



Strategy to Suppress Corruption and Money Laundering in the Digital Age

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Abstract

The purpose of this research is to describe and understand the criminal sentencing model for corrupt acts accompanied by money laundering crimes. This research uses a qualitative approach with a normative legal design. Data collection techniques include literature review, and data analysis techniques include presentation, reduction of data, and collection and verification. The research results showed that the sentencing for corrupt acts accompanied by money laundering is not the same as for money laundering with an underlying corruption crime, which would impose penalties according to Article 3 of Law No. 8 of 2010 on the eradication of money laundering. Specifically, in the case of corrupt acts accompanied by money laundering, which applies an absorption system, in line with the teachings of Article 65 of the Indonesian Criminal Code. The conclusion of this research is that the doctrine of Concursus from the Chamber of Criminal Matters of the Supreme Court of the Republic of Indonesia Tangerang has a legal foundation that serves as a guide or sentencing basis, which can be revised regarding the sentencing model that should be applied for corrupt acts accompanied by money laundering crimes. Preserving the integrity of digital transactions in order to prevent the risk of money laundering. Effective measures must be taken to ensure that digital transactions are secure and that any illegal activities are detected and punished accordingly.

Keywords: *Corruption, Money Laundry, Digital Transaction*

INTRODUCTION

The crime of money laundering is part of the specific criminal law (*Ius Singulare*, *Ius Speciale* or *Bijzonder Strafrecht*) and the positive legal provisions (*Ius Constitutum*) of Indonesia, regulated by the Indonesian Republic Law Number 8 of 2010 on the Eradication of Money Laundering Crimes.¹ If unraveled, the crime of

¹ Pemerintah Republik Indonesia, “Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang” (2010), <https://peraturan.bpk.go.id/Home/Details/38547/uu-no-8-tahun-2010>.

money laundering has specific specifications that differ from general criminal law, such as deviations in legal procedure and material regulations intended to minimize the occurrence of leaks and deviations in the financial and economic situation of the country.

Money laundering is a well-organized and systematic form of crime committed by individuals who hold important positions in society. In its regulation, money laundering is often accompanied by the primary crime, meaning that it cannot stand on its own. In this context, the author tries to examine the difference in punishment between money laundering which is based on the initial crime of corruption compared to corruption that is accompanied by money laundering in its legal discovery.

The criminal act of money laundering is defined as a part of Indonesia's criminal law, which is regulated by the Republic of Indonesia Law Number 8 of 2010 on Anti-Money Laundering. This specific crime has different specifications compared to general criminal law, such as procedural deviations and material regulations aimed at minimizing financial and economic deviations and leaks in the country. Penalties for money laundering that is connected with the initial crime of corruption can be found in article 2, paragraph 1 of the anti-money laundering law, where the initial crime of corruption is considered a continuation of the money laundering crime. The penalties for these crimes are outlined in articles 3 and 4 of the law, which states that anyone who places, transfers, or converts ill-gotten wealth with the intention of hiding or disguising its origin, as well as anyone who conceals the true source, location, purpose, transfer, rights, or ownership of such wealth, will be punished for money laundering with a prison sentence of up to 20 years and a fine of up to IDR 10 billion (article 3) or IDR 5 billion (article 4).

The criminal act of money laundering can be punished with a maximum prison sentence of 20 years and a fine of 10 billion Rupiah, while in the case of corruption that is concurrent with money laundering, there is no legal basis for the combination of cases, known as *Concursus Realis*. This is because specific crimes have specific characteristics and the principle of a special law is more prominent than the principle of general law. In criminal law, there is a distinction between concurrent crimes, known as *Concursus*. *Concursus* is divided into three forms: idealism, subsequent, and realis. The legal basis for *Concursus* can be found in articles 63-71 of the Indonesian Criminal Code (KUHP)², but in this case, the author will focus on corruption as a concurrent act (*Concursus Realis*).

