

Legal Analysis of Money Laundering Crimes from the Perspective of Transnational Organized Crime

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Abstract: *The development of globalization has led to an increase in money laundering as part of transnational organized crime, which has serious impacts on economic stability and national legal systems. This study aims to analyze the legal provisions of money laundering within the national and international legal frameworks, and to examine the ambiguity of the norm regarding "proceeds of crime" and its implications for evidence. The research method used is normative legal research with a statutory and conceptual approach, supported by primary, secondary, and tertiary legal materials through literature studies, and analyzed qualitatively using legal interpretation methods. The results show that although legal regulations have accommodated international principles, there is still ambiguity in the norm regarding the definition of "proceeds of crime," which gives rise to multiple interpretations and legal uncertainty. This impacts on the difficulty of proving, particularly in linking assets to predicate crimes in a cross-border context. Furthermore, limited international cooperation and differences in legal systems further complicate law enforcement. Therefore, normative reconstruction is needed through a more assertive and restrictive formulation and strengthening of the asset-based approach to increase the effectiveness of money laundering eradication.*

Keywords: *Money Laundering, Transnational Crime, Normative Ambiguity, Proof, Legal Certainty.*

INTRODUCTION

Globalization has essentially reshaped crime patterns, shifting from conventional to increasingly complex and organized across national borders. From the perspective of modern criminal law theory, globalization opens up space for the mobility of perpetrators, goods, services, and capital, no longer bound by national territorial boundaries. This aligns with Barda Nawawi Arief's view that contemporary crime has a transnational dimension that demands a cross-jurisdictional legal response.¹ The crime of money laundering then emerged as a strategic instrument in maintaining the continuity of the crime, because it allows the perpetrator to disguise the origins of illegal wealth.² Thus, globalization not only expands economic opportunities, but also expands the operational space of organized crime that is difficult for national legal systems to reach.

¹ Amalia, M., Rasiwan, I., Rosita, D., Minabari, A., Wibowo, K. T., Khumaeroh, I. N., ... & Putrazta, S. A. (2025). Hukum Pidana Indonesia Dalam Perspektif KUHP Baru. *AMU Press*, 1-213.

² Puanandini, D. A., Syidiq, M. S., & Noevera, J. P. (2023). Efektivitas Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang. *Public Sphere: Jurnal Sosial Politik, Pemerintahan dan Hukum*, 2(2).



Within the framework of transnational organized crime theory, money laundering is an integral part of the criminal chain, serving as a stage in legitimizing the proceeds of crime. According to the concept developed by the United Nations Office on Drugs and Crime (UNODC), transnational organized crime is characterized by a group structure, continuity of activity, and a focus on economic gain.³ Money laundering is a crucial element because without it, the proceeds of crime cannot be legally used in the formal economic system. Therefore, the existence of money laundering crimes cannot be separated from predicate crimes such as corruption, narcotics, and human trafficking. This relationship demonstrates that effectively eradicating money laundering will have a direct impact on weakening organized crime networks as a whole.

Empirically, the increase in money laundering crimes on a global scale has been documented by various international institutions, including the Financial Action Task Force (FATF). Empirical data shows that money laundering methods continue to evolve, from the use of conventional banking systems to the use of financial technologies such as digital banking and cryptocurrency.⁴ This phenomenon demonstrates the adaptation of perpetrators to technological developments, rendering a static law enforcement approach irrelevant. From a criminological perspective, this can be explained through rational choice theory, which states that criminals will choose the most profitable and least risky method. Thus, technological developments actually serve as a catalyst for increasing the complexity of money laundering crimes. Nationally, data from the Financial Transaction Reports and Analysis Center (PPATK) shows a significant annual increase in suspicious financial transactions. This fact indicates that Indonesia is inextricably linked to global money laundering networks, whether as a country of origin, transit, or destination. The existence of predicate crimes such as corruption, narcotics, and human trafficking further strengthens Indonesia's position on the map of transnational crime. From the perspective of Lawrence M. Friedman's legal system theory, this situation indicates an imbalance between the structure, substance, and legal culture in addressing these crimes.⁵ In other words, even though regulations are available, implementation and legal culture do not fully support effective law enforcement.

Normatively, Indonesia has adopted various legal instruments to combat money laundering, including Law No. 8 of 2010. This law reflects the implementation of the "follow the money" principle, which focuses on tracking the flow of proceeds of crime. Furthermore, regulations regarding reporting obligations for financial service providers demonstrate a preventative approach within the national legal system. From a legal perspective, this norm provides a clear basis for law enforcement against money launderers. However, the effectiveness of this norm depends heavily on the clarity of its formulation and the consistency of its implementation in practice.

