



JURIDICAL ANALYSIS OF CRIMINAL SANCTIONS FOR NARCOTICS MONEY LAUNDERING

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ABSTRACT

The criminal sanction for laundering money from the crime of narcotics is Article 2 of Law Number 8 of 2010 concerning the prevention and eradication of the crime of money laundering paragraph (1) point 3 concerning narcotics. Implementing the Criminal Sanctions for Money Laundering from Narcotics Crime is still overlapping and separate or simultaneous. This occurs both at the placement, distribution, and collection stages, so handling becomes increasingly difficult and requires systematic and continuous capacity building. Factors constraining Criminal Sanctions for Money Laundering from Narcotics Crime are the Globalization Factor, the Rapid Technological Advancement Factor, and the Very Strict Bank Confidential Provisions Factor of the Country Concerned. Therefore, stricter legal arrangements are needed in enforcing criminal sanctions for money laundering of the proceeds of narcotics crimes and should pay more attention to the principles of simple, fast and low-cost criminal procedural law so that the next stage of the judicial process can be carried out immediately.

Keywords: *Juridical Analysis, Money Laundering Criminal Sanctions, Narcotics Crime*

INTRODUCTION

Perpetrators of criminal acts generally try to hide or disguise the origin of assets resulting from criminal acts in various ways. The assets resulting from crimes are difficult to trace by law enforcement officials, so they can freely utilize them for legal and illegal activities. Legitimate. Therefore, hiding and disguising the origin of assets or money laundering activities not only threatens the stability and integrity of the economic and financial systems but can also endanger the foundations of social, national, and state life based on Pancasila and the State Constitution. The Republic of Indonesia in 1945.

Money laundering activities have become an integral part of the world of crime. Things often felt but difficult to prove are known as money laundering, which is a form of crime often inherent in white-collar crime.

Proving the existence of money laundering is challenging because money laundering activities are very complex. The criminalization of money laundering is expected to have broader goals, such as maintaining financial stability and trust in financial institutions. Given

its nature as a follow-up crime, the criminalization of money laundering as a money laundering offense (TPPU) is ultimately expected to overcome its major crime (core crimes).

Money laundering is a double crime. In handling the case, ultimately, there are two crimes, namely the origin crime (predicate crime) of money laundering crime, that should be done more efficiently and effectively. The crime's perpetrator and results can be known through the search for assets or property for the subsequent results of the crime to be seized for the state or returned to the rightful. The production was symbolized by the issuance of Law No. 7 of 1997 on ratification of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (United et al. on Combating Illicit Trafficking in Narcotics and Psychotropic Substances, 1988) and Law No. 8 of 1976 on ratification of the Single Convention on Narcotics of 1961 and the protocol of 1972 amending it.

According to Yunus Husein, in the International Narcotics Control Strategy Report (INCSR) issued by the Bureau for International Narcotics and Law Enforcement Affairs, United States Department of State in March 2003, Indonesia was placed back into the list of significant laundering countries in the Asia Pacific region along with 53 countries including Australia, Canada, China, Chinese Taipei, Hong Kong, India, Japan, Macau China, Myanmar, Nauru, Pakistan, Philippines, Singapore, Thailand, United Kingdom and United States of America. The predicate of major laundering countries is given to countries whose financial institutions and systems are considered contaminated by the international narcotics business, which is suspected to involve large sums of money.

Furthermore, INCSR also highlighted several things, namely Indonesia's efforts to eradicate the illicit circulation of narcotics which were considered inadequate, the increase in the rate of abuse of narcotics in the country, and the dense traffic of illicit narcotics to and from Indonesia involving countries such as Thailand, Burma. , Singapore, Afghanistan, Pakistan, and Nigeria. The illicit circulation of narcotics has long been believed to have a close connection with the money laundering process.

Money laundering does not harm people or the state. However, money laundering has caused widespread losses, not only in the economic sector but also in all sectors of life, ranging from damage to the state's reputation to the increasing number of initial crimes (predicate crimes) of money laundering. In addition, money laundering also has the potential to undermine the financial sector due to the large amount of money involved in these activities. A financial institution that relies its activities on funds that are the result of a crime may face a liquidity Hazard. This can happen because large amounts of money laundered and recently placed in a bank can suddenly disappear from the bank without prior notice; because their

owners do so through electronic transfers (wire transfers), the flow of money through the international banking system carried out by money launderers is intended to sustain their unlawful operations by giving to criminals. Indonesia's efforts to establish an effective anti-money laundering regime have been implemented with the promulgation of Law No. 15 of 2002 on money laundering and have been amended by Law No. 25 of 2003.

Based on the description above, the author is interested in taking the study title entitled juridical analysis of criminal sanctions for money laundering proceeds of Narcotics Crime.

