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Juridical Review of Money Laundering with Terrorism

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ABSTRACT

Money laundering and terrorism are often related to each other because money from crime can be used to finance terrorist activities and money laundering can be used to disguise the origin of the money. To overcome these two crimes, cooperation between law enforcement agencies and good international coordination is needed. In Indonesia, money laundering is regulated in Law Number 8 of 2010, while terrorism is regulated in Law Number 15 of 2003. Some of the legal issues that are still current in the effort to combat money laundering and terrorism include the implementation of the Financial Transaction Reporting System, the designation of terrorist crime organizations, the exchange of information between law enforcement agencies, the protection of informants and witnesses, and the implementation of new laws on money laundering. International cooperation is essential in efforts to overcome this problem. Strong cooperation is expected to cut off the flow of terrorism funds and reduce the risk of criminal acts entering the financial system and help combat terrorism cases that can harm national security.

INTRODUCTION

Cooperation between countries and institutions is key to combating terrorism and money laundering. Only through a well-coordinated approach and joint efforts can we overcome these great challenges and achieve better security and stability (Pagliari & Young, 2014). Money laundering with terrorism is related to how the two crimes are connected and how they can be taken appropriate legal action to crack down on the perpetrators (Compin, 2018).

Money laundering is a legal process involving money derived from illegal activities, such as narcotics, human trafficking, and terrorism (Amjad et al., 2022). Money laundering can be considered a more serious crime because the proceeds of crime can be disguised and used for other purposes, including to fund terrorist activities (Korejo et al., 2021). Furthermore, criminal acts of terrorism are acts of violence committed to create fear and chaos in society (Madhour et al., 2020). In many countries, terrorism is considered the highest crime that can be committed and is punished by very harsh measures. Thus, money laundering and terrorism are often related to each other because the proceeds of crime are often used to finance terrorist

activities. Therefore, there is an international effort to take these two criminal acts seriously and ensure that they are not observed.

Terrorism and money laundering have become global threats that are constantly shifting and evolving, spreading around the world and affecting almost every country (ur Rehman, 2020). Criminal acts of terrorism and money laundering not only undermine social and political stability but also threaten national and international security (Tatara et al., 2023). In such cases, the jurists involved will use the anti-money laundering and counter-terrorism laws and regulations existing in their countries to pursue and prosecute the perpetrators. There are also international efforts to coordinate legal and intelligence action between countries to apprehend perpetrators of money laundering and international terrorism. In Indonesia, money laundering is regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering (PPTP Law), while terrorism is regulated in Law Number 15 of 2003 concerning Terrorism which has been amended by Law Number 5 of 2018.

The objectives of this study are to find out: 1) How the mechanism for tracking and terminating the flow of terrorist funds related to money laundering, 2) How to prevent issues related to financial transactions using cryptocurrencies that are considered untraceable and vulnerable to being used to finance terrorism and money laundering crimes, and 3) What should be done in efforts to resolve legal issues related to cooperation between law enforcement agencies in handling money laundering and terrorism.

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METHODS

The research used in this journal is normative juridical research (Huda & S HI, 2021). The normative juridical research is carried out with 3 (three) approaches, namely: statute approach, concept approach, and case study. The legal theories used as analytical knives for the three problem formulations are the Theory of Legal Certainty and The Theory of Legal Protection.

RESULTS

The practice of money laundering is a crime in the banking world that is very detrimental. Money laundering in the financial system and economy can harm the world economy. For example, the negative impact on the effectiveness of the use of resources and funds that are widely used for illegal activities causes suboptimal use of funds, thus harming the community. This happens because the money from criminal acts is invested in a country that feels safe to launder money. The money from this crime can go from a country with a good economy to a country with a bad economy. Money laundering can lead to instability in national and international economies. In addition, it also results in sharp fluctuations in the exchange rate of interest rates. With these negative impacts, it is believed that money laundering can hamper world economic growth (Satrya et al., 2022).

Money laundering and terrorism are closely related because money from terrorism is often laundered through different financial transactions to hide its origin (Dzilhamsyah, 2021). In addition, money laundering can also be used to finance terrorist activities. Therefore, laws on money laundering and terrorism are often related and implemented together. In Indonesia, money laundering is regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering (PPTP Law), while terrorism is regulated in Law Number 15 of 2003 concerning Terrorism which has been amended by Law Number 5 of 2018.

