

The Effectiveness of Reverse Evidence for Money Laundering Criminal Acts in Criminal Justice Processes in Indonesia

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Abstract. *The main reason for the implementation of the reverse burden of proof is because money laundering is generally carried out in a complex manner and involves organized crime networks. This complexity is exacerbated by advances in information technology in the financial and banking sectors, which make the process of tracking and proving increasingly difficult. The purpose of this study is to examine and analyze the effectiveness of the reverse burden of proof for money laundering crimes in the criminal justice process in Indonesia, to examine and analyze the ideal concept of the reverse burden of proof for money laundering crimes in the criminal justice process in the future. The type of research used in this study is normative juridical. Money laundering crimes are extraordinary crimes that require extraordinary countermeasures, including through the reverse burden of proof in Law No. 8 of 2010, but its effectiveness in Indonesia is still hampered by substantive weaknesses, unpreparedness of the authorities, minimal means of asset tracking, a low culture of compliance, and weak international cooperation. For the future, the ideal concept of reversed proof needs to be strengthened by clarifying legal standards, expanding the mechanism for confiscating assets, both based on judgments and without judgments (civil forfeiture), building an integrated digital financial oversight system, increasing the capacity of officials in financial forensics and cross-border investigations, and strengthening coordination between institutions such as the Financial Transaction Reports and Analysis Center (PPATK), the Financial Services Authority (OJK), Bank Indonesia (BI), the Directorate General of Taxes, and law enforcement officials, as is the effective practice in the UK, the US, and Singapore, so that reversed proof can become a strategic instrument to impoverish perpetrators and strengthen the integrity of the national financial system.*

Keywords: *Effectiveness; Laundering; Money; Reverse.*

1. Introduction

The law that is popular among the public is the law that can provide threats to anyone who commits a crime/felony, those who commit a crime/felony will be subject to criminal penalties.¹Criminal offenses themselves are divided into two categories: general crimes and special crimes. General crimes are all crimes included in and regulated by the Criminal Code and not yet regulated separately by law.²

Money laundering is also a special crime and is regulated outside the Criminal Code. The execution of criminal penalties, including the payment of compensation, is also essentially a law enforcement matter.³In Indonesia itself, the government of the Republic of Indonesia only criminalized money laundering in 2002 by issuing Law Number 15 of 2002 concerning the Crime of Money Laundering, as a new law, it certainly contains new problems for our country, Indonesia.⁴The issuance of this law is to address the consequences of Indonesia being blacklisted since June 22, 2001, created by a group of developed countries that are members of the Financial Action Task Force (FATF), namely being categorized as one of 15 countries that are considered uncooperative (Non-Cooperative Countries and Territories/NCCT) in eradicating money laundering practices. The FATF itself has the function of developing and disseminating policies to eradicate money laundering, processing assets/assets from criminal acts in hiding their illegal origins. The FATF evaluates annually not only its members based on their compliance but also on policies outlined to combat money laundering activities.

In June 2003, Indonesia was categorized as a country that had made no significant progress in combating money laundering since June 2002. This was an amendment to Law No. 15 of 2002, and no money laundering cases had been handled. The FATF proposed strong and decisive pressure, which was planned to be presented at the FATF annual meeting in October 2003. There were three possible outcomes for Indonesia: remaining on the blacklist (NCCT) without sanctions, being given a sanction date, or being immediately sanctioned. However, on October 13, 2003, Law No. 15 of 2002 was amended by Law No. 25 of 2003. Indonesia was categorized as a country that remained on the blacklist because in practice it still contained several weaknesses. These included the limited types of crimes that

¹PAF Lamintang, 1997, *Basics of Indonesian Criminal Law*, Citra Aditya Bakti, Bandung, p.2.

²Teguh Prasetyo, "Criminal Law" Revised Edition, Rajawali Pers, Jakarta, 2014, p.6.

³Laowo, Yonathan Sebastian. "A Legal Study of the Crime of Money Laundering." *Jurnal Panah Keadilan* 1, no. 1 (2022): pp. 70-87.

⁴Emirzon, Joni, and Henny Yuningsih. "Implementation of Evidence of Money Laundering Crimes in Narcotics Crime Proceeds." *Lex LATA* (2022). P. 33

could be prosecuted under the law, and the lack of prosecutorial authority under this law.⁵

Then Law Number 25 of 2003 was revoked and replaced with Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes which is in effect until now and was perfected by including the authority of the prosecutor and giving each authority to the investigators, namely, the Corruption Eradication Commission (KPK), the National Police, the Prosecutor's Office, the Inspector General of Taxes, the Inspector General of Customs, Customs & Excise, strengthening the PPATK, not enforcing bank secrecy, there is criminal responsibility for corporations, and allowing trials without the presence of the defendant (in Absentia).⁶

In the crime of money laundering, the instruments in the financial system are the most dominant and widely used (mode), especially financial instruments offered by the banking sector.⁷ Storing money from criminal acts in the form of savings/deposits/current accounts/checking accounts under false names; Exchanging money from criminal acts with other larger or smaller denominations; Using transfer facilities; Conducting fictitious export-import transactions by issuing Letters of Credit (L/C) by falsifying documents and collaborating with related individuals; Establishing/utilizing/practicing illegal banks."

