

CRIMINAL LIABILITY OF MONEY LAUNDERING PERPETRATORS PROCEEDS OF CORRUPTION IN INDONESIA

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Abstract. The crime of money laundering is a crime committed by a person or group to hide illicit money (from unlawful activities) in the appearance of money that appears to have been obtained legally. Meanwhile, corruption is the misuse of state, company, organization or foundation money for personal gain. In reality, even though there are existing regulations, the problem of money laundering resulting from corruption has returned to the fore. The aim of this research is to find out the criminal responsibility of perpetrators of the crime of money laundering resulting from corruption crimes from the perspective of the money laundering crime law and several inhibiting factors in its implementation. This research was carried out using normative juridical research methods by conducting a comprehensive study based on statutory regulations, because the author wanted to know the criminal responsibility of perpetrators of criminal acts of laundering the proceeds of corruption in the perspective of Law Number 8 of 2010. The results of the research that the criminal liability on the perpetrators of money laundering crimes proceeds from corruption crimes have not been effective because in practice it is still found that the perpetrators are based on the corruption crime law, not based on the money laundering crime law. There are several inhibiting factors, namely the legal substance factor which points to the legal or regulatory factors themselves, the legal structure factor that is still limited human resources/personnel of the apparatus, the capability of law enforcement officials is still low, obstacles in the context of bank secrecy provisions that apply in the country, limitations in the database. inhibiting factors in terms of Legal Culture, lack of public understanding of the Know Your Customer Principle (KYCP) to prevent the occurrence of Money Laundering Crimes.

Keywords: *criminal liability, criminal offence, money laundering, corruption*

Introduction

The development of science and technology that occurs today has a significant impact on human life, causing changes in people's lives that can cause an increase in crime, especially white collar crime. White-collar crime has developed at a traditional level that no longer knows the country's territorial boundaries. The form of crime is increasingly sophisticated and neatly organized, making it difficult to detect. Criminals always try to hide their criminal money through various ways, one of which is by doing money laundering in this way they try to launder money that is obtained illegally into a form that looks legal. The crime of money laundering was only criminalized after the mid-eighties, this crime of money laundering has had a negative impact or influence on the economic and business sectors, namely undermining the legitimate private business sector, undermining the integrity of financial markets, resulting in the loss of government control over its economic policies, and the emergence of economic distortion and instability. Money laundering also has a negative impact on the state, namely the loss of state revenue from tax payment sources. In addition, the existence of money laundering can affect the international world's trust in the country concerned (Supriyo and Suwardi, 2020). The definition of the proceeds of a predicate crime is described in Article 2 of Law Number 8 of 2010, namely Every Person who places,

transfers, transfers, spends, pays, grants, entrusts, takes abroad, changes the form, exchanges for money or securities or other acts of property that he knows or should suspect is the result of a criminal act as intended in Article 2 paragraph (1) with the purpose of concealing or disguise the origin of wealth. The basic characteristic of money laundering is a crime motivated by the pursuit of maximum profit, this can be distinguished from other conventional crimes that frighten society. This crime has the nature of creating creativity in the development of crimes that are international (Wiyono, 2022).

In Indonesia, the money from the crime is mainly obtained from the proceeds of corruption, so it can be said that the dominant crime in the crime of money laundering is the money from the crime of corruption. In Law Number 31 of 1999 concerning Corruption Crimes which has now been replaced by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes, corruption is any person who unlawfully commits an act of enriching himself or another person or a corporation that can harm the state finances or the state economy, is sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp 200,000,000 (two hundred million rupiah) and a maximum of Rp 1,000,000,000 (one billion rupiah). Corruption is no stranger to the people of Indonesia, corruption has become an epidemic of diseases that are contagious in every state apparatus from the lowest level to the highest level. Not only officials involved in corruption cases, but law enforcement officials are also affected by corruption cases. Corruption is a crime that is very difficult to obtain provative procedures, where the modus operandi is systematic and congregational activities. Corruption is an original criminal act that is laundered by the original criminal perpetrator. It is laundered in many ways, one of which is through the banking system. Talking about sanctions, sanctioning money laundering crimes as crimes at least provides a deterrent effect for the perpetrators, but looking at the current reality of money laundering crimes originating from corruption crimes do not seem to provide a deterrent effect to the perpetrators of criminal acts, the increasing prevalence of money laundering crimes originating from corruption crimes committed by state officials shows that there is no clarity about effectiveness or not the punishment given to the crime of money laundering (Darwin, 2012). However, the crime of money laundering derived from the proceeds of corruption crimes already exists in the Law, but in practice the perpetrators are still found based on the Corruption Crime Law and not based on the Money Laundering Crime Law, so it is interesting to study in more depth how the criminal responsibility of the perpetrators of money laundering crimes originating from corruption crimes.

