

**CORPORATE RESPONSIBILITY
IN THE CRIME OF MONEY LAUNDERING IN INDONESIA****Nia Mudjiyanto¹, Didik Suhariyanto², G. Nyoman Tio Rae³**^{1,2,3}Law Study Program, Postgraduate, Bung Karno UniversityEmail: niamudjiyanto77@gmail.com¹, didikusuhariyanto4@gmail.com²,nrae88good@gmail.com³**Abstract**

The crime of money laundering has a direct or indirect negative effect on the country's economy, as a negative effect on the effective use of resources and finances. TPPU issues are not only related to legal and law enforcement issues, but are also directly related to and affect national financial and economic issues, including national investment issues. The method used in this research is normative legal research which was carried out as an effort to obtain the necessary data regarding the problem. The data used is secondary data consisting of primary legal material, secondary legal material and tertiary legal material. Besides that, primary data is also used as supporting secondary data. Data analysis was carried out using qualitative juridical analysis methods. The research results obtained are that TPPU practices involve a lot of resources and funds that are used for illegal activities and can be detrimental to society, and a lot of funds cannot be used optimally. Proceeds of crime are usually invested in countries where money laundering appears safe, although returns are lower. The proceeds of this crime can be transferred from countries with good economies to countries with poor economies. Because it has a negative impact on financial markets and weakens citizens' trust in the international financial system.

Keywords: Liability, Criminal, Debtor, Foreigner, Bankrupt.**INTRODUCTION**

The crime of money laundering (*money laundering*) or TPPU is a term that has long been known in legal literature . TPPU is an act disguise or hide the origin of the funds obtained or the proceeds of a crime. Predicate criminal acts are referred to by the term *predicate Crime* is a criminal act that initiates TPPU. This is then followed by further actions to disguise the origin of the funds. Therefore it is also called *following crime* (Luhut MP Pangaribuan, 2014). TPPU has a direct or indirect negative effect on the country's economy, as a negative effect on the effective use of resources and finances. TPPU issues are not only related to legal and law enforcement issues, but are also directly related to and affect national financial and economic issues, including national investment issues (Denniagi, 2021). TPPU practices involve a lot of resources and funds that are used

for illegal activities and can be detrimental to society, as well as a lot of funds that cannot be used optimally (Wulandari, 2020). Proceeds of crime are usually invested in countries where money laundering appears safe, although returns are lower. The proceeds of these crimes can be transferred from the country with a good economy to a country with a bad economy. Because it has a negative impact on financial markets and weakens citizens' trust in the international financial system. That is why the world's countries and international organizations pay great attention to efforts to prevent and eradicate this crime. Furthermore, the increasingly complex *modus operandi* of TPPU crime perpetrators has given rise to the emergence of *emerging crimes TPPU threats in Indonesia*, including :

1. The practice of buying and selling and using accounts in the name of other parties by syndicates.
2. *E- Commerce* Practices in transactions of criminal proceeds.
3. *Peer Financial Technology Practices to Unlicensed peer (P2P) lending* .

Even during the Covid-19 pandemic, fraud, corruption, narcotics crimes, fund transfer crimes and embezzlement have a high potential risk of money laundering crimes in Indonesia. In reality, there have been several cases during the Covid-19 pandemic, including crimes related to the crime of diverting funds transfers for business transactions or *Business Email Compromise (BEC)* and corruption related to the misuse of social assistance.

TPPU crimes can be committed by individuals or non-individuals in the form of business entities or legal entities or other forms hereinafter referred to as a corporation (Rodliyah et al., 2020a). That each person is an individual or corporation. A corporation is an organized group of people and/or assets, whether a legal entity or non-legal entity (Wiyono, 2022). Furthermore, corporations as business entities that are present in people's lives make a significant contribution to economic development, in almost all developed countries there are large corporations that support the country's national development, through economic activities that absorb the employment sector and help the government improve the economic prosperity of its people. However, not many people understand that corporations do not actually have a real form like humans because initially corporations were a nomenclature popularized by business people and economists to package business entities in trade transactions. Even though corporations are intangible, it is a general fact that most people accept and understand that corporations can carry out activities that can be directly felt by society. In reality, corporate activities require humans to realize their business plans and/or strategies, regardless of whether the corporation is a legal entity or not a legal entity, of course this is facilitated by management, employees and/or their proxies, because a corporation as an entity actually does not have a clear form like humans (Shanty, 2017). Therefore, corporations always need people to realize their business activities and interests. Problems then arise when in reality, apart from corporations that are beneficial to society, quite a few corporations commit crimes, especially TPPU. The practice of TPPU certainly cannot be separated from the consequences of weak legal instruments, law enforcement to anticipate corporate crimes