At the international level, Indonesia's commitment is also reflected in its ratification of the United Nations Convention Against Transnational Organized Crime (UNTOC). This convention emphasizes the importance of international cooperation in combating transnational crime, including through extradition

³ Gumelar, M. I. (2023). Peran Keimigrasian Terhadap Kejahatan Transnasional Terorganisir (Transnational Organized Crime). *Ancaman Kejahatan Transnasional*, 25.

⁴ Harun, M. N. H. D., & Imran, S. Y. (2025). Crypto Crime: Rekonstruksi Kualifikasi Tindak Pidana Pencucian Uang dalam Era Digital Hukum Indonesia. *Al-Zayn: Jurnal Ilmu Sosial & Hukum*, 3(6), 9520-9537.

⁵ Putri, B. A., Azzahra, S. R., & Sari, E. K. (2025). Peran Budaya Hukum Dalam Menghadapi Fenomena Korupsi di Indonesia. *Locus Journal of Academic Literature Review*, 4(8), 625-638.



mechanisms and mutual legal assistance.⁶ From an international legal perspective, the ratification binds Indonesia to align its national laws with global standards. This aligns with the principle of *pacta sunt servanda*, which obliges states to implement international agreements in good faith. Therefore, national regulations regarding money laundering should not only be domestic but also compatible with the international legal regime. Although a normative framework is in place, law enforcement practices demonstrate significant obstacles. One major obstacle is the complexity of proving in money laundering cases involving multiple jurisdictions. Differences in legal systems between countries often hinder the process of gathering evidence and prosecuting perpetrators. From an evidentiary theory perspective, this relates to the difficulty in meeting valid standards of proof under criminal procedure law. As a result, many money laundering cases, particularly those involving international networks, remain unsolved.

Another equally significant obstacle is the limited coordination between countries in addressing transnational crime. Although international cooperation mechanisms exist, their implementation is often hampered by political and administrative factors, as well as differing national interests. From the perspective of the principle of legal effectiveness, this situation demonstrates that the existence of norms does not always guarantee successful law enforcement. In fact, in some cases, perpetrators can exploit these coordination gaps to evade legal action. Therefore, strengthening international cooperation in a more concrete and operational manner is necessary.

A more fundamental problem lies in the vagueness of norms governing money laundering. This ambiguity primarily relates to the definition of "proceeds of crime," which is not always explicitly defined in the law. From a legal theory perspective, vague norms have the potential to give rise to multiple interpretations and legal uncertainty.⁷ This contradicts the principle of *lex certa*, which demands clarity in the formulation of criminal norms. Consequently, law enforcement officials have differing interpretations in determining whether an asset can be categorized as proceeds of crime. Furthermore, the ambiguity of the norms is also evident in the aspect of proving the link between money laundering and predicate crimes, particularly in a transnational context. In practice, it is often difficult to prove a direct link between laundered assets and a specific crime. This is exacerbated by the use of technology that allows perpetrators to systematically disguise transaction traces. From a principle of proof perspective, this situation creates a dilemma between the need to enforce the law and protect the rights of suspects. Therefore, a more stringent formulation of norms is needed to address this problem.

The impact of this vague norm is inconsistency in law enforcement, both at the investigation, prosecution, and judicial levels. This inconsistency has the potential to undermine public trust in the legal system and weaken the deterrent effect on perpetrators. From the perspective of legal certainty theory, this situation indicates that the law is unable to provide clear guidelines for law enforcement officials. In fact, in some cases, perpetrators can exploit this vague norm to avoid criminal accountability. Therefore, legal reform is inevitable.

⁶ Apriani, S., Lestari, D. P., & Sary, W. E. (2025). PERANAN HUKUM INTERNASIONAL DALAM UPAYA PEMBERANTASAN DAN PENCEGAHAN PERDAGANGAN MANUSIA DI INDONESIA. *Causa: Jurnal Hukum dan Kewarganegaraan*, 12(6), 51-60.

⁷ Indah, R. M., & Triadi, I. (2025). Penemuan hukum sebagai implementasi teori hukum dalam menjawab kekosongan norma. *Media Hukum Indonesia (MHI)*, 3(4).



Based on the overall description, it is clear that money laundering, from a transnational organized crime perspective, is a complex and multidimensional legal phenomenon. The problems lie not only in the empirical aspects but also in normative weaknesses that hinder effective law enforcement. Within the framework of progressive legal theory, courage is needed to reconstruct the law adaptively to changing times.⁸ A comprehensive legal analysis is essential for identifying existing legal loopholes. This allows for more effective and equitable anti-money laundering efforts. Ultimately, the research questions in this study naturally lead to two main issues: the clarity of legal regulations for money laundering in the context of transnational crime and its implications for the effectiveness of law enforcement in Indonesia. This question is not merely academic but also has practical relevance for national criminal law reform efforts. With a critical and analytical approach, this research is expected to contribute to the development of laws that are more responsive to global challenges. This aligns with the purpose of law itself, namely to create justice, certainty, and benefit. Therefore, this study is crucial as part of legal reform efforts in Indonesia.