Materials and Methods

This research is normative juridical, namely literature law research which is carried out by researching literature materials or secondary data, using the deductive thinking method (a way of thinking in drawing conclusions drawn from something general that has been proven to be true and the conclusion is aimed at something special) (Muhaimin, 2020). The object of the research was analyzed by a legal approach and a case approach. This normative research is based on primary and secondary legal materials, namely research that refers to the norms contained in laws and regulations. Furthermore, this research is associated with the applicable laws and regulations in the

field of criminal law, namely the Money Laundering Crime Law, the Criminal Procedure Code, the Corruption Crime Law, the case approach is carried out by examining cases related to the legal issues faced that have become court decisions that have permanent legal force, Then the data is processed qualitatively where the existing data is expressed in the form of a descriptive statement to answer the problems raised.

Overview of criminal act, criminal liability, money laundering and corruption

According to Lamintang in the Criminal Code (KUHP), criminal acts are known as strafbaar feit. The word feit itself in Netherlands means part of reality, while strafbaar feit means punishable, so literally the meaning of the word strafbaar feit can be translated as part of a condemnable reality (Lamintang, 1997). In addition to the Criminal Code (KUHP) having a definition of a criminal act, the Criminal Code also regulates the elements of a criminal act, namely, subjective elements and objective elements. Subjective elements are elements that come from within the perpetrator himself. The principle of criminal law states that there is no punishment if there are no mistakes in question that are mistakes caused by intentionality and forgetfulness. Objective elements are elements from outside the perpetrator such as the nature of the perpetrator who is against the law (Mukhlis, 2012). Article 55 of the Criminal Code explains that the perpetrators of this criminal act are at least two people, namely those who order and those who are told. So in this case, the perpetrator is not only the one who committed the crime but also the one who ordered the crime to be committed. Not everyone who is told to be charged with a crime, for example, a madman who is told to kill cannot be punished to him because he cannot be held accountable for the act. In cases like this, the only person who is subject to criminal punishment is the person who ordered the perpetrator. Likewise for people who commit criminal acts because they are under duress and people who commit criminal acts because of the order of office. Then regarding criminal liability, it is built on the basis of principles that balance between acts and makers. Criminal liability is based on the idea of returning the criminal act to the creator and holding the creator accountable for the criminal act committed. Thus, the interests of the community are not the only consideration for criminal imposition. Consideration of individual interests is needed in order to create a balanced interest in imposing a criminal penalty on the perpetrator of the crime (Syamsu and Sh, 2018).

A person is not only responsible for the crime he committed, but the actions of others can also be accounted for because at that time the punishment was not only limited to the perpetrator himself but also imposed on the family or friends of the perpetrator even though they did not commit the crime (Effendy, 2001). The element of criminal liability is only a mistake, but the unlawful nature is not an element of criminal liability. The unlawful nature is an element of an act, so that a criminal act is related to an unlawful act (Rusianto, 2016). The principle of legality of Indonesia's criminal law regulated in Article 1 paragraph (1) of the Criminal Code states that a person can only be said to have committed a criminal act if his act is in accordance with the formulation in the criminal law, although the person cannot necessarily be sentenced to criminal law, because his guilt must still be proven (Ariman and Raghil, 2015). Then regarding money laundering is a term that has become a concern of the wider community along with the rampant reporting of cases in various media, both print and electronic related to money or wealth in fantastic amounts. In general, the general public interprets money laundering as an act or activity carried out either by a person or a group to clean up

haram money, in the sense that this money comes from illegal activities, so that later the money can look like money that seems to be obtained legally (Amin, 2023).

