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The Development Of The Crime Of Money Laundering In The Industrial Revolution 4.0

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Abstract

The development of globalization and technological advances affect the development of money laundering, which used to be a crime carried out conventionally, now money laundering can be carried out virtually so that it is increasingly difficult to detect and the reach of the national legal umbrella is difficult to investigate in increasingly blurred virtual world jurisdictions. This has become a major issue in the process of implementing Indonesian law against virtual money laundering which has caused huge losses to Indonesia's national financial system. The development of the era in the industrial era 4.0 currently has positive and negative impacts on people's lives. Along with these advances, the world of crime cannot be separated from the impact of the industrial era 4.0, one of which is money laundering which utilizes technological advances and system advances. The purpose of this study is to describe money laundering in the current digital 4.0 era. This research uses normative research methods and uses related legal materials. This study aims to determine the development and regulation of the crime of money laundering in the digital era and its mitigation. The type of research conducted is normative legal research. Money laundering is the process by which a person conceals the existence, illegal source, or illegal use of income, and then disguises that income to make it appear legitimate. One of the modus operandi in money laundering crimes that occur in today's digital era is using Electronic Money (electronic money). This virtual money laundering which is a form of crime of a new dimension with the use of newly developed means. The crime of money laundering has had a negative effect on the economy, such as undermining the integrity of financial markets, resulting in the loss of Government control over its economic policies, and causing economic instability.

INTRODUCTION

The development of the times in people's lives cannot be avoided. We are currently in the era of the industrial revolution 4.0 which is marked by extraordinary developments in the field of internet technology. A computer whose ability continues to grow becomes more powerful because it is connected to a large network called the internet. The industrial era 4.0

will certainly form modern humans, where humans will depend on what is called technology. Various impacts will certainly occur in every aspect of human life, both positive and negative impacts. The existence of rapid progress of the times will certainly make human development so fast as well as be a threat to human life.

Today's global industry is facing what we call the industrial revolution 4.0. This terminology is presented as part of the four industrial revolutions. The first industrial revolution began with mechanization and mechanical power generation. Later, the revolution was sparked by electrification which made industrialization and mass production possible. The next phase is marked by digitization with the introduction of microelectronics and automation. The fourth revolution was triggered by the development of Information and Communication Technology, which is based on the smart automation of cyber-physical systems with decentralized control and advanced connectivity.¹

The industrial revolution 4.0 also causes negative social impacts. New development technologies are followed by new crimes. Crime in industry 4.0 is related to cybercrime as an act that targets or uses the internet, computers and related technology to commit such crimes.² Furthermore, in the cybersecurity industry (cybersecurity) 4.0 as a process to protect computer networks and the information they contain from penetration and from damage or malicious interference,³ become an important role to protect industrial and business processes. As a result, industry 4.0 is related to cybersecurity (cybersecurity).⁴ and cyber crime.

The progress and development of the industrial revolution brought changes economically and socially. The term "development" has an impact on "revolution" which shows the speed of this development. In general, this is a challenge for the law to be able to keep up with these developments.⁵ Information technology is currently a double-edged sword because in addition to contributing to the improvement of human welfare, progress, and civilization, it

¹Rojko, Andreja. "Industry 4.0 Concept: Background and Overview". *International Journal of Interactive Mobile Technologies* 11, no.2 (2017): 77-90

²Maras, M.-H. "Cybercriminology". (Oxford, United Kingdom: Oxford University Press, 2016).

³Craigen, Dan, Diakun-Thibault, Nadia, and Purse, Randy. "Defining Cybersecurity". *Technology Innovation Management Review* 4 no.10 (2014): 13-21.

⁴Thames, Lane and Schaefer Dirk. "Cybersecurity for Industry 4.0: Analysis for Design and Manufacturing. (Switzerland:Springer International Publishing AG, 2017)

⁵ Yati Nurhayati et.c, "The Issue of Copyright Infringement in 4.0 Industrial Revolution: Indonesian Case", *Jurnal Media Hukum* 26, No.2 (2019): 122-130.

is also an effective means of unlawful acts. One of the crimes that is becoming increasingly sophisticated in its implementation is money laundering.