Law of the Republic of Indonesia Number 15 of 2002, as amended by Law Number 25 of 2003 concerning Money Laundering, introduces a different evidentiary system from that stipulated in the Criminal Procedure Code (KUHP). Article 35 of the law stipulates that in the trial process the defendant is required to prove that his assets did not originate from a criminal act. This provision is known as the principle of reversed burden of proof, where the burden of proof is no longer solely on the public prosecutor, but the defendant must also be able to prove the legitimacy of the origin of his assets.

Money laundering itself is a relatively new crime, both within the context of international criminal law and Indonesian criminal law. This crime is closely linked to national economic policy and has a broad impact on the country's financial balance and banking system. Therefore, law enforcement against money

⁵Ibid

⁶Friscylia, Tania Rona. "Law Enforcement Against Perpetrators of Money Laundering Crimes Proceeds from Narcotics Crimes According to Law Number 8 of 2010." *Legal Advice Journal of Law* 2, no. 1 (2025): pp. 12-29.

⁷Siska, Eliya Al-Afrida. "The role of notaries in preventing money laundering crimes in the digital era through the Go Anti Money Laundering (goAML) application." *Jurnal Hukum to-ra: Hukum Untuk Regulate dan Perlindungan Masyarakat* 8, no. 3 (2022): pp. 275-292.

laundering is not only legal but also impacts national economic and financial stability.⁸

The primary reason for implementing the reverse burden of proof is because money laundering is generally carried out in complex ways and involves organized crime networks. This complexity is exacerbated by advances in information technology in the financial and banking sectors, which make tracking and establishing evidence increasingly difficult. Therefore, the reverse burden of proof is considered a mechanism that provides balance in the judicial process and strengthens the position of the public prosecutor in uncovering this crime.

The reverse burden of proof is applied to the defendant's assets in both active money laundering crimes (for example, Article 3 and Article 4 of the Law) and passive money laundering crimes (Article 5 of the Law).⁹ However, the Law on the Prevention and Eradication of Money Laundering Crimes does not regulate in detail and explicitly the mechanism for implementing the reverse burden of proof, thus creating ambiguity in its application in the field.

In practice, the reverse burden of proof places the burden on the defendant to prove that their assets are not the result of criminal activity such as corruption, drug trafficking, or other crimes prohibited by law. This is also regulated in Articles 77 and 78 of the Law on the Prevention and Eradication of Money Laundering, which emphasize that the defendant must be able to defend the origin of their assets. However, many court decisions have not fully implemented this reverse burden of proof system, so the implementation of this principle is often ignored.¹⁰

Furthermore, the reverse burden of proof provision in Article 35 is imperative, meaning that defendants are required to prove the origin of their assets at a specific stage before examining witnesses. However, in practice, this is often not done according to the provisions, resulting in the reverse burden of proof system not functioning optimally. Another difficulty arises in recovering assets obtained from money laundering, primarily because perpetrators often transfer their assets to other parties, making them difficult to trace and confiscate. This makes it difficult to recover state losses and harms the public's sense of justice. Therefore, there has been criticism of the articles governing asset confiscation, with proposals to use the Critical Legal Studies (CLS) approach as a progressive paradigm in law enforcement.

⁸Gemilang, Gilang, Ismaidar Ismaidar, and T. Riza Zarzani. "Corporate criminal liability in money laundering crimes." *Innovative: Journal of Social Science Research* 4, no. 2 (2024): pp. 8455-8471.

⁹Huda, Ulil Abshor Nurul, and Ahmad Sholikhin Ruslie. "Reverse Proof in Corruption Crimes in Indonesia in the Context of Guaranteeing the Principle of Legal Certainty." *Journal Evidence of Law* 2, no. 2 (2023): pp. 63-72.

¹⁰Simorangkir, Ivan Freyser, and Syaiful Asmi Hasibuan. "Legal Analysis of Reversed Burden of Proof in Corruption Crimes in Indonesia." *Innovative: Journal of Social Science Research* 3, no. 4 (2023): pp. 7926-7938.

One of the Money Laundering Crime (TPPU) cases that the author analyzed from the Paraya District Court (PN Praya) case with Number: 126 / Pid.B / 2022 / PN.Pya dated December 12, 2022 issued a decision stating that Defendant ICW and Defendant II Lalu AB were legally and convincingly proven guilty of committing the crime of "Participating in fraud and money laundering as a continuing act" as stipulated in the Combined Indictment of the Public Prosecutor and Sentencing Defendant ICW and Defendant II Lalu AB therefore with a prison sentence of 5 (five) years each and a fine of Rp. 3,000,000,000.00 (three billion rupiah) with the provision that if the fine is not paid it will be replaced with a prison sentence of 6 (six) months. The decision of the Praya District Court Judge has not been accepted by the parties so that an Appeal Request Deed Number 38/Akta.Pid/2022/PN.Pya was submitted which was made by the Clerk of the Praya District Court which stated that on December 16, 2022 the Public Prosecutor at the Praya District Prosecutor's Office and on December 19, 2022 the Defendants/Legal Counsel based on a special power of attorney dated December 14, 2022 and a special power of attorney dated July 29, 2022, had submitted an appeal request against the Praya District Court Decision dated December 12, 2022 Number: 126/Pid.B/2022/PN Pya.