In a general sense, money laundering is an act committed in the form of the use of money derived from or resulting from activities that are contrary to the law in this including crime. In carrying out this act, the perpetrators kept their identities secret and hid the origin of the money obtained. The perpetrators made various efforts to convert the proceeds of the crime into assets or other legally valid assets (Rodliyah and Salim, 2017). John Madinger explained that money laundering is the use of money generated from illegal activities, where in running money, the perpetrator keeps his identity secret to hide the origin of the money from crime, and turns the money from crime into assets that seem to come from a legally valid source (Rodliyah and Salim, 2017). Then regarding the crime of corruption, it is a violation of the rights of the community, both economic and social. Corruption crimes are no longer classified as ordinary crimes, but have become extraordinary crimes. Dewa Brata argued in his journal that corruption is an act of stealing, because it is a group with thieves, robbers, robbers, robbers, thieves, cheats, manipulates, all of which are classified as insults from a normal point of view. So the perpetrator deserves the appropriate punishment (Brata, 2005). According to Yudi Kristiani in his book, corruption is embezzlement of money or taking money belonging to the state. However, from a legal point of view, there are many conditions. The definition of corruption both in the juridical review and in the general sense is the same in the general sense, only in the juridical sense it refers to the elements of delik as formulated in laws and regulations. Meanwhile, corruption in general is more interpreted as acts of bribery, abuse of authority or against the law that benefits oneself, trading influence and others, which are reprehensible in nature (Kristiana, 2016). According to Article 2 paragraph (1) of Law Number 31 of 1999 Jo. Law Number 20 of 2001 concerning Corruption Crimes which reads "every person who unlawfully commits an act of enriching himself or another person or a corporation that can harm the state finances or the state economy, shall be sentenced to life imprisonment or imprisonment for a minimum of 4 (four) years and a maximum of 20 (twenty) years and a fine of at least Rp 200,000,000 (two hundred million rupiah) and a maximum of Rp 1,000,000,000 (one billion rupiah).

Results and Discussion

Criminal liability of perpetrators of money laundering proceeds of corruption

The criminal responsibility of the perpetrators of the Crime of Money Laundering as a result of corruption is not appropriate because in practice it is still found that the perpetrators are based on the Corruption Crime Law, not based on the Money Laundering Crime Law. Some examples of cases of perpetrators of the Crime of Money Laundering resulting from corruption in case Number 2 K/Pid.Sus-TPK/2022/PN. SMR In 2021, the defendant Ruslie As collaborated with Edi Aspriansyah as the Village Head of Sungai Kapih, Samarinda City. They illegally levy on the community in the Complete Systematic Land Certificate Management (PTSL) program by collecting a fee of Rp1,500,000 (one million five hundred thousand rupiah) per 200 (two hundred) square meters from the community participating in the PTSL program. The people of Sungai Kapih Village who will take part in the PTSL program come to Sungai Kapih Village to register with the Defendant and are required to take a registration form by paying a form fee of Rp 100,000 per sheet and setting a PTSL management fee of Rp

1,500,000 per 200 square meters/plot which is determined unilaterally so that the residents of the village are forced to pay and sign a statement and minutes of agreement on the certificate management fee land because if you don't pay, the citizen's certificate will not be processed. The money for registration to take the form amounted to Rp 125,700,000 sourced from 1257 residents and money for the management of PTSL with a value between Rp 200,000 to Rp 4,500,000 so that a total of Rp 584,450,000 was sourced from 300 applicants or residents of Sungai Kapih Village. After the money collected from the levy was collected, the defendant Ruslie As transferred it to Edi Apriliansyah's account in stages, after the situation was safe the money was transferred back to Ruslie As's account.

The defendant used the levy money for personal operational purposes during the process of obtaining the PTSL Program certificate of Rp201,800,000 and also to pay the honorarium of the staff who assisted the Defendant in implementing the PTSL program, namely Witness M. Sandy, Witness Septi Mauliyana, Witness Lia, Witness Fika, Witness Rahman, Witness Aldi, Witness Indri and Witness Eliyana each amounting to Rp2,500,000 during the month of July, August and September 2021, as well as buying several assets such as mobile phones. With the actions of the defendant who committed the crime, it was then known by the law enforcement officials and immediately followed up. Based on the chronological description, linked to the facts of Ruslie As's actions, the defendant has committed the following crimes of corruption and money laundering: (1) Collecting community money/illegal levies: The defendant collaborated with a witness named Edi Apriliansyah as the village head of Sungai Kapih to commit the act of collecting money that was not in accordance with the applicable legal provisions. They held a program to manage the Complete Systematic Land Registration (PTSL) certificate where the community is required to register and take the registration form by being charged a form fee of Rp 100,000 (one hundred thousand rupiah) per sheet and set the PTSL management fee at Rp 1,500,000 (one million five hundred thousand rupiah) per 200 (two hundred) square meters/plot which is determined unilaterally so that residents are forced to pay and sign the letter Statement and Minutes of Agreement on Land Certificate Management Fees Because if you don't pay, the Citizen's Certificate will not be processed. (2) Participating in corruption from the results of community levies: The defendant and Edi Aspriansyah carried out a PTSL certificate management program in Sungai Kapih village, Sambutan District, Samarinda City since August 2020 and continued until October 2021 with an exaggerated cost of Rp 201,800,000 (two hundred million eight hundred thousand rupiah) for personal operational purposes and paid the honorary staff who helped the defendant carry out the PTSL program, namely witness M. Sandy, witness Septi Mulyana, witness Lia, witness Fika, witness Rahman, witness Aldi, witness Indri and witness Eliyana each amounted to Rp 2,500,000 (two million five hundred rupiah) during July, August, and September 2021. The defendant's actions constitute a criminal act of corruption as stipulated in Article 12 letter e of Law Number 31 of 1999 concerning the Eradication of Corruption in conjunction with Article 55 paragraph (1) 1 of the Criminal Code in conjunction with Article 64 paragraph (1) of the Criminal Code.