Concursus Realis can be defined as the concurrent commission of multiple acts. Concurrent commission of acts (*Concursus Realis*) occurs when a person simultaneously carries out multiple acts.³ According to experts, *Concursus Realis* refers to the simultaneous commission of non-similar acts, each with its own separate nature, that violate criminal provisions, either in the form of crimes or violations that have not yet been punished. From some of the definitions above, it can be seen that determining a crime to be included in the concurrence of acts or *Concursus Realis* is not an easy matter, especially in the case of corruption which requires extraordinary handling in eradicating it. It is on this basis that the problem can be drawn regarding how the model of punishment for perpetrators of corruption is accompanied by money laundering, and what are the juridical

² Republik Indonesia, "Kitab Undang-Undang Hukum Pidana" (2021), <https://jdih.mahkamahagung.go.id/legal-product/kitab-undang-undang-hukum-pidana/detail>.

³ Rodrigo F Elias, "Konsep Perbarengan Tindak Pidana (Concursus) Menurut Kitab Undang-Undang Hukum Pidana," *Lex Crimen* 10, no. 5 (2021).

reasons to what extent criminal acts of corruption in the form of concurrency are adjusted through the Criminal Code, whereas in criminal law special laws apply that overrule general laws (*Lex Specialis Derogate Legi Generalis*).

The new era of digital transactions has both positive and negative impacts related to money laundering. Positive impacts include, increased speed and efficiency of transactions, reduced costs for individuals and businesses, improved tracking and traceability of financial transactions, making it easier to detect and prevent money laundering, and improved financial inclusion for people who previously lacked access to traditional banking services. And negative impacts include, increased risk of cybercrime and fraud, difficulty in regulating and monitoring digital transactions, making it easier for criminals to launder money through digital channels, potential for increased anonymity in digital transactions, and making it easier for criminals to conceal their activities.

Digital transactions are increasingly becoming a target for money laundering activities, as the digitalization of financial transactions allows for greater ease and anonymity in the movement of funds. As a result, digital transactions are subject to anti-money laundering (AML) regulations and oversight, similar to traditional financial transactions. The specific implications of digital transactions in relation to money laundering can include the need for enhanced due diligence and monitoring of digital transactions to detect and prevent illegal activities, as well as the development of technology and data analytics tools to detect and report suspicious transactions. In addition, digital service providers may be subject to licensing and regulatory requirements aimed at preventing money laundering and terrorist financing through digital transactions.

METHODS

This study uses qualitative methods in a phenomenon that functions to more easily understand phenomena that occur in a society that are not widely known. A qualitative approach, which means the presentation of research data is analyzed and presented descriptively. The essence of the general principles that underlie the manifestation of existing symptom units in human life, or analyzing patterns that arise from socio-cultural phenomena by using existing culture in society to obtain an overview of prevailing patterns. These patterns were analyzed again using an objective theory.⁴ This type of research is normative juridical research. This type of legal research is carried out by examining library materials or secondary data as the basic material for research by conducting a search of regulations and literature related to the problem under study.⁵

RESULTS AND DISCUSSION

The criminal model for perpetrators of corruption is accompanied by money laundering

The crime of money laundering in the sense of The Financial Action Task Force on Money Laundry (FATF) provides a definition of Money Laundry, namely "the Processing of these Criminal proceeds disguise their

⁴ Burhan Ashshofa, *Metode Penelitian Hukum* (Jakarta: Rineka Cipta, 2013),
<https://opac.perpusnas.go.id/DetailOpac.aspx?id=850013>.

⁵ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia Press, 2012).

Illegal Origin". Meanwhile, according to Fraser Says Money laundering is a process in which a person hides the whereabouts, source/use of income illegally, and then disguises the income to make it appear legitimate/a simple process in which "dirty" money (proceeds of crime), is laundered by sources and through companies that are "clean"/legitimate so that "bad people" can safely enjoy these illicit goods.⁶

In carrying out the crime of money laundering, the elements of the crime of money laundering are always followed, namely:

- 1) There are criminal acts that are double acts or have original acts
- 2) Presence of Criminal Subjects (Person/Corporation)
- 3) Existence of objects/assets
- 4) Types of Actions committed by the Actor as if it were legal money, which includes: Placement, Layering, and Integration.

In this writing, the author tries to examine the criminal act of corruption which is accompanied by the criminal act of money laundering with the model of punishment following the rules contained in the criminal act of money laundering or is it different?