Overall, the reverse burden of proof system for money laundering crimes represents a significant legal innovation, but its implementation still faces numerous obstacles. The need for clearer regulations, outreach to law enforcement officials, and strengthening of judicial mechanisms are crucial steps to effectively achieve the goal of law enforcement against money laundering crimes and provide justice for the public.¹¹

2. Research Methods

The type of research used in this study is normative juridical. Normative juridical research utilizes the positivist legal conception. This concept views law as identical to written norms created and promulgated by authorized institutions or officials. This conception views law as a normative system that is independent, closed, and detached from real social life.¹²

3. Results and Discussion

3.1. The Effectiveness of Reverse Burden of Proof in Money Laundering Crimes in Criminal Justice Processes in Indonesia.

Money laundering is a new type of crime in international criminal law and Indonesian criminal law. Although a new type of crime, the law enforcement

¹¹Yusuf, Hudi, and Fatrulah Puspita Sari. "A Study of Reversed Evidence in Money Laundering Crimes in the Judicial Process." *Journal of Law and Business (Selisik)* 8, no. 2 (2022): pp. 98-109.

¹²Ronny Hanitijo Soemitro, *Legal Research Methodology and Jurimetrics*, Jakarta: Ghalia Indonesia, 1988, pp. 13-14

process for money laundering is directly related to national economic policy and can have a broad impact on a country's financial and banking balance.

Money laundering can generally be defined as the act or practice of transferring, using, or otherwise using the proceeds of a crime, often committed by criminal organizations or individuals involved in corruption, drug trafficking, and other crimes. The goal is to conceal or obscure the origin of the illicit funds so they can be used as legitimate funds.¹³

With the disappearance of national borders due to economic development and information technology, this is often used as a loophole for transnational criminals to expand their dirty business in other countries. Even in some cases, criminal organizations such as the mafia and drug cartels store their wealth in other countries, such actions are called money laundering crimes. At first glance, money laundering crimes are not like other conventional crimes such as robbery, theft and murder which have real victims and consequences, even according to Billy Steel in Sutan Remy Sjahdeini stated that "money laundering, it seems to be a victimless crime".¹⁴(Money laundering, it seems, is a victimless crime).

Furthermore, Sutan Remy Sjahdeini stated that until now there is no universal and comprehensive definition regarding the meaning of money laundering. Because there is no standard international definition of money laundering, each country has the right to define money laundering according to the conditions and situations in the country concerned. For example, in Indonesia, the concept of money laundering is regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering (hereinafter referred to as the PP TPPU Law) in Article 1 number 1 states: "Money Laundering is any act that fulfills the elements of a criminal act in accordance with the provisions of this Law". Acts that are prohibited as Crimes of Money Laundering as regulated in Chapter II include Article 3, Article 4, Article 5, Article 6, Article 7, Article 8, Article 9 and Article 10 of the PP TPPU Law.¹⁵

Furthermore, after looking at the opinions of experts, Sutan Remy Sjahdeini formulated the definition of money laundering as a process of a series of activities carried out by a person or organization against illicit money originating from criminal acts, which is then hidden or disguised the origin of the illicit money through the financial system, money from crimes obtained illegally, as if it came

¹³Philips Darwin, *Money Laundering (How to Correctly and Properly Understand Money Laundering)*, Sinar Ilmu, 2012, p. 9

¹⁴Sutan Remy Sjahdeini, *The Ins and Outs of Money Laundering and Terrorism Financing* (2nd Ed., Pustaka Utama Grafiti Jakarta 2007), p. 16.

¹⁵Ibid

out of the financial system as if it were not problematic money, it will be recorded as halal money.¹⁶

Money laundering is generally classified as a criminal act and is classified as a white collar crime.¹⁷and is considered an extraordinary crime or even a serious crime because it has a different *modus operandi* and is more dangerous than conventional crimes known in Indonesian criminal law.¹⁸The crime of money laundering has a very detrimental impact on the economy, finance, society and security, even because its scope is cross-border, money laundering is considered a transnational crime that has become a global phenomenon and an international challenge.

The Indonesian government, in relation to the legal policy of money laundering crimes, has established various related laws and regulations in order to combat money laundering crimes, the most recent of which is the TPPU Law.

One of the complex problems in investigating money laundering crimes is that the process of proving the crime of money laundering is not easy and in practice is not effective, because based on the experience of developed countries, proving this crime is very difficult if the crime scene is abroad or the authority to prosecute is outside the territory of the country concerned and the value of the crime of money laundering is seen as a very significant loss, especially between countries there is no international cooperation regarding this crime.¹⁹Of course, this will make it difficult for law enforcement agencies to eradicate money laundering in various countries around the world, including Indonesia.

The impact of money laundering not only threatens economic stability and the integrity of the financial system, but can also jeopardize the very foundations of social, national, and state life. As money laundering develops, it is increasingly complex, transcending jurisdictional boundaries, employing increasingly varied methods, exploiting institutions outside the financial system, and even infiltrating various sectors. Extraordinary efforts are needed, particularly in establishing a system of proof capable, or at least effective, of apprehending the perpetrators of this crime. One such effort is the reverse burden of proof system.