The Panel of Judges of the Samarinda District Court has handed down the Samarinda District Court Decision Number 7496 K/Pid.Sus/2022 dated December 21, 2022, stating that the defendant has been legally and convincingly proven guilty of committing the crime of Corruption jointly as stated in the First Indictment of the Public Prosecutor, namely violating, Article 12 letter e of Law Number 31 of 1999 as amended and

supplemented by Law Number 20 of 2001 in conjunction with Article 55 paragraph (1) 1st Criminal Code in conjunction with Article 64 paragraph (1) of the Criminal Code, with a prison sentence of 4 (four) years minus the period of detention and a fine of Rp 200,000,000 (two hundred million rupiah) subsidy of 3 (three) months of imprisonment. and evidence in the form of property obtained from the crime is determined to be confiscated for auction and returned to 300 (three hundred) people of Sungai Kapih who have been collected money. Viewed from the perspective of money laundering as regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, that the acts of the defendant who committed criminal acts in the field of corruption resulted in wealth resulting from criminal acts as regulated in Article 3 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, that the proceeds of criminal acts are assets obtained from the crime of money laundering. criminal offenses in the field of corruption. The proceeds of the criminal act in the field of corruption were then carried out by the defendant a series of financial transactions, as stipulated in Article 1 number 4 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, that financial transactions are transactions to make or receive placement, driving, withdrawal, book transfer, transfer, payment, grant, donation, custody, and/or exchange with foreign currency or Actions and/or Other money-related activities.

The money laundering stage carried out by the defendant is broadly divided into 3 (three) stages, namely the placement stage, the coating stage, and the integration stage. The placement stage began after the defendant received public money from the results of the PTSL program which was then transferred to a Bankaltimtara current account in the name of Edi Aspriansyah in stages amounting to Rp 45,000,000 (forty million rupiah). Furthermore, the layering stage was carried out by the defendant by transferring the money collected by the community from the PTSL program to the Bankaltimtara current account in the name of Edi Aspriansyah in stages in the amount of Rp 45,000,000 (forty million rupiah) which was then transferred back to the BNI savings account in the name of Ruslie As. Then the integration stage was carried out by the defendant after receiving money from Edi Aspriansyah's Bankaltimtara bank statement for personal operational purposes, paying the honorarium of the staff who participated in helping the defendant carry out the PTSL program, namely witness M. Sandy, witness Septi Mulyana, witness Lia, witness Fika, witness Rahman, witness Aldi, witness Indri and witness Eliyana each amounting to Rp 2,500,000 (two million five hundred rupiah) during the month of July. August, and September 2021, as well as by spending several assets such as 1 (piece) unit of vivo brand cellphone with 1 8602440048647310 imei 2 860244048647320, and 1 (piece) unit of Samsung galaxy J5 pro brand cellphon. According to the author, based on the facts of the defendant's actions, namely by using a banking system with a modus operandi to collect money from the people of Sungai Kapih to carry out a series of financial transactions with the aim of hiding, disguising and eliminating the origin of money derived from criminal acts in the field of corruption, then the money from the criminal acts in the field of corruption for personal operational purposes, paying honorary staff who help in the PTSL program and buying several assets such as mobile phones.

The money laundering technique carried out by the defendant to conceal, obscure, and eliminate the origin of money derived from criminal acts in the field of corruption is to use the banking system to receive levy money from the people of Sungai Kapih, then the money is transferred to his account and Edi Aspriansyah's account in stages.