Criminals are no longer committing financial crimes in the form of cash or various types of assets. Instead, by utilizing information technology that functions to manage these illegal funds. Because of its virtual nature, then money laundering leads to the context of information technology crimes that are now increasingly prevalent in the world. Internationally, the law related to information technology crimes is used the term cyber law or cyber law. Other terms that are also used are the law of information technology (law of information technology), the law of cyberspace (virtual world law), and the law of cyberspace. In line with this term, Barda Nawawi Arief stated: "criminal acts mayantara", synonymous with "criminal acts in cyber space ("cyber space")" or commonly known as "cybercrime".⁶

According to the Chairman PPATK, Kiagus Ahmad Badaruddin said the use of virtual currency can increase the risk of financial crime, namely the financing of terrorism and money laundering. The development of digital technology today can also trigger various money laundering efforts. In fact, he said the world was entering the 'digital money laundering era'. Kiagus explained that the income generated from 11 transnational crimes, such as drug trafficking, illicit arms trade and human trafficking is estimated to range from US\$1.6 trillion to US\$2.2 trillion per year. Illegal financial flows across countries (Illicit Financial Flows/IFF) originating from interstate economic crime activities have also increased. Moreover, with the presence of virtual assets such as cryptocurrencies that are difficult to track.⁷

According to Massimo Nardo, the issue of fighting economic and financial crime on a global level has become increasingly important in the international arena during the decades that marked the transition from the twentieth century to the twenty-first century. Nardo points out that past work in cyber-crime has largely focused on structure and methodological approaches and not socio-crime work. Nardo also added, apparently because it is useful to improve the analysis by opening up efforts to economic and sociological aspects.⁸ Virtual

⁶ Barda Nawawi Arief, *Mayantara Crime, Development of Cyber Crime Studies in Indonesia*. (Jakarta: PT.Rajagrafindo Persada, 2006) 1.

⁷Adhi Wicaksono, "PPATK Says 'Virtual Currency' Can Fund Terrorism. 22 January 2020, accessed 1 November 2021, <http://www.cnnindonesia.com>

⁸Massimo Nardo, "Economic crime and illegal markets integration: a platform for analysis", *Journal of Financial Crime* 18, no. 1,(2011): 47 - 62

economic crime may seem small compared to other illicit crimes such as drug trafficking, but it is now emerging that there is a strong connection between real-world organized crime and economic crime over the internet.⁹

Money laundering will focus on being the main criminal activity in cyberspace, but that is not to say that it is the only financial crime that occurs. Criminals who commit economic crimes use the internet as a way to obtain, enter, and use valuable information.¹⁰ This virtual money laundering which is a form of crime of a new dimension with the use of newly developed means. The development of the law itself is sought to be able to follow the development of new dimensional forms of crime but not rashly in formulating the rules governing it so that there are no overlapping rules or the formulation of rules that are not mature enough.

THE DEVELOPMENT OF THE CRIME OF MONEY LOUNDERING

Currently the world is entering the third wave of globalization marked by the fourth industrial revolution (industry 4.0) or the fourth industrial revolution which affects almost all corners of the world. The fourth industrial revolution is a digital era because all machines are connected via the internet system or online cyber systems. This situation has brought about changes in society, for example, television which has been the only producer of entertainment and information is slowly being abandoned, consumers (communities) are now turning to social media channels such as YouTube, Instagram, and others. I, too, as a consumer who uses mobile phones and the internet everyday, prefer to use accessing social media according to needs, such as reading news through websites, it is rare or even never to watch news on television, because in my opinion it is more practical.