METHODOLOGY

The research method used in this article is a normative legal research method with a conceptual approach and a statutory approach. Normative legal research focuses on the study of applicable legal norms, both those stipulated in laws and regulations and in international legal instruments relevant to the crime of money laundering from a transnational organized crime perspective. According to Soerjono Soekanto, normative legal research is research that positions law as a system of norms that aims to discover legal principles, rules, and doctrines to address the legal issues faced.⁹ Furthermore, a conceptual approach is used to analyze concepts such as "proceeds of crime" and "transnational crime," which still contain vague norms. Thus, this method allows the author to conduct a systematic analysis of the legal issues under study.

The legal materials used consist of primary, secondary, and tertiary legal materials obtained through library research. Primary legal materials include laws and regulations such as Law Number 8 of 2010 and international conventions such as UNTOC, while secondary legal materials include literature, journals, and the opinions of legal experts. In this regard, Peter Mahmud Marzuki stated that normative legal research is conducted by examining existing legal materials to find new arguments, theories, or concepts as prescriptions in resolving legal issues.¹⁰ The analytical technique used is qualitative analysis using legal interpretation methods, including grammatical, systematic, and teleological, to gain a comprehensive understanding of the problem under study. With this approach, this research is expected to provide a clearer legal construction and solutions to the ambiguity of norms in money laundering crimes.

RESULTS AND DISCUSSION

⁸ Setyawan, V. P. (2025). Penemuan Hukum oleh Hakim dalam Perspektif Hukum Progresif. *Fundamental: Jurnal Ilmiah Hukum*, 14(1), 120-135.

⁹ Sukmawan, Y. A., & Damayanti, D. (2025). Metode Penelitian Hukum Normatif dan Empiris sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum. *Notary Law Journal*, 4(3), 114-128. <https://doi.org/10.32801/nolaj.v4i3.116>

¹⁰ Zainuddin, M., & Karina, A. D. (2023). Penggunaan metode yuridis normatif dalam membuktikan kebenaran pada penelitian hukum. *Smart Law Journal*, 2(2), 114-123.



Normative Analysis of the Regulation of Money Laundering Crimes in the National Legal Framework and International Instruments (UNTOC)

The philosophical basis for the formation of Law Number 8 of 2010 cannot be separated from the state's need to protect the stability and integrity of the national economic system from the infiltration of illegal funds originating from various criminal acts. From the perspective of the theory of legal objectives, this regulation reflects an orientation towards achieving utility as well as distributive justice, particularly in ensuring that the proceeds of crime cannot be enjoyed by the perpetrators. The state is interested in preventing economic distortions resulting from the circulation of illegal funds, which can damage market mechanisms and harm the public interest at large.¹¹ Therefore, the existence of money laundering regulations represents a strategic legal intervention to maintain economic order. Furthermore, philosophically, these regulations reflect the principle that crime does not pay, which is the moral foundation of the modern criminal justice system. Therefore, the creation of these laws is a manifestation of protecting the interests of both the state and society from the destructive impacts of economic crime.

From a legal perspective, Law Number 8 of 2010 represents an improvement on previous regulations, which were deemed inadequate to address the ever-evolving complexity of money laundering crimes. This norm was established based on the need to broaden the scope of regulation, both in terms of subjects, objects, and law enforcement mechanisms. Within the framework of the principle of legality (*nullum crimen sine lege*), this law provides a clear legal basis for the criminalization of money laundering.¹² However, in practice, there are still challenges in implementing these norms, indicating a gap between the law on the books and the law in action. This demonstrates that the legal aspect extends beyond the formulation of norms, but also to the effectiveness of their implementation. Therefore, a critical legal analysis of this law is necessary to assess the extent to which existing norms are able to meet the needs of law enforcement.

The principle of follow the money is a central principle in regulating money laundering crimes, which emphasizes tracking the flow of funds as the key to uncovering the crime.¹³ From the perspective of evidentiary theory, this approach allows law enforcement officials to penetrate the complexity of criminal networks that are often difficult to uncover through conventional approaches. This principle is also relevant to the principle of legal expediency, because by confiscating and seizing the proceeds of crime, the state can reimburse the community for the losses caused. However, the application of this principle must still adhere to the principle of justice, particularly in protecting individual rights to prevent abuse of authority. The tension between effective law enforcement and human rights protection is an issue that cannot be ignored. Therefore, a balance is needed between a repressive approach and fair legal protection.

The construction of norms in Law Number 8 of 2010 demonstrates an effort to comprehensively formulate the elements of the crime of money laundering. The legal subject element is not limited to individuals but also includes corporations as legal entities that can be held criminally liable. The object

¹¹ Darmawan, I. K., Bahri, S., & Hosen, S. (2025). DAMPAK TINDAK PIDANA PENCUCIAN UANG TERHADAP STABILITAS EKONOMI DAN KEPERCAYAAN PUBLIK. *Jurnal Riset Multidisiplin Edukasi*, 2(12), 435-451.