In the PPTP Law, money laundering is defined as any means, direct or indirect, used to disguise or conceal the origin of money or property derived from criminal acts. Meanwhile, in the Terrorism Law, the criminal act of terrorism is defined as an act that threatens or uses violence against other people or property to cause fear or disturb the stability of the government or society. In practice, if there is a suspicion that the proceeds of crime are related to terrorism, law enforcement must investigate and enforce the law if the allegation is proven.

Therefore, for these two criminal acts to be overcome, law enforcement must be carried out with good coordination between the relevant law enforcement agencies.

The process of cooperation between money laundering and terrorism is a cooperation process involving various parties and stages that must be carried out to overcome the problem.

The following is the process of cooperation that may be carried out between money laundering and terrorism: (a) Coordination between relevant agencies: To handle cases of money laundering and terrorism crimes, coordination between the National Police, the Prosecutor's Office, and the Financial Supervisory Agency must be very strong. In this case, Kominfo, Special Detachment 88, and BIN can assist in providing the required information support. (b) In-depth investigation: Law enforcement of money laundering and terrorism requires a thorough and firm investigation. This investigation must be carried out to find strong evidence to take appropriate and effective legal measures. (c) Identification of terrorism assets: Identification of assets related to criminal acts of terrorism is essential to cut off sources of terrorism financing. Financial institutions must be aware of money or assets related to terrorism that must be blocked. (d) Asset confiscation: Assets related to money laundering and terrorism should be tracked and then confiscated. This confiscation can help cut off sources of terrorism financing and reduce the risk of money from criminal acts entering the financial system. (e) International exchange of information: Money laundering and terrorism crimes know no national borders and often involve international networks. Therefore, there must be cooperation between countries in the exchange of information and coordination in overcoming these two criminal acts. (f) Enforcement and trial: Once evidence is found, enforcement shall be conducted firmly and proportionately. Perpetrators of money laundering and terrorism must be punished according to the criminal acts they commit.

In practice, cooperation between money laundering and terrorism often involves coordination between law enforcement agencies such as the National Police, the Prosecutor's Office, and the Financial Supervisory Agency as well as close international cooperation with other agencies to address the problem. Broadly speaking, the forms of Money Laundering are carried out by Starburst and boomerang. A form of legal action with a starburst is that a bank receives a deposit of money from criminal activities in large quantities and then automatically the money is broken into small amounts called "small parcels" and sent to several different bank accounts in different locations (Wulandari, 2020). Furthermore, the impact of cooperation between money laundering and terrorism can have a significant impact on efforts to combat international crime and terrorism (Al-Suwaidi & Nobanee, 2021).

Here are some of the impacts of the cooperation: (1) Preventing terrorism financing: This cooperation can identify and decide the source of terrorism financing from money laundering proceeds. By stopping the flow of these funds, terrorism becomes more difficult to carry out because the source of funding is disrupted. (2) Strengthening national security: Terrorist activities harm national security and this cooperation can help in preventing, overcoming, and providing effective legal measures to address the problem. (3) Improve coordination between countries: In practice, law enforcement of money laundering and terrorism involves complex business transactions that cross national borders. International cooperation between law enforcement agencies will improve coordination to effectively conduct investigations and legal action to address the problem. (4) Increase public trust: Through comprehensive cooperation, the public will feel that the government is very serious in its efforts to combat money laundering and terrorism. This will foster public hope and trust in the government and other law enforcement agencies. (5) Undermining the activities of terrorist organizations: This cooperation can cut off the flow of funds for the activities of terrorist organizations so that the sustainability of terrorist activities and the development of their networks can be decided.

The impact of this cooperation has great potential to destroy the sustainability of money laundering and terrorism that harms the international community (Olujobi & Yebisi, 2023).

Therefore, international cooperation must be continuously strengthened to form safer and more peaceful conditions for everyone.

