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RECONSTRUCTION OF LAW ENFORCEMENT FOR MONEY LAUNDERING OFFENSES FROM THE ASPECT OF ENVIRONMENTAL CRIME IN A JUSTICE-BASED CRIMINAL JUSTICE SYSTEM

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Abstract

This paper explores the enforcement of laws against money laundering originating from environmental crimes, advocating for a restructured approach within a criminal justice system grounded in the principles of justice. It underscores the intricate and dynamic nature of environmental offenses that frequently coincide with money laundering, necessitating a refined strategy in law enforcement. The study utilizes a combination of normative juridical and socio-legal research methods to dissect the legislative and enforcement landscapes pertaining to these offenses in Indonesia, drawing on secondary legal resources like the 1945 Constitution of the Republic of Indonesia, and primary data from interviews with law enforcement officials in North Sumatra. The findings indicate substantial obstacles within the existing legal framework, which hinder effective responses to the intertwined challenges of environmental crimes and money laundering. Issues include ambiguities in legal definitions and a deficiency in coordinated efforts across different enforcement agencies, which compromise the effectiveness of the anti-money laundering (AML) systems. In response, this dissertation proposes specific legal amendments aimed at fortifying the operational capacity of the Financial Transaction Reports and Analysis Center (PPATK), clarifying regulatory directives, and alleviating the evidential burden placed on defendants who are not directly implicated in the original offenses. The dissertation concludes that an optimal reconstruction of law enforcement for money laundering cases linked to environmental crimes should encompass enhanced AML mechanisms, more precise regulatory guidelines, and an enforcement ethos that resonates with the justice principles embedded in Pancasila and the 1945 Constitution. These reforms are vital for cultivating a more equitable, competent, and effective criminal justice system in Indonesia.

Keywords: Money Laundering, Environmental Crime, Legal Reform, Criminal Justice, Justice-Based Enforcement.

INTRODUCTION

Property is used as a tool to fulfill basic needs and other supporting needs, apart from that it also functions as a marriage bond. Explicit joint assets are not found in the Al-Qur'an or Al-Hadith because the term comes from customary law ('urf) in communities that recognize the mixing of assets within the family, one of which is Indonesian society.

Joint property in Indonesia is regulated in the Civil Code Articles 119 to Article 138, Law Number 1 of 1974 concerning Marriage Articles 35-37, KHI Articles 85 to Article 97, and so on. When compared with the description of marital assets in Law Number 1 of 1974, there are only 3 (three) articles, the description

Perpetrators of environmental crimes come from various circles or multi-actors, starting from society, organized groups, corporations, even unscrupulous officials and officials who have enormous influence.

As time and technology develop, perpetrators not only commit environmental crimes, but also commit environmental crimes. money laundering money laundering (), with increasingly dynamic modes, and continues to look for new patterns and forms of disguising money resulting from environmental crimes.[1]

Law Number 32 of 2009 concerning Environmental Protection and Management does not explicitly provide a definition of environmental criminal acts. Law Number 32 of 2009 only regulates the definition of environmental pollution, which is regulated by Article 1 number 24 and environmental damage in Article 1 number 16.

Determining the occurrence of environmental damage refers to Article 1 number 15 of Law Number 32 of 2009, whereas Determining the occurrence of environmental pollution is measured through environmental quality standards.

Article 1 number 13 of Law Number 32 of 2009 reads, "Environmental quality standards are a measure of the limits or levels of living things, substances, energy, or components that exist or must exist and/or pollutant elements whose existence is tolerated in a particular resource. as an element of the environment."

Article 1 number 15 of Law Number 32 of 2009 reads, "Environmental quality standard criteria for environmental damage are measures of the limits of changes or physical, chemical and/or biological properties of the environment that can be tolerated by the environment in order to continue to preserve its function."

The impact of environmental crimes is very serious, and has very broad implications. This is because the impact of environmental crimes not only causes loss of potential environmental services and biodiversity, but also threatens public health, causes ecological disasters, harms the country's economy, as well as causing the collapse of foreign investors' confidence in investing their capital in Indonesia, because they doubt that the Indonesian financial system is being tarnished. money resulting from environmental crimes, as well as having implications for the decline in Indonesia's prestige in the eyes of the world.

PPATK has received 360 reports of suspicious financial transactions worth IDR 2.4 trillion related to forestry and environmental crimes.[2], PPATK Receives 360 Suspicious Transaction Reports in Environmental Cases.[3]Head of PPATK Ivan Yustiavandana said that he had handled the results of the analysis and examination results of 81 reports with a total amount analyzed and examined by PPATK amounting to IDR 44 trillion.