¹² Anugerah, F., Rato, D., & Setyawan, F. (2024). Analisis Pembuktian Pidana Asal Dalam Kasus Tindak Pidana Pencucian Uang Yang Diatur Dalam Undang-Undang: Tinjauan Terhadap Prinsip Hukum Dan Implementasi Dalam Praktik Hukum Di Indonesia. *As-Syar'i: Jurnal Bimbingan & Konseling Keluarga*, 6(2), 1415-1431.

¹³ Yofiza, Y., Limbong, I., Kholis, N., Ritonga, A. S., Panyalai, R. S., & Fahreza, R. M. (2025). Implementasi Pendekatan Follow The Money Dalam Tindak Pidana Pencucian Uang (TPPU) Dari Sisi Penegakan Hukum Di Indonesia. *Jaksa: Jurnal Kajian Ilmu Hukum dan Politik*, 3(1), 01-12.



element, in the form of "proceeds of crime," is a key element linking money laundering to the predicate crime. Meanwhile, the act element encompasses various actions such as placing, transferring, or disguising the origin of assets. The mens rea element is reflected in the presence of intent or knowledge that the assets originate from a criminal act. However, the complexity of this formulation also opens up room for diverse interpretations, particularly in determining the boundaries between lawful and unlawful acts.

In terms of criminal liability, the regulation of corporations as legal subjects represents a progressive step in Indonesian criminal law. This aligns with developments in modern criminal law theory, which recognizes that corporations can be perpetrators of crimes. Corporate liability is based not only on individual actions but also on the policies and organizational structures that enable the crime to occur. From the perspective of the principles of vicarious liability and corporate criminal liability, corporations can be held accountable for the actions of their directors or employees.¹⁴ However, the implementation of this concept still faces various obstacles, particularly in proving the link between individual actions and corporate policies. Therefore, strengthening law enforcement norms and practices is necessary to ensure effective corporate accountability. Alignment of national regulations with international standards is a crucial aspect in the normative analysis of money laundering. Ratification of the United Nations Convention Against Transnational Organized Crime (UNTOC) demonstrates Indonesia's commitment to adopting international principles in combating transnational crime.¹⁵ Furthermore, the Financial Action Task Force (FATF) recommendations serve as a reference in formulating national policies related to money laundering. From a legal harmonization perspective, this alignment is crucial to ensure that national legal systems can function effectively in a global context. However, harmonization is not always smooth due to differences in legal systems and national interests. Therefore, careful adaptation efforts are required to ensure effective implementation of international norms at the national level.

An evaluation of the application of the principle of dual criminality shows that this principle poses a challenge to international cooperation. This principle requires that an act can only be prosecuted if it is considered a crime in both countries involved. In the case of money laundering, differences in the definition and scope of the crime across countries can hamper law enforcement. This demonstrates limitations in international cooperation mechanisms, which should be the primary instrument for addressing transnational crime. From the perspective of legal effectiveness theory, this situation reflects that existing norms are not fully capable of addressing the challenges of the globalization of crime. Therefore, efforts are needed to harmonize legal standards across countries.

International cooperation in combating money laundering also faces various practical obstacles, such as differing legal procedures, limited resources, and political factors. Although mechanisms such as mutual legal assistance and extradition exist, their implementation is often suboptimal. Under the principle of pacta sunt servanda, states should fulfill their international obligations in good faith, but reality shows a gap between commitment and implementation.¹⁶ This impacts the effectiveness of law enforcement against increasingly complex transnational crimes. Therefore, strengthening more concrete and coordinated

¹⁴ Ake, V. (2025). Relevansi Konsep Vicarious Liability dalam Putusan No. 296/Pid. Sus/2021/PN Kdi Tindak Pidana Pertambangan. *Jurnal Hukum Lex Generalis*, 6(11).

¹⁵ Arafah, R., & Triadi, I. (2025). Analisis Peran Hukum Internasional Dalam Mencegah Perdagangan Manusia Di Indonesia. *Media Hukum Indonesia (MHI)*, 3(3).

¹⁶ Dali, M. W., Mahmud, Y. I., Hasan, E. R., Talamati, A. A., Tuu, R. A. D., Monoarfa, M. L. A., ... & Ibrahim, R. (2025). Eksistensi dan Implementasi Asas Pacta Sunt Servanda dalam Sistem Hukum Perjanjian. *CENDEKIA: Jurnal Penelitian dan Pengkajian Ilmiah*, 2(12), 2226-2233.



international cooperation is necessary. Overall, a normative analysis of the regulation of money laundering crimes shows that despite the existing legal framework, several weaknesses remain that need to be addressed. These weaknesses lie not only in the substance of the law but also in its implementation and coordination between countries. From the perspective of progressive legal theory, legal reforms are needed that adapt to the development of modern crime. This includes improving the formulation of norms, strengthening law enforcement mechanisms, and enhancing international cooperation. Thus, the regulation of money laundering crimes can be more effective in addressing the challenges of transnational organized crime.