The evidentiary process in money laundering cases differs from the examination of criminal cases in general, because money laundering is an extraordinary crime, so the process of overcoming it must also use extraordinary efforts (extraordinary

¹⁶Halif, 'Resolving Money Laundering Crimes Where the Predicate Crime Has Not Been Proven First' (2016) 14 (2) *Jurnal Era Hukum* pp. 238, 262.

¹⁷Munir Fuady, *Dirty Business: Anatomy of White Collar Crime* (PT Citra Aditya Bakti Bandung 2011) p. 11.

¹⁸Roberts Kennedy, *Return of Assets Proceeds of Crime (From the Perspective of the Anti-Money Laundering Regime)* (Rajawali Pers Depok 2017) p. 2

¹⁹*Ibid*

enforcement). One form of extraordinary efforts is in the context of proving money laundering cases in court, which uses a mechanism of reversal of the burden of proof or reverse burden of proof that is limited and balanced.²⁰

The reason for applying the reverse burden of proof for the crime of money laundering is because money laundering is considered a crime that is carried out in a complicated manner and involves perpetrators who have an organized crime network so that in the process of providing evidence in court, public prosecutors sometimes have difficulty in proving money laundering cases in court, plus the increasingly sophisticated information technology in the financial and banking sectors makes it difficult to ensnare the perpetrators of this crime.

The process of reversed proof in examining money laundering criminal cases is also not without polemics, many legal experts oppose the application of reversed proof, the reason being that reversed proof denies the principles of Indonesian criminal law starting from the principle of presumption of innocence in Article 8 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, the principle of self-blame in Article 66 of the Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code) which states that "suspects or defendants are not burdened with the obligation to provide proof", various international conventions on human rights that have been ratified by Indonesia,²¹so it can be seen that because of the reverse burden of proof process, there is a reduction in the protection of the defendant's rights before the court and this concept also conflicts with other laws and regulations.

Chronologically, the reverse burden of proof system originated from the burden of proof system known in Anglo-Saxon countries, the application of which was limited to certain cases, especially in criminal acts of gratification or bribery, for example in the United Kingdom of Great Britain, Hong Kong, the Republic of Singapore, and Malaysia.

Reflecting on the case of Muhammad Nazaruddin, a defendant in a corruption and money laundering case, we can see how complex the reverse burden of proof is in money laundering cases. Even prosecutors from the Corruption Eradication Commission (KPK) have had difficulty seizing the defendant's assets, which are the proceeds of crime, on several occasions. The defendant, Muhammad Nazaruddin, argued that the assets to be seized were not his own but belonged to someone else. Similarly, Inspector General Djoko Susilo, the former Chief of the Indonesian National Police Traffic Corps, who was implicated in the SIM Simulator corruption

²⁰Kukun Abdul Syakur Munawar, "Reverse Proof as a Criminal Policy in Handling Corruption Crimes" (2017) 5 (2) Galuh Justisi Scientific Journal pp. 224, 245.

²¹Lestari Victoria Sinaga, 'Alvi Syahrin, M. Hamdan, Dedi Harianto, Application of Reversed Proof in Gratification Cases' (2016) 4 (2) USU Law Journal, pp. 90,97.

case, disguised the proceeds of corruption under the names of his common-law wife and a close associate of the perpetrator.

The reverse burden of proof has been criticized by many criminal law experts, and has become a polemic in its application, therefore a criminal law expert named Oliver Stolpe provided an alternative Theory of Reversal of the Burden of Proof of the Balance of Probabilities, the concept of this theory of proof is the existence of a probability theory that is derived in terms of ownership of assets resulting from criminal acts but still maintains a very high probability theory in terms of deprivation of a person's liberty.

In Article 189 of the Criminal Procedure Code (KUHAP), to convict a defendant, the judge must be convinced by two pieces of evidence presented by the public prosecutor in court. Two pieces of evidence are usually presented for each element of the crime. Based on Article 68 of Law Number 8 of 2010, the procedural law used in the presentation of evidence is the procedural law regulated in the Criminal Procedure Code and other laws that also regulate procedural law, such as the Money Laundering Law and the Law on the Corruption Eradication Commission. For predicate crimes, the presentation of evidence is carried out by the public prosecutor.

Meanwhile, in money laundering cases, the reverse burden of proof is recognized, meaning the defendant must prove that the assets related to the case did not originate from a criminal act. The element that the defendant must prove is that the object of the case, in the form of assets related to the case, did not originate from a criminal act. Other elements must still be proven by the public prosecutor.

The theory of proof or system of proof adopted by the Criminal Procedure Code is a negative system of proof according to law. This negative system of proof is reinforced by the principle of judicial independence.²²Indonesia adheres to a system of proof known as the negative evidentiary system (*negative wettelijk*), as stipulated in Article 183 of the Criminal Procedure Code. According to this article, to convict someone, the judge must rely on two legally valid pieces of evidence and the judge's belief that the crime actually occurred and that the defendant is guilty of committing it.