Referring to Law Number 32 of 2009 it only says environmental pollution and environmental destruction. This will be interpreted very broadly regarding environmental crimes.

In fact, this is one of the crimes involving money laundering, as regulated in Article 2 Paragraph (1) letter x of Law no. 8 of 2010. This correlates with the predicate crime of other money laundering crimes, such as forestry crimes, regulated by Article 2 Paragraph (1) letter w of Law no. 8 of 2010.

The formulation of the provisions of the articles in Law Number 8 of 2010 also needs to be reconstructed, especially Article 40 letter a concerning the authority of PPATK to carry out prevention and eradication functions, but furthermore in Article 40 letter d, PPATK is only given the function of analyzing or examining reports and transaction information.

Finances are indicated by money laundering or other criminal acts. Likewise, Article 26 of Law Number 8 of 2010, from a normative aspect, it appears that PPATK has pro justitia authority, because it can stop financial transactions of service users.

Based on Prof Romli's opinion[4], said that referring to the provisions of Article 40 letter d of the Law on the Prevention and Eradication of Money Laundering Crimes of 2010 linked to the provisions of Article 44 letters j and i of the Law, it can be concluded that the PPATK covertly has investigative authority as intended in the applicable provisions of the Criminal Procedure Code.[5]

In practice, the prosecutor's office and the Corruption Eradication Commission (KPK) do not recognize the hidden authority of investigations in the PPATK, on the grounds that predicate crime investigators can begin investigating money laundering crimes without having to request a report on the results of the PPATK examination.

This is where the legal confusion lies in Law Number 8 of 2010, as a result of doubts. -doubtful that the legislators gave the authority to investigate and investigate to PPATK.

The consequences of this legal confusion give rise to legal uncertainty and injustice for justice seekers, because PPATK is not a pro-justice institution with the same authority as investigators. Changes in the function and role of the PPATK will certainly have an impact on the integrated criminal justice system as a whole, because the institution has increased duties and powers of inquiry and investigation in addition to the police and PPNS.

Reconstructing enforcement against perpetrators of money laundering crimes related to environmental crimes in the criminal justice system can be carried out through revisions to material legal and formal legal provisions related to environmental crimes by placing real justice.

This justice is justice based on Pancasila, UU -The 1945 Constitution, and the principles of statutory regulations. Regarding the background above, the author is interested in highlighting the title "Reconstructing Law Enforcement of Money Laundering Crimes in Relation to Environmental Crimes in a Justice Value-Based Criminal Justice System."

METHODOLOGY

Normative juridical and sociological juridical research methods were applied to examine statutory regulations and law enforcement practices relating to money laundering crimes and environmental crimes in Indonesia in this research.

The data used includes secondary data in the form of primary legal materials, such as the 1945 Constitution of the Republic of Indonesia, as well as primary data obtained through interviews with law enforcers at the Medan District Court and environmental agencies such as WALHI and BLH of North Sumatra Province.

Data analysis was carried out qualitatively to understand the factors that influence the law enforcement process and the steps needed to reconstruct law enforcement related to money laundering and environmental crimes.[6]

RESULTS

1. Obstacles in Law Enforcement for Money Laundering Crimes related to Environmental Crimes are not yet based on Justice

Law enforcement is not something that is easy to implement, especially the crime of money laundering as an organized crime, especially those originating from environmental crimes. All parties hope for justice, especially the government, because the potential for environmental and forestry crimes is still included in the crime category which is very difficult to eradicate. Indonesia's natural wealth is one of the largest contributors to the country's income.

The Ministry of Environment and Forestry (KLHK) released in the 2016-2020 period a record value of PNBP (Non-Tax State Income) of Rp. 2-2.5 trillion per year is not comparable to the area of production forests of 68.83 million hectares and conservation forests of 27.43 million hectares, so the figures above are relatively small.[6]

The factors that cause the failure to enforce TPPU laws originating from environmental crimes can be classified into 4 (four) factors, namely:

a). Influencing legal factors[8]:

1) There is no clear coordination pattern between institutions that play a role in eradicating the crime of money laundering.
2) Until now, PPATK only functions as an administrative institution so it is not very effective in carrying out its duties.
3) In substance, there are still several weaknesses in the laws and regulations relating to TPPU that need attention, including regarding limitations in efforts to detect money laundering crimes,
4) There are various interpretations of several norm formulations in the laws and regulations regarding TPPU that are currently in effect, and that the laws and regulations governing TPPU do not yet provide a strong legal basis for the interpretation, confiscation and confiscation of assets resulting from crime.
5) There are still limitations in efforts to detect money laundering crimes.
6) There are various interpretations of several norm formulations in laws and regulations related to TPPU that are currently in force, such as the application of conventions related to TPPU which still face conflicts with the Indonesian legal system, including provisions regarding serious crimes which are not recognized in the Indonesian Criminal Law.
7) The authority of agencies related to the implementation of the anti-money laundering regime has not been regulated clearly and firmly in the TPPU Law, including regarding the authority of predicate crime investigators to investigate TPPU and the PPATK's authority to block assets.[9]
8) There are still obstacles in terms of the KYC (Know Your Customer) principle not being able to be implemented effectively, the absence of a SIN (Single Identity Number),
9) There are no provisions regarding blocking of assets,