The regulation of money laundering prevention mechanisms in Law Number 8 of 2010 places reporting obligations as the primary instrument for detecting suspicious financial activity. This obligation is imposed on financial reporting entities, such as banks and other financial services institutions, which are legally required to report suspicious financial transactions to the relevant authorities. From a preventive legal perspective, this reporting obligation reflects an early detection system approach aimed at preventing criminal acts before they reach a more advanced stage.¹⁷ However, the effectiveness of this obligation depends heavily on the compliance of reporting institutions and the quality of the supervisory system implemented. In practice, underreporting and overreporting persist, which can obscure the focus of analysis on truly suspicious transactions. Therefore, reporting obligations require not only a strong normative foundation but also adequate technical system support and institutional integrity.

In law enforcement, the role of institutions such as the Financial Transaction Reports and Analysis Center (PPATK) is highly strategic within the national legal system. PPATK functions as a financial intelligence unit authorized to analyze and submit the results of financial transaction analyses to law enforcement officials. From the perspective of Lawrence M. Friedman's legal system theory, PPATK is part of the legal structure that plays a crucial role in bridging legal norms and their implementation.¹⁸ However, the PPATK's lack of investigative authority often hinders effective law enforcement, as its analysis results are highly dependent on follow-up from other law enforcement agencies. This creates the potential for fragmentation in the law enforcement process, which can hinder comprehensive case resolution. Therefore, strengthened coordination between institutions is necessary to ensure the effectiveness of the enforcement system.

The reporting obligation by the reporting party also raises normative issues related to legal protection for the reporting party and the potential breach of customer confidentiality. From the perspective of the prudential principle and the data protection principle, there is a tension between the reporting obligation and the individual's right to privacy.¹⁹ Although the law provides a legal basis for waiving bank secrecy in certain cases, its implementation remains controversial. This indicates that existing norms have not fully balanced the interests of law enforcement and the protection of individual rights. Therefore, more detailed regulations are needed to avoid potential abuse of authority. Furthermore, an analysis of the principle of

¹⁷ Hambali, A. R., & Arief, A. (2025). Reformulasi Kebijakan Pencegahan Pedofilia Berbasis Komunitas: Perspektif Hukum Pidana Dan Perlindungan Anak Di Indonesia. *Indonesian Journal of Legality of Law*, 8(1), 21-28.

¹⁸ Mulyadi, D., Yanuaria, T., & Firman, F. (2025). Model Kepatuhan Hukum Pendaftaran Perkawinan: Konstruksi Budaya Hukum Masyarakat Sereh Berdasarkan Teori Friedman. *Semarang Law Review (SLR)*, 6(2), 473-482.

¹⁹ Pranata, A., Juono, A. A., & Binarida, A. V. Y. (2024). Implementasi Asas Kehati-Hatian Dalam Perlindungan Data Pribadi Berdasarkan Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi Di Era Digital 5.0. *JOURNAL OF LAW AND NATION*, 3(3), 721-730.



legality (*nullum crimen sine lege*) shows that formal regulations for money laundering crimes comply with the basic principles of criminal law. Law Number 8 of 2010 explicitly defines prohibited acts, thus providing a legal basis for law enforcement. However, from the perspective of the *lex certa* principle, there are still weaknesses in the clarity of the norm formulation, particularly regarding the definition of "proceeds of crime." This ambiguity has the potential to give rise to multiple interpretations among law enforcement officials. Consequently, the application of the legality principle is suboptimal because norms that should provide certainty actually create uncertainty. Therefore, the formulation of more stringent and restrictive norms is needed.

The principle of legal certainty (*lex certa*) is also a key focus in the normative analysis of this regulation. In legal theory, legal certainty is a primary prerequisite for justice and legal effectiveness. However, in practice, the norms governing money laundering continue to exhibit ambiguity, particularly in defining the boundaries between lawful and unlawful acts. This results in inconsistencies in law enforcement and court decisions. This situation indicates that the principle of legal certainty has not been fully implemented optimally. Therefore, normative reforms are needed to provide clear guidance for law enforcement officials. Furthermore, the principle of legal effectiveness is also a crucial parameter in assessing the success of money laundering regulations. From the perspective of legal effectiveness theory, a norm is considered effective if it achieves its intended goal, namely preventing and eradicating crime. However, reality shows that despite the increasing number of cases handled, success in disrupting organized crime networks remains limited. This indicates that legal effectiveness has not been fully achieved. Factors such as limited resources, lack of coordination, and the complexity of the crime are major obstacles. Thus, a more comprehensive approach is needed to improve legal effectiveness.