Furthermore, the money from the corruption crime was transferred back to the defendant's account. The money that has entered the defendant's account is then used for personal interest operations, financing the honorary staff who help, and spending assets such as mobile phones. According to the author, at the investigation stage, the Money Laundering Crime Law was not applied as well as by the Investigator of the Directorate of General Criminal Investigation of the Central Kalimantan Regional Police due to the lack of Investigator Supervisor and Investigator Supervision Section to supervise the investigation, one of which is through the case title mechanism as stipulated in Article 40 letter b of the Regulation of the National Police Chief Number 6 of 2019 concerning Criminal Investigation. This means that according to the author, in imposing a criminal sentence against the defendant for the alleged crime of money laundering as a continuing act, the penalty that can be imposed is the maximum criminal threat regulated in Article 3 and/or Article 4 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, which is a maximum of 20 (twenty), reduced by the prison sentence that has been imposed in the previous case (Samarinda District Court Decision Number 2/Pid.Sus-TPK/2022/PN. SMR dated December 21, 2022, which is 4 years, so that the prison sentence that should be imposed by the defendant for the crime of money laundering committed as a continuing act is a maximum of 16 (sixteen) years in prison and is required to compensate for damages of Rp 201,800,000.

In the second case, namely the Banda Aceh District Court Decision Number 70/Pid.Sus/2022/PN. BNA. The defendant Arifin, who at that time served as the Head of the Pidie Regency Tourism, Culture, Youth and Sports Office and the Budget User Attorney in 2017, was proven to have committed corruption in the land acquisition project for sports facilities in three sub-districts, namely Indrajaya District, Mutiara District, and Glumpang Tiga District. The funds used to buy the land come from the Pidie Regency Special Autonomy Fund, which is part of the state finance. Arifin had formed the Planning Committee and the Land Acquisition Implementation Committee but the Defendant did not function the committee, in the process of finding land and conducting deliberations with the landowners. The defendant handed over the task of finding land and conducting deliberations with the landowner to Witness Ibrahim Nyakmad who is not a member of the Planning Committee and the Executive Committee, where this situation was used by Witness Ibrahim Nyakmad to get wealth by negotiating and being able to make an agreement with the landowners where in the agreement it was stated that if there was an overpayment of the land that had been agreed upon, the excess belonged to the Witness Ibrahim Nyak Mad as mediator. The money used to buy land in the context of land acquisition for the public interest of the Pidie Regency Disparbudpora is using the Pidie Regency Special Autonomy Fund, which is included as part of the State Finance. The excess land purchase proceeds were then stored in Ibrahim Nyakmad's personal account and the rest was given to pay the honorary staff who helped. The defendant did not enjoy the money from the purchase of the land. But because of his actions to enrich Ibrahim Nyakmad, the defendant was followed up in the trial and sentenced.

Based on the chronological description, it is connected to the facts of the actions of the Defendant Drs. H. Arifin bin alm. Rahmad, the defendant has committed the following crimes of corruption and money laundering:

- (1) Abuse of power and position in land acquisition

The defendant as the head of the Tourism, Culture, Youth and Sports Office of Pidie Regency as well as the Budget User Power of Attorney (KPA) in 2017 has carried out land acquisition activities for sports facilities which are carried out in 3 (three) sub-districts. The money used to buy land in the context of land acquisition for the public interest of the Pidie Regency Disparbudpora uses the Pidie Regency Special Autonomy Fund which is included as part of the State finance. The defendant used his position to regulate the land acquisition process without going through proper procedures by forming a planning committee and a land acquisition executive committee, but the defendant instead handed over the task of finding land and conducting deliberations with the land owner to witness Ibrahim Nyakmad who was not a member of the executive committee. The Defendant's actions include abuse of power and position.

(2) Mark up price

Ibrahim Nyakmad who is not a member of the executive committee and has been selected by the Defendant to look for land and conduct deliberations with the landowner takes advantage of his situation to get wealth by negotiating and can make an agreement with the landowners where in the agreement it is stated that if there is an overpayment of the agreed land, the excess belongs to Ibrahim Nyakmad as a mediator. As a result of the Defendant's actions, the State has incurred financial losses of Rp 1,186,024,000.- (one billion one hundred and eighty-six million twenty-four thousand rupiah). In this case, it is evident that the Defendant did not participate in the State financial losses in the a quo case but had enriched others, so that his actions were contrary to Article 2 paragraph (1) juncto Article 18 paragraph (1) letters a, b paragraph (2), and paragraph (3) of law number 20 of 2001. The Panel of Judges of the Banda Aceh District Court has handed down the Banda Aceh District Court Decision Number 70/Pid.Sus/2022/PN. BNA dated December 20, 2022, which states that the Defendant has been legally and convincingly proven guilty of committing the crime of Corruption jointly as stated in the First Indictment of the Public Prosecutor, namely violating, Article 2 paragraph (1) juncto Article 18 paragraph (1) letter a, b paragraph (2), and paragraph (3) of Law Number 31 of 1999 as amended and supplemented by Law Number 20 of 2001 in conjunction with Article 55 paragraph (1) 1 of the Criminal Code., with a prison sentence of 4 (four) years minus the period of detention and a fine of Rp 200,000,000.00 (two hundred million rupiah subsidy of 3 (three) months of imprisonment, and required to return the State Financial Loss of Rp 1,186,024,000.