The development of the criminal evidence system has also introduced something new: the reversal burden of proof system (*Omkering van het bewijslast*). The reversal burden of proof system, better known as reverse burden of proof, is a system that places the burden of proof on the suspect.²³This means that, generally, if we refer to the Criminal Procedure Code, the person who has the right to prove the defendant's guilt is the public prosecutor, however, the defendant's

²²Atmasasmita, Romli. 1995. *Selected Chapters on Criminal Law and Criminology*. Bandung: Mandar Maju. p. 106

²³Fahroji, Ikwan. 2016. *Criminal Procedure Law on Corruption*. Malang: Setara Press. Page 80.

reverse proof system (legal counsel) will prove otherwise, that the defendant has not been legally and convincingly proven guilty of committing the crime charged.²⁴

Articles 77 and 78 of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering (TPPU) regulate the reversal of the burden of proof or reversed proof. Article 77 of Law Number 8 of 2010 stipulates that for the purposes of examination in court, the defendant is obliged to prove that his assets are not the result of a crime. Furthermore, based on Article 78 of Law Number 8 of 2010, the judge orders the defendant to prove that the assets related to the case do not originate from or are related to the predicate crime referred to in Article 2 paragraph (1). Thus, it is the defendant's obligation to prove that the assets related to the TPPU case do not originate from a predicate crime, for example corruption.

The application of the reverse burden of proof method refers to proving the predicate crime of money laundering. Therefore, it is clear that the evidentiary system plays a very important role. Failure to first prove the predicate crime in money laundering violates the principles of presumption of innocence and non-self-incrimination. The suspect/defendant of money laundering is deemed guilty of money laundering by proving the predicate crime without first establishing their guilt, as evidenced by a legally binding judge's decision.²⁵

The effectiveness of the law in the reverse burden of proof in the crime of money laundering is greatly influenced by the factors put forward by Soerjono Soekanto,²⁶ which positions legal effectiveness as the result of the interaction between regulations, law enforcement officials, supporting facilities, society, and legal culture. In this theory, weaknesses arise when one or more of these elements do not function harmoniously. In money laundering, this disharmony is evident in the authorities' weak understanding of modern financial crime schemes and the difficulty in proving complex, cross-jurisdictional assets.

The weakness of the legal substance is that it often lacks clarity regarding the operational boundaries of the reverse burden of proof mechanism. Although the Money Laundering Law introduces a reverse burden of proof model for proving the origin of assets, this provision continues to generate differing interpretations among officials and law enforcement. This lack of clarity makes its implementation less than optimal and often generates debate in the courtroom.

²⁴Hiariej, Eddy OS 2012. *Theory and Law of Evidence*. Jakarta: Erlangga. Page 23.

²⁵Lubis, Fauziah, and Nasrullah Hidayat. "Application of Reverse Burden of Proof in the Money Laundering Law in Medan City." *Mercatoria Journal* 14, no. 2 (2021): pp. 88-93.

²⁶DM, Mohd Yusuf, Sugianto Sugianto, Roland Latarsa Pangaribuan, Andi Wahyu Putra Utama, and Geofani Milthree Saragih. "A Legal Review of Factors Influencing the Effectiveness of Law Enforcement in Society." *JPIIn: Indonesian Educators Journal* 5, no. 2 (2022): pp. 176-184.

Weaknesses in the legal structure include the unpreparedness of law enforcement officials to implement the reverse burden of proof mechanism professionally and with integrity. Soerjono Soekanto emphasized that the quality of the authorities determines the success or failure of a law's enforcement. In Indonesia, the enforcement of the Money Laundering Crime Act (TPPU) still faces challenges in the technical capabilities of investigators, prosecutors, and judges in understanding complex financial transactions that require expertise in digital forensics, investigative audits, and financial intelligence analysis.

Law enforcement is also weakened by the potential for abuse of authority and low integrity in some cases. When officials lack independence and are vulnerable to intervention, the application of the reverse burden of proof becomes less objective and has the potential to lead to injustice. This aligns with Soerjono Soekanto's criticism that legal effectiveness will be hampered if officials do not function according to their ideal role.

Weaknesses lie in inadequate infrastructure and facilities. Handling money laundering requires asset tracking technology, international cooperation, and robust financial system infrastructure. Unfortunately, not all law enforcement agencies have the comprehensive tools to track financial transactions involving cryptocurrencies, offshore accounts, or shell companies. This situation hinders the effectiveness of reverse evidence at the evidence stage.²⁷

From a societal perspective, low legal literacy regarding asset reporting obligations and the reverse burden of proof mechanism pose significant obstacles. Soerjono Soekanto explained that the law is unlikely to be effective if the public does not understand or accept its substance. Many still view reverse burden of proof as a violation of the presumption of innocence, even though under money laundering law, reverse burden of proof is limited in accordance with the principle of proportionality.

A legal culture that does not support transparency is another weakness in the implementation of the reverse burden of proof. In the Indonesian context, a culture of secrecy in wealth management and low awareness of suspicious transaction reporting make money laundering difficult to detect. Soerjono emphasized that an unsupportive legal culture will reduce the effectiveness of regulations, even those that are sound.

