

Criminalization of Electronic Money Corruption as a Predicative Crime of Money Laundering

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Abstract

The law specifically Article 17 to Article 22 of the ITE Law, regulates electronic transactions, also known as e-commerce buying and selling contracts. Article 17 paragraph (2) of the ITE Law states that parties conducting electronic transactions as mentioned in paragraph (1) must act in good faith when interacting and/or exchanging electronic documents and electronic information during such transactions. Article 18 paragraph (2) states that the party conducting electronic transactions as mentioned in paragraph (1) This research is a normative legal research, namely a legal study that positions law as a structured system of norms. The type of normative legal research is law that is formulated based on norms or rules that apply in society and become a guideline for the behavior of each individual. Corruption involving electronic money is certainly a predicate crime of money laundering. Illegal profits obtained from e-money corruption inherently trigger efforts to conceal or disguise the origin of funds through digital transactions. Although Indonesia's Money Laundering Law already has a strong legal basis to prosecute this crime, its implementation faces challenges.

I. Introduction

Technological advances during globalization accompanied by the transformation of the way of life have had a number of impacts on human civilization (Harun M. Husen, 1990). Especially in the economic sector, where initially people only used cash or banknotes for transactions, there are now various service providers such as merchants, e-commerce, and online transportation services that offer electronic money-based digital payment methods.

Money is a very crucial aspect of human life. Changes in the way we use money are evolving rapidly, along with advances in technology and information. Both notes and coins have transformed into electronic money. This process is seen through the evolution from cash transactions to electronic payment methods that do not involve physical money. In 2024, the Governor of Bank Indonesia launched the “Gerakan Nasional Non Tunai” (GNNT) initiative which aims to raise awareness among the public, businessmen, and government institutions to provide convenience, security, and efficiency in financial transactions. To realize a payment system that is not only efficient but also safe and reliable, while still prioritizing consumer protection, as well as paying attention to wider access and national interests, Bank Indonesia is committed to strengthening the electrification of payment transactions and improving payment system infrastructure.

The law, specifically Article 17 to Article 22 of the ITE Law, regulates electronic transactions, also known as e-commerce buying and selling contracts. Article 17 paragraph (2) of the ITE Law states that parties conducting electronic transactions as mentioned in paragraph (1) must act in good faith when interacting and/or exchanging electronic documents and electronic information during such transactions. Article 18 paragraph (2) states that the party conducting electronic transactions as mentioned in paragraph (1) (M. Alvi Syahrin, 2020).

One of the criminal offenses that is currently rampant is money laundering. A criminal offense is an act that is not only defined in criminal law as a criminal offense or a criminal offense, but also viewed from the perspective of crime, deviation (deviation from the 1945 Constitution), and changes in the quality of crime (Arif Gosita, 1983). Criminal offenders usually try to hide or disguise the source of the assets they obtain from criminal acts in various ways so that law enforcers find it difficult to find these assets and they can use them freely for legal and illegal purposes.

If the money laundering crime committed is the result of a corruption crime, the court needs to impose additional punishment in the form of confiscation of the defendant's property, which is the result of corruption, as regulated in Articles 17 and 18 of Law Number 31 of 1999 concerning Eradication of Corruption. If we look at

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Article 75 of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Criminal Acts, which reads "In the event that the investigator finds sufficient preliminary evidence of the occurrence of money laundering criminal acts and criminal acts of origin, the investigator combines the investigation of criminal acts of origin with money laundering criminal acts and notifies PPATK.

As a phenomenon of crime called "organized crime", it turns out that there are certain parties who enjoy the benefits of money laundering traffic without realizing the impact of the losses caused. In relation to the latter, the banking world, on the one hand, operates on the basis of consumer trust and on the other hand, can be used as a means of allowing money laundering crimes to be committed. An integral part of criminal law relates to the problem of eradicating criminal acts. Meanwhile, there are three common methods used in money laundering: Buy-Sell Conversion, Offshore Conversion, and Legitimate Business Conversion. Of these methods, the one that has rapidly evolved along with technological advancements is converting real currency into digital currency online.

