

# ABSTRAK

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## **DISHARMONI HUKUM DALAM REGULASI PROSES PENYIDIKAN TPPU DI INDONESIA**

(448 Halaman: 2 Gambar; 7 Tabel)

Secara substantif dan konseptual, pemidanaan perbuatan pencucian uang hasil tindak pidana diatur dalam UU No. 15 Tahun 2002 *jo.* UU No. 25 Tahun 2003 sebelum kemudian dicabut dan diganti dengan UU No. 8 Tahun 2010 tentang Pemberantasan Tindak Pidana Pencucian Uang (TPPU). Kebijakan tersebut didasarkan pada rasio legis untuk mencegah dampak TPPU terhadap sistem keuangan negara. Fenomena di lapangan menunjukkan tidak efektifnya kinerja penyidikan TPPU karena adanya disharmoni regulasi, kuatnya ego sektoral dan lemahnya koordinasi diantara penyidik tindak pidana asal dan Penyidik POLRI. Adapun pokok permasalahan yang dikaji menyangkut pengaturan dan pelaksanaan penegakan hukum TPPU dalam sistem hukum Indonesia. Arahnya, untuk mengukur efektivitas proses penegakan hukum dengan parameter Teori Tujuan Hukum, yaitu keadilan, kepastian dan kemanfaatan hukum. Penelitian ini secara metodologis merupakan penelitian yuridis normatif atau doctrinal yang didukung dengan metode *economic analysis of law* (EAL). Tujuannya, untuk mengkaji kualitas norma hukum melalui dua perspektif, yaitu perspektif normatif (*das sollen*) dan perspektif kenyataan konkrit (*das sein*). Temuan hasil penelitian menunjukkan adanya masalah pada substansi hukum yang berpengaruh terhadap kewenangan struktur hukum sehingga mengganggu efektivitas proses penegakan hukum terhadap TPPU. Kondisi seperti itu telah melemahkan kepastian hukum sebagai salah satu nilai yang harus diwujudkan dalam mencapai tujuan hukum termasuk nilai keadilan dan kemanfaatan. Dari segi empirik, terdapat *gap* antara realita *das sein* dengan *das sollen*. Oleh karena itu, untuk mewujudkan kondisi yang ideal dimana *das sein* menampilkan realitas yang sama dengan *das sollen*, maka perlu ditata kembali kewenangan institusi Penyidik dalam penanganan TPPU di Indonesia, termasuk Penyidik POLRI. Reformasi dan reformulasi kewenangan Penyidik dilakukan sejalan dengan kebijakan pembangunan hukum nasional, khususnya dalam rangka penguatan pelaksanaan penyidikan TPPU yang efektif dan efisien untuk mewujudkan keadilan, kepastian hukum dan kemanfaatan bagi bangsa dan negara Indonesia.

Kata Kunci: Tindak Pidana Pencucian Uang, Penyidik, Kepastian Hukum.

Referensi: 285 (1972 – 2022)

# ABSTRACT

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## **LEGAL UNCERTAINTY ON THE INVESTIGATIONS OF MONEY LAUNDERING IN INDONESIA**

(448 Pages: 2 Figures; 7 Tables)

Indonesia has conducted criminalization process of money laundering as a result of criminal offence since 2002 with the enactment of Law no. 15 of 2002 as amended by Law no. 25 of 2003 and Law no. 8 of 2010 on the Eradication of Money Laundering Crime. The criminalization process was conducted based on external supports from international organizations on Indonesia due to the impact being caused by the money laundering crime to the emergence of other criminal offence that affecting the state financial system.

Amendments that have been made to the Law on money laundering are effecting the law enforcement process in the Indonesia's legal system, particularly in the investigation of money laundering offenses. Amendments in the substance of the law are affecting the law enforcement process effectiveness in an effort to achieve objective of law, namely realizing justice; legal certainty and expediency. Legal certainty is an important aspect in realizing the legal objectives. The existence of problems in the legal substance will be affecting the legal structure and legal culture which results in the ineffectiveness of the law enforcement process against money laundering offenses. The ineffectiveness of the law enforcement process can lead to a non-existing legal certainty in which legal certainty is one of the values that must be realized in achieving the objectives of the law itself, and simultaneously will be able to realize the values of justice and expediency.

This dissertation aims to conduct research and study on the investigation of money laundering offenses within Indonesia in the dynamics of law enforcement under the indonesia legal system. The issues being discussed and used as title in this dissertation are: **LEGAL UNCERTAINTY ON THE INVESTIGATIONS OF MONEY LAUNDERING IN INDONESIA**. This research is methodologically a normative juridical or doctrinal research which supported by the economic analysis of law (EAL) methodology.

Based on the above explained type of research, this dissertation examines the quality of legal norms through two perspectives. First, law in the perspective of normative reality (das sollen). Second, law in the perspective of scientific reality or concrete events (das sein). With these two perspectives, this dissertation confronts the reality aspects of das sein with das sollen in obtaining the truth through a series of research and discussion processes. "Truth" being referred in this research is not similar to what is normatively right and wrong. However, it is more about how to realize the ideal conditions where das sein displays the same reality as das sollen. This has become the measurement considering that das sollen will always be the objective of the operation of law within the community, including the norms and the implementation of the investigators' authority in handling money laundering offenses in Indonesia.

Hopefully, the result of this research can be an additional material for the implementation of further research, as well as to increase the knowledge within legal

community, such as students, practitioners, academics and law enforcement officers. Moreover, this dissertation can also be an additional material for theoretical thinking in the formulation of national legal development policies, particularly in regulating the authority and performing effective and efficient money laundering investigations in Indonesia to realize justice, legal certainty and legal expediency in the law enforcement of money laundering in Indonesia.

Keyword: Money laundering, Justice, Certainty and expediency.

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