and the lack of development of law enforcement thinking in criminalizing corporate crimes, so in the history of criminal law in Indonesia, although corporate punishment has been implemented, law enforcement against corporate crimes is still minimal considering The perspective of law enforcement is not yet uniform in accepting the idea of corporations as subjects of criminal law, especially understanding the meaning and scope of corporate crime. Corporate Crime is part of *white collars crime* as well as covert crime. The easiest definition of corporate crime to understand is the actions of a corporation, or its employees who act for the corporation, where these actions are unlawful (Nasution, 2015). TPPU can occur in various forms, not only through the financial system, direct investment, but also hidden in the form of property, vehicles, jewelry, etc. For this reason, views on law enforcement are gradually changing, starting from law enforcement to the offenses committed by the perpetrator, where the perpetrator becomes the subject of law enforcement. Currently, law enforcement also includes criminalizing the use or use of funds or wealth derived from the proceeds of crime (Tambunan, 2016).

In imposing a crime on a corporation, the judge can assess the corporation's guilt as stated in paragraph (1), including: (a) the corporation can obtain profits or benefits from the criminal act or the criminal act was carried out for the benefit of the corporation; (b) The corporation allows criminal acts to occur; or (c) The corporation does not take the necessary steps to prevent, prevent greater impacts and ensure compliance with applicable legal provisions to avoid criminal acts occurring (Roup, 2017).

It is hoped that this research will be useful, both for scientific (theoretical) purposes and practical interests in overcoming corporate crime. analyze the legal application between *das sollen* and *das sein* in a case, and contribute to uncovering legal problems in the field of corporate criminal responsibility in TPPU.

RESEARCH METHOD

Each science has its own identity so there will always be differences. The research methodology applied in each science is always adapted to the science that is its parent. The target of this research is research aimed at policy problems in determining and formulating corporate crimes and the application of sanctions, so the approach used in this paper uses a normative juridical approach (Ibrahim, 2006).

Normative juridical approach used initially used positive law inventory research which was a preliminary activity which is fundamental to conducting legal research. The normative juridical approach in the crime of money laundering refers to an approach that focuses on normative aspects in handling the crime of money laundering. This approach is based on an analysis of applicable legal regulations, including laws, regulations and court decisions regarding money laundering crimes.

In this context, the normative juridical approach involves: (Butarbutar, 2019).

1. *Interpretation of Money Laundering Laws* : This approach involves an analysis of the provisions of the money laundering laws that apply in a jurisdiction. This includes interpretation of the elements of money laundering crimes, reporting requirements, prevention obligations, and sanctions that can be imposed.

2. *Analysis of Legal Norms and Principles* : This approach involves identification and analysis of legal norms and principles relating to the crime of money laundering. This includes principles such as legality, equality, fairness and proportionality that can apply in handling money laundering crimes.
3. *Comparative Study* : This approach involves comparing legal regulations regarding money laundering crimes in various jurisdictions. This helps in understanding the differences and similarities in the legal approaches adopted by various countries in dealing with money laundering crimes.
4. *Analysis of Court Decisions* : This approach involves studying court decisions related to money laundering crimes. This helps in understanding the legal interpretations given by courts and the application of legal principles in concrete cases related to money laundering crimes (Butarbutar, 2019).

The legal materials used in this research are primary legal materials, namely raw materials obtained in the field and secondary materials, namely library research. However, this research is mainly focused on secondary materials because the nature of this research is normative, while primary materials are used as support to sharpen the analysis. The source material used consists of primary sources and secondary sources. Secondary materials are obtained through primary materials, namely the laws in force in Indonesia. Secondary legal materials are used in the form of expert opinions, scientific works, articles, papers and research results. Primary data was obtained through interviews with legal experts in the field of TPPU and analysis of the TPPU Law.

Based on the legal approach and materials in this research, the material collection methods used are: literature study and document study, namely examining primary legal materials and secondary legal materials related to criminal law policy in the application of law when uncovering a corporate crime case . Material obtained through literature study and observations is processed through identification, classification, systematic and analysis. In accordance with the normative juridical approach method which emphasizes secondary data, the strategy or approach used in analyzing the data is a qualitative analysis method. Qualitative analysis used is descriptive and perspective , that is, it will try to provide existing data and assess it, then analyze existing problems related to the application of corporate crime law and provide contributions in the form of solutions to overcome these problems (Ibrahim, 2006).

RESULT AND DISCUSSION

The definition or understanding of a company is closely related to issues in the field of civil law. Indeed, the concept of company is a term that is closely related to the term legal entity (rechtsperson), and legal entity itself is also a term that is closely related to the field of civil law (HAOLOAN, 2021). The meaning of society, etymologically, corporatie (Dutch, society (English), society (German) comes from the Latin word "society" (Fernando, 2020), (Bawole, 2013). Likewise, other words ending in "tio" mean "society" as a noun (substantivum) comes from the verb "corporare", widely used by people during or after the Middle Ages. "Company" itself comes from the word "corpus"

(Indonesian = body) which means to give body or combine, so that in the end "Corporatio" means the result of the work of fusion or in other words derived from a body that is formed within a person, a body that is obtained through speech, a body that is transformed into a human, a body that is obtained through human action and is not a human body, which occurs naturally.

