

# Money Laundering and Corruption

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## ABSTRACT

Crime is a term that contains a basic understanding in the science of law, as a term formed with awareness in giving certain characteristics to criminal law events. Money laundering or money laundering as a crime has been the focus of attention since the 1980s, especially in the context of crime of drug trafficking (psychotropics and narcotics). The problem of money laundering was only declared a crime by Law Number 15 of 2002 concerning the Crime of Money Laundering which was legalized and promulgated on April 17 2002. Law Number 15 of 2002 Article 2 concerning Money Laundering is an act that aims to hide or disguise the origin of money or assets obtained from the proceeds of crime which are then converted into assets that appear to originate from legitimate activities. Understanding the Money Laundering, Financial Action Task. The Force on Maney Laundering (FATF) formulates that money laundering is the process of concealing or disguising the origins of proceeds of crime. The development of corruption in Indonesia is in a dangerous stage. If we compare corruption in Indonesia to a disease, corruption in Indonesia develops in three stages which are elastic, endemic and systematic. In addition to its transnational crimes, corruption is also referred to as an extraordinary crime. Corruption in Indonesia has spread throughout the government and all layers of society so that efforts to eradicate corruption are still faltering, especially with resistance by parties whose interests are disturbed by the agenda of eradicating corruption. Corruption and money laundering have a very close relationship. This can be clearly seen in Article 2 paragraph 1 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Launderin.

**Keywords:** Corruption, Money Laundering, Relationship, Extraordinary Crimes.

## 1. INTRODUCTION

The term money laundering has been known since 1930 in the United States. At that time this crime was committed by a "mafia" crime organization through the purchase of laundry companies which were then used by the organization as a place to launder money generated from illegal businesses such as gambling, prostitution, and liquor trading. (Yunus Husein, 2007)

Money laundering is literally also termed money laundering, money panning or also known as cleaning money from the results of illicit transactions. The word money in terms of money laundering has various connotations, some call it dirty money, hot money, illegal money or illicit money. (N.H.T. Siahaan, 2005) Broadly speaking, what can be understood from the opinions of experts can be concluded that money laundering is a process to hide or disguise assets obtained from the proceeds of crime to avoid prosecution and or confiscation

In Indonesia, the non-criminal handling of money laundering has been running so far based on Law Number 15 of 2002 concerning the Crime of Money Laundering as amended by Law Number 25 of 2003, the regulations have been refined based on Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. This handling was developed against a backdrop of the increasing prevalence of money laundering crimes which

involve and generate enormous amounts of wealth. One of the modes used is to integrate assets from the proceeds of predicate crimes into the financial system, with the interest of obscuring the origin of these assets so that they can be issued legally. (Garnasih, 2003)

Money laundering can be done in two ways, namely illegally and legally. Illegally proceeds of crime are transferred, stored, or in any way at financial service providers such as capital markets and banks. Legally the money was obtained legally according to the applicable provisions. (Adrian Sutedi, 2008)

In Indonesia, corruption is no stranger to hearing from the public, corruption has become a contagious disease in every state apparatus from the lowest level to the highest level. Not only officials are involved in corruption cases, but law enforcement officials are also involved in corruption cases. Corruption is an extraordinary crime (extra ordinary crime) as well as a crime that is difficult to find the perpetrators (crime without offenders), because corruption is an area that is very difficult to penetrate. Why is that, because corruption is said to be an invincible crime which is very difficult to obtain procedural proof, where the modus operandi is a systematic and congregational activity. (Mien Rukmini, 2009)

Satjipto Rahardjo said that the prevention and eradication of criminal acts of corruption should not be carried out in a conventional manner and must be carried out outside the prevalence of other crime prevention. (Rahardjo et al., 2006) One of the efforts that can be made is to encourage the law to be able to play a role in efforts to create control to prevent the proceeds of corruption from being enjoyed by those who commit corruption, in addition to efforts to maintain asset recovery (safeguarding assets).