Normative weaknesses in regulating money laundering crimes are also evident in cross-jurisdictional contexts. Existing regulations are not fully able to accommodate the complexity of crimes involving more than one country. From an international legal perspective, this is related to limitations in legal harmonization and cooperation between countries.²⁰ This legal loophole is often exploited by perpetrators to evade prosecution by transferring assets to countries with weaker regulations. This situation indicates that national regulations remain partial and not yet globally integrated. Therefore, strengthening international cooperation and legal harmonization is necessary. Furthermore, the lack of clarity in norms regarding the reach of intellectual actors and international criminal networks is a significant weakness. In many cases, law enforcement focuses more on perpetrators on the ground, while the main actors behind the criminal networks are difficult to reach. This indicates limitations in normative construction that are unable to accommodate the complex structures of organized crime. From the perspective of criminal responsibility theory, this situation reflects a failure to ensnare key perpetrators who play a strategic role. Therefore, a more progressive and adaptive reformulation of norms is needed to address developments in modern crime, so that law enforcement can be carried out more effectively and comprehensively.

Conceptual Analysis of the Ambiguity of the "Proceeds of Criminal Acts" Norm and Its Implications for Evidence from the Perspective of Transnational Organized Crime

The conceptualization of "proceeds of crime" in criminal law is a fundamental element determining the validity of money laundering as a follow-up crime. In doctrinal analysis, "proceeds of crime" is

²⁰ Sutrisno, A. (2025). Penerapan Hukum Internasional dalam Sistem Hukum Nasional Indonesia: Tantangan Teoritis dan Praktis. *Iblam Law Review*, 5(2), 78-90.



understood as any economic benefit, whether in the form of money, assets, or other property rights obtained directly or indirectly from a crime. This concept encompasses not only primary proceeds but also derivative proceeds that have undergone a transformation, thus broadening the scope of the object of the crime. From the perspective of modern criminal law theory, this expansion aims to prevent perpetrators from exploiting legal loopholes through transaction manipulation. However, this expansion of the concept must still consider the principle of legal certainty to avoid overcriminalization. Therefore, the formulation of the concept of "proceeds of crime" must be carried out carefully and proportionally.

When comparing national laws and international instruments, differences in the clarity and scope of the definition of "proceeds of crime" are apparent. International instruments, such as the global anti-money laundering regime, tend to provide broad and flexible definitions to accommodate the evolving nature of the crime.²¹ Meanwhile, in national law, despite the adoption of similar concepts, the formulation of norms still tends to be less than fully explicit and limited. This creates a lack of synchronization in implementation, particularly when dealing with cross-border cases. From the perspective of legal harmonization, these differences have the potential to hamper international cooperation in law enforcement. Therefore, conceptual alignment is needed so that national legal systems can function effectively within a global framework. The vagueness of norms in regulating "proceeds of crime" is a crucial issue that directly impacts the effectiveness of law enforcement. This ambiguity is particularly evident in the lack of a clear delineation between legitimate assets and assets derived from criminal acts. In practice, this situation creates difficulties for law enforcement officials in determining the status of an asset. From a legal theory perspective, vague norms open up wide room for interpretation and have the potential to create legal uncertainty. This contradicts the basic principle of criminal law, which demands clarity and firmness of norms. Thus, vague norms are a major factor weakening the effectiveness of regulating money laundering.

The unclear boundaries between legal and illegal assets also lead to multiple interpretations in law enforcement practices. Law enforcement officials may have differing interpretations when assessing whether an asset can be categorized as the proceeds of crime. This situation not only creates inconsistencies in law enforcement but also has the potential to cause injustice to the parties involved. From a justice perspective, these differing interpretations can be detrimental to suspects or defendants who should receive equal legal protection. Furthermore, multiple interpretations can also be exploited by criminals to avoid criminal liability. Therefore, the formulation of clearer, less open-ended norms is necessary.

The implications of normative ambiguity for the *lex certa* principle are a significant issue in criminal law. The *lex certa* principle requires that every criminal norm be formulated clearly and unambiguously, thereby providing legal certainty for the public.²² However, in regulating "proceeds of crime," existing norms do not fully meet these standards. Ambiguity in the formulation of norms leads to uncertainty in the application of the law, which can ultimately undermine the legitimacy of the legal system. From the perspective of legal certainty theory, this situation indicates that the law is not yet capable of optimally performing its function. Therefore, normative reform is imperative.

²¹ Sitepu, I., Purwati, A., & Marina, L. (2025). Tindak Pidana Korupsi Multinasional Dan Peran Korporasi Global: Urgensi Pembaruan Hukum Pidana Ekonomi Indonesia. *PESHUM: Jurnal Pendidikan, Sosial dan Humaniora*, 4(6), 10074-10088.