Several experts provide insight into the business these include :

1. The word company is a frequent terms _ used by para criminal law expert to refer to what is common in other fields of law , especially in civil law, as a legal entity or what in Dutch is called *rechtspersoon* or in English is called *rechtspersoon*, a body law, or company. ⁶⁴
2. Kenneth S. Ferber said the same thing : “Company is person Which artificial. He Can do whatever Which Can done somebody. He can buy And selling real estate And property personal on his name Alone. he Can demand And sued on his name yourself, that's clear . ⁶⁵
3. According to Viscount Haldane LC the essence of a society can be seen, among other things: "Business is an abstraction. He no longer has a mind of his own regarding his own body; The will that is to be implemented and directed must always be visible in a person who for certain purposes can be called an agent or agent, but actually directs the thoughts and will of society, namely the ego and the center of society." ⁶⁶
4. Black's Law Dictionary discusses issues related to the use of legal entities, namely as follows: Companies, corporations, or legal entities established by or based on the laws of a country. An association of people formed based on their status as a legal entity. The law considers the company itself as a party that can sue and be sued. An entity (usually a corporation) that has the legal right to act as a person separate from its shareholders and has the right to issue shares and exist indefinitely, a group or property of people established based on legal provisions becomes a company. law company. or a legal entity that has a different legal entity from the natural person who formed it, exists indefinitely separately from that natural person, and has legal powers granted by the constitution. ⁶⁷
5. Satjipto Rahardjo in his book entitled *Legal Science* states emphatically that what is meant by corporation is: "The body that is created consists of a corpus, namely its physical structure and into which the law contains the uncertainty of the animus which means that the body has a personality. Because a legal entity is a creation of law, but at the time it is created, its death is determined by law."

The concept of a legal entity actually originates from the concept of civil law which developed along with societal development (Rodliyah et al., 2020b). Understanding Companies in Indonesian criminal law are broader than the definition of a legal entity or the concept of civil law (Mahmudah, 2022). According to various definitions, a company is a collection of people and/or asset Which organized, both legal and illegal. The view that corporations in the sense of criminal law are not only limited to legal entities as such in civil law, but also in body not a law that is not an individual, Also applies in various Indonesian criminal law . And recently This emit regulation. For

example, Law Number 5 of 1997 concerning Psychotropic Substances state : “A company is a group of people and/or riches Which organized, good ones legal entity or not.”

More Furthermore, Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 21 of 2001 provides an understanding of draft company as follows:

“A company is an organized group of people and/or wealth , either legal entity or otherwise No body law." Law Number 15 of 2002 concerning the Crime of Money Laundering as amended by Law Number 25 of 2003 provides a similar understanding regarding the meaning of company or corporation, that is:

“A company is an organized group of people and/or wealth, either legal entity or not." From The differences of opinion mentioned above can be concluded that there are differences in the scope of legal subjects, namely whether something company or company is a legal subject in civil law and corporate law, Company is body law Which move in field law civil and corporation. Understanding In civil law, a company is a "legal entity", while in criminal law, the definition of a company is or corporation not only in the form of body law only but also companies that are not is legal entity. Therefore, room corporate scope and Corporations in criminal law are much broader than the legal concepts contained in civil law concepts. Indonesia as a developing country continues to strive for national development in various fields. National development is a series of sustainable development efforts that include social, national and state life to carry out the task of achieving the national goals stated in the preamble to the 1945 Constitution, namely improving general welfare and achieving social justice for all Indonesian society. It cannot be denied that the business world has an important role in this development and makes many contributions, especially in the context of developing the economic sector (Romarina, 2016), (Al Farisi & Fasa, 2022). The role of business entities in developing their business activities can encourage economic growth through state revenues in the form of taxes and even foreign exchange, as well as providing many job opportunities for the community. However, it is not uncommon for companies to engage in deviant and criminal behavior with different operating methods. Regarding corporations, they cannot be separated from the perspective of civil law, because initially civil law only concerned itself with corporate affairs as a legal entity. In civil law, a person's words refer to the right holder or legal subject (*subjectum juris*). However, it is not just humans who are the only legal subjects (*natuurlijke person*), because there are still other legal subjects who according to the law can have the same rights and carry out legal actions as humans, with their own property and through their administrators they can be sued and take legal action. The legal subject in question is a legal entity (*rechtspersoon*), namely an individual created by law. Globalization efforts have shown the existence of a corporate aspect, especially the growth of the business world which continues to increase very rapidly both in number and scale, in addition to their role. This shows that economic, social and political activities are strongly influenced by business behavior. It cannot be denied that the business world has an important role in globalization efforts through the process of developing the economic sector. The role of the business world in developing its activities

can encourage economic growth through APBN revenues. in the form of taxes and even foreign exchange country, at a time give Lots employment opportunities to the community. However, government policy is purposeful encourage economic growth by creating various industrial activities part big done by corporation often show behavior deviated in its operations. Violation Which done company in its operations it is called corporate crime. Crime corporation have characteristic features certain. A number of the characteristics of corporate crime are:

