

Legal Study on the Evidence of Money Laundering in Corruption Cases (A Study of Verdict No. 116/Pid.Sus.K/2013/PN Mdn)

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Abstract

This paper discusses the legal study on the evidence of Money Laundering Crimes (TPPU) in corruption cases, with a focus on Verdict No. 116/Pid.Sus.K/2013/PN Mdn. Proving TPPU in the context of corruption often poses a significant challenge for law enforcement, especially in Indonesia, where corruption remains a major issue. The verdict provides an overview of how the evidence of TPPU is presented in corruption cases and the challenges faced in the process. Essentially, proving TPPU involves tracing the origins of assets or money suspected to be the proceeds of corruption. In practice, this is often difficult to do due to the complex and sophisticated methods used by corrupt actors to conceal the origin of the money. This verdict shows how law enforcement attempts to trace the origins of these assets and money, as well as the obstacles they face.

Additionally, proving TPPU also involves determining whether there is an intent to launder money, which is usually demonstrated through the behavior and actions of the defendant. This verdict provides an overview of how this intent is proven in court and the challenges faced in proving it. This study suggests that, despite the existing challenges, proving TPPU in corruption cases can still be done effectively if law enforcement has the proper knowledge and understanding of the methods used by corrupt actors and money launderers. Additionally, it requires Law Harmonization, superior Human Resources and Government Digitalization.

Keywords: *Evidence, TPPU, Corruption, Verdict No.116/Pid.Sus.K/2013/PN Mdn.*

INTRODUCTION

Criminal money laundering and corruption are two types of crimes that are of global concern and are closely related. Money laundering is often used as a method to hide the origins of funds derived from corruption, and conversely, corruption facilitates money laundering by involving public officials who abuse their power (Unger et al., 2006). Combating both of these crimes is crucial in creating a clean and transparent government and supporting sustainable economic development. In the legal context, proving money laundering in corruption cases is often a challenge for law enforcement, especially due to the complex nature of money laundering and its often international networks (Tak, 2007). Legal studies on the evidence of money laundering in corruption cases are important to understand the methods and principles applied in the judicial process and to assess the effectiveness of the law in addressing these cases.

One very interesting case to study is Verdict No. 116/Pid.Sus.K/2013/PN Mdn, which is an example of a corruption case involving money laundering. Through this case study, this research aims to analyze the evidentiary methods used in the verdict, as well as the relevance and effectiveness of the law in addressing the case. The results of this research are expected to provide recommendations for improving legal practices and policies related to combating money laundering and corruption. With the development of technology and globalization, money laundering and corruption crimes are becoming more sophisticated and often involve extensive networks, including corporations, banks, and public officials (Zdanowicz, 2009). Therefore, it is important for law enforcement to keep pace with these developments and to adapt effective evidentiary methods that are suitable for the context of these crimes.

The evidence of money laundering in corruption cases is regulated by various laws and regulations, such as Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (Money

Laundering Law) and Law No. 20 of 2001 concerning the Eradication of Corruption Crimes (Corruption Law). Both of these laws are important legal foundations in the fight against money laundering and corruption in Indonesia (Irianto & Moeliono, 2012).

One important aspect in proving money laundering is the concept of "follow the money," which means tracing the flow of funds from the crime to find and prove the money laundering crime (Goredema, 2004). This concept serves as the basis for law enforcement to gather relevant evidence in money laundering cases, such as suspicious financial transactions, assets acquired from criminal proceeds, and the involvement of related parties in the money laundering process (Leong, 2008).

In the context of Verdict No. 116/Pid.Sus.K/2013/PN Mdn, the author analyzes the evidentiary methods used by the judge in determining the existence of money laundering and its connection to the corruption case. Some aspects that will be considered include proving the flow of funds from corruption, the involvement of parties, and the assets acquired from the criminal proceeds.