10) Regulators' access to information held by banks is still limited, including obtaining data regarding STR and CTR reports,

11) There are still violations of anti-tipping off provisions (prohibition on disclosing the identity of the reporter), there is no strong legal basis in the laws and regulations related to TPPU for the interpretation, confiscation and confiscation of assets resulting from crime.

b) Non-Legal Factors

1) Limited human resource capacity to master the techniques and substance of money laundering crimes, while the development of technology and TPPU modus operandi is increasingly sophisticated and very rapid.

2) In implementing the KYC (Know Your Customer) principles as regulated in PBI No. 11/28/PBI/2009 dated 1 July 2009 concerning the Implementation of the Anti-Money Laundering and Terrorism Financing Prevention Program for Commercial Banks is not yet effective enough to prevent and eradicate the crime of money laundering, which is caused by, among other things, the population administration system is not yet good, there is no single identity number (SIN). Without a SIN, not only is the implementation of the UUTPPU not effective, it also disrupts the smooth running of banks in verifying and identifying their customers.

3) In the process of establishing a new PT, no screening has been carried out for shareholders with legal disabilities by the Department of Law and Human Rights;

4) Customers are not yet fully open to conveying their personal and financial data. Based on the Anti Money Laundering (AML) system, with PBI No.3/10/PBI/2001 dated 18 June 2001, banks are required to have an information system that can identify, analyze, monitor and provide reports effectively regarding the characteristics of transactions carried out by Bank Customers. However, the effectiveness of using the AML system in helping to reveal indications of money laundering is highly dependent on the completeness of customer profile data. If many customer profile data are not accurate as mentioned above, it will still be difficult for banks to identify suspicious transactions. In principle, the AML system has implemented minimum standards to be able to disclose or indicate the existence of a Suspicious Transaction Report (STR), however, in order for this system to run effectively, it is necessary to implement a more advanced AML system. However, this requires large funds so not all banks are able to do it.

2. Ideal Reconstruction of Law Enforcement Against Criminal Offenses Money laundering originating from Predicate Crimes Environmental Crimes in the Criminal Justice System

The ideal reconstruction in Law No. 6 of 2010 concerning Money Laundering Crimes uses a progressive legal paradigm. Progressive law. The word progressive is a characteristic which means it is advanced.

The definition of progressive can be interpreted as favoring new, modern ideas, happening or developing steadily (supporting new directions, modern ideas, events or steady developments), or wanting to always progress (more) forward, improve.[10]

The ideal reconstruction of the Money Laundering Crime Law No. 8 of 2010 includes several articles:

Table 2: Ideal reconstruction of the Money Laundering Crime Law No. 8 of 2010

No	Article construction before changes	Weakness	Ideal reconstruction
1	Article 5: Any person who receives or controls the placement, transfer, payment, grant, donation, custody, exchange or use of assets which he knows or reasonably suspects are the proceeds of a criminal act.	The two main elements in the passive TPPU Article are similar to the provisions of Article 480 of the Criminal Code. Support (heling) which also uses these two main elements	Article 5: Every person who receives or controls the placement, transfer, payment, grant, donation, safekeeping, exchange or use of assets which he knows (intentionally) is the result of a criminal act
2	Article 26 paragraph 1: Financial service providers can postpone transactions for a maximum of 5 (five) working days from the time the transaction postponement is carried out. Paragraph 2: Postponement of Transactions as referred to in paragraph (1) is carried out if the Service User: Letter a. carry out transactions that are reasonably suspected of using assets originating from the proceeds of criminal acts as intended in Article 2 paragraph (1); Letter b. :: have an account to accommodate assets originating from the proceeds of criminal acts as intended in Article 2 paragraph (1); letter c. : or known and/or suspected of using fake documents. Paragraph 3 The implementation of the Transaction postponement as intended in paragraph (1) is recorded in the Transaction postponement minutes. Paragraph 4: Financial service providers provide a copy of the minutes of transaction delays to service users. Paragraph 5: Financial service providers are required to report Transaction delays to PPATK by attaching an official report of Transaction delays within a maximum of 24 (twenty four) hours from the time the Transaction postponement is carried out.	This provision does not clearly state that financial service provider institutions and PPATK have pro-justice authority because stopping financial transactions of service users is a legal action and has legal consequences involving the legal interests of not only the service users themselves but also the legal interests of third parties who are affected by the delay, both from the aspects of civil law, administrative law and criminal law. Temporary suspension of transactions, although temporary.	Article 26 reads: paragraph 1: financial service providers and PPATK have pro-justice authority to stop financial transactions: no later than 5 (five) working days from the time the transaction is postponed. Paragraph 2.: Financial service providers are required to report Transaction delays to PPATK by attaching an official report of Transaction delays within a maximum of 24 (twenty four) hours from the time the Transaction postponement is carried out.