The money laundering stage carried out by the Defendant is broadly divided into 3 (three) stages, namely the placement stage, the coating stage, and the integration stage. The placement stage begins after the Defendant receives money obtained from the Pidie Regency Special Autonomy Fund, in addition to using the State Budget slip for land acquisition that shows the fact of corruption by making legitimate financial transactions. Furthermore, the layering stage was carried out by Mr. Ibrahim Nyakmad who arranged an agreement with the landowners and determined the overpayment as his own which then transferred the money to his own bank account. This creates a layer that disguises the original source of the funds. Then the integration stage was carried out by the Defendant after receiving the excess money from the landowners into personal profits and used for their personal operations, as if as a result of negotiations and mediator services. Based on the facts of the Defendant's actions, namely by using the banking system with a modus operandi to enrich others by using the Regional Autonomy Fund and surplus money paid from land owners in land acquisition with the aim of concealing, disguising and eliminating the origin of money derived from criminal acts

in the field of corruption, then the money from criminal acts in the field of corruption for personal operational purposes. Furthermore, the money laundering technique carried out by the Defendant to conceal, obscure, and eliminate the origin of money derived from criminal acts in the field of corruption is to use the banking system to receive overpayment money from land owners in land acquisition which is transferred to their own milk bank accounts for personal operational purposes.

At the investigation stage, the Money Laundering Crime Law was not also applied by the Investigator of the Directorate of General Criminal Investigation of the Banda Aceh Regional Police due to the lack of Investigator Supervisor and Investigator Supervision Section to supervise the investigation, one of which is through the case title mechanism as stipulated in Article 40 letter b of the Regulation of the National Police Chief Number 6 of 2019 concerning Criminal Investigation. This means that in imposing a criminal sentence against the Defendant for the alleged crime of money laundering as a continuing act, the penalty that can be imposed is the maximum criminal threat regulated in Article 4 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, which is a maximum of 20 (twenty), reduced by the prison sentence that has been imposed in the previous case (Banda Aceh District Court Decision Number 70/Pid.Sus-TPK/2022 PN. BNA dated December 21, 2022, which is 4 years, so that the prison sentence that should be imposed by the defendant for the crime of money laundering committed as a continuing act is a maximum of 16 (sixteen) years in prison and a fine for state financial losses of Rp 1,186,024,000.

Hindering factors in the application of criminal liability for perpetrators of money laundering proceeds of corruption crimes

Legal substance

Constraints on legal substance refer to obstacles related to the provisions in laws and regulations (Amin et al., 2024). One of the obstacles to legal substance in the case of the Crime of Money Laundering of Corruption Proceeds is the need to identify the origin of assets suspected of being the result of corruption crimes. This includes ensuring that the assets come from established crimes, such as illegal levies or extortion in corruption (Roeroe et al., 2022). Legal substance constraints are obstacles related to laws and regulations, where provisions regarding criminal acts in the field of corruption are special criminal acts as regulated in Law Number 31 of 1999 as amended and added by Law Number 20 of 2001 concerning Corruption. This means that in the case of the first verdict against the act of the Defendant Ruslie As who committed acts of corruption with the modus operandi of collecting public money in the PTSL land registration program, although in general it is an act that is a criminal act of corruption as stipulated in Article 368 paragraph (1) of the Criminal Code, but for the Defendant's actions a special criminal provision as stipulated in Article 64 paragraph (1) of the Criminal Code is applied. In connection with this, if seen from the fact of the Defendant's act of collecting public money for the PTSL land registration program, and committing the crime of money laundering against the money derived from the collection of public money, then a special criminal provision is applied to the Defendant's actions, namely Article 64 paragraph (1) of the Criminal Code. The defendant is not only an act that can be applied under the provisions of special crimes contained in Law Number 31 of 1999 as amended and supplemented by the Law on Corruption, but can also be subject to Law

Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

The provisions regarding the special criminal law as *lex specialis* are inseparable from the problem in its application because an act committed is regulated by more than one special law so that it will affect the enforcement of criminal law due to the difference in formal law regulated in the special criminal law, and to overcome these juridical problems, another principle is needed, namely the principle of systematic *lex specialis*. The provisions regarding the special criminal law as *lex specialis* are inseparable from the problem in its application because an act committed is regulated by more than one special law so that it will affect the enforcement of criminal law because of the difference in formal law regulated in the special criminal law, and to overcome these juridical problems, another principle is needed, namely the principle of systematic *lex specialis*. Schaffmeister argues that the criterion of the provisions in the *lex specialis* systematic is that the object of the general definition is more fully arranged within the framework of the special provisions.