The lack of cross-agency cooperation also weakens the effectiveness of the reverse burden of proof. The anti-money laundering (TPPU) process involves coordination between the Financial Transaction Reports and Analysis Center (PPATK), the National Police (Polri), the Prosecutor's Office (AGO), the Financial Services Authority (OJK), Immigration, and banking institutions. This lack of

²⁷Silalahi, Marini Fransiska. "Legal Policy for Settling Applications for Handling Assets in Money Laundering or Other Crimes." *Qanuniya: Journal of Legal Studies* 1, no. 2 (2024): pp. 1-10.

coordination creates bottlenecks in the proof-taking process, particularly in obtaining transaction data or financial reports necessary for the reverse burden of proof.

Furthermore, the protection of reporting witnesses, particularly whistleblowers from banking or financial institutions, is suboptimal. This hampers the process of uncovering laundered assets. According to Soerjono's theory, without protection for those involved in the legal process, the effectiveness of regulations will be severely limited.²⁸

Unequal human resources also pose a barrier to the implementation of the reverse burden of proof. Regional investigators often lack the same skills as central investigators in understanding complex money laundering schemes. This disparity impacts the effectiveness of law enforcement, which should be uniform.

Another weakness is resistance from some officials and the public to the concept of reversed burden of proof. Because they consider this mechanism to be contrary to classical legal principles that place the burden of proof on the public prosecutor, its implementation has been half-hearted. On the judicial side, weaknesses are also evident in the lack of consistency in judges' decisions regarding the concept of reversed burden of proof. Varying decisions create legal uncertainty and make its application inconsistent. Another problem stems from the lack of transparency in the financial system, which still allows for the concealment of assets through nominees or certain legal entities. This lack of transparency complicates the process of proving the flow of funds in the reverse burden of proof, requiring authorities to spend more time proving the origin of assets.

The lack of specific training for law enforcement officers on money laundering also impacts effectiveness. Uneven training results in not all officers having a thorough understanding of analysis and reverse-evidence procedures. According to Soerjono Soekanto, unprofessional law enforcement is the primary cause of the ineffectiveness of the regulations.

Banking institutions' support for promptly disclosing transaction data to authorities is suboptimal. Lengthy bureaucratic processes often hinder the process of providing evidence. From Soerjono Soekanto's perspective, these barriers to facilities and resources can hinder law enforcement, even when regulations are adequate.

Businesses' lack of awareness of anti-money laundering obligations also weakens the reverse burden of proof system. Many business entities, such as cooperatives, property companies, and money changers, have not yet complied with compliance

²⁸Hasbi, Mhd, and Muhammad Dhobit Azhary Lubis. "Analysis of Legal Protection for Reporters and Witnesses in Money Laundering Crimes from the Perspective of Positive Law and Islamic Law." *UNES Law Review* 7, no. 2 (2024): pp. 741-753.

standards for reporting suspicious transactions, leaving opportunities for money laundering open.

The increasingly sophisticated changes in the *modus operandi* of money laundering also show the weaknesses in the adaptation of the law and the authorities.²⁹ When perpetrators exploit digital technology, cryptocurrency, or international payment systems, governments often lag behind. Weaknesses are also evident in the low level of public participation in reporting suspicious transactions. Public indifference makes the process of enforcing money laundering laws more difficult. This societal factor is a dominant element in Soerjono's theory that determines the success or failure of a legal regulation. Another obstacle arises from the evidentiary process, which remains dependent on international cooperation, given that many money laundering cases involve assets held abroad. When the target country is uncooperative, the reverse burden of proof becomes extremely difficult.

3.2. The Ideal Concept of Reverse Proof of Money Laundering Crimes in Future Criminal Justice Processes.

In law enforcement, money laundering is no longer a simple issue, but rather a complex one due to its complexity and the difficulty of formulating legal offenses objectively and effectively. This is evident in the numerous and varied conceptual boundaries. This also applies to competent international institutions and organizations worldwide, which are essentially competent in the field of preventing and eradicating money laundering. The problem of money laundering is inextricably linked to the economic challenges of each country. Therefore, the focus of eradication focuses on economic issues.³⁰

The UK is one of the most advanced countries in implementing a reverse burden of proof mechanism in money laundering cases through the Proceeds of Crime Act (POCA) 2002.³¹ This law authorizes the state to assume that a person's assets are the proceeds of crime if they cannot provide a reasonable explanation for their source. This mechanism is widely applied, particularly in confiscation proceedings after a defendant is found guilty.

Under POCA, the judge may conclude that certain assets are derived from criminal activity based on unusual transaction patterns, income discrepancies, or a lifestyle inconsistent with the defendant's financial statements. At this stage, the

²⁹Syauket, Amalia, Jantarda Mauli Hutagalung, and Muhammad Andi Prastio. "Fintech and Bitcoin: A Method for Laundering Corruption-Produced Money." *Krtha Bhayangkara* 17, no. 1 (2023): pp. 27-40.

³⁰Lubis, Fauziah, and Nasrullah Hidayat. "Application of Reverse Burden of Proof in the Money Laundering Law in Medan City." *Mercatoria Journal* 14, no. 2 (2021): pp. 88-93.