Concursus Realis Definition

In criminal law, concurrence is known or commonly referred to as (*Concursus*). According to Utrech said that in order to state that there is a combination, it is necessary to pay attention to the conditions of the combination. The conditions for this combination include:⁷

- 1) There are two or more criminal acts committed
- 2) That two or more criminal acts were committed by one person (or two persons in the case of inclusion)
- 3) That two or more of these crimes have not yet been tried
- 4) That two or more of these crimes will be tried at once

In general, *Concursus* is divided into three forms, namely idealist *Concursus*, continuous *Concursus* and realist *Concursus* and the legal basis for *Concursus* regulation can be found in articles 63-71 of the Criminal Code (KUHP). Furthermore, by Mr. J. E. Jonkers said that regarding the condition of togetherness together, there are provisions regarding the application of punishment. There are 4 (four) systems that are run in this regard, namely:⁸

- 1) The absorption system only enforces the heaviest legal rules.
- 2) Sharpened absorption, the most severe criminal regulations that are carried out are added a little 1/3 above the maximum sentence.
- 3) The cumulative system is pure, namely that the person is sentenced without reduction.

⁶ Achmad Firdaus et al., "PENEGAKAN HUKUM TERHADAP KEJAHATAN MONEY LAUNDERING : STUDI KASUS BINARY OPTION DS," n.d., 187–201.

⁷ Teng Junaidi Gunawan, "Ius Constituendum Criminal Law Sanction System with Double Track System Principle in the National RKUHP" 28, no. 158 (2022): 532–43.

⁸ J.E.Jonkers, *Buku Pedoman Hukum Pidana Hindia Belanda* (Jakarta: Bina Aksara, 1987), https://books.google.co.id/books/about/Buku_pedoman_Hukum_Pidana_Hindia_Belanda.html?id=yxGNAACAIAJ&redir_esc=y.

- 4) The cumulation system without being mitigated, there are several sentences imposed, but the total time of all sentences is the longest with some (one third).

However, at this time the author only focuses on money laundering cases which are coupled with corruption cases as the initial crime, the form of the action is usually referred to as (*Concursus Realis*). *Concursus Realist* meaning in Indonesian is usually called (concurrent deed) while in Dutch it is usually called *Meerdaadse Samenloop*. The basis of *Concursus Realis* is regulated in Articles 65 - 71 of the Criminal Code. In this realist *Concursus*, the Criminal Code recognizes three forms of concurrency, namely:

- 1) Concurrent crimes punishable by similar crimes
- 2) Concurrent crimes punishable by dissimilar punishments
- 3) Concurrent violations with each punishment stand alone.

From the three forms of *Concursus Realis*, the punishment systems used are different from one another.⁹

Accountability of Perpetrators of Criminal Acts of Corruption Accompanied by Criminal Acts of Money Laundering

In criminal responsibility, especially in corruption cases which are accompanied by money laundering crimes, of course, you will see the imposition system that is in the Criminal Code.

Table 1: Criminal Imposition
[Source: compiled by Authors¹⁰¹¹]

<i>Concursus Realis</i>	Indonesian Criminal Code (KUHP)	Concurrent violations with each punishment stand alone.
		Concurrent crimes punishable by dissimilar punishments
		Concurrent violations with each punishment stand alone.
	R. Soesilo	Crimes Criminal acts of crimes between the same sex and those that are not are contained in Articles 65 and 66 of the Criminal Code
		Crimes-offenses Criminal acts of violations are contained in article 70 of the Criminal Code
		Offenses Criminal acts of violations are contained in article 70 bis of the Criminal Code
The system of imposing corruption crimes accompanied by money laundering crimes	Article 65 paragraph 1 of the Criminal Code	"In the case of simultaneous acts that must be seen as separate acts, so that there are several crimes punishable by the same basic punishment, then only one sentence is imposed"
	Article 65 paragraph 2 of the Criminal Code	"The maximum sentence imposed is the maximum amount of punishment that is punishable for the act but does not exceed the maximum sentence plus one-third of the maximum penalty itself"

⁹ Aruan Sakidjo; Bambang Poernomo, *Hukum Pidana : Dasar Aturan Umum Hukum Pidana Kodifikasi*, 6th ed. (Jakarta: Ghalia, 1990), <https://opac.perpusnas.go.id/DetailOpac.aspx?id=364282>.