Legal structure

Legal structure constraints are obstacles related to law enforcement agencies that directly handle a case. One of the main obstacles is the lack of specialized expertise and adequate resources among law enforcement agencies to handle complex Money Laundering cases. Handling these cases requires a deep understanding of financial aspects, transaction analysis, and sophisticated investigative methodologies. Sometimes, shortcomings in this regard can hinder the ability of law enforcement agencies to effectively identify, investigate, and corroborate cases of Money Laundering (Membalik et al., 2022). Legal structure constraints are obstacles related to law enforcement agencies that directly handle a case (Amin et al., 2024). One of the main obstacles is the lack of specialized expertise and adequate resources among law enforcement agencies to handle complex Money Laundering cases. Handling these cases requires a deep understanding of financial aspects, transaction analysis, and sophisticated investigative methodologies. Sometimes, shortcomings in this regard can hinder the ability of law enforcement agencies to effectively identify, investigate, and corroborate cases of Money Laundering. In the case of Money Laundering Crimes involving corruption, coordination between institutions such as the police, prosecutor's office, tax authorities, and financial institutions is often needed. The lack of effective coordination between these institutions can hinder the exchange of important information, cooperation in investigations, and integrated and efficient legal action against the perpetrators of Money Laundering (Arsyad, 2011).

In the case involving Ruslie AS Bin Abdul Samad and Edi Apriiliansyah Village Head related to illegal levies in the Complete Systematic Land Registration (PTSL) program. Handling these cases requires an in-depth understanding of financial transactions and fund flows, as well as the ability to identify patterns of money laundering. In these cases, law enforcement agencies need to be able to analyze suspicious financial transactions, such as money transfers between the defendant and other corrupt associates. An effective investigative process requires adequate technical resources, such as access to financial systems and sophisticated data analysis tools. These limitations can hinder the ability of law enforcement agencies to gather strong evidence and build anti-trafficking cases effectively. In this case, cooperation between various law enforcement agencies such as the police and the prosecutor's office is

important to integrate evidence from various sources. Lack of effective coordination between agencies can hinder the flow of efficient investigations and law enforcement. A complicated judicial system with lengthy procedures can slow down the court process and sentence execution. In this case, the court of first instance and appeal requires a deep understanding of the legal regulations and procedures related to TPPU and corruption, while in the case that occurred in Banda Aceh involving Drs. H. Arifin bin Rahmad, who was involved in corruption related to the acquisition of land for sports facilities in Pidie Regency. Although Arifin did not directly enrich himself from the corruption money, his actions benefited another party, namely Ibrahim Nyakmad, through overpayment in land negotiations.

In this case, handling land acquisition involving public funds requires special expertise in public administration and state financial management. These expertise limitations can affect the ability of law enforcement agencies to effectively audit and supervise the use of public funds. The investigation process in land acquisition corruption cases requires adequate resources, both in terms of personnel and technology. These limitations can hinder the ability of law enforcement agencies to trace and collect the evidence needed to strengthen corruption cases. In Arifin's case, coordination between law enforcement agencies such as the police, prosecutor's office, and courts is important to handle complex evidence. This lack of coordination can slow down the process of efficient legal investigation and prosecution of corruption cases involving public funds.

Legal culture

Legal cultural obstacles themselves are obstacles related to legal knowledge, legal awareness and compliance with applicable laws and regulations (Amin et al., 2024). The legal cultural obstacles in Money Laundering cases are that the general public, sometimes even the perpetrators of corruption themselves, may have limited or erroneous legal knowledge. This can result in a lack of understanding of the applicable laws and regulations related to corruption and money laundering. For example, not understanding that acts of corruption and money laundering are serious offenses that can result in severe legal consequences (Membalik et al., 2022). In addition, there is still low legal awareness. People tend not to have enough awareness about the importance of obeying the law. This could be due to a lack of formal legal education, a culture of tolerance for corruption, or a belief that violations of the law can be ignored or condoned. Related to low awareness, legal culture also includes the level of compliance with legal regulations. When there are norms or habits that do not support compliance with the law, such as the practice of giving bribes or abuse of power, this can strengthen the culture of corruption and reduce the effectiveness of law enforcement. A weak legal culture can also be reflected in people's distrust of a fair and effective legal system. This perception can hinder active participation in fighting corruption or reporting criminal acts to legal authorities. In some environments or communities, there are still cultural norms or values that tolerate corrupt or unethical behavior. This can strengthen the cycle of corruption and complicate efforts to change behaviors and practices that do not comply with the law. Legal cultural constraints are also seen in the two cases raised by the author in this article. In the case of Ruslie AS Bin Abdul Samad and Lurah Edi Apriansyah related to illegal levies in the PTSL program, people who pay feel forced because they are afraid of not getting a land certificate. This shows their low knowledge

of the official fees that should be set by the regulations. It also reflects a lack of awareness of their right not to pay more than is prescribed by law.

