how they collaborate with other law enforcement agencies to strengthen law enforcement. With the increasing complexity of techniques used by money launderers, as well as technological limitations and inter-agency coordination, efforts to tackle money laundering require more effective strategies and better systems. This research is expected to contribute to the understanding of the application of the law in money laundering cases, as well as identify the obstacles faced in the Indonesian justice system. The results of this study are expected to provide useful recommendations for strengthening law enforcement and prevention of money laundering in Indonesia, as well as increasing the effectiveness of collaboration between relevant agencies in handling these cases.

Keywords: Money Laundering Crime, Indonesian Jurisprudence, Evidence, PPATK, Predicate Crime, Law Number 8 Year 2010, Inter-Institution Coordination.

A. INTRODUCTION

Money laundering has become a serious problem that has grown rapidly in recent decades. This illegal practice not only harms a country's economy, but can also affect the

integrity of the global financial system. Money laundering typically involves concealing or disguising the origin of funds obtained through criminal activity, so that the funds appear legitimate and separate from the underlying criminal activity. This practice has a wide range of negative impacts, from undermining economic stability, increasing public distrust of the financial system, to facilitating other crimes, such as terrorism financing.

In Indonesia, the challenges in combating money laundering are increasingly apparent, given the complexity of the schemes used by criminals. Legal uncertainty in the evidentiary process, especially in identifying the origin of laundered funds, is a major obstacle for law enforcement officials. Without clear and accurate evidence of the funds' link to the original crime, it is difficult to link the perpetrator to money laundering. This exacerbates the efforts of the government and relevant agencies in addressing this issue (Ilato et al., 2021).

Strong regulations are needed in the supervision of financial transactions to prevent money laundering activities that can impact the national economy. Based on Law Number 8 Year 2010 on the Prevention and Eradication of Money Laundering, Indonesia has introduced various measures to combat this practice, including the establishment of the Financial Transaction Reports and Analysis Center (PPATK), which has an important role in tracking and analyzing suspicious financial transactions.

This regulation also includes the application of sanctions for money launderers, but the application of the elements of the money laundering offense in the legal process is still problematic. In practice, the application of Law Number 8 Year 2010 on the Prevention and Eradication of Money Laundering Crimes in Indonesia faces various difficulties, especially in terms of proving the origin of the laundered money. Wahyuningsih and Rismanto (2016)

highlighted that one of the main challenges in handling money laundering cases is the difficulty in identifying the direct relationship between the laundered funds and the predicate crime. To prove that the laundered funds originated from a crime, law enforcement officials must be able to show a clear link between the transactions carried out and the original crime that was the source of the funds.

This difficulty is even more complex given that money launderers often use various means and techniques to hide or obscure the origin of the funds they obtain, such as through cross-border transfers, the use of various bank accounts in the name of another person, or even through investments in various legitimate assets. As such, proving that the funds originated from a particular criminal offense requires strong and valid evidence, which is not always easy to obtain. Therefore, while the law is clear that money laundering is a criminal offense, the challenge of proving the origin of the money remains a significant obstacle to law enforcement.

Limitations in technology and resources possessed by law enforcement agencies exacerbate this problem. Proving money laundering cases often requires sophisticated forensic analysis tools and the ability to trace financial transactions across multiple platforms, both domestically and internationally. Without adequate support in terms of technology and investigative capacity, courts struggle to receive evidence strong enough to link laundered funds to the crimes from which they originated. This further clarifies the challenges faced by the judicial system in enforcing the law in relation to money laundering.

The urgency of this research lies in the importance of further understanding the application of the elements of money laundering in Indonesian jurisprudence. With the increasing complexity of money laundering schemes involving various types of crimes, the evidentiary process in money laundering cases has become a major challenge for law enforcement officials. Ramdan (2017) notes that although Indonesia has clear regulations, law enforcement related to money laundering still faces major obstacles, especially related to coordination between law enforcement agencies and the lack of adequate resources to crack down on this crime.