¹⁰ Republik Indonesia, Kitab Undang-Undang Hukum Pidana.

¹¹ R. Soesilo, *Kitab Undang-Undang Hukum Pidana (KUHP): Serta Komentar-Komentarnya Lengkap Pasal Demi Pasal*, 16th ed. (Bogor: Politeia, 2016).

In the case of the crime of corruption accompanied by the crime of money laundering, it is a type of case where the punishment is a similar crime in the sense that these two crimes have the same principal punishment, namely imprisonment, and fines. In terms of reviewing criminal convictions, the authors limit them to similar principal crimes in the Law of the Republic of Indonesia Number 20 of 2001¹² concerning the Eradication of Corruption Crimes and Law Number 8 of 2010¹³ concerning the Eradication of Money Laundering Crimes, especially imprisonment and fines, which in implication According to the Criminal Code, it is found in Article 65 paragraphs 1 and 2 of the Criminal Code.

This means that in this explanation it can be concluded by the author that the accumulation of criminal acts of corruption accompanied by criminal acts of money laundering can follow the Criminal Code pattern, namely the heaviest sentence of the two criminal acts plus one-third of the heaviest crime as long as it does not exceed the heaviest crime.

Preventive Strategy of Money Laundry in Cyberspace

Digitalization has had an impact on the possibility of corruption leading to money laundering. With the increasing use of digital technology, money laundering activities have become more sophisticated and difficult to detect, which has increased the potential for corruption. The anonymity and cross-border nature of digital transactions make it easier for criminals to move money undetected and launder it through complex networks. Digitalization has also created new types of digital assets and digital currencies that can be used for money laundering purposes. This highlights the importance of having strong anti-money laundering measures and regulations in place to mitigate the risk of corruption in the digital age.

Indonesia's rapid economic growth, tourism, and infrastructure has attracted many foreign tourists, leading to a need for foreign currency exchange facilities, or money changers. However, money changers have become a tool for money laundering crimes. The government has already criminalized such acts under Article 3 of the Law No. 8 of 2010¹⁴ on the Prevention and Eradication of Money Laundering Crimes. However, weaknesses still exist in the monitoring and implementation of anti-money laundering systems in money changer transactions. Current law enforcement and supervision are unable to effectively prevent and repress money laundering crimes in money changer transactions due to the high occurrence of such crimes.¹⁵

The crime of money laundering is harmful to the public and can lead to other crimes, corruption, terrorism, and drugs. This research aims to examine the bank's role in money laundering, focusing on Bank Secrecy. The research uses descriptive, exploratory, and analytical methods and literature study. The findings show that

¹² Republik Indonesia, "UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 20 TAHUN 2001 TENTANG PERUBAHAN ATAS UNDANG-UNDANG NOMOR 31 TAHUN 1999 TENTANG PEMBERANTASAN TINDAK PIDANA KORUPSI" (2001), <https://jdih.go.id/files/4/2001uu020.pdf>.

¹³ Indonesia, Undang-undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

¹⁴ Indonesia, *Undang-undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*.

¹⁵ Alvian Dwiangga Jaya and Ersya Dwi Nurifanti, "Pembaharuan Sistem KUPVA BB Sebagai Upaya Pencegahan Dan Pemberantasan Tindak Pidana Pencuci Uang," *Ikatan Penulis Mahasiswa Hukum Indonesia Law Journal* 1, no. 2 (December 31, 2021): 157–67, <https://doi.org/10.15294/ipmhi.v1i2.53269>.

Bank Secrecy refers to information about depositors and deposits and aims to protect customers. Banks, being financial institutions relying on customer trust, must maintain customer information confidentiality, including financial transaction information. It is recommended that banks apply the "Know Your Customer" principle and have an adequate reporting system. In case of suspicious funds, banks should work with relevant agencies to prevent money laundering.¹⁶

Corruption can lead to money laundering because corrupt individuals often use the proceeds of their illegal activities to hide the source of their wealth by filtering it through various financial transactions to make it appear legitimate. This can involve transferring the money to offshore accounts, using it to purchase real estate or luxury goods, or investing it in legitimate businesses. By using these methods, the corrupt individuals can make it difficult for law enforcement to trace the origin of the funds and hold them accountable for their crimes. In short, money laundering allows corrupt individuals to clean the illicit proceeds of their criminal activities and integrate the proceeds into the legitimate financial system.

