

## Proving The Crime Of Money Laundering In Corruption Cases

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### ABSTRACT

*This research aims to analyse the mechanism of proof of money laundering crime (TPPU) originating from the proceeds of corruption in Indonesia. One of the main focuses in this research is the application of the reversal of the burden of proof system stipulated in Law Number 8 Year 2010 on the Prevention and Eradication of Money Laundering Crimes (Anti-Money Laundering Law). This research hypothesis argues that the reversal of the burden of proof system can be an effective instrument in proving money laundering crimes originating from corruption, by utilising the role of financial institutions, transaction analysis by PPATK, and synergy between law enforcement officials. The research method used is juridical-normative with an analytical descriptive approach, which examines the applicable legislation, as well as the practice of its application in the Indonesian judicial system. The results show that despite technical obstacles in proof, such as difficulties in tracing the origin of laundered assets, the application of reversal of the burden of proof provides significant advantages for law enforcement. It is hoped that the application of strict sanctions against ML offenders can provide a deterrent effect while increasing the effectiveness of corruption eradication in Indonesia.*

**Keywords:** Money Laundering Crime, Reverse Proof, Corruption.

### Introduction

Money laundering (ML) is a form of crime that has a broad impact, both on the country's economy and the integrity of the global financial system. In Indonesia, the phenomenon of ML stemming from corruption offences is increasingly widespread and has become a serious concern for law enforcement officials, due to its detrimental impact on state finances (Susetyo & Supanto, 2023; Syaifulloh, 2019). Corruption cases involving a number of large corporations and state officials show how the practice of money laundering is used as an instrument to hide and divert the proceeds of crime to avoid detection. One striking example is the case involving Duta Palma Group, where the Indonesian Attorney General's Office seized IDR 450 billion as part of an investigation into money laundering offences committed by PT Asset Pacific, a company that played an active role in the corruption (Naibaho, 2024). Not only that, other corruption cases, such as those involving PT Timah Tbk and Harvey Moeis, also show the complexity of the problem of money laundering derived from corruption offences, with total state losses reaching hundreds of trillions of rupiah (Chaterine and Meiliana, 2024).

This phenomenon raises fundamental questions about how the process of proving the crime of money laundering from corruption proceeds can be carried out effectively, given the difficulty in uncovering traces of illegal transactions and the involvement of well-organised parties. In Indonesia, efforts to eradicate money laundering are regulated in Law No. 8/2010 on the Prevention and Eradication of ML, which provides a special approach in the process of proof through the application of the reverse burden of proof system. Under this system, defendants involved in money laundering offences are required to prove that their assets are not derived from crime, a concept that violates the presumption of innocence that applies in the Indonesian criminal justice system (Lumenta, 2020; Putra, 2023). Therefore, proving money laundering offences in the context of corruption requires high skill and professionalism from law enforcement officials, especially judges who preside over trials.

In addition, combating money laundering offences in corruption cases not only involves in-depth legal knowledge, but also requires a multidisciplinary approach that includes the fields of banking, accounting, finance and economics. Success in identifying and tracing illicit money flows relies heavily on the ability of law enforcement officials to co-operate with various related institutions, including financial institutions and other government agencies. However, in practice, these efforts are often constrained by limited resources, as well as the reluctance of relevant institutions to provide relevant information, both at the national and international levels. Based on this description, this research aims to analyse and understand the process of proving the crime of money laundering derived from the proceeds of corruption, as well as the application of criminal sanctions against perpetrators who are proven to be involved. By examining various cases that have occurred, this research is expected to make a significant contribution to the development of the Indonesian legal system in combating money laundering and corruption in a comprehensive manner.