1. This corporate crime produces a profit (economic or not) or is done because reason economy for company.
2. Corporate crime has negative consequences for other people or widespread negative consequences for society. For example, environmental crimes result significant loss _ to public.
3. Corporate crimes are often committed using Sophisticated and unconventional methods. For example, it is carried out through financial engineering that is difficult to detect.

Furthermore, crimes committed by a company/corporation Which can accountable in a way Criminal law is a new development. And it has been for a long time theory imposition of civil liability on the legal entity or its members. Supportive opinion eradication Corporate crime includes the following reasons:

1. Punish leaders _ business is not enough to suppress this corporate crime.
2. Because it turns out to be a role world business is increasingly important.
3. Better protect society by giving punishment to world business.
4. Crime against corporations is an effort not to punish weak parties such as company management or employees.

Many companies benefit from these actions against white collar crime, although these actions are actually carried out by the management of the respective companies, who in principle also have an interest in these actions. Therefore, corporate crime is a special form of white collar crime, in contrast to white collar crime which often involves individuals or small groups of individuals who commit crimes as part of their profession or occupation. Corporate crime is organized crime that occurs in a very complex and interdependent context. Therefore, the term “corporate crime” is also known as “organized crime.” In the early days of research on white-collar crime, more attention was paid to crimes committed by individuals, and less attention to corporate crimes. However, changes have occurred in its development.

In this century we have witnessed a tremendous explosion in the number and size of corporations. This shows that in fact all economic, social and political activities are largely influenced by corporate behavior. During the same period and partly as a reaction to the dramatic growth of corporations, namely in the government's efforts to regulate these activities through the creation of a number of laws by the government. Even though the mass media gave little publicity to the prosecution of corporate crime during Sutherland's study, this does not mean that there were no cases of corporate crime;

Consumer efforts to support prosecution of corporations have had a tremendous impact on public attention to corporate crime as have legislative efforts to control such crime;

Greater concern is related to the environment, in reality many corporations are polluting the environment. In the 1960s, crime prevention was less successful in dealing with crimes caused by poverty (even though it was the best way to deal with the problem). As a result, it leads to the fact that in efforts to overcome crimes committed by poor people, not only the problem of crime cannot be overcome, but also crimes committed by the middle and upper classes, while corporations are ignored.

The first attempts to impose criminal liability on corporations were carried out by countries with a common law legal system, namely in England and other Anglo-Saxon countries, such as the United States and Canada. Before the revolution of 1750, England had recognized corporations as subjects of criminal law as early as 1635. The first criminal action against corporations was taken by English courts in 1842, when corporations were fined for failing to fulfill their regulatory obligations under the law.

There are several reasons that can be put forward for the reluctance to apply criminal sanctions to the business world. The Company is considered fictitious under the law and under *ultra vires rules*, can only carry out actions specifically mentioned in the company's articles of association. Other objections also emphasized that there were no masculine elements in his company and the ability to appear directly before the court. Lastly, what shows the difficulty of implementing criminal sanctions against the business world is the lack of adequate sanctions. In English, criminal responsibility is called accountability law, or responsibility answer criminal. Whereas, the concept of criminal liability does not only refer on legal issues only, but also on moral values or general rites adopted by a society or group in society, so that criminal responsibility is achieved by upholding tall justice a form of determining whether a suspect or defendant is responsible responsible for a crime that has occurred.

In other words, criminal responsibility is a form that determines what a person is acquitted or punished. According to Roeslan Saleh, criminal liability is defined as a mistake continuously __ objective is within something violations and subjectively fulfill the requirements Which necessary for punishment on that act.

Objective censorship _ means an act carried out by a person is a prohibited act . Actions What is prohibited here are actions that are contrary to or prohibited by law, both formal and substantive law. Meanwhile sensors subjective is the person who commits the act prohibited, or can be said to be censored subjective is a person who commits an act that is prohibited or against the law. If the action is done constitutes a shameful or prohibited act, but when person That there was a mistake that made it No capable responsible, so he cannot be held responsible criminal. In matters of criminal responsibility, the burden of responsibility lies with the person who committed the criminal act which is related to the basis for making decisions on criminal sanctions.