Investment in modern times is not limited to gold, stocks, bonds, etc. As times evolve, a new type of investment instrument called Cryptocurrency has emerged. Cryptocurrency is a decentralized digital currency. If we look at one of the studies related to cryptocurrency, there are similarities in terms of the use of digital transactions as a medium in committing money laundering crimes. In addition, there is also the potential for crime in terms of tax evasion. Money laundering in cryptocurrency occurs due to the anonymity feature where the original identity cannot be tracked and protected by the system, creating a gap for criminal acts such as money laundering.¹⁷

Using virtual money in trade in Indonesia is illegal under Law 7 of 2011 on Currencies. Digital money is commonly used in business, with examples like Bitcoin and Binance Coin. Those who engage in money laundering using digital money hurt the state and are subject to criminal liability under Law 8 of 2010 on the Prevention and Eradication of Money Laundering. Keywords: Money laundering, digital currency, criminal liability.¹⁸

The purpose of this research is to examine and describe the regulatory policies and laws in preventing banking crime. It also explains the factors hindering the prevention of banking crime and provides input and references for improved prevention through regulatory policy approaches and criminal application. The research employs a combination of normative legal research and empirical legal research for support. The regulatory policies for preventing banking crime are outlined in and outside of the Banking Law, with provisions outlined in articles 46 to 50A of the amended Banking Law No. 7 of 1992 and No. 10 of 1998. Outside of the Banking Law provisions are outlined in the Criminal Code, Anti-Corruption Law, Investment Law, Anti-Money Laundering Law, Electronic Information and Transaction Law, and Money Transfer Law.

¹⁶ M. Endriyo Susilo and Wagiman Wagiman, "RAHASIA BANK BAGIAN DARI PROSES MONEY LAUNDRY," *Legal Standing : Jurnal Ilmu Hukum* 5, no. 2 (April 23, 2021): 38, <https://doi.org/10.24269/ls.v5i2.3756>.

¹⁷ Hari Sutra Disemadi and Delvin Delvin, "Kajian Praktik Money Laundering Dan Tax Avoidance Dalam Transaksi Cryptocurrency Di Indonesia," *NUSANTARA : Jurnal Ilmu Pengetahuan Sosial* 8, no. 3 (2021): 326–40, <http://jurnal.um-tapsel.ac.id/index.php/nusantara/article/view/3201>.

¹⁸ Kt Firnanda Pramudiya, "PERTANGGUNGJAWABAN PELAKU MONEY LAUNDERING MELALUI BINANCE COIN," *Jurnal Hukum Dan Pembangunan Ekonomi* 9, no. 1 (July 17, 2021): 40, <https://doi.org/10.20961/hpe.v9i1.52518>.

The hindrances to preventing banking crime include unclear and vague legal norms in the Banking Law, overlapping and non-harmonized roles of law enforcement, inadequate technology and skill, limited technology infrastructure, and a culture of law enforcement acting differently than regulations dictate.¹⁹

Money laundering is the act of hiding the illicit origin of funds obtained from criminal activity and making it appear legitimate. It is considered a crime since the passage of the 2002 Law No. 15 and 2003 Law No. 25, which were later updated by the 2010 Law No. 8 on the Prevention and Eradication of Money Laundering Crimes. The stages of money laundering, which consist of conversion (placement), layering, and integration, are now being carried out using the internet, making it a form of cybercrime. This crime is becoming increasingly difficult and complex to handle because it can cross borders, while law enforcement authorities are limited by their jurisdiction. In addition, specialized skills and knowledge in the cyber field are required. Cyber money laundering is a necessary challenge to face as a form of white-collar crime in the 21st century, so efforts to prevent and combat money laundering can be optimally enforced.²⁰

The financial services industry is a sector that is very vulnerable to being used as a means of money laundering. The development of financial services products including marketing (multi-channel marketing), conglomerates, as well as increasingly complex activities and technology of the financial services industry has the potential to increase the risk of using the financial services industry as a means of Money Laundering and/or Terrorism Funding, with its various and increasingly sophisticated modus operandi, and OJK revealed various modes related to money laundering.