Based on the background of these thoughts, the problem can be formulated as follows:

1. What are the legal arrangements for the Criminal Sanctions for Money Laundering Proceeds of Narcotics Crime?
2. How are the Criminal Sanctions for Narcotics Money Laundering implemented?
3. Factors constraining Criminal Sanctions for Narcotics Money Laundering?

RESEARCH METHODS

The research method describes the entire series of activities that will be carried out in order to answer the main issues to prove the assumptions put forward. The research method used in this research combines normative and empirical research with a juridical approach.

RESEARCH RESULTS AND DISCUSSION

1. Legal Arrangement Against Sanctions For The Criminal Act Of Narcotics Money Laundering

Etymologically, narcotics come from the English word narcosis or narcosis, which means lulling and anesthetizing. The word narcotics comes from the Greek word *Narke* which means drugged so you do not feel anything. In general, what is meant by narcotics is a kind of substance that will affect the user's body when used (introduced in the body). The influence is in the form of influencing awareness, giving encouragement that can affect human behavior. These influences can be sedatives or stimulants (not sexual stimulation) and cause hallucinations.

The pharmacological term used is the drug, a type of substance that, when used, will bring specific effects and influences on the user's body, such as influencing consciousness and providing calm, stimulating, and causing hallucinations. Terminologically narcotics in

the Big Indonesian Dictionary are drugs that can calm the nerves, relieve pain, cause drowsiness, and stimulate. According to some scholars and legal experts, the definition of narcotics is as follows:

- a. Soedjono D stated that what is meant by narcotics is a type of substance, which, when used (introduced into the body), will affect the user's body. The influence is in the form of calming, stimulating, and causing delusions or hallucinations.
- b. Edy Karsono, narcotics are substances/active ingredients that act on the central nervous system (brain), which can cause a decrease in loss of consciousness and pain (pain) and can cause dependence (addiction).
- c. Elijah Adams defines narcotics as consisting of synthetic and semi-synthetic substances, which are well-known as heroin made from morphine which is not used, but many appear in illegal trades, as well as being known as dihydromorphine.

Definition of narcotics based on the provisions of Article 1 Number 1 of Law No. 35 of 2009 on narcotics, that what is meant by narcotics is a substance or drug derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence. The famous narcotics in Indonesia today come from the word “Narkoties,” which means the same as narcosis, which means to anesthetize. In the past, Indonesia was known as an addict. General explanation Law No. 35 of 2009 on narcotics has a broader scope in terms of norms, the scope of material, and aggravated criminal threats. The broader scope is not only based on the above factors but also due to the development of needs and the fact that the values and norms in the applicable provisions are no longer adequate as an effective means to prevent and eradicate the abuse and illicit trafficking of narcotics. One of the new materials in Law No. 35 of 2009 on narcotics, divided into 3 (three) groups, regarding how the intended classification of each group has been formulated in Article 6 paragraph (1) of the Narcotics Law.

Article 1 Number 13 of Law Number 35 of 2009 on narcotics, narcotics addicts are people who use or abuse narcotics and are in a state of dependence on narcotics, both physically and psychologically, while narcotics abusers in Article 1 Number 15 of Law number 35 of 2009 on narcotics are people who use narcotics without rights or against the law. Narcotics and psychotropic drugs are the results of technological progress to be used for the benefit of Medicine and science.

2. Implementation Of Money Laundering Proceeds Of Narcotics Crime

The placement of drug crimes as a predicate crime can be qualified from the perpetrator's actions by hiding or disguising the origin of the assets obtained from the results of drug crimes so that it appears that the assets resulting from drug crimes result from legitimate activities.

A more detailed determination of drug crime as a predicate crime on money laundering can be seen in Article 1 Number 1 of Law No. 25 of 2003 on money laundering (TPPU) that *money laundering* is defined as the act of placing, transferring, paying, spending, donating, donating, depositing, carrying abroad, exchanging, or any other act on property that is known or reasonably suspected to be the result of a criminal offense to conceal or disguise the origin of the property so that it seems to be a legitimate property.

Considerable wealth obtained from drug abuse crimes, usually the perpetrators who are usually organized crime, is not directly used by the perpetrators because of fear or indicated as money laundering activities. For this reason, the perpetrators usually try to hide the origin of the property in various ways, including entering it into the financial system (banking system). The ways taken are in the form of hiding or disguising the origin of the property.