This research aims to provide an in-depth analysis of the mechanism of proof of money laundering offences sourced from the proceeds of corruption, by highlighting the application of the burden of proof reversal system stipulated in the Anti-Money Laundering Law. In addition, this research will also explore the application of criminal sanctions against money laundering offenders, as well as the challenges faced by law enforcement officials in dealing with cases involving large corporations. Thus, the results of this research are expected to provide clearer insights into the steps that need to be taken to improve the effectiveness of economic crime eradication in Indonesia, particularly in corruption and money laundering cases. The main hypothesis of this research is that the proof of money laundering offences (TPPU) originating from the proceeds of corruption can be carried out effectively through the application of the reversal of the burden of proof system stipulated in Law No. 8/2010 on the Prevention and Eradication of Money Laundering. Law Number 8 Year 2010 on the Prevention and Eradication of Money Laundering Crimes.. In this context, the defendant must prove that his/her wealth was not derived from a criminal offence, given the link between the two crimes. Therefore, proving ML requires a good integration between evidence related to corruption offences and transaction traces that show an attempt to disguise the origin of wealth, which ultimately strengthens law enforcement in Indonesia.

This research contributes to an enriched understanding of the evidence of money laundering offences stemming from corruption, particularly in relation to the application of the burden of proof reversal system in Indonesia. By analysing the challenges faced in identifying illicit financial flows and collaboration between law enforcement agencies, this research seeks to provide useful recommendations to improve the effectiveness of combating economic crime. This contribution is expected to strengthen Indonesia's legal system in handling money laundering and corruption cases more comprehensively. The conceptual framework of this study connects three main elements: evidence, money laundering offences (ML), and corruption offences. In the context of ML stemming from corruption, the evidentiary process involves two interrelated crimes, namely corruption as the main criminal offence and money laundering aimed at concealing the proceeds of crime. The proof of ML requires the application of a reversal of the burden of proof system, where the defendant must prove that his assets are not derived from crime. Therefore, success in proving these two offences relies heavily on evidence linking corruption to the complex and hidden process of money laundering.

Evidence in the context of criminal law is the process of ascertaining the truth of a legal event through legal evidence that is accepted by law. According to the Big Indonesian Dictionary, evidence is defined as something that shows the truth of an event. In a legal context, evidence refers to anything that can reveal the truth of a particular fact, either in favour of or against the party concerned (Suhartoyo, 2019). Evidence plays a crucial role in

the judicial process, as it is through evidence that the judge can determine whether the defendant is guilty or not, as well as determine the appropriate sanction. Although proof can generally be understood as an attempt to convince the judge, in Indonesian judicial practice, proof is carried out through a series of procedures regulated by procedural law, specifically in the KUHAP.

Proof has several approaches that need to be understood. First, logical proof focuses on providing absolute certainty that does not allow for opposing evidence. Second, in conventional aspects, proof can be in the form of relative certainty based on common sense considerations or judge intuition (Helmawansyah, 2021). Third, proof in the juridical sense serves to provide a sufficient basis for judges to make decisions based on facts revealed at trial (Hiariej & Stokke, 2022). These concepts explain that proof is not simply a matter of the judge's personal belief, but rather the result of consideration of the evidence presented during the trial process. Therefore, proof in criminal cases, especially money laundering offences originating from corruption, requires precision and accuracy in evaluating existing evidence.

One of the relevant concepts of proof in Indonesian law is the system of proof based on Article 183. KUHAP, which adheres to the principle of negative corroboration. This system requires the judge to be convinced of the defendant's guilt based on evidence that is valid and acceptable according to the law. Evidence must be based on the evidence specified in Article 184 of the Criminal Procedure Code, which includes witness testimony, letters, instructions, and testimony of the defendant. With the application of this system, the process of proof does not only depend on the judge's belief, but also on legally valid evidence. Therefore, proof in the case of money laundering offences stemming from corruption must combine two important elements: evidence linking the act of money laundering to the crime of corruption and the judge's belief based on the evidence.

In the context of money laundering offences stemming from the proceeds of corruption, the evidentiary system has its own challenges, especially since these crimes often involve complex disguises of the origin of wealth. Therefore, proof does not only rely on physical or documentary evidence, but must also consider other aspects such as financial analysis and the link between the suspected flow of funds and the acts of corruption that have been committed. *Thereverse burden of proofs* system in Law No. 8/2010 on the Prevention and Eradication of the Crime of Money Laundering challenges the defendant to prove that his/her assets are not derived from criminal offences, which makes the proof in this case more challenging and requires a more comprehensive approach.