Someone will be held accountable criminally if the act or deed is carried out contradictory with the law, but someone can lose not quite enough answer when inside

self person the there is the factors that cause it are not capable person Which responsible answer the. According to Chairul Huda, the basis of the offense is legal principles, while the perpetrator can be punished If guilty, meaning someone will be held accountable criminally if he commits a wrongful and unlawful act. In essence, criminal liability is a type of mechanism created to deal with violations of certain agreed acts.¹¹⁷ The element of fault is a basic element of criminal liability. In the definition of a criminal act does not include criminal liability, criminal acts only refer on what that action is unlawful or prohibited by law, whether person Which do deed That punished or No, depends is person the Who Which do crime That will punished or No.

is the person who committed the crime has the elements that constitute criminal offense or not. In system law command, Criminal liability is always associated with *mens rea* And punishment. Not quite enough criminal responsibility has a relationship with society, especially relationships answer to the community as something function. Function accountability here have power For handle crime, so accountability here has a control function social so that criminal acts do not occur in public. Apart from that, criminal liability in the common law system too related to *mens rea* Which based on having bad thoughts (*no guilty man*), so he must be responsible answer on mental state , especially criminal minds. *Guilty mind* contains understanding flavor guilty subjective, that is, someone is found guilty because they are judged above. If creator responsible answer in a way criminal, then the perpetrator must be punished.

Men's clothing errors are also defined as errors resulting from non-compliance with rules or violations of legal provisions. Anyone who breaks the law must be held responsible for their actions. In this perspective, mistakes as an element of responsibility create a sense of security for a person and hinder a person's freedom towards other people. The existence of this guarantee means that a person will be protected from the actions of other people who violate the law and act as an examiner because anyone who violates the criminal law is criminally responsible. The Criminal Code does not clearly regulate the applicable criminal liability system. Several articles of the Criminal Code often mention errors in the form of intentional errors or negligence, but unfortunately the law does not explain the meaning of intentional errors or negligence.

The existence of criminal acts of corruption in active Indonesian law has actually been around for a long time, especially since the Criminal Code was promulgated. Even from the old order regime, the new order has so far carried out reforms in the era of law and order. Efforts to eradicate corruption have still not produced results, this can be seen from quantitative data on the number of corruption cases handled which has reached double compared to the previous control period.

In cases of criminal acts of corruption related to criminal acts of corruption, property or property caused by criminal acts of corruption is called a criminal act of money laundering (TPPU). The TPPU case not only threatens the stability and integrity of the country's economy and financial system but also endangers the lives of the people, nation and state of Indonesia. As they grow, TPPU lawsuits become increasingly common and complex across a variety of industries. Money laundering is a predicate crime. This

potential crime will be the basis for determining whether a transaction can be prosecuted under anti-money laundering laws. If an act is classified as a criminal act, the proceeds obtained through that activity will be classified as a money laundering crime. There is a provision that TPPU is a separate criminal act which *de facto* cannot yet be realized in the criminal act.

Evidence of TPPU in this case always requires that the violation resulted in the confiscation of all or part of the property. In addition, the application of evidence to the contrary by the defendant could be detrimental to the prosecution, because it is likely that the perpetrator will prove that the source of the unreasonable confiscation of property came from business activities, even though it was a company. The technical results are used with the help of *gatekeepers*. In TPPU cases, law enforcement officials must prove that where origin of goods and/or these assets as part of a property crime and/ or property Which give rise to goods and/or these assets.

In accordance with the anti concept money laundering, perpetrators and proceeds of crime can be identified through tracing, after it's the proceeds of crime will confiscated to the state or returned to the insurer answer. If assets resulting from crimes controlled by perpetrators or criminal organizations can be confiscated or confiscated so matter This can automatically lower the numbers crime. By Because that is, efforts to prevent and eradicate the crime of laundering money requires a strong legal basis to guarantee legal certainty and law enforcement effective and traceability, and return of property objects resulting from criminal crimes. As it progresses, crime washing Money becoming increasingly complex, crossing boundaries jurisdictions and using increasingly diverse methods, involve organizations outside the financial system even extends to various fields.

To anticipate this, the Financial Action Task Force (FATF) on Money Laundering has issued international standards which are a measure for every country in preventing and eradicating the crime of money laundering and the crime of financing terrorism, known as the Revised 40 Recommendations and 9 Special Recommendations (Revised 40+9) FATF. Overcoming the crime of laundering money in Indonesia began with the promulgation of Law Number 15 of 2002 concerning the Crime of Money Laundering as amended by Law Number 25 of 2003 concerning Amendments to Law Number 15 of 2002 concerning Laundering Money. The crime of money laundering has shown a positive trend. This matter showed with increasing awareness among parties Which responsible answer in enforcement law follow criminal washing money, such as financial service providers in fulfilling their reporting obligations, supervision and management in regulatory development, Analysis Center and Financial Transaction Reporting (PPATK) in Indonesia. Apparatus analysis operations and law enforcement in monitoring analysis results until criminal and/or administrative sanctions are imposed. Based on Article 69 of Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering, it is stipulated that in order to carry out investigations, prosecutions and judicial examinations of criminal acts of money laundering, it is not necessary to prove

the origin first. the start of the crime. According to the provisions of this article, to resolve a TPPU case there is no need to prove the principal first the problem.