METHOD

This research is an empirical normative study which aims to evaluate the implementation of legal norms related to consumer protection in halal product guarantees at the Indonesian Ulema Council, North Sumatra. Using primary data from consumers and industry players as well as secondary data from literature and official documents, this research combines literature study methods, in-depth interviews and observation to collect data. Data analysis was carried out qualitatively with an inductive approach, focusing on evaluating consumer protection policies and practices in the field of halal certification by the North Sumatra MUI, resulting in an in-depth understanding of the implementation and effectiveness of the existing legal framework. (Zainuddin, 2014)

RESULTS AND DISCUSSION

The Legal Regulation of Money Laundering and Corruption Crimes in Indonesia

The legal regulation of money laundering and corruption crimes in Indonesia is implemented through legislation that includes laws and lower-level regulations. Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (AML Law), Law No. 31 of 1999 concerning the Eradication of Corruption Crimes (Corruption Law), as well as implementing regulations and institutions authorized in the enforcement of money laundering and corruption crimes. Money laundering crimes are regulated in the AML Law, which is a revision of Law No. 15 of 2002 concerning Money Laundering Crimes. This AML Law regulates the concept of money laundering, the underlying criminal acts, and the criminal sanctions applicable to money launderers. Article 2 of the AML Law defines money laundering as a criminal act involving the alteration, transfer, concealment, withdrawal, or use of assets known or reasonably suspected to originate from criminal acts. The criminal acts underlying money laundering include corruption, narcotics, terrorism, and other crimes that generate proceeds of crime.

Meanwhile, corruption crimes are regulated in the Corruption Law, which was later amended by Law No. 20 of 2001 concerning Amendments to Law No. 31 of 1999. This Corruption Law regulates various forms of corruption crimes, such as bribery, embezzlement in office, abuse of authority, as well as gratuities and receipt of gifts or promises related to positions. In addition to the AML Law and the Corruption Law, the legal regulation of money laundering and corruption crimes in Indonesia also involves implementing regulations, such as Government Regulations (PP) and Presidential Regulations (Perpres). For example, Government Regulation No. 43 of 2015 concerning the Procedures for Reporting and Examination of State Officials' Assets and Presidential Regulation No. 87 of 2016 concerning the National Agency for Combating Terrorism and Money Laundering.

In the enforcement of money laundering and corruption crimes, Indonesia has several authorized and responsible institutions, including the Corruption Eradication Commission (KPK) and the Financial Transaction Reports and Analysis Center (PPATK). The KPK, established based on the Corruption Law, is tasked with coordinating, supervising, and carrying out the eradication of corruption crimes professionally, intensively, and sustainably. The KPK has the authority to conduct investigations, prosecutions, and the settlement of corruption crimes, as well as to take preventive measures against corruption through coordination and supervision.

PPATK, on the other hand, is an independent institution established based on the AML Law with the main task of receiving, analyzing, and disseminating the results of the analysis of suspicious financial transaction reports and cash transaction reports to authorized law enforcement agencies. PPATK also plays a crucial role in coordinating efforts to prevent and eradicate money laundering crimes in Indonesia and providing recommendations to the government and law enforcement agencies for the development of policies and strategies to combat money laundering.

In addition to the KPK and PPATK, the enforcement of money laundering and corruption crimes in Indonesia also involves other law enforcement institutions, such as the police, prosecutors, and courts. In the law enforcement process, various evidentiary mechanisms are used, such as evidence, witnesses, and experts, as well as the principles of evidence as regulated in the Criminal Procedure Code (KUHAP). In efforts to combat money laundering and corruption crimes, Indonesia also cooperates with other countries and international organizations through bilateral and multilateral cooperation, such as the Financial Action Task Force (FATF) and the United Nations Convention against Corruption (UNCAC). This cooperation involves the exchange of information, legal assistance, and capacity building to prevent and address money laundering and corruption crimes more effectively.

Although the legal regulation of money laundering and corruption crimes in Indonesia has undergone several changes and improvements, challenges in law enforcement still exist. Some of these challenges include coordination among law enforcement agencies, selective law enforcement, and obstacles in the implementation of international legal assistance. To overcome these challenges, joint efforts are needed from the government, law enforcement agencies, the private sector, and the public in preventing, detecting, and eradicating money laundering and corruption crimes.