²² Cahyono, A. R. B., & Rosalina, F. (2026). PRINSIP KEPASTIAN HUKUM PENGERTIAN MELANGGAR KESUSILAN DALAM HUKUM PIDANA BERDASARKAN UU ITE. *Journal of Golden Generation Legal Science*, 2(2), 296-315.



Another impact of unclear norms is on the protection of the rights of suspects and defendants in the criminal justice process. Unclear norms can open up opportunities for arbitrary law enforcement, as authorities have broad interpretations. From a human rights perspective, this situation contradicts the principle of due process of law, which demands certainty and fairness in every legal process. Furthermore, suspects and defendants may experience difficulties in defending themselves due to the lack of clarity regarding the elements that must be proven. Thus, unclear norms impact not only the effectiveness of law enforcement but also the protection of individual rights.

The problem of proving evidence in money laundering crimes becomes increasingly complex when it comes to proving the connection between assets and the predicate crime. In practice, this evidence often faces obstacles because the perpetrator has made various efforts to disguise the origin of the assets. From a theoretical perspective, this demonstrates the difficulty in meeting the legal standard of proof under criminal procedure law.²³ This situation is exacerbated by the transnational nature of crime, which involves multiple jurisdictions. As a result, many cases cannot be optimally proven in court. Therefore, a more adaptive evidentiary approach to the complexities of modern crime is needed. Reversal burden of proof has emerged as a solution to overcome these evidentiary difficulties, although it is not without controversy. From a classical criminal law perspective, reversal burden of proof is considered contrary to the presumption of innocence.²⁴ However, in the context of money laundering, this approach is considered an extraordinary measure necessary to address complex and organized crimes. The application of the reverse burden of proof must be carried out carefully to avoid violating the suspect's rights. Therefore, a balance is required between the needs of law enforcement and the protection of human rights. Therefore, reformulating the concept of the burden of proof is crucial to increasing the effectiveness of law enforcement against money laundering.

Providing evidence in transnational organized crime is one of the most complex challenges in law enforcement for money laundering, as it involves interactions across diverse jurisdictions. Differences in legal systems, both civil law and common law, create disparities in evidentiary standards, types of evidence, and applicable judicial procedures. From a criminal procedure perspective, this creates structural barriers to the evidentiary process, particularly when evidence is located within the jurisdiction of another country. Furthermore, the principle of state sovereignty often hinders access to information necessary to prove a crime. This demonstrates that the provision of evidence in transnational crimes cannot be resolved solely through national legal approaches. Therefore, an international legal mechanism is needed to effectively bridge these differences.

The challenges of cross-border evidentiary support are further exacerbated by the complexity of the modus operandi employed by organized crime networks. Perpetrators often utilize multiple jurisdictions with varying levels of regulation to disguise the flow of funds and evade detection. From a criminological perspective, this reflects the perpetrators' adaptive ability to exploit weaknesses in global legal systems. Consequently, asset tracing is extremely difficult and requires intensive cross-border coordination. However, such coordination is not always effective due to differing national interests and limited institutional capacity. Thus, evidentiary challenges are not only technical but also political and structural.

²³ Rohman, R., Muliadi, M., Pratama, F., Saputra, I., Firmansyah, A., Marwan, T., & Irfandi, I. (2024). Sistem pembuktian dalam hukum pidana Indonesia dan tantangan dalam proses peradilan. *Jimmi: Jurnal Ilmiah Mahasiswa Multidisiplin*, 1(3), 279-292.

²⁴ Parisuda, I. D. R., Suyono, Y. U., & Soekorini, N. (2025). Analisis Yuridis Terhadap Beban Pembuktian Terbalik dalam Perkara Tindak Pidana Korupsi. *Journal Evidence Of Law*, 4(3), 2179-2189.



Mutual legal assistance The Multilateral Legal Aid Agreement (MLA) is a crucial instrument in supporting the cross-border evidentiary process. The MLA allows countries to assist each other in gathering evidence, summoning witnesses, and seizing assets held in other jurisdictions.²⁵ From an international legal perspective, this mechanism embodies the principle of cooperation between states in combating transnational crime. However, the effectiveness of the MLA depends heavily on the shared interests and commitment of the countries involved. Bureaucratic and time-consuming procedures often hinder its implementation. Therefore, reform of international cooperation mechanisms is necessary to make them more responsive to law enforcement needs. In addition to the MLA, international cooperation also encompasses the exchange of financial intelligence, extradition, and coordination between law enforcement agencies. Under the principle of *pacta sunt servanda*, states have an obligation to implement international agreements in good faith.²⁶ However, in practice, there remains a gap between normative commitments and implementation on the ground. This indicates that international cooperation has not fully addressed the challenges of providing evidence in transnational crime. Therefore, institutional strengthening and human resource capacity building are needed to support this cooperation.