Not much different from the previous industrial revolution, the fourth industrial revolution is equally important. In general, the definition of the industrial revolution is when great technological progress is accompanied by significant socio-economic and cultural changes. The industrial revolution 4.0 also provides new opportunities and challenges for every

⁹ Clare Chambers-Jones, *Virtual Economies and Financial Crimes*, (United Kingdom : Edward Elgar Publishing Limite 2012) 1

¹⁰ Ibid

country in order to survive in an increasingly competitive global competition. Indonesia is a country that is ready to face the industrial revolution. 4.0. One of Indonesia's strategies to enter the era of the industrial revolution 4.0 is to prepare five manufacturing sectors that will serve as pilots to strengthen the fundamental structure of the country's industry. The five sectors are the food and beverage industry, the automotive industry, the electronics industry, the chemical industry, and the textile industry. 0 is expected to be able to spur leading domestic industries and global foreign power. With the existence of Industry 4.0, it also has an impact on society. The 4.0 industrial revolution actually refers to digital technology such as the internet. Maybe with this 4.0 industry, people can do work, or enjoy sophisticated technological facilities. For me, apart from having a positive impact, such as enabling people to interact with many people over long distances, and making business-minded people get great opportunities, by doing business Maybe with industry 4.0, people can do work, or enjoy sophisticated technological facilities. For me, in addition to having a positive impact, such as enabling people to interact with many people over long distances, and making business-minded people get great opportunities, doing business Maybe with industry 4.0, people can do work, or enjoy sophisticated technological facilities. For me, in addition to having a positive impact, such as enabling people to interact with many people over long distances, and making business-minded people get great opportunities, doing business online shop.

The existence of this technology-based industry 4.0 also has a negative impact. Anyone who uses technology today, even the internet will become addicted, they will depend on the existence of technology, the internet, and even smartphones. In addition, the era of technology and internet-based can also be an opportunity to commit crimes, such as fraud online, corruption, and money laundering through cyberspace.

The development of the term money laundering first appeared around the 1920s when the mafia in the United States acquired an automatic washing machine business (Laundromats) after they earned large amounts of money from illegal activities such as extortion, prostitution, liquor and drug trafficking. Because members of the mafia at that time were asked to show the sources of their very large funds, they carried out money laundering practices to obscure their origins. One of the ways they do this is by buying a legitimate company, namely Laundromats, then combining the illicit money with the money legally obtained from Laundromats' business activities. The reason for using the Laundromats business is because the results of their criminal

acts are in line with the results of the Laundromats business activities in the form of cash. This method turned out to be very profitable and very promising for a gangstar leader of the caliber of Al Capone.¹¹

In the 1980s the proceeds of crime grew in line with the development of illicit businesses, such as the narcotics and drug trade which reached billions of rupiah, hence the term "narco dollar" which came from illicit money from the narcotics trade. Initially, the views of several major countries in the United States (leading country to combat laundering) saw that the criminalization of money laundering was an effective strategy to eradicate various crimes that were difficult to catch by perpetrators, such as corruption or narcotics syndicates. So, a strategy to overcome crime is raised, namely by blocking the proceeds of the crime. Even,¹²

The term money laundering was brought to the international level through the implementation of the United Nations Convention against Illicit Traffic in Narcotics and Psychotropics (hereinafter referred to as the 1998 UN Vienna Convention).¹³ This convention recommends parties to criminalize the practice of money laundering and drug trafficking. This convention is recognized as the most important step for internationalization and criminalization in response to money laundering activities. The convention also played a significant role in introducing the concept of money laundering throughout the world. From this international initiative, the term money theft spread throughout the world through domestic legislation and regulations of each country.¹⁴

On April 17, 2002, was a historic day in the world of Indonesian law, because at that time, Law Number 15 of 2002 concerning the Crime of Money Laundering was passed which a year later, on October 13, 2003, was amended by Law Number 25 of 2002. 2003 concerning Amendments to Law Number 15 of 2002 concerning the Crime of Money Laundering. The law is an international pressure against Indonesia, among others from the Financial Action Task Force (FATF), an international body outside the United Nations. Its members consist of donor countries and their function is as a task force in the eradication of money laundering. Previously

¹¹ Rijanto Sastraadmodjo, *Secret Sources of Finance and Its Intricacies* (Jakarta: without publisher, 2004) 95-96

¹² Chaikin, "Money Laundering". *Spring Journal. Criminal Law Review* 2 No.3. (1991): 417.