Regarding proof of TPPU, the Constitutional Court (MK) emphasized that investigations into criminal acts of money laundering can be carried out without having to moreover formerly prove the existence of a predicate crime. However Once TPPU is proven, it is a predicate crime must be proven later. The above case is strengthened by the announcement Constitutional Court decision Number 77/PUU-XII/2014 delivered by Mr. Akil Mochtar. In Constitutional Court decision Number 77/PUU-XII/2014 dated December 15 2014, one of the decisions emphasized that For prove follow criminal washing money does not need to first prove the predicate crime (*predicate crime*). This is in accordance with Article 69 of Law Number 8 of 2010 concerning Prevention and Eradication of Crimes Money Laundering Crime. Apart from that, Law Number 8 of 2010 concerning Prevention and Eradication of Crimes Laundering Crime. Money also emphasizes that money laundering is a separate criminal act. This is also stated very firmly in the legal considerations contained in the Constitutional Court Decision Number 77/PUU-XII/2014, namely: "That what is meant by "does not have to be proven first" in the related article, that is, it is not required to be proven by a court decision. which has permanent legal force. In reading and understanding the provisions of Article 69 of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering, it must be seen as a whole and not in pieces. Please note that the provisions in Article 69 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering state that it is not mandatory to prove it first, with this intention it does not mean that when carrying out investigations, prosecutions and examinations at court hearings it is not mandatory to prove the predicate criminal act.

However, it needs to be fully understood that the phrase "first" is more descriptive of the time to prove the original criminal act. The phrase "not required" must be proven first so that investigations, prosecutions and examinations at court in money laundering criminal cases can still be carried out in conditions if the perpetrator cannot be examined at court or because the perpetrator has died, disappeared, etc. According to Junaidi, it is appropriate for the word "mandatory" to be included in the clause to replace the word can so that if dominant evidence is found that points to a money laundering crime then it will become "mandatory for separate investigation" no longer "separable for investigation". Constitutional Court Decision Number 77/PU-XII/2014 The Court was not unanimous in making a decision, there is two person judge constitution that differs in opinion (*dissenting opinions*). Because the Court is of the opinion that in order to be indicted do follow criminal washing money, property The crime must be the result of one or more predicate crimes (*predicate crimes or predicate offenses*), or it could be said that TPPU would not have occurred if there were no predicate crimes (*predicate crimes or predicate offenses*). Differences between the investigation of money laundering crimes and other criminal acts underlying it (criminal acts of corruption) is very dependent on the ability of investigators, because according to cases of money laundering crimes, Generally, investigations are carried out simultaneously or jointly.

However, the investigator's capacity must show a person's skills investigators, apparently it has not been fully demonstrated because at In fact, many recommendations from PPATK are not possible obeyed and tend not to continue the investigation separately from basically a crime. Reporting results suspicious or suspicious PPATK Which indicated exists Money laundering activities will be reported to relevant authorities for immediate action.¹²⁹ Combining the investigation of money laundering and corruption as a predicate crime requires greater manpower, time, facilities and infrastructure. Article 69 of Law Number 8 of 2010 concerning Prevention and Eradication of Crimes The Money Laundering Crime regulates evidence moreover previously it was not necessary. With this intention, it does not mean that carrying out investigations, prosecutions and interrogations at trial is not necessary proof moreover first prove the violation the original. However, it is necessary to understand that the phrase "first" is more characteristic descriptive Where violation the original must proven. The phrase "not required" must be proven first so that investigations, prosecutions and examinations at court in money laundering criminal cases can still be carried out in conditions if the perpetrator cannot be examined at court or because the perpetrator has died, disappeared, etc.

MK Decision Number 77/PU-XII/2014 The Court was not unanimous in making its decision, there were two Constitutional Justices who had different opinions. Because he believes that in order for someone to be charged with the crime of money laundering, the assets must be the result of one or several predicate crimes (predicate crimes or predicate offenses), in other words there is no money laundering crime if there is no crime. predicate crime (*predicate crimes* or *predicate offense*).

Crime of the moment this shows that economic progress gives rise to new and similar crimes dangerous results many fatalities. Indonesia currently has it under attack by contemporary criminals who give rise to threat significant on the environment, energy sources and crime patterns in the economic sector such as banking crime, computer crime, anti-consumer fraud in the form of manufactured goods of poor quality packaged and sold attractively. through advertisement Which aggressive and various models of corporate crime operating through infiltration and disguise. World business plays that role very important in the economic development of a country where things the affect the growth of assets phenomenal business that can generate profits and gain profit. corporations as owners of economic, social and political power.