³¹Glover, John. "Trusts at the intersection of tax and criminal laws: Unpaid tax, "unexplained wealth orders" and the Proceeds of Crime Act 2002." In *Australian Tax Forum*, vol. 36, no. 1, p. 33-51.

defendant can no longer remain silent, as a passive attitude would be considered a failure to prove the legality of the assets. The burden of proof shifts entirely to the defendant to produce documents, transaction records, or other convincing evidence.

One important practice in the UK is the ability of law enforcement to make "assumptions" of assets held by defendants within the past six years. If the defendant cannot explain the origin of the assets, the court can declare the assets to be proceeds of crime without having to prove a specific connection to the crime being prosecuted. This mechanism is highly effective in combating drug networks and organized crime that rely on complex financial systems.

In certain cases, the UK also applies non-conviction-based confiscation which allows for the seizure of assets without the need for a criminal conviction if the perpetrator flees, dies, or cannot be tried.³² Here, the reverse burden of proof is key, as the family or party claiming the assets must prove that the property was not the proceeds of crime. This model is often used in cases of transnational corruption.

The strength of the UK model lies in its combination of financial intelligence and flexible legal instruments. The UK's Financial Intelligence Unit (FIU)³³ Working intensively to build a database of suspicious transaction patterns, the reverse evidence mechanism can be implemented with a strong analytical basis when a case goes to court. This system demonstrates how reverse evidence has become a strategic tool for the state in seizing criminal profits.

The United States has a different but equally powerful approach through the civil asset forfeiture mechanism. This mechanism allows the government to seize assets suspected of being linked to criminal activity, including money laundering, without even having to wait for a conviction in a criminal court. The burden of proof shifts to the asset owner to demonstrate that the assets were acquired from legitimate sources.

Civil asset forfeiture It operates on the principle that objects or assets can be considered "suspect." In this case, the process doesn't target people but the property itself. For example, bank accounts, homes, vehicles, or cash can be seized if there is preliminary evidence that the assets are linked to money laundering activities. The owner must then convince the court that the assets are not involved in a crime.

³²Ažubalytė, Rima. "Evidence in a Non-Conviction-Based Confiscation Procedure." Towards Coherence in Criminal Justice: Challenges, Discussions and (2024): p. 203-243.

³³Lagerwaard, Pieter. "Financial surveillance and the role of the Financial Intelligence Unit (FIU) in the Netherlands." Journal of Money Laundering Control 26, no. 7 (2023): p. 63-84.

This mechanism is often used to combat drug cartels, human trafficking networks, and large-scale financial crimes. Its advantages include a faster process and the inability to prove the primary crime, preventing perpetrators from hiding assets behind procedural barriers. For the US government, impoverishing perpetrators is a key strategy in disrupting the flow of criminal funds.

However, the application of the reverse burden of proof in civil forfeiture in the United States has received widespread criticism due to its potential for abuse. Some believe this mechanism could harm individuals who are not involved in a crime but who lose their assets due to their inability to prove their legality. Nevertheless, the government maintains this model by implementing reforms and strict oversight to prevent abuse.

In money laundering cases, the US Department of Justice often combines civil forfeiture with mutual legal assistance treaties (MLAT) to recover proceeds of international crime. This is where the reverse burden of proof becomes particularly effective, as the state requires the claimant to provide legal proof of ownership, particularly if the assets originate abroad.³⁴

Singapore has one of the strictest anti-money laundering systems in Asia through the Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act.³⁵ The country applies a reverse burden of proof which requires the accused to show proof of the origin of wealth if there is an indication of involvement in serious crimes such as corruption, narcotics, or financial fraud.

In the Singaporean system, the reverse burden of proof applies to asset seizure and forfeiture proceedings, whether through criminal convictions or non-conviction mechanisms. When it is found that a person's assets do not align with their economic profile or their lifestyle does not align with their official income, the court can require the defendant to provide detailed explanations. Failure to provide evidence will result in the assets being declared proceeds of crime.

Singapore is very strict about documenting the rebuttal process. Tax documents, salary records, bank transfer receipts, and even business records must be submitted by defendants to prove the legality of assets. Courts have high standards and do not accept general claims without supporting documentation. This approach makes the rebuttal process very effective.

Singapore's strength lies in the comprehensive integration of law enforcement, financial institutions, and regulatory authorities like the Monetary Authority of

³⁴Daughter, Erika Emilia, Ninne Zahara Silviani, and Tantimin Tantimin. "Mutual Legal Assistance in Corruption Offenses' Asset Recovery: A Comparative Study between Indonesia and Singapore." *Uti Possidetis: Journal of International Law* 6, no. 2 (2025): p. 260-277.

³⁵Maulana, Aby. "Follow the money approach in Indonesia anti-corruption and asset forfeiture: A comparative insight from Malaysia, Singapore, and Thailand." *BIS Humanities and Social Science* 3 (2025): p 71

Singapore (MAS). Banks and financial institutions are required to conduct rigorous customer due diligence so that when money laundering cases arise, transaction data is complete, facilitating the implementation of reverse proof.³⁶

Singapore also has a powerful dedicated unit, the Suspicious Transaction Reporting Office (STRO), which analyzes all suspicious transaction reports. When a case arises, this data is used to establish a convincing basis for a conviction, allowing the burden of proof to be legally shifted to the accused. In this way, reverse proof becomes a structured, evidence-based mechanism.