The purpose of this research is to analyze the application of the elements of the crime of money laundering in Indonesian jurisprudence, focusing on how the elements associated with this crime are applied in legal practice. The research aims to evaluate the extent to which existing laws can be implemented in tackling the crime of money laundering, as well as the challenges faced in the legal process, especially in terms of evidence and trials. The research also aims to identify the main obstacles that often arise in proving money laundering crimes in Indonesia, including the difficulty in showing the link between the laundered funds and the original criminal offense. In addition, it aims to evaluate the role of relevant institutions, such as PPATK, in supporting the legal process of money laundering cases and how these institutions can collaborate to strengthen law enforcement in Indonesia.

B. METHOD

This research uses a normative juridical approach with a case analysis method and a statutory approach, which aims to examine the application of the elements of the crime of money laundering based on Indonesian law and jurisprudence. This approach focuses on the analysis of written law and the application of legal norms in money laundering cases that have been decided by the court. By using a normative juridical approach, this research can conduct an in-depth analysis of various legal decisions involving money laundering in Indonesia, as explained by Sari et al. (2023) argued that this approach allows a deeper understanding of the application of the law in money laundering cases.

The primary data used in this research are laws and regulations relating to money laundering, particularly Law Number 8 Year 2010 on Prevention and Eradication of Money Laundering. The primary data also includes court decisions related to money laundering cases that have become part of Indonesian jurisprudence. For secondary data, this research uses sources from legal journals, scientific articles, and research reports that discuss the implementation and challenges in applying the elements of the crime of money laundering in Indonesia. Djamir and Wahyuningsih (2020) show that this secondary data is very important in understanding the difficulties faced by law enforcement officials in proving the elements of money laundering, especially related to the origin of the laundered funds.

The data collection technique was conducted through a literature study that involved analyzing relevant laws and regulations, court decisions, and academic literature. This desk study method helps to identify weaknesses in existing regulations as well as understand how Indonesian jurisprudence has developed legal interpretations of the elements of money laundering offenses. It is also important to identify different legal perceptions regarding the elements that must be proven in money laundering cases.

The data collected was then analyzed using a qualitative descriptive technique, focusing on the legal interpretation and application of the elements of money laundering in Indonesian jurisprudence. This technique allows for an evaluation of the application of the law in the context of real cases, taking into account the normative aspects set out in the law. Lubis (2022) highlighted that this approach is particularly relevant in identifying problems faced by law enforcement officials, such as evidentiary barriers and inter-agency coordination.

The research procedure began with the collection of relevant regulations, such as Law Number 8 Year 2010 and Bank Indonesia regulations relevant to the crime of money laundering. Next, an in-depth juridical case analysis was conducted on court decisions that have become jurisprudence in money laundering cases to evaluate the application of the elements of the crime. Finally, the results of this analysis are linked to provide policy recommendations aimed at improving the law enforcement system against money laundering in Indonesia.

C. RESULTS AND DISCUSSION

Application of the Elements of Money Laundering Crime in Indonesian Jurisprudence

The application of the elements of the crime of money laundering in Indonesian jurisprudence focuses on two main elements that must be proven in court. Based on Law Number 8 Year 2010 on the Prevention and Eradication of Money Laundering Crimes, first, it must be proven that there is an act of hiding or disguising the origin of funds derived from other criminal acts, or what is known as "predicate crime". Second, it must be proven that the perpetrator had knowledge or awareness that the funds came from the proceeds of crime.

However, in practice, the application of these elements in Indonesian courts is not easy. Proof of the origin of laundered funds often faces major obstacles. One of the main challenges is evidence showing that the funds received by the perpetrator were indeed derived from a clear criminal offense. Sari et al. (2023) suggest that this proof process requires sufficient transaction evidence that can link the flow of funds to the original criminal offense.

The court must also be able to prove that the perpetrator knew or was aware that the funds received came from a criminal offense. This is a challenge in itself, because perpetrators are often evasive on the grounds that they do not know the origin of the funds. Djamir and Wahyuningsih (2020) note that proving the defendant's awareness of the criminal origin of the funds received is often not easy, because these funds are often disguised or channeled through various transactions that are difficult to trace.