These assets are to avoid tracking efforts by law enforcement officers who are usually threatened with money laundering or popularly known as money laundering to predict crime, namely drug abuse. Regarding the determination of predicate crime, money laundering against drug crimes can be seen from the following characteristics: Money laundering from narcotics proceeds

The crime mode of drug abuse by utilizing financial institutions to conceal and disguise assets resulting from drug crimes from time to time is increasingly complex by using technology and financial engineering, which is quite complicated. In simple terms, the activities of disguise and concealment of assets resulting from drug crime can be grouped into three patterns of activities that are usually carried out by drug syndicate networks, namely placement, layering, and integration.

Placement is an effort to put funds generated from criminal activity of drug abuse into the financial system. In this case, there is a physical movement of cash from drug crimes, either through smuggling cash from one country to another, combining cash from drug abuse crimes with money obtained from legitimate activities, or by breaking large amounts of cash into small amounts or deposited in banks or purchased securities such as stocks or also converting into other currencies or transferring money..

3. Factors That Become Obstacles or Barriers to Sanctions For Money Laundering Proceeds Of Narcotics Crime.

Law enforcement against criminal acts related to the placement of Indonesian workers in the city of Batam is essential in order to reduce the placement of Indonesian workers in the city of Batam by implementing the illegal placement of Indonesian workers, which can be a crime or violation outlined in Law Number 39 of 2004 on the placement and protection of Indonesian workers abroad. One of them is tackling the crime through the criminal justice system, as the author described in Chapter III of this paper; in the criminal justice system (criminal justice system), there are components consisting of the police, investigators of civil servants (PPNS) related responsibilities in employment, prosecutors, justice, and correctional institutions.

Here below, the author will describe the constraints faced by these components in conducting law enforcement against criminal acts related to the placement of Indonesian workers in Batam that the author obtained from interviews with the speakers when conducting this research writing:

1. The legal structure
 - a. Police Of The Republic Of Indonesia. Police are at the beginning of handling a criminal offense related to the placement of Indonesian workers in Batam. Based on the law, the police are given the authority to conduct investigations and investigations. This writing takes the jurisdiction of the Batam City Resort police. Which become the inhibiting factors in the legal protection of women's labor rights are influenced by two factors, namely Internal factors and external factorsz
 - b. The prosecutor's Office, the prosecutor's Office is an institution authorized by law to act as a public prosecutor and executor of court decisions that have acquired permanent legal force and other authority under the law. Therefore, in this case, the public prosecutor's role is crucial in law enforcement against criminal acts related to the placement of Indonesian workers in the city of Batam. The obstacles he faced were
 - 1) Indonesian labor witnesses at the time of the investigation conducted by the police / PPNS exist, but at the time of the trial, witnesses could not attend. This is because the grace period of the investigation to the trial took a long time, which is about one year, so the possibility of the Indonesian workers already in the country of placement.
 - 2) Experts from the National Agency for the Placement and Protection of Indonesian Workers are less responsive to support law enforcement against criminal acts related to the placement of Indonesian workers abroad in the trial. The lack of responsiveness of

experts from the Indonesian National Agency for Placement and Protection in the middle of work is indicated by the absence from the trial without information, even though the Public Prosecutor has summoned it three times.

- c. Court, the obstacles that exist in the courts in the framework of law enforcement against criminal acts related to the placement of Indonesian workers in the region of Batam city at the time of the trial of witnesses in the minutes of examination can not be presented by the Public Prosecutor. This is because the grace period of the investigation to the trial took a long time, which is approximately one year, so, likely, the Indonesian workers are already in their country of placement, and the witnesses are in their distant home regions so that the testimony of the witnesses is only read.

CONCLUSION

1. The legal regulation that regulates the sanctions for money laundering resulting from narcotics crimes in Article 2 of Law Number 8 of 2010 on the Prevention and Eradication of money laundering paragraph (1) point 3 on narcotics
2. The implementation of money laundering sanctions resulting from Narcotics Crime is still overlapping and separate, or simultaneous this happens both at the placement stage, the deployment stage (layering), and the collection stage (integration) so that the handling becomes increasingly difficult and requires capacity building systematically and continuously.
3. The factors that become obstacles to criminal sanctions for money laundering from narcotics crimes are globalization factors, factors of rapid technological progress, factors of very strict Bank secrecy provisions from the countries concerned, factors that have not been applied to the principle of “ Know Your Customer “ or the principle of “ knowing the customer “ for banks and other financial service providers, factors of the rise of Electronic Banking, electronic banking, factors of using Electronic Money or electronic money, factors of enabling the use of layers of Legal Service Providers to place funds, in this way the depositor is not the actual owner, the factor of the existence of provisions of laws and regulations on the need to keep the relationship between the Lawyer and his client and The Accountant with his client, the factor of not really the government of a country to allow money laundering practices, because it benefits from the placement of illicit money in state banks,

the factor of the absence of regulations governing the eradication of money laundering in a country.

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