Furthermore, Singaporean courts support an aggressive approach to impoverishing criminals. Judges frequently reject unreasonable grounds such as asset ownership based on gifts or "unproven cash income." The strict standards of proof make it difficult for money launderers to conceal assets in Singapore.

Overall, the reversed burden of proof in Singapore has helped the country maintain its reputation as a safe financial center free from organized crime. The firmness of the courts and cooperation between institutions are key to the successful implementation of the reversed burden of proof. Singapore has also become a model for many other countries in developing anti-money laundering regimes.

Comparatively, the UK, the US, and Singapore all use reversed burden of proof as a tool to seize and confiscate criminal assets. However, each has distinct characteristics based on its own legal tradition. The UK combines a balanced criminal and civil approach, the US focuses on aggressive civil forfeiture, while Singapore relies on strict financial oversight and strong documentary evidence.³⁷

Future law enforcement against money laundering (TPPU) in Indonesia could be strengthened by adopting a more stringent reverse burden of proof model, similar to that implemented in the United Kingdom, the United States, and Singapore. Indonesia already has a limited reverse burden of proof mechanism, but its implementation remains weak due to the lack of clear operational standards, the lack of judges' willingness to apply the presumption of illicit enrichment, and the lack of technical guidelines for authorities. Moving forward, Indonesia could adopt the British approach, which places the reverse burden of proof at the asset confiscation stage through a special process following a criminal conviction, giving the state greater latitude to seize assets whose origins cannot be proven by the defendant.

³⁶Hamarat, Çağlar. "The Basel Agreements' Impact on Banking and Monetary Authority of Singapore Policy." *Journal of Economics and Political Sciences* 3, no. 2 (2023): p. 106-112.

³⁷Sherman, Nathaniel. "Hands Off My Timbs: An Overview of the Methods and Misuses of Civil Forfeiture as a Tool of Law Enforcement." *Belmont Law Review* 8, no. 2 (2021): p. 11.

Furthermore, Indonesia needs to develop a civil forfeiture mechanism similar to that in the United States, which allows the seizure of assets without waiting for a criminal verdict, especially for assets that have been diverted, disguised, or located outside the jurisdiction. Civil forfeiture is particularly useful in large-scale corruption and money laundering cases where the perpetrators flee or die before the trial is completed. This model can be adopted with strict judicial oversight to prevent abuse of authority, for example by establishing a special asset court or a judicial unit focused on handling asset forfeiture cases.

Indonesia can also adopt a data integration system and strict financial oversight like Singapore's. Strengthening due diligence by banks, financial institutions, fintech, and the property sector should be a key pillar. Indonesia needs to enhance the capacity of the Financial Transaction Reports and Analysis Center (PPATK) as a financial intelligence center with broader data access, the use of big data analysis, and an automated reporting system. An approach that requires defendants to provide documentary evidence of the origin of wealth will be effective if all financial transactions are digitized and easily traceable. This requires close collaboration between the Financial Services Authority (OJK), Bank Indonesia (BI), the Directorate General of Taxes, and financial institutions.

Major reforms are also needed on the part of law enforcement officials to ensure the effective implementation of the reverse burden of proof. Investigators, prosecutors, and judges need intensive training in financial crime investigation, forensic accounting, cryptocurrency tracking, and cross-border asset tracing. Indonesia could adopt a task force system similar to the American model, which combines multidisciplinary expertise from the police, prosecutors, state auditors, the Financial Transaction Reports and Analysis Center (PPATK), and financial regulators. Without increased capacity, even a robust reverse burden of proof mechanism will not function optimally.

Indonesia could adopt a more aggressive approach to witness and whistleblower protection, similar to those implemented in Singapore and the UK. Many money laundering cases are difficult to substantiate due to the lack of internal whistleblowers from financial institutions or private companies. By providing legal immunity, identity protection, financial incentives, and secure reporting channels, the government can open up greater access to information to support counter-proof. If all these elements are adopted gradually, Indonesia's money laundering law enforcement system will be much stronger, more adaptable, and more effective in the future.

4. Conclusion

The reverse burden of proof in money laundering crimes is an extraordinary instrument for cutting off the flow of criminal funds. However, its effectiveness in Indonesia is still hampered by multi-interpretable legal substance, inadequate

apparatus capacity, weak inter-agency coordination, limited financial forensic facilities, low public literacy, a legal culture that is resistant to the concept of reversing the burden of proof, and minimal international cooperation in tracing cross-border assets. The ideal concept for the future needs to emulate the practices of developed countries such as the United Kingdom, the United States, and Singapore by affirming the reverse burden of proof standard, expanding civil forfeiture, integrating digital financial oversight systems across sectors, and strengthening the capacity of officers in modern financial investigations, including cryptocurrency and global asset tracing. The success of this model requires a multidisciplinary task force, solid coordination between the Financial Transaction Reports and Analysis Center (PPATK), the Financial Services Authority (OJK), the National Police (Polri), the Prosecutor's Office (Kejaksaan Jaksa), and banking institutions, whistleblower protection, and high compliance by financial institutions so that the reverse burden of proof can truly impoverish perpetrators, close money laundering loopholes, and strengthen the stability of the national financial system.

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