Furthermore, to prove concealment or disguise the origin of funds, the court must rely on evidence that can show the flow of funds in an unusual or suspicious manner. However, in many cases, defendants conduct a series of complex transactions to hide traces of laundered funds. This makes the proof more complex and requires the involvement of stronger evidence.

Evidence linking the funds to the crime of origin is also often difficult to obtain. Transactions made by perpetrators are often hidden in fictitious companies or non-transparent accounts, which makes the process of proof even more difficult. Therefore, the court must be more thorough in analyzing the available evidence to link the laundered funds to the crime of origin (Yusuf, 2014).

In addition, in practice, Indonesian courts often have difficulty in proving the defendant's awareness of the criminal origin of the funds received. Djamir and Wahyuningsih (2020) highlighted that sometimes the defendant can easily evade with the excuse of not knowing the origin of the funds, which is a big challenge for law enforcement to prove that the funds are indeed derived from criminal acts.

The difficulty in proving these two main elements often causes law enforcement in money laundering cases in Indonesia to be suboptimal. Therefore, a more careful approach in analyzing the available evidence is needed, as well as increasing the capacity of law enforcement officers in tracking and analyzing suspicious financial transactions. This is

important to ensure that each element of the money laundering offense can be clearly proven in court.

Ultimately, despite the challenges in applying the elements of the money laundering offense in Indonesia, the courts' efforts to apply them consistently are ongoing. A more thorough evidentiary process supported by strong evidence will help ensure that every money laundering case can be effectively and efficiently processed in court.

Thus, the application of the elements of the crime of money laundering in Indonesian jurisprudence still requires attention and strengthening in terms of evidence and coordination between law enforcement agencies. The government and law enforcement agencies should strive to improve the judicial system and ensure that each element of the offense can be clearly proven in court.

Key Challenges in the Process of Proving Money Laundering Crimes in Indonesia

The evidentiary process in money laundering cases in Indonesia faces a number of significant challenges. One of the main challenges is the difficulty in demonstrating the origin of suspected funds. According to Lubis (2022), clear evidence of the link between laundered funds and the original crime is very difficult to find. This often requires complex forensic analysis and transaction tracing to trace the original source of the funds. If the funds have gone through several transactions or are managed through several different accounts, proving the origin of the funds becomes even more complicated, as these transactions are often concealed in order to disguise the traces of the laundered money.

In addition to the difficulty in tracing the flow of funds, technical problems in proof are also a major obstacle. The process of proving money laundering requires the involvement of sophisticated technology to analyze complex and cross-border financial transactions. In Indonesia, the technical capabilities of law enforcement officers in this regard are still very limited. As explained by Lubis (2022), the low ability to trace cross-border transactions is one of the factors that worsen the effectiveness of law enforcement against money laundering. Many transactions involving foreign financial institutions or conducted through channels are more difficult to trace, thus prolonging the investigation process.

Limitations in the tools and technology used to analyze transactions also exacerbate this situation. Law enforcement in Indonesia still often rely on transaction reports provided by financial institutions, but these reports are not always complete or accurate. Financial institutions involved in such transactions may not have systems robust enough to detect suspicious transaction patterns, or may not fully comply with strict anti-money laundering procedures, such as "Know Your Customer" (KYC) obligations that can prevent opaque transactions.

Evidence obtained from financial institutions often provides only a partial picture of the transactions taking place. Without comprehensive data, it is difficult for law enforcement officials to prove that laundered funds originated from legitimate criminal activity. This makes the proof process even more difficult, especially when the perpetrator conducts a series of transactions to avoid detection. For example, laundered funds may be channeled through several countries or use various fictitious companies used as a front to cover their tracks.

The challenge of proof is even greater when the perpetrator does not only commit domestic money laundering, but also involves international transactions. Jurisdictional diversity and regulatory differences in other countries often make it difficult to gather the evidence necessary to support claims in money laundering cases. In some cases, there are difficulties in requesting international legal assistance or tracing data from foreign financial institutions that do not always cooperate with Indonesian law enforcement officials.

Another challenge faced is the difficulty in proving the defendant's intent or awareness that the funds received came from a criminal offense. Many defendants try to evade this by claiming that they did not know or were unaware that the funds received were the proceeds of crime. Proving intent and awareness requires more in-depth and complex evidence, and requires careful investigation to show that the defendant knew or should have known that the funds were derived from criminal activity.

In addition, this aspect of proof in court also faces obstacles at the initial investigation stage, where money launderers often use various strategies to disguise their transactions (Istiqomah et al., 2023).

Therefore, investigations conducted by law enforcement officials often do not focus only on a single transaction, but involve a series of transactions that must be proven to link them to the original criminal offense. This requires sufficiently strong and detailed evidence to convince the court.

The application of sanctions in money laundering cases in Indonesia is also often constrained by the difficulty in proving the origin of the laundered funds. Without sufficient evidence of the funds' connection to the original crime, the judicial process will struggle to impose an appropriate penalty on the defendant (Ilato et al., 2021). In some cases, even if there is evidence of suspicious transactions, without a clear link to the original crime, the prosecution of the defendant may fail.

To address this challenge, better cooperation between Indonesian law enforcement agencies, international agencies, and financial institutions is needed to improve effectiveness in analyzing and tracing suspicious transactions. The government should also increase investment in technology that can assist law enforcement officials in detecting and tracking cross-border transactions, such as the use of more advanced and sophisticated data analysis software to detect unusual transaction patterns.

Overall, the main challenges in proving money laundering offenses in Indonesia lie in the difficulties in tracing the origin of funds, technological limitations, as well as obstacles in proving the defendant's intent or awareness. To overcome these obstacles, it is important for Indonesia to strengthen the technical capacity of law enforcement officials, increase inter-agency collaboration, and promote improvements in financial transaction reporting and monitoring systems.

The Role of Related Institutions, such as PPATK, in Supporting the Legal Process of Money Laundering Cases

The Financial Transaction Reports and Analysis Center (PPATK) plays a very important role in detecting and analyzing suspicious transactions that could potentially be part of a money laundering scheme in Indonesia. As a financial intelligence unit, PPATK has the task of monitoring and analyzing suspicious transactions made by individuals or entities, which can then become material for further investigation by law enforcement officials. With the authority granted by law, PPATK can access

information on suspicious financial transactions and provide the initial data needed to follow up on money laundering cases. Wahyuningsih and Rismanto (2016) note that PPATK plays a role in providing valuable preliminary data and analysis for law enforcement officials in formulating further investigation strategies.

However, while PPATK has the authority to examine suspicious transactions, it faces a number of challenges in carrying out its role. One of the main obstacles faced is PPATK's limited access to cross-border financial transaction information. Often, suspicious transactions involve banks or financial institutions outside Indonesia, and PPATK is limited in accessing financial data from international financial institutions. Wahyuningsih and Rismanto (2016) highlight that although Indonesia has laws that allow PPATK to monitor suspicious transactions, limited international cooperation is a major barrier in the detection of cross-border money laundering, which often involves companies or bank accounts located in different jurisdictions.

PPATK's role is also important in implementing the "Know Your Customer" (KYC) policy that aims to prevent money laundering in the first place. This policy requires financial institutions to recognize the identity of their customers in a strict manner and conduct adequate due diligence on transactions made by customers. However, the implementation of KYC in the field still faces many challenges, one of which is the lack of compliance of financial institutions in strictly implementing this procedure. Sari et al. (2023) noted that there are still a number of financial institutions that have not fully complied with KYC rules, which opens a gap for money launderers to conduct suspicious transactions without being detected by the system. Without strict implementation of KYC policies, prevention efforts against money laundering are less effective, and criminals can still conduct suspicious transactions.