Corruption in Indonesia can take the form of actions such as, Bribery, Bribery is a behavior that describes corruption committed by public officials, people who are bound by professional codes of ethics, people who have authority in organizations and private parties (Ahmad Fahd Budi Suryanto, 2021). Forms of bribery in the crime of corruption are Bribery of civil servants or state officials, civil servants or state officials who accept bribes, bribery of judges and bribery of advocates, civil servants or state officials who accept gifts related to their positions and judges and advocates who accept bribes. Embezzlement in office, The crime of embezzlement in office is a criminal offense that applies to someone who has a position in private companies and government agencies. If a person commits embezzlement in office in a private company, then the criminal offense is regulated under Article 374 of the Criminal Code. However, if a person commits embezzlement in office in a government agency, then the criminal offense is regulated in Law Number 8 of 2001 concerning Eradication of Corruption, (Muh. Thezar dan St. Nurjannah, 2020) and Gratification, Gratification is unlawful behavior in the form of receiving gifts of all kinds of goods or money received domestically or abroad by electronic means or without electronic means (Yasmirah Mandasari Saragih, 2017).

2. Research Method

This research is a normative legal research, namely a legal study that positions law as a structured system of norms (Mukti Fajar dan Yulianto Achmad, 2019). The type of normative legal research is law that is formulated based on norms or rules that apply

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in society and become a guideline for the behavior of each individual (Abdul Kadir Muhammad, 2004). Normative research is a type of legal study that focuses on the study of literature sources or documents (Ismail Koto, 2024). The characteristics of normative legal research are seen as being able to provide solutions to the problems being researched because normative law discusses doctrines (expert views) or principles (basic principles) in the field of legal science (Rajarif Syah Akbar Simatupang, 2024).

3. Results and Discussion

a. The Concept of Corruption Predicate Crime in the Crime of Money Laundering

Money laundering in general can be defined as an act or actions that transfer, use or perform other actions or the proceeds of a criminal act that is often carried out by crime organizations or individuals who commit acts of corruption, narcotics trafficking, and other criminal acts. The goal is to hide or obscure the origin of the illicit money so that it can be used as if it were legitimate money (Philips Darwin, 2012).

The commencement of the criminality of money laundering crimes has led to several understandings or interpretations of the type of money laundering itself (Doni Adi Supriyo and Kaboel Suwardi, 2020). On the one hand, money laundering is considered as a crime that is highly dependent on the original crime (dependent crime), in other words, money laundering is a follow-up crime to the predicate offense. On the other hand, money laundering is seen as a separate crime that does not depend on the predicate offense (independent crime).

In the development of the criminal act of money laundering which until now continues to grow, when viewed from the emergence of this money laundering, where this TPPU arises because there is a continuation of the original criminal act that preceded it or was committed first. In addition to ensnaring the main perpetrators or commonly called active perpetrators who commit money laundering, it can also ensnare passive actors in the money laundering process (Henry Mangangantung, 2018).

As is known, the pattern of money laundering can be grouped into three patterns of activity, namely: placement, layering and integration. Placement, is an effort to place funds generated from a criminal activity into the financial system. In this case there is a physical movement of cash proceeds of crime, either through smuggling cash from one country to another, combining cash derived from crime with money obtained from the results of legitimate activities, or by breaking large amounts of cash into small amounts or deposited in banks or buying securities such as shares or also converting into other currencies or transferring money into foreign

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exchange:

1. Placement, is an effort to place funds generated from a criminal activity into the financial system. In this case there is a physical movement of cash proceeds of crime, either through smuggling cash from one country to another, combining cash derived from crime with money obtained from the results of legitimate activities, or by breaking large amounts of cash into small amounts or deposited in banks or buying securities such as shares or also converting into other currencies or transferring money into foreign exchange;
2. Layering, defined as separating the proceeds of crime from its source, namely the related criminal activities through several stages of financial transactions. In this case there is a process of transferring funds from several accounts or certain locations as a result of placement to other places through a series of complex transactions designed to disguise / trick the source of the "illicit" funds. Layering can also be done through opening as many accounts as possible to fictitious companies by utilizing bank secrecy provisions, especially in countries that are not cooperative in efforts to combat money laundering activities;
3. Integration, which is an attempt to establish a basis as a 'legitimate explanation' for the proceeds of crime. Here the money that is 'laundered' through placement or layering is diverted into official activities so that it appears completely unrelated to the previous criminal activity that was the source of the laundered money. At this stage the laundered money is put back into circulation in a form that is in line with the rule of law.