However, in the course of its development, corporations also often commit crimes that not only endanger society but also the country. Which must bear burden of crimes committed by corporations. Currently, the business world plays an increasingly important role in people's lives, especially in the economic sector. Previous doubts regarding the possibility of considering companies as objects of criminal law capable of committing criminal acts but still liable in criminal cases have changed. The doctrine that colored the 1886 Dutch WetVan Strafrecht (KUHP), namely "*universitas delinquere non potest*" or "*societas delinquere non potest*" (legal entities cannot commit criminal acts), has undergone changes in connection with the acceptance of the concept of functional perpetrators (*functioneel Daderschap*).

Rolling argues that offenders classify corporations into functional *daderschap* or functional actors. Corporations play diverse roles in economic life, such as production, job creation, sales value determination, and foreign exchange use. This raises accountability issues in criminal law, questioning whether a legal entity can be blamed for intentional or unintentional actions due to negligence. The principle of "no crime without guilt" is upheld, but difficulties arise in determining corporate guilt, especially with new perspectives on corporate criminal liability.

To align corporate responsibility with individual patterns in criminal law, the focus should be on *mens rea*, deviating from wrongdoing. Money laundering and predicate crimes are interconnected, with the latter facing different sanctions based on the Constitution. Money laundering transforms illegal proceeds into seemingly legitimate funds, posing a threat to society and the national economy.

The accountability system limits criminal acts to individuals within the company, emphasizing the role of the company's management. The third accountability system, proposed by Muladi, shifts the view to hold corporations accountable as makers alongside natural persons. Corporate leaders, acting as administrators, are responsible for criminal acts, even if they may not fully understand them. The company is both the creator and responsible party, necessitating attention to its development and imposing fines for economic violations based on profits or losses.

Confidence management alone cannot guarantee that a company will refrain from unlawful actions. Merely penalizing management is insufficient to effectively address criminal activities within a company. Therefore, there is a need to consider the criminalization of the entire company, not just its managers or directors. Oemar Seno Adji, former Chief Justice of the Indonesian Supreme Court, emphasizes that imposing criminal penalties on corporations requires consideration of fundamental and justifiable theories.

While it is acknowledged that corporations can be held accountable for criminal acts, current laws lack clear regulations defining when a company is deemed to have committed a violation. Economic crimes are broadly covered, making it challenging to enforce the law against companies as perpetrators. In some cases, both the company and its managers may face legal action and punishment.

The consequences for corporations involved in money laundering, as per Law Number 15 of 2002, include fines and additional penalties such as revocation of business permits or dissolution followed by liquidation. Despite changes to several articles in Law Number 25 of 2003 on the Crime of Money Laundering, the regulations for corporations still adhere to Law Number 15 of 2002.

Sentencing in criminal cases aims to achieve proportional punishment for the committed crime. In money laundering cases, the evidentiary mechanism plays a significant role in determining the guilt or innocence of the perpetrator. The reform of criminal law in Indonesia culminated in Law Number 1 of 2023, commonly known as the new Criminal Code, with the mission of decolonization through codification and unification.

Effective from January 2, 2026, the new Criminal Code replaces several provisions in the Money Laundering Law, creating challenges related to the special nature of the Money Laundering Law versus the general nature of the new Criminal Code. Justice-related issues are often debated, especially concerning the perception of fairness in the application of statutory regulations in various cases, whether criminal, civil, or state administration.

Laws are established to guide individuals in maintaining social order and achieving collective goals. Violations receive sanctions based on the severity of the offense. The law represents normative and moral values, being meaningful when viewed as a norm. Judges, as law enforcement officers, are tasked with resolving disputes between parties. Their decision-making process requires independence and freedom from external influence. Decisions should be based solely on relevant events, facts, and legal rules. Achieving justice in a judge's decision is challenging, as there's no clear benchmark for the concept of justice. Judges navigate and apply laws to concrete events in the judicial process, even when legal provisions may not fully meet the sense of justice.

In trials, judges must bridge the gap between legal and moral justice. The aim is to provide justice, ensuring legal protection and order while addressing the sense of justice. With technological advancements, particularly in banking, money laundering has become associated with cybercrime. Criminals exploit technology, political power, and financial services to launder money from various criminal activities. The act involves concealing the illicit origin of funds, making them appear legitimate.