Some legal issues related to money laundering with terrorism that are still relevant and continue to develop in Indonesia include (1) Determination of terrorist crime organizations: Through Law Number 5 of 2018 concerning Amendments to Law Number 15 of 2003 concerning Criminal Acts of Terrorism, the government can determine organizations that are suspected of being terrorist crime organizations. This has implications for the implementation of laws on money laundering, under which assets linked to terrorist criminal organizations can be blocked and confiscated. (2) Implementation of Financial Transaction Reporting System: In this case, the Financial Services Authority (OJK) requires some parties to report their financial transactions to the Central Financial Transaction Reporting and Analysis Agency (PPATK) as an effort to strengthen the prevention and eradication of terrorism and money laundering. (3) Exchange of information between law enforcement agencies: In the handling of criminal acts of terrorism and money laundering, the exchange of information between the law enforcement agencies involved is very important. Therefore, the Indonesian government continues to strive to improve the performance of its officers in collaborating and optimizing tasks together with related agencies. (4) Implementation of the New Law on Money Laundering: In 2019, the Indonesian government launched a new Law Number 8 of 2010 on Money Laundering with several changes, namely on zero tolerance for money laundering crimes and the implementation of stricter sanctions. (5) Informant protection: In August 2019, PPATK reported that one of the challenges in preventing and eradicating criminal acts of terrorism is in protecting informants and witnesses of crime. Given that informants and witnesses are an important part of counter-terrorism measures, their protection, and safeguarding are crucial. Therefore, efforts are being made to improve the protection and security of informants and witnesses.

Furthermore, globally, several updated legal issues lead to regulations in tackling money laundering and terrorism. One of them is the international cooperation between countries and the application of technology to cut the chain of terrorism financing and money laundering. The main mechanism for tracing and cutting off the flow of terrorist funds related to money laundering involves cooperation between various agencies, such as central banks, financial institutions, intelligence agencies, and the police.

Here are the common steps for tracing and cutting off the flow of terrorist funds: (a) Detection of suspicious transactions: Central bank agencies or financial institutions monitor financial activities and detect suspicious transactions, such as large money transfers or remittances to countries suspected of being terrorist escape sites. (b) Verification of investigations from intelligence agencies: Intelligence agencies collect information about terrorist actors and networks and analyze transactions made to verify whether they are related to criminal acts of terrorism. (c) Identification and prevention of money laundering: Financial institutions identify and prevent money laundering practices used to conceal the origin of terrorist funds. (d) Account blocking and disconnection of funds: If a transaction related to a criminal act of terrorism has been verified, then the central bank or financial institution can block the account involved in the transaction and cut off the flow of funds from the source. (e) Investigation and prosecution: The decision to block an account or cut off the flow of terrorist funds is followed by an investigation and prosecution by a law enforcement agency.

The process of tracing and cutting off the flow of terrorist funds related to money laundering is crucial in stemming funding for terror acts.

Preventing these of cryptocurrencies to finance terrorism and money laundering can be done in the following ways: (a) Strict regulation and supervision of cryptocurrency exchanges: The government may impose stricter rules and supervision on cryptocurrency exchanges. This can reduce the tendency to use cryptocurrencies to finance terrorism and money laundering. (b) Pelaporan dan monitoring transaksi mata uang crypto: Relevant parties, such as

cryptocurrency exchanges, must report and monitor suspicious cryptocurrency transactions. This can help detect and prevent the use of cryptocurrencies for terrorism and money laundering. (c) Collaboration between agencies and international institutions: Collaboration between various international institutions and institutions can help increase awareness and cooperation in preventing the use of cryptocurrencies for criminal acts of terrorism and money laundering. (d) Education and socialization to the public: Education and socialization to the public about the various risks and weaknesses associated with the use of cryptocurrencies can help prevent the use of cryptocurrencies for terrorism and money laundering.

To prevent the use of cryptocurrencies for terrorism and money laundering, cooperation between governments, financial institutions, and international institutions, as well as the general public, is needed (Fletcher et al., 2021).

To resolve legal issues related to cooperation between law enforcement agencies in handling money laundering and terrorism, some things that can be done are as follows: (a) Coordination and collaboration between agencies: Different law enforcement agencies, such as the police, prosecutors, and courts, need to coordinate and cooperate in addressing legal issues related to money laundering and terrorism. (b) Improvement of existing legal and regulatory framework: Improvement of existing legal and regulatory framework is needed to strengthen the cooperation of law enforcement agencies in handling money laundering and terrorism crimes. (c) Training and skills development: Training and skill development in the areas of investigation, leadership, and risk management can help improve law enforcement agencies' ability to address complex legal issues. (d) Use of more advanced technology: The use of more advanced technology, such as data analysis, blockchain technology, and artificial intelligence can help strengthen cooperation and facilitate the investigation process into cases of money laundering and terrorism.

To resolve legal issues related to cooperation between law enforcement agencies in handling money laundering and terrorism, joint efforts between law enforcement agencies, the government, and the general public are needed to strengthen cooperation and improve the existing legal framework (Sarayar, 2019).

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