In terms of criminal aspects, Article 18 paragraph (1) of the Anti-Corruption Law stipulates "forfeiture of goods", "payment of compensation", and "deprivation of rights or benefits". "Forfeiture of goods" can be conceptually interpreted as "confiscation proceedings". In addition, "payment of restitution" and "revocation of rights or benefits" can conceptually be interpreted as "cash forfeiture proceedings".

b. Corruption Liability Through Electronic Money as a Crime of Origin of Money Laundering Crime

In the concept of criminal evidence, Evidence is a policy or basis that contains methods authorized by law to prove the guilt of the accused (Muhammad Reza Adiwijana, 2020). Evidence of acts that contain criminal elements in formal criminal law includes arrangements regarding evidence that is justified and allowed to be used by judges in proving criminal acts allegedly committed by the defendant in accordance with the relevant laws and based, not arbitrarily or unfoundedly.

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Evidence aims to provide a means of proving the truth of an event, so that from the event can be obtained a truth that can be accepted by reason (Ali Imron and Muhamad Iqbal, 2019).

Digital technology requires a system that can help prove if a person or group has committed a criminal act of money laundering through digital access. The evidentiary system in the Criminal Procedure Code itself does not yet regulate how to prove money laundering committed using online facilities. However, with this phenomenon, it can be explained about the implications of the development of evidence in the case of money laundering crimes. Explaining the implications of the development of evidence due to the existence of a new mode, the relationship between the development of evidence and the development of crime and its modus operandi will be close. The development of the modus operandi will have an impact on evidence in a criminal offense, here relating to evidence, such as goods used to commit criminal acts, goods resulting from criminal acts and information in a special sense (Brian Septiadi Daud and Nyoman Serikat Putra Jaya, 2022).

In the development of proof of criminal offenses committed using more sophisticated information technology, which is carried out digitally and using the internet connection, there are several laws that discuss the proof of criminal offenses committed using or through electronic technology, namely mentioned:

1. Law Number 31 Year 1999 on the Eradication of Corruption which has been amended by Law Number 20 Year 2001 Law Number 31 Year 1999 on the Eradication of Corruption which previously did not recognize electronic evidence;
2. Law Number 15 of 2002 on the Crime of Money Laundering which was later replaced by Law Number 8 of 2010 on the Eradication of the Crime of Money Laundering Law Number 15 of 2002 on the Crime of Money Laundering has now been replaced by Law Number 8 of 2010 on the Eradication of the Crime of Money Laundering, which is the first law as a law that recognizes electronic evidence as valid evidence;
3. Law Number 11 of 2008 concerning Electronic Information and Transactions as amended by Law Number 19 of 2016.

From the description of the laws mentioned, if the contents are understood, it can explain that proof through electronic evidence can be used in court as an aid to proof, even though it is not written in the Criminal Procedure Code, the position of proof using electronic evidence is still valid because it is stated in the law. Article 5 and Article 6 of the ITE Law regulate electronic evidence, explaining that electronic information and electronic documents or the results of their printouts are legal

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evidence if they use an electronic system in accordance with the provisions of the ITE Law. After the enactment of the ITE Law, it is increasingly emphasized that electronic document evidence is legal evidence in Indonesian procedural law, specifically Indonesian criminal procedural law. More specifically the crime of money laundering, in Law Number 8 of 2010 concerning the Eradication of the Crime of Money Laundering, it is clear that the law is the first law to legalize electronic evidence as valid evidence. From here it clearly states that electronic or digital evidence can be used and is valid in the trial process of criminal acts, especially money laundering crimes.

4. Conclusion

Corruption involving electronic money is certainly a predicate crime of money laundering. Illegal profits obtained from e-money corruption inherently trigger efforts to conceal or disguise the origin of funds through digital transactions. Although Indonesia's Money Laundering Law already has a strong legal basis to prosecute this crime, its implementation faces challenges. The main challenges include the anonymity of transactions on some platforms, the complexity of fund flows that can be cross-platform or broken down into smaller transactions, as well as cross-border jurisdiction issues when involving parties outside Indonesia.

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