Table 2: Money Laundry Mode Classification
[Source: OJK²¹]

Money Laundering Mode	
Smurfing	Attempts to avoid reporting by fragmenting transactions carried out by multiple actors
Structuring	Attempts to avoid reporting by breaking up transactions so that transactions are smaller
U-Turn	Attempts to obscure the origin of the proceeds of crime by twisting the transaction, which is then returned to the original account
Cuckoo Smurfing	Attempts to obscure the origin of the source of funds by sending funds from proceeds of crime through accounts of third parties waiting for transfers of funds from abroad, and not realizing that the funds received are proceeds of crime

¹⁹ M Zen Abdullah, "UPAYA PENANGGULANGAN TINDAK PIDANA DI BIDANG PERBANKAN MELALUI PENDEKATAN KEBIJAKAN REGULASI," *Legalitas: Jurnal Hukum* 11, no. 1 (December 31, 2019): 106, <https://doi.org/10.33087/legalitas.v11i1.173>.

²⁰ Iskandar Wibawa, "CYBER MONEY LAUNDERING (Salah Satu Bentuk White Collar Crime Abad 21)," *YUDISIA : Jurnal Pemikiran Hukum Dan Hukum Islam* 8, no. 2 (2018): 240, <https://doi.org/10.21043/yudisia.v8i2.3238>.

²¹ OJK, "Trend Dan Tantangan Anti Money Laundering Di Era Digital," 25 Agustus, 2022, <https://www.ojk.go.id/ojk-institute/id/capacitybuilding/upcoming/1034/trend-dan-tantangan-anti-money-laundering-di-era-digital>.

Purchase of assets or luxury goods	The purchase of assets or luxury goods refers to the acquisition of valuable items or resources with the purpose of investment or personal enjoyment. Assets may include real estate, stocks, bonds, and commodities.
Exchange of goods or barter	Barter can be used as a method of money laundering, which is the illegal process of disguising the proceeds of criminal activity as legitimate funds.
Underground Banking	Remittance activities through informal channel mechanisms that are carried out on the basis of trust; Third party use
Mingling	Mixing proceeds of crime with funds from legal business activities with the aim of obscuring the source of the funds
Use of a fake identity	In this context, a fake identity may be used to open bank accounts, create shell companies, or conduct financial transactions that appear to be legitimate but are actually part of a money laundering scheme. This can make it difficult for authorities to detect and prevent the flow of illegal funds.

In line with what has been formulated by the OJK, and also based on an analysis of several articles which are the references of this article, a strategy can be developed to prevent digital money laundering. These strategies may include:

- 1) Strengthening regulations and laws related to cybercrime and money laundering
- 2) Enhancing collaboration between law enforcement agencies, financial institutions and other relevant stakeholders to share information and coordinate efforts
- 3) Implementing robust cybersecurity measures to protect against cyber attacks and data breaches
- 4) Enhancing customer due diligence measures in digital transactions to detect and prevent money laundering activities
- 5) Increasing public awareness and education about the risks and consequences of money laundering in cyberspace
- 6) Encouraging the reporting of suspicious activities and the adoption of safe and secure online practices

The effectiveness of these strategies depends on their proper implementation and the continuous review and adaptation to the evolving threat landscape.

CONCLUSION

The sentencing model for corruption accompanied by money laundering is different from the crime of money laundering, where the predicate crime is corruption due to different criminal arrangements by looking at law number 8 of 2010 with the decision of the Constitutional Court in the results of the meeting of the criminal chamber of the Supreme Court of the Republic of Indonesia Tangerang No. 10 regarding the

application of the concursus teachings to precisely the criminal act of corruption accompanied by the criminal act of money laundering. It is important for governments, financial institutions, and individuals to be aware of these potential impacts and take steps to minimize the risks associated with digital transactions. This can include implementing strong security measures, increasing public education and awareness, and working together to improve regulations and oversight.

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