Proof Method in Decision No.116/Pid.Sus.K/2013/PN Mdn

Decision No.116/Pid.Sus.K/2013/PN Mdn is an example of a case in Indonesia involving money laundering in a corruption case. In this case, the proof method used by the court to prove the existence of money laundering is crucial, as it determines whether the defendant is proven guilty or not. The proof method used in this decision includes evidence, witnesses, and experts, as well as the application of proof principles as regulated in the Criminal Procedure Code (KUHAP).

Evidence

The use of evidence in this case involves documents such as bank accounts, financial reports, and other documents relevant to the alleged criminal acts by the defendant. These documents are used to show the existence of suspicious transactions or the management of assets originating from corruption. For example, bank accounts showing suspicious fund flows from third parties suspected of being related to corruption, or documents showing the purchase of luxury assets using funds from corruption.

Witnesses play a crucial role in helping the court to uncover information and facts related to money laundering in corruption cases. Witnesses in this case may include those directly involved in the criminal act, such as victims, perpetrators, or third parties with knowledge of the criminal act. For example, witnesses who testify about how the defendant received bribes or used corrupt funds to purchase assets.

The use of experts in this case aims to provide scientific or technical explanations regarding certain aspects of the case, such as legal, financial, or forensic aspects. Experts presented in court can help the court understand how money laundering occurred and how assets from corruption were processed by the defendant. For example, financial forensic experts explaining how the defendant concealed the origin of corrupt funds through various transactions or complex corporate structures.

Proof Principles

In the proof process, the court applies principles regulated in the KUHAP, such as the principle of "beyond a reasonable doubt," the burden of proof on the prosecutor, and the principle of judicial freedom in evaluating evidence. The principle of "beyond a reasonable doubt" emphasizes that the defendant can only be found guilty if the evidence is strong enough to convince the judge that the defendant did commit money laundering in the corruption case. The burden of proof on the prosecutor means that the prosecutor must prove the defendant's guilt, not the defendant proving his innocence. Meanwhile, the principle of judicial freedom in evaluating evidence gives the judge the authority to assess and weigh the evidence in the case based on mature and objective considerations.

In Decision No.116/Pid.Sus.K/2013/PN Mdn, Tono alias Asia was sentenced to one year and five months in prison for his role as an intermediary in the project. In addition to the prison sentence, the panel of judges also decided that the defendant must pay a fine of Rp100 million, or face an additional three-month prison sentence. In the verdict, the panel of judges also decided that the sum of Rp2.25 billion in the defendant's bank account with account number 8235040138 at Bank BCA KCP Rantau Prapat be seized by the prosecutor and then confiscated for the state.

The panel of judges found Tono alias Asia guilty of money laundering from the proceeds of corruption in the procurement of health and family planning equipment in Labuhan Batu Selatan District Government. This decision is in accordance with Article 5 of Law No. 8 of 2010 concerning money laundering crimes. Although the defendant's sentence is much lighter than the prosecutor's demand, which previously demanded a sentence of 9 years and 5 months, both the defendant and the Prosecutor seem to be considering whether to accept or reject the verdict. However, the defendant seemed to respond to the verdict with a cheerful smile, even shaking hands with two prosecutors in the case. In the same case, four other defendants have also been sentenced by the panel of judges of the Corruption Court in Medan. The former Head of the Health Agency of Labusel District Government, Rusman Lubis, was sentenced to 2.5 years in prison. The Commitment Making Official, Syahrul'An, was sentenced to 2 years in prison. The Director of PT General Medical Supplier and Director of CV Cahaya, Johan Winata, was sentenced to 3 years in prison. Meanwhile, the Deputy Director of CV Cahaya, Johan Tancho, was sentenced to 5 years in prison.

Then the writer traced further legal efforts, which the writer took from the Supreme Court Repository. The Appeal filed by the Prosecutor with Decision Number: 33/PIDSUS.K/2014/PT-MDN succeeded in extending the detention period by Imposing a sentence on the Defendant for a prison term of: 2 (two) years and a fine of: Rp. 100,000,000,- (one hundred million rupiah) with the provision that if the fine is not paid it must be replaced with a prison term of 3 (three) months; Decides that the amount of money Rp. 2,250,000,000,- (Two Billion Two Hundred Fifty Million Rupiah) which is in the Defendant's account with account number: 8235040138 at Bank BCA KCP Rantau Prapat can be seized by the Prosecutor and then confiscated for the state. However, Mr. Tono alias Asia still insisted on filing a cassation appeal, and the final decision was the Cassation Effort Rejected.