## Methods Research

This research uses a juridical-normative approach with an analytical descriptive method to analyse and describe the proof of money laundering offences originating from corruption. to analyse and describe the evidence of money laundering crimes originating from corruption. The focus of this research is to collect and analyse secondary legal materials, namely laws and regulations, court decisions, textbooks, and other legal literature. The technique of collecting legal materials is carried out through documentation, where the legal materials obtained are then analysed descriptively qualitatively to provide an in-depth explanation and understanding of the evidentiary procedures in the case. This approach aims to provide a systematic and comprehensive description of the legal aspects related to proving the crime of money laundering from corruption in Indonesia..

## Result and Discussion

Money laundering (ML) offences stemming from corruption proceeds are one of the significant legal challenges in Indonesia. Along with the increase in corruption cases in various sectors, the misuse of the proceeds of this crime has become increasingly complex and

difficult to trace. Therefore, it is important to analyse how the process of proving ML derived from corruption crimes is carried out in the Indonesian legal system. Based on a review of the applicable laws and regulations, it can be concluded that the proof of money laundering offences in corruption cases must be carried out carefully and comprehensively by referring to various relevant legal provisions.

### **Legal Framework Governing Money Laundering Offences in Indonesia**

Indonesia has regulated the eradication of ML through Law No. 8/2010 on the Prevention and Eradication of the Crime of Money Laundering (Anti-Money Laundering Law). This law contains a number of provisions that form the basis of ML/TF evidence, including definitions of criminal offences and assets that are the proceeds of criminal offences. Article 2 of the Anti-Money Laundering Law clearly states that the proceeds of criminal offences, including corruption, can be the object of money laundering. In this context, any attempt made to conceal or disguise the origin of assets known to be the proceeds of criminal offences, including corruption, may be subject to criminal sanctions. Proof in money laundering offences is not always simple, considering that perpetrators often use various methods to hide or transfer assets obtained from the proceeds of crime. Therefore, the Anti-Money Laundering Law regulates the reverse proof system in Article 77, which places the burden of proof on the defendant to prove that his assets are not derived from criminal offences. This provision is particularly important in corruption cases, where perpetrators often go to great lengths to launder the proceeds of corruption to make it appear legitimate.

### **The Principle of Reverse Proof in Money Laundering Offences**

The principle of reverse proof in ML cases reflects a more efficient approach in combating extraordinary crimes such as corruption and money laundering. In the Indonesian legal system, reverse proof allows investigators to investigate the origin of assets owned by the defendant in greater depth, while the defendant is required to prove that the assets did not originate from a criminal offence (Al Qodri & Lubis, 2024; Sasikome, 2022). This is relevant in corruption cases, where perpetrators often use sophisticated means to disguise the source of illegally obtained funds. The application of this principle is based on international norms, such as those contained in the United Nations Convention on the Eradication of Corruption (UNCAC), which encourages participating countries to adopt reverse proof to facilitate the prosecution and eradication of corruption and money laundering offences (Mulyadi, 2015). In Indonesia, the existence of Article 77 of the Anti-Money Laundering Law which regulates reverse proof is very relevant to combat money laundering cases originating from the proceeds of corruption, because it is often very difficult to directly prove the link between the wealth owned by the defendant and the criminal offence committed.

### **The Role of Financial Institutions and Financial Supervision in ML Evidence**

In addition to evidence involving reverse proof, one important element in the eradication of ML is the role of financial institutions and supervision of financial transactions. Based on Government Regulation No. 43/2015 on the Implementation of Money Laundering Crime, financial institutions have the obligation to report suspicious transactions to the Financial Transaction Reports and Analysis Centre (PPATK). PPATK, as an institution that functions to analyse suspicious financial transactions, has a strategic role in providing data that can be used as evidence in the process of proving ML. Financial institutions, such as banks, are obliged to identify, verify and report suspicious transactions, which can then be used as material for further investigation by law enforcement officials. This is particularly important in the context of corruption, where the proceeds of corruption are often channelled through various financial transactions involving various parties and financial institutions. In this case, financial statements and financial transaction analysis results from PPATK can be supporting evidence in the process of proving money laundering offences originating from corruption.