Analysis of the ambiguity of the "proceeds of crime" norm can be conducted through the approaches of legal certainty theory and legal interpretation theory. In legal certainty theory, as proposed by Gustav Radbruch, the law must be clear and predictable to guarantee justice.²⁷ However, the ambiguity of norms in money laundering regulations indicates that this principle has not been fully met. From the perspective of legal interpretation theory, law enforcement officials often must employ grammatical, systematic, and teleological interpretations to understand existing norms. This situation indicates that existing norms are not yet sufficiently clear, requiring additional interpretation. Therefore, a more rigorous formulation of norms is needed to reduce reliance on interpretation. Legal experts also emphasize the importance of norm reformulation to address this ambiguity. Experts argue that the definition of "proceeds of crime" must be formulated in a more restrictive and comprehensive manner to avoid multiple interpretations. From the perspective of legal theory, a good norm must meet the principle of clarity of formulation and avoid ambiguity.²⁸ Furthermore, strengthening the asset-based approach to evidence is necessary to overcome the difficulty of linking assets to predicate crimes. This approach allows for more effective law enforcement without always requiring detailed proof of the predicate crime. Thus, norm reformulation is a strategic step in increasing legal effectiveness.

The practical impact of normative ambiguity is clearly evident in the inconsistency of court decisions. Differences in interpretation of the norm regarding "proceeds of crime" lead to disparities in sentencing, even in cases with similar characteristics. From the perspective of legal certainty theory, this situation indicates a failure of the legal system to provide clear guidelines. This inconsistency not only harms litigants

²⁵ Pratama, Y. A., Syahputri, E. M., Sari, L. K., Ulfah, M., & Amaliah, K. (2025). Strategi Optimalisasi Mutual Legal Assistance (MLA) Untuk Pemulihan Aset Pada Kasus Tindak Pidana Pencucian Uang (TPPU) Transnasional. *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN: 3031-8882, 3(1), 290-295.

²⁶ Imelda, B., & Sholikah, D. I. (2025). KORELASI ANTARA PRINSIP ITIKAD BAIK (GOOD FAITH) SEBAGAI FONDASI NORMATIF DENGAN PENERAPAN KEWAJIBAN PACTA SUNT SERVANDA DALAM DINAMIKA HUKUM PERJANJIAN INTERNASIONAL. *Journal of Social and Economics Research*, 7(2), 1686-1697.

²⁷ Azzahra, S. N., Saragih, Y. M., Yusuf, M., & Pasaribu, U. R. (2025). Analisis yuridis tindak pidana korupsi suap berdasarkan teori kepastian hukum. *Jurnal Multidisiplin Dehasen (MUDE)*, 4(3), 593-598.

²⁸ Rahardja, N. N., & Basani, C. S. (2025). Kepastian Hukum Alasan Kemanusiaan sebagai Dasar Pertimbangan Para Pihak dalam Melakukan Restorative Justice. *Jurnal Hukum Lex Generalis*, 6(12).



but also undermines public trust in the justice system. Furthermore, it opens up opportunities for abuse of authority. Therefore, efforts are needed to harmonize legal interpretations through normative reform. Furthermore, the weak deterrent effect on organized crime perpetrators is a consequence of the unclear norms and weak evidence. Criminals can exploit legal loopholes to avoid criminal liability, thus preventing the optimal achievement of the objectives of punishment. From the perspective of the theory of the objectives of punishment, this situation indicates that the preventive and repressive functions of criminal law are ineffective. Therefore, conceptual reconstruction is an urgent need. A limited and comprehensive reformulation of the definition of "proceeds of crime" is necessary to provide legal clarity. In addition, strengthening the asset-based approach in providing evidence can be a solution to increase the effectiveness of law enforcement, so that the eradication of money laundering crimes can be carried out more optimally in facing the challenges of transnational organized crime.

CONCLUSIONS

The regulation of money laundering crimes from the perspective of transnational organized crime in Indonesia, despite having a relatively comprehensive legal basis through Law Number 8 of 2010 and recognition of international instruments such as the UNTOC, in practice still faces serious problems stemming from unclear norms, particularly regarding the definition of "proceeds of crime" and the mechanisms for providing evidence. This situation results in the *lex certa* principle not being optimally fulfilled, thus giving rise to multiple interpretations among law enforcement officials and resulting in inconsistent law enforcement and a weak deterrent effect on perpetrators of organized crime. Furthermore, the complexity of transnational crimes involving multiple jurisdictions, differences in legal systems, and limited international cooperation further complicate the process of establishing evidence and enforcement, thus preventing full legal effectiveness. From the perspective of the theory of legal certainty and effectiveness, this indicates a gap between written norms and their implementation in the field. Therefore, legal reconstruction is needed through the reformulation of clearer, more limited, and less open to multiple interpretations, as well as the strengthening of an asset-based approach to evidence to increase the effectiveness of money laundering eradication. Thus, clarity of legal regulations is a key factor in determining the success of law enforcement against money laundering crimes in the context of transnational crimes.

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