The defendant carried out illegal collection practices that clearly violated the regulations that had been set. Compliance with official regulations (PTSL management fee of Rp250,000) is not heeded, showing a legal culture that is vulnerable to corrupt practices. The involvement of more than one individual in an illegal levy scheme indicates the existence of cultural norms or values that allow or even support corrupt practices. This creates an environment where violations of the law are considered acceptable or ignored. Meanwhile, in the case of Arifin bin Rahmad, although he did not directly enjoy the benefits of corruption carried out through land acquisition, he abused his authority by not complying with the established procedures. The transfer of responsibility to an unauthorized person, namely Ibrahim Nyakmad, shows a lack of awareness of the correct legal procedures in the management of public funds. The defendant did not carry out the obligations and procedures that he should have followed as a public official. This reflects low compliance with existing legal rules to protect the country's finances. Although there is no evidence that Arifin bin Rahmad directly enriched himself, his actions allowed others (Ibrahim Nyakmad) to gain personal gain through illegal practices. This shows a norm that does not support transparency and accountability in the management of public funds. There are indications that the public or corrupt actors in this case may have distrust in a fair and effective legal system. This can hinder active participation in fighting corruption or reporting criminal acts to legal authorities. To overcome these obstacles, a holistic approach is needed through better legal education, consistent and fair law enforcement, and strengthening the values of transparency and accountability in public financial management. Legal and institutional reforms aimed at improving the legal structure and enforcing compliance with it are also essential to reduce the level of corruption and money laundering in Indonesia.

Conclusion

The criminal responsibility of the perpetrators of the Crime of Money Laundering as a result of corruption is not appropriate because in practice it is still found that the perpetrators are based on the Corruption Crime Law, not based on the Money Laundering Crime Law. Some examples of cases of perpetrators of the Crime of Money Laundering resulting from corruption in case Number 2 K/Pid.Sus-TPK/2022/PN. SMR was sentenced to 4 years in prison and fined Rp 200,000,000 and was required to compensate for losses of Rp 201,800,000. Meanwhile, case Number 70 K/Pid.Sus-TPK/2022/PN. BNA was sentenced to 4 years in prison and a fine of Rp 200,000,000.00 and compensation for state losses of Rp 1,186,024,000. The decision of the Panel of Judges in both decisions is not in accordance with what is contained in Law Number 20 of 2001 concerning Corruption, where in the Law it is stated that the minimum criminal threat is 20 years or the death penalty. The prison sentence imposed by the two judges in the two sentences above is too light and does not have a deterrent effect on the perpetrators, and the defendants should be able to be traced back to the crime of money laundering as well. The inhibiting factors in the application of criminal liability for the perpetrators of money laundering as a result of corruption crimes are the Legal Substance factor that is still not appropriate related to the sanctions given in the Corruption Crime Law alone, should be subject to the Money Laundering Crime Law as well, Legal Structure Factors such as still limited human resources/apparatus personnel,

the capability of law enforcement officials is still low, lack of special expertise in public administration and state financial management. Legal Culture Factors: Lack of public awareness of their rights and correct legal procedures in the management of public funds as well as lack of public understanding of the Know Your Customer Principle (KYCP) to prevent the occurrence of Money Laundering Crimes.

Suggestion, there is a need for optimization in criminal law enforcement against Money Laundering Crimes that occur in Indonesia to create a deterrent effect on individuals who want to commit Money Laundering Crimes and the need to increase the professionalism of law enforcement officials in eradicating money laundering crimes as well as increasing the availability of supporting infrastructure in the prevention of money laundering crimes. It is hoped that there will be an increase in the compliance of Financial Provider Services (PJK) in conducting reporting both regarding suspicious financial transactions and reports related to cash transactions in accordance with Article 1 paragraph 3 of the Law on Money Laundering related to mutual legal assistance in the criminal field and it is hoped that there will be an increase in the compliance of Financial Provider Services (PJK) in conducting reporting both related to financial transactions suspicious or reports related to cash transactions in accordance with Article 1 paragraph 3 of the Money Laundering Crime Law.

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Conflict of interest

The authors confirm that there is no conflict of interest involve with any parties in this research study.

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