### **Challenges in Proving ML stemming from Corruption**

Despite the existence of adequate regulations to prove ML, the challenges in evidentiary practice remain substantial. One of the main challenges is the difficulty of proving the origin of wealth obtained through corruption offences, especially when perpetrators use various means to hide their wealth (Rizon & Agustini, 2022; Halawa & Marlina, 2012; Iqbal, et al., 2024; Ginting & Indradewi, 2021). For example, the perpetrator may convert funds through the purchase of movable or immovable assets, which can disguise the relationship between the assets and the criminal offence committed. In addition, the collection of valid and credible evidence in the process of investigating and prosecuting ML often faces technical obstacles, such as limited access to financial data, coordination constraints between institutions, and evasion efforts by criminals. Therefore, the existence of an institution such as PPATK that is able to analyse financial transactions and provide recommendations to the authorities to continue the investigation is crucial. Without a good synergy between law enforcement officials, financial institutions, and other related parties, proving ML in corruption cases will become increasingly difficult.

### **Application of Criminal Sanctions against ML Offenders**

Criminal sanctions for perpetrators of money laundering offences are clearly regulated in the Anti-Money Laundering Law. Article 3 and Article 4 of the Law stipulate that money launderers may be subject to imprisonment of up to 20 years and a maximum fine of IDR 10,000,000,000 for those proven to have placed, transferred, or transferred assets known to be the proceeds of a criminal offence. In addition, Article 5 regulates criminal sanctions for those who receive or control such assets. The application of these sanctions is expected to provide a deterrent effect for the perpetrators, as well as increase compliance with applicable legal provisions. The application of strict sanctions against ML offenders is also part of a broader effort to eradicate corruption. By eradicating money laundering, it will be more difficult for corruptors to enjoy the proceeds of their crimes. Thus, the eradication of ML is not only a matter of demanding punishment for the perpetrators, but also a preventive measure in preventing the misuse of state finances.

### **Conclusion**

The proof of money laundering offences originating from the proceeds of corruption in Indonesia cannot be underestimated, given the complexity of the act of money laundering itself. Various laws and regulations have been drafted to facilitate this evidentiary process, emphasising the application of the reverse proof principle that facilitates law enforcement officials in handling money laundering cases. However, the challenges faced in collecting evidence and tracing suspicious transactions remain great, so synergy between the institutions involved, such as PPATK, financial institutions, and law enforcement officials, is needed to overcome these obstacles. Overall, despite the challenges in proving ML, the application of strict criminal sanctions is expected to provide a deterrent effect for perpetrators, while strengthening efforts to eradicate corruption in Indonesia.

### **Suggestion And Recommendation**

Based on the findings of this study, several strategic steps need to be taken to improve the effectiveness of proving money laundering offences (TPPU) originating from corruption in Indonesia. First, financial institutions should improve their capabilities in financial transaction monitoring, both through human resource training and the utilisation of information technology to detect suspicious transactions. This is important so that financial institutions can proactively support ML investigations. Second, to ensure the effectiveness of law enforcement, it is necessary to strengthen synergies between relevant institutions, particularly between law enforcement officials, the Financial Transaction Reports and Analysis Centre (PPATK), and financial institutions. More intensive coordination will

accelerate evidence collection and investigation of ML cases. Furthermore, although the Anti-Money Laundering Law has provided a clear legal basis, the development of its implementing regulations is necessary to make reverse proof more applicable in the field, with more detailed technical guidelines. In addition, strengthening access to data and information related to financial transactions and assets owned by the defendant is needed to expedite investigations. Finally, public education on the dangers and impacts of money laundering, as well as the importance of public participation in detecting suspicious activities, must also be prioritised. With these measures, it is hoped that efforts to eradicate ML stemming from corruption offences can run more effectively, reduce obstacles in proof, and improve the integrity of the legal system in Indonesia.

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