Challenges and Obstacles in the Application of Money Laundering Proof in Corruption Cases, and Recommendations to Overcome These Challenges

Money Laundering (TPPU) in corruption cases often poses a significant challenge in law enforcement, especially in terms of proof. Here are some of the key challenges and obstacles: First, tracing the origin of assets or money suspected to be the result of corruption is often a major challenge. Corrupt actors typically use sophisticated and intricate methods to hide the origin of this money, such as through the creation of shadow companies, large cash transactions, or cross-border transfers (Unger & van der Linde, 2018). These actions make it difficult for law enforcement to trace the money and assets.

Second, many TPPU cases involve cross-border transactions, requiring international cooperation. Although many countries have signed cooperation agreements in this regard, in practice, international cooperation often becomes a barrier to gathering evidence from other countries, as each country has its own laws and regulations regarding TPPU (Zunzunegui, 2017).

Third, proof standards also pose a challenge in TPPU law enforcement. Prosecutors must be able to prove that the laundered money or assets are the proceeds of the underlying criminal act, in this case, corruption. However, if the underlying criminal act itself is difficult to prove, this will complicate the proof of TPPU.

Fourth, TPPU law enforcement requires sufficient resources and specialized expertise. In many cases, including in Indonesia, these resources and capacities are often limited (Transparency International, 2020). As a result, TPPU law enforcement becomes less effective.

Efforts that have been and will be made by the government to curb the prevalence of corruption and money laundering include at least three aspects according to the author:

1. Synchronization of Legislation and Regulation Arrangement: The Indonesian government has sought to improve and synchronize legislation to more effectively combat corruption and TPPU. For example, Law No. 8 of 2010 concerning Prevention and Eradication of Money Laundering is a strong legal basis for combating TPPU. In addition, longer-standing legal revisions, such as the Criminal Code (KUHP) becoming Law No. 1 of 2023 replacing the previous Criminal Code, and the Criminal Procedure Code

(KUHAP) which is currently included in the 2023 National Legislation Program (Prolegnas), are also being considered to strengthen other law enforcement such as the Asset Seizure Law and financial transaction restrictions.

2. **Human Resources Development:** The Indonesian government acknowledges that effectively combating corruption and TPPU requires skilled and integrity-filled human resources. Therefore, they have invested in the training and development of human resources in law enforcement agencies such as the Corruption Eradication Commission (KPK) and the Financial Transaction Reports and Analysis Centre (PPATK). The aim is to enhance their abilities in detecting, investigating, and prosecuting corruption and TPPU cases.
3. **Government Digitalization:** Digitalization can enhance transparency and efficiency in governance, which in turn can help prevent and detect corruption and TPPU. For example, e-procurement systems can help prevent corruption in government procurement by making the process more transparent and auditable. Additionally, technologies such as big data and artificial intelligence can be used to analyze suspicious financial transaction patterns and detect TPPU.

CONCLUSION

In the legal study of proving Money Laundering Crimes (TPPU) in corruption cases, we can observe various challenges and obstacles. The enforcement of TPPU law in the context of corruption is often faced with difficulties in tracing the origins of suspected assets, mainly because the methods used by perpetrators are usually complex and sophisticated. Overall, proving TPPU in corruption cases is a difficult yet crucial task in the effort to combat corruption and create a fairer and more transparent society. Proving Money Laundering Crimes (TPPU) in corruption cases requires a careful and strategic legal approach. Firstly, there is a need to enhance the capacity of law enforcement in tracing and tracking assets suspected to be the proceeds of corruption. This includes a better knowledge and understanding of the techniques and methods used by perpetrators to conceal their assets, as well as the use of technology and data analysis to assist in investigations..

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