¹³ Hanafi Amrani, *The Criminal Law of Money Theft: The Development of the Anti-Money Laundering Regime and Its Implications for the Basic Principles of State Sovereignty, Criminal Jurisdiction, and Law Enforcement*, First Printing, (Yogyakarta: UII Press, 2015), 4

¹⁴ *Ibid* 5

in 2001, Indonesia and 17 other countries were threatened with international sanctions. On 23 October 2003, the FATF, in Stockholm, Sweden, declared Indonesia as an uncooperative country in the eradication of money laundering. The Cook Islands, Egypt, Guatemala, Myanmar, Nauru, Nigeria, the Philippines and Ukraine fall into the same category.

Several years earlier, in 1997, to be exact, Indonesia had ratified the United Nation Convention Against Illustrated Traffic in Narcotic Drugs and Psychotropic Substances 1998 (Convention 1998). As a consequence of the ratification, Indonesia must immediately make rules for its implementation. In fact, even though Law No. 15 of 2002 has been implemented, its implementation is lacking, so that it is finally blacklisted by uncooperative countries. Even Indonesia is suspected of being a haven for money laundering. Among other things, because it adheres to a free foreign exchange system, strict bank secrecy, rampant corruption, rampant narcotics crime, and moreover at that time the Indonesian economy was in a bad condition, so there was a tendency to receive funds from anywhere for the purpose of economic recovery.¹⁵

Indonesia is on the list of Non Cooperative Countries and Territories in accordance with the recommendations (NCCT's) of the Financial Actions Task Force on Money Laundering. That every transaction with individuals or legal entities originating from NCCT's countries must be carried out with careful research. Various efforts for several years, among others, by ratifying Law no. 25 of 2003 concerning Amendments to Law no. 15 of 2002 concerning the Crime of Money Laundering, establishing PPATK, issuing implementing regulations and establishing international cooperation, finally bore fruit. February 2006 Indonesia was removed from the NCCT's list after one year of formal monitoring.¹⁶ Several years later, in 2010, the DPR together with the President agreed on Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. The existence of this law aims to prevent and eradicate money laundering.

The crime of money laundering is a crime that has an international dimension so that the countermeasures must be carried out in international cooperation, the basic principle of money laundering is to hide the source of all money laundering from illegal activities by

¹⁵ Nurmalawaty, Factors Causing the Crime of Money Laundering and Its Prevention Efforts, *Journal of Equality* 11 no.1 (2006): 2.

¹⁶ Ibid

legalizing the money. To do this the money is supposed to be channeled through an image to erase its circulation and the people who have the money channel fictitious businesses that appear to be a source of income.¹⁷ As long as the misappropriation, investment, donation and so on of the money are domestic, tracing is still easier, although by making special provisions in the collection of evidence or evidence by prosecution and in judicial examination. However, if the dirty money is laundered abroad, the search requires assistance or cooperation or with a foreign Interpol. As far as the money is the proceeds of narcotics crime, then there is a set of regulations, namely the "Convention Against Illegal Traffic in Narcotic Drugs and Psychotropic Substance" where money laundering is qualified as an international crime.¹⁸

In Indonesia Handling the crime of money laundering begins with the enactment of Law Number 15 of 2002 concerning the Crime of Money Laundering as amended by Law of the Republic of Indonesia Number 25 of 2002 2003 concerning Amendments to the Law of the Republic of Indonesia Number 15 of 2002 concerning the