Changes to this article will have an impact on other articles, namely:

Table 3: Changes to articles and their impact on other articles

No	Construction of the previous article change	Weakness	Ideal reconstruction
1	Article 40 letter a: PPAK has the function of preventing and eradicating money laundering crimes. letter b: management of data and information obtained by PPATK. letter c: supervision of the reporting Party's compliance letter d: analysis or examination of Financial Transaction reports and information that indicate the crime of Money Laundering and/or other criminal acts.	• The provisions of this article are contradictory because on one hand PPATK's function is as prevention and eradication but on the other hand it is only as an administrative institution. • Preventive and administrative functions are mixed into one.	Article 40 Letter a.: PPATK functions to eradicate the crime of money laundering. Letter b: PPATk in carrying out its functions by carrying out: a. Management of data and information obtained from reporting parties. b. Supervision of the reporting party's compliance c. Analyze or examine Financial Transaction reports and information that indicate Money Laundering and/or other criminal acts.
2	Article 69, reads: To be able to carry out, prosecution and examination at the investigation court In trials regarding the crime of money laundering, it is not mandatory to prove the original crime first.	It clashes or is ambiguous with article 77 which states: For the purposes of examination in court, the defendant is obliged to prove that his assets are not the proceeds of a criminal act. This is in conflict with article 78, paragraph (1) which reads: During the examination before the court as intended in Article 77, the judge orders the defendant to prove that the assets related to the case do not originate from or are related to a criminal act. Colliding with the origin of 78 paragraph (2) of money, it reads: The defendant proves that the assets related to the case do not originate from or are related to a criminal act.	Article 69 reads: For the purposes of examination in court, the defendant is not obliged to prove that his assets are not the proceeds of a criminal act.
3	Article 77 states: For the purposes of examination in court, the defendant is obliged to prove that his assets are not the proceeds of a criminal act. Article 78, paragraph (1) which reads: During the examination before the court as intended in Article 77, the judge	Viewed from the perspective of the principle of legality of the law of evidence, it is still questionable because this principle, apart from the retroactive prohibition, also requires that the law must be certain and clear (Bestimmtheitsgebot.	Deleted

	orders the defendant to prove that the assets related to the case do not originate from or are related to a criminal act.		

Based on the progressive legal optics of reconstructing the articles of the Money Laundering Crime law, the hope is that law enforcement for the crime of money laundering can approach justice. Philosophically, justice and prosperity are based on paragraph IV of the preamble to the 1945 Constitution. This mandates the state to realize social welfare. Likewise, the fifth principle is to realize social justice for all Indonesian people.[11]

CONCLUSION

Reconstructing the ideal of law enforcement against money laundering crimes originating from predicate crimes, especially those related to environmental crimes, requires in-depth normative improvements in the criminal justice system. This development involves significant changes in several key articles to strengthen the legal framework and make law enforcement easier.

First, adjustments to Article 5 which increase firmness in identifying and taking action against individuals involved in financial transactions known to originate from crime, by focusing on the perpetrator's intentions in using assets resulting from crime. Furthermore, modifications to Article 26 clarify the obligations of financial service providers to process and report suspicious transactions within a strict time frame, as well as giving more authority to PPATK to proactively stop suspicious transactions.

Article 40 was revised to strengthen PPATK's role in data management and monitoring whistleblower compliance, while the prevention and eradication function was further emphasized. The reconstruction of Article 69 and the deletion of Articles 77 and 78 marks a shift in the burden of proof, where the defendant is no longer required to prove the origin of assets that are not involved in a criminal act, which reduces the legal burden on the defendant while still maintaining the integrity of the legal process. Overall, this reconstruction is designed to strengthen the effectiveness and efficiency of the criminal justice system in dealing with money laundering originating from environmental crimes, with normative adjustments that consider fairness, speed and accuracy in law enforcement.

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Footnotes

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