## **2. RESEARCH METHOD**

The research method used in This writing is research on juridical law normative namely legal research conducted by examining library materials consists of primary legal materials, legal materials secondary, and tertiary legal materials. (Prof. Dr. Soerjono Soekanto, S.H., M.A., Sri Mamudji, S.H., 2015)

Research normative is carried out with a problem approach in the form of a statutory approach (statute approach), conceptual approach (conceptual approach) and case approach (case approach). Legal research methods focus more on library based, focusing on reading and analysis of the primary and secondary materials. (Ibrahim, 2005)

The statutory approach (statute approach) is done by reviewing all related laws and regulations with the legal issues being studied, (Marzuki, 2019) especially Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes. In addition, research was

also carried out with see how deep empirical practice implementation of legalization in the Ministry Law and Human Rights and Ministry of Foreign Affairs.

### **3. RESULTS AND DISCUSSION**

Crime is a term that contains a basic understanding in the science of law, as a term formed with awareness in giving certain characteristics to criminal law events. Criminal acts have an abstract understanding of concrete events in the field of criminal law, so that criminal acts must be given a scientific meaning and clearly defined to be able to separate them from the terms used in everyday life in society.(Amir Ilyas, 2012)

Money laundering or money laundering as a crime has been the focus of attention since the 1980s, especially in the context of crime of drug trafficking (psychotropics and narcotics). The problem of money laundering has actually been known for a long time, namely since 1930. the term is closely related to the laundry company (laundry). This company was bought by the mafia and criminals in the United States with the funds they obtained from their crimes. Furthermore, they use this laundry company to hide the money they earn from crime and illegal transactions so that it looks as if it comes from a halal source.(N.H.T. Siahaan, 2005)

The problem of money laundering was only declared a crime by Law Number 15 of 2002 concerning the Crime of Money Laundering which was legalized and promulgated on April 17 2002. As a new law, of course it contains new problems for our country, Indonesia. The issuance of this Law was to overcome the consequences of Indonesia being blacklisted, namely categorized as an uncooperative country, according to their term, Non-cooperative countries and territories (NCCT's) since June 2001 by a group of developed countries that are members of the financial action task force (financial action task force). FATF) on Money Laundering. The FATF has the function of developing and disseminating policies on eradicating money laundering, depreciation of property/assets from criminal acts in concealing criminal acts of illegal origin.(Adrian Sutedi, 2008)

Law Number 15 of 2002 Article 2 concerning Money Laundering is an act that aims to hide or disguise the origin of money or assets obtained from the proceeds of crime which are then converted into assets that appear to originate from legitimate activities. Criminal acts that trigger money laundering include corruption, bribery, smuggling of goods/labor, work/immigrants, banking, narcotics, psychotropics, trade in slaves/women/children/illegal weapons, kidnapping, terrorism, theft, embezzlement, and fraud.

Understanding the Money Laundering, Financial Action Task. The Force on Maney Laundering (FATF) formulates that money laundering is the process of concealing or disguising the

origins of proceeds of crime. This process is for the sake of eliminating traces so that it allows the perpetrators to enjoy these benefits without disclosing the source of the proceeds.

Indonesia's presence is on the list of Non Cooperative Countries and Territories (NCCT's) in accordance with recommendations from the Financial Actions Task Force on Money Laundering. That every transaction with individuals or legal entities originating from NCCT's countries must be carried out with careful research. Various efforts over the past few years, among others by passing Law no. 25 of 2003 concerning Amendments to Law no. 15 of 2002 concerning money laundering, establishing the PPATK, issuing implementing regulations and establishing international cooperation, finally yielded results. February 2006 Indonesia was excluded from the NCCT's list after one year of formal monitoring. (Amrullah, 2004) Several years later, in 2010 to be precise, the DPR and the President agreed on Law Number 8 of 2010 concerning money laundering. The existence of this law aims to prevent and eradicate money laundering. Technically, money laundering is a process that has a series of 3 (three stages), namely:

1. The first is placement, which is the initial stage of money laundering. Placement is the weakest and easiest stage for detection of money laundering efforts. Placement is an attempt to place cash originating from a crime into the financial system or an attempt to place demand deposits (cheques, bank drafts, certificates of deposit, etc.) back into the financial system, especially banks, both domestic and foreign. abroad. Placement of funds can also be done by trading securities with a pattern that can hide the origin of the money. Placement of money is usually done by splitting a large amount of cash into small, inconspicuous amounts to be placed in the financial system either by using a bank savings account or used to purchase a number of financial instruments (checks, many orders) which will be billed and subsequently deposited in a bank account. which is in another location. (Ivan Yustiavandana, Arman Nefi, 2010)
2. The second is the layering stage. Namely efforts to transfer assets originating from criminal acts (dirty money) that have been successfully placed with financial service providers (especially banks) as a result of placement efforts to other financial service providers. The transfer of these criminal assets was carried out many times, across countries, utilizing all investment vehicles. By layering, it is difficult for law enforcement to be able to find out the origin of these assets or to make it difficult to trace (audit trail). (Ivan Yustiavandana, Arman Nefi, 2010)
3. The third is Integration or using assets. Namely efforts to use assets originating from criminal acts that have entered the financial system through placement or transfer so that they become halal assets (clean money), for lawful business activities or to refinance criminal activities. (Ivan Yustiavandana, Arman Nefi, 2010)

Henry B Campbell Black, who understands corruption as the act of an official who unlawfully uses his position to gain an advantage contrary to his obligations.(H. Elwi Danil, 2014) according to Fockema Andreae the word corruption comes from the Latin corruptio or corruptus. Furthermore, it is also stated that corruptio comes from the word corrumpere, an older Latin word. It is from the Latin word that it descends into many European languages such as English, namely corruption, corrupt; France, namely corruption; and the Netherlands namely, corruptive (korruptie).(Andi Hamzah, 2007)

The development of corruption in Indonesia is in a dangerous stage. If we compare corruption in Indonesia to a disease, corruption in Indonesia develops in three stages which are elastic, endemic and systematic. At the elite stage, corruption is still a social pathology that is typical for elite officials, and at the endemic stage, corruption is endemic and reaches the wider community. Then at a critical stage when corruption becomes systemic, every individual in the system is infected with the same disease, perhaps corruption in Indonesia has reached a systemic stage. The development of criminal acts of corruption that are no longer under control not only causes losses to the state and the national economy but also has a major impact on hampering national growth and development and violating the social and economic rights of the people. Due to the extraordinary impact caused by the criminal act of corruption, therefore, the criminal act of corruption can no longer be classified as an ordinary crime, but has become an extraordinary crime, so based on this classification, efforts to eradicate it are no longer carried out by means of but is prosecuted in an extraordinary way (extra ordinary incident) in handling it in eradicating criminal acts of corruption.

J.S.Nye in his article "corruption and political development: A cost benefit analysis", describes corrupt behavior as behavior deviating from normal duties in government due to personal considerations (family, close personal friends), need for money or achieving status or breaking rules by taking actions who use personal influence.(H. Elwi Danil, 2014) It is further said, that this action includes bribery (use of gifts to distort someone's decision in a position to carry out the mandate), nepotism (using protection by someone who has blood relations or heredity rather than based on performance), and misuse (illegal use of human resources). public property for private benefit).(H. Elwi Danil, 2014)

In addition to its transnational crimes, corruption is also referred to as an extraordinary crime. In the explanation of the second paragraph of the Law of the Republic of Indonesia Number 20 of 2001 concerning amendments to Law Number 31 of 1999 concerning the Eradication of Corruption it is explained that, considering that corruption in Indonesia occurs systematically and is widespread so that it not only harms state finances, but also violates human rights. -the social

and economic rights of society at large. Thus, the eradication of criminal acts of corruption needs to be carried out in a special way, including the application of a reverse burden of proof system, namely the burden of proof on the accused. (Madril, 2011)