Enforcing the Anti-Money Laundering Law requires sensitivity to justice, balancing legal certainty and moral considerations. Despite serious law enforcement efforts, implementation in Indonesia faces challenges, notably related to the Principle of Reverse Evidence. Confusion arises about proving predicate crimes before prosecuting money laundering. The law requires the defendant to prove that their assets aren't from criminal activities, potentially hindering anti-money laundering efforts. There's a need for clarification to streamline investigations, prosecutions, and court examinations without requiring prior proof of the original criminal act.

This proof is an obstacle because until now there are no technical regulations so that when it is related to TPPU, the related provisions cannot yet be implemented. Until now there is still no common perception between the parties involved in implementing the provisions of the TPPU Law, especially Articles 32 and 33. Then the implementation of Article 33 of the TPPU Law also often causes several problems, especially in relation to letters requesting information regarding assets. the assets of a person from the Investigator/Investigator to the Financial Services Provider. Based on the matters above, there is still a need for implementation provisions of the TPPU Law which regulate firmly and clearly regarding the standard format for blocking request letters and information regarding a person's assets, which clearly states when, at what stage and by whom the request for information is made. can be submitted. According to Article 27 of the Banking Law, BI has the authority to carry out both direct and indirect supervision, and Article 28 confirms that Bank Indonesia also has the authority to require banks to submit reports,

statements and explanations in accordance with the procedures stipulated by Bank Indonesia where This can be done with the parent company, subsidiary companies, related parties and affiliated parties of the bank if necessary. In this regard, the Bank and other parties are obliged to provide the examiner with:

- a. Information and data requested;
- b. Opportunity to see all books, documents and physical facilities related to business activities;
- c. Other necessary things such as copies of required documents and so on (Article 29).

The provisions of articles 27 and 28 face challenges in conjunction with anti-tipping off provisions 162, which prohibit directors, officers, or employees of Financial Services Providers from directly or indirectly notifying financial service users about Suspicious Financial Transaction reports. Banks, under Anti Money Laundering (AML) requirements, must have an information system capable of effectively identifying, analyzing, monitoring, and reporting on customer transactions. While minimum standards for disclosing Suspicious Transaction Reports (STR) exist within the internal banking scope, obstacles arise due to incomplete customer profile data in the AML system. Effectiveness in uncovering money laundering indications depends heavily on accurate customer data. Implementing a more advanced AML system requires substantial funds, posing a challenge for many banks.

Additionally, human resources, including law enforcers, present obstacles. Despite Indonesia having dedicated personnel understanding and combating Transnational Organized Crime (TPPU), the implementation of TPPU Law remains ineffective. Diverse interpretations of Money Laundering Crime Law provisions hinder the enforcement process. Education is crucial, given the evolving nature of TPPU alongside rapid technological advancements. Law enforcers need to keep pace with these developments. Besides enhancing technological capabilities, a high commitment to duties is essential. The persistence of serious crimes, particularly transnational organized crime, poses a hindrance to TPPU eradication. The impact is, even though there are various laws and regulations related to TPPU, this has not caused a decrease in the level of TPPU in Indonesia. This is due to several things such as:

- a. The modus operandi is increasingly complex and sophisticated, making it difficult for law enforcers. For example, there is a modus operandi in the form of transactions outside the customer profile and in the form of bribery of officials through financing companies as stated by PPATK.
- b. There are more and more money laundering media such as financial service providers, professions, or through providers of goods and services (property agents, car dealers, gold and gem sellers).

The police and public prosecutors often have difficulty in proving that money laundering has occurred because the methods vary and there is usually not enough evidence.

Bank customers need to provide requested information for anti-money laundering efforts, but actual cooperation remains a challenge. Changing public perceptions takes

time, hindering the fight against money laundering in Indonesia. Raising awareness about the global and local economic consequences of money laundering is crucial. Existing laws and international agreements are deemed adequate, emphasizing the importance of robust regulations in combating illegal activities.

Recommendations include expediting regulations on cash transactions, cross-border cash carrying, and illicit enrichment. Urging the passage of the Asset Confiscation Bill and enforcing strict regulations on beneficial ownership is also advised. The Correspondent Banking report highlights limitations on US banks' relationships with high-risk foreign banks. Coordination between agencies and focus on predicate crimes, such as corruption, are key aspects of the anti-money laundering strategy.

Efforts to eradicate money laundering involve legislative actions allowing authorities to confiscate illicitly gained assets. This encompasses identifying, tracking, and blocking assets, emphasizing international cooperation. The four-pronged approach includes strengthening regulations, setting standards for financial institutions, enhancing law enforcement coordination, and fostering regional and international collaboration.

Corporate criminal liability under TPPU Law holds corporations accountable for money laundering. The law specifies penalties for corporations and their control personnel. Future regulations should guide corporate criminal liability, using the National Criminal Code as a foundation. Reorientation and reformulation of laws are necessary, clarifying when a corporation commits a criminal act and specifying who can be prosecuted. Explicit provisions ensure corporations cannot evade responsibility by hiding behind management.

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