In addition to its role in identifying suspicious transactions and implementing KYC policies, PPATK also actively cooperates with international institutions to strengthen its capabilities in handling cross-border money laundering cases. This cooperation is important, given the number of transactions involving various countries or international entities. PPATK cooperates with international financial intelligence agencies to strengthen monitoring and detection systems for suspicious

transactions. However, Ramdan (2017) emphasizes that despite international cooperation, PPATK's role in handling cross-border money laundering cases needs to be further strengthened with more solid legal aspects. In this case, strengthening cooperation with foreign authorities as well as improving the international legal system that enables more effective law enforcement are indispensable to strengthen PPATK's capabilities in handling transactions involving foreign parties.

In supporting law enforcement against money laundering cases, PPATK also functions as an institution that collects and analyzes data obtained from various sources, including financial institutions and suspicious transactions. As an institution that facilitates the exchange of information between law enforcement agencies in Indonesia, PPATK helps accelerate the investigation process by providing relevant information on suspicious fund flows. Therefore, without PPATK's involvement in the investigation process, it is difficult for law enforcement to initiate an effective investigation, as they need valid and reliable transaction data.

The challenges faced by PPATK in carrying out its functions are also related to its limited resources, both in terms of trained personnel and equipment used. Improvements in this regard are needed so that PPATK can continue to improve its technical capabilities in analyzing increasingly complex and diverse financial transactions. One step that can be taken is intensive training for PPATK personnel, which allows them to understand more deeply new technologies in transaction analysis, such as blockchain analysis and the use of big data to track suspicious fund flows.

PPATK also plays a role in advising financial institutions to develop better anti-money laundering systems, especially in terms of identification and reporting of suspicious transactions. This includes enforcing the obligation for financial institutions to improve the quality of their monitoring and reporting systems. In this regard, PPATK serves as a supervisor and advisor to financial institutions to ensure that they carry out procedures that are in line with international standards in mitigating money laundering risks.

The implementation of stricter policies in terms of identification and reporting of suspicious financial transactions by financial institutions is crucial to support PPATK's efforts in preventing

money laundering. This is because there are many transactions that can be considered suspicious but not detected without an effective reporting system. Therefore, PPATK needs to be more aggressive in educating and supervising financial institutions to ensure compliance with KYC policies and prevent loopholes for criminals.

Overall, PPATK's role in supporting the legal process of money laundering cases is very important, but it is still limited by various factors, such as the lack of international cooperation, challenges in implementing KYC, and limited resources and technology. Therefore, increasing the capacity of PPATK and strengthening cooperation with international institutions and domestic financial institutions are important steps to improve the effectiveness of preventing and combating money laundering in Indonesia.

D. CONCLUSIONS

This study concludes that the application of the elements of the crime of money laundering in Indonesian jurisprudence still faces significant challenges, particularly in evidence and inter-agency coordination. In Indonesian jurisprudence, the main elements to be proven include the perpetrator's awareness of the origin of the funds as well as actions to disguise or conceal the funds. Although Law Number 8 Year 2010 provides clear guidelines on this matter, the application of these elements still faces obstacles, especially in terms of proving a direct link to the predicate crime. The main challenges in proving money laundering cases include the complexity of tracing the flow of funds and the limitations of adequate technology. The lack of coordination between law enforcement agencies such as PPATK, police and prosecutors a significant barrier to effective handling of money laundering cases. Wahyuningsih and Rismanto (2016) highlighted the importance of synergy between institutions to create a more effective system in combating money laundering.

PPATK as a key institution in monitoring suspicious transactions has an important role in supporting the legal process of money laundering cases. However, limitations in access to cross-border information and the suboptimal implementation of the know your customer (KYC) policy have resulted in monitoring and prevention efforts that are still not optimal. Sari et al. (2023) noted that constraints in the application of KYC by financial institutions open a gap for money launderers to conduct undetected transactions.

Improved inter-agency coordination is necessary for faster and more comprehensive handling of money laundering cases. Better collaboration between PPATK, police, prosecutors and other authorities will facilitate more effective data and information exchange. Law enforcement in Indonesia needs to be equipped with more sophisticated technology in tracking the flow of funds, such as blockchain analysis and big data analytics, which can help track hidden transactions and identify suspicious patterns. The government also needs to encourage financial institutions to consistently implement KYC policies that comply with international standards and improve PPATK's access to cross-border data through international cooperation.

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