Corruption in Indonesia has spread throughout the government and all layers of society so that efforts to eradicate corruption are still faltering, especially with resistance by parties whose interests are disturbed by the agenda of eradicating corruption. (Atmasasmita, 2004) Corruption in Indonesia is like a disease that eats away at the whole body so it is difficult for the body to fight without the right medicine. The involvement of government organs in the occurrence of corruption is certain to hinder efforts to prevent and eradicate criminal acts of corruption. This can be proven by the existence of several cases of corruption with huge losses to state finances, but law enforcement cannot be carried out for several reasons, namely the existence of power intervention that hinders law enforcement. The fact that Indonesia has always been among the most corrupt countries in the world is a bitter reality that must immediately find a solution because corruption has definitely prevented investment from entering Indonesia. (Ramelan, 2012) This fact proves one thing, namely efforts to prevent and eradicate corruption in Indonesia have not been maximized and used must be repaired. Unstable economic conditions and development that is lagging behind compared to other countries should be material for joint introspection in making equal commitments in preventing and eradicating corruption.

Corruption and money laundering have a very close relationship. This can be clearly seen in Article 2 paragraph 1 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. According to Article 2 paragraph (1), the proceeds of the crime are classified into 25 (twenty five) predicate crimes as described below: corruption;

- a. Bribery;
- b. Narcotics;
- c. Psychotropics;
- d. Labor smuggling;
- e. Migrant smuggling;
- f. In banking;
- g. In the capital market sector;
- h. In the field of insurance;
- i. Customs;
- j. Excise;
- k. human trafficking;
- l. Illegal arms trade;
- m. Terrorism;

- n. Kidnapping;
- o. Theft;
- p. p.s. Embezzlement;
- q. Fraud;
- r. counterfeiting money;
- s. Gambling;
- t. prostitution;
- u. In the field of taxation;
- v. In the forestry sector;
- w. In the environmental field;
- x. In the marine and fishery sector; or
- y. Other criminal acts punishable by imprisonment for 4 (four) years or more, which are committed in the territory of the unitary state of the republic of Indonesia or outside the territory of the unitary state of the republic of Indonesia and these crimes are also crimes according to Indonesian law.

From the provisions of the above article, corruption is one type of predicate crime of money laundering. Predicate crime is a crime that triggers and becomes the source of the crime of money laundering. Placement of the criminal act of corruption as a predicate crime, is the opinion of the formulation of the law which considers that corruption is the nation's most pressing problem in handling it.

#### **4. CONCLUSIONS**

Corruption and laundering are a combination of crimes that almost always occur at the same time. Corruption and money laundering crimes can be identified with the proverb where there is sugar there are ants, namely where there is corruption there is money laundering in order to hide the origin of assets obtained from criminal acts of corruption. One of the obstacles in eradicating corruption is proof because corruption is an invincible crime that is carried out in a systematic and congregational way so that the perpetrators tend to cover up one another. Indeed, not all acts of corruption are difficult to prove, but for acts of corruption with large state losses and involving actors who have power it tends to be difficult to prove and reveal which parties should be responsible.

Prevention and eradication of corruption must become a joint agenda in law enforcement in Indonesia in order to guarantee efforts to increase people's welfare and national development. If all elements of government do not have the same intention in preventing and eradicating



corruption, then corruption will remain an obstacle in national development, especially in national strategic projects. Corruption in the applicable laws and regulations in Indonesia is regulated in Law Number 31 of 1999 concerning Eradication and Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Corruption Eradication. There are several weaknesses in the Corruption Prevention Law currently in force, but reforms to the Corruption Prevention Law are still difficult to implement due to the issue of weakening the prevention and eradication of corruption in efforts to renew the Corruption Prevention Law. The issue of weakening the prevention and eradication of corruption in the renewal of the Corruption Prevention Law should be resolved by the parties involved in the formation of the law in order to accelerate and strengthen efforts to prevent and eradicate corruption.

Various methods are used by perpetrators of corruption to hide the assets obtained from corruption. One of the ways most often committed by corruptors is by laundering money originating from corruption so that it appears as if the acquisition is legally valid. Either through the financial system by transferring to various banks outside Indonesia, or buying assets in the form of red goods or immovable goods such as land and property. Such methods constitute money laundering to hide or disguise the origins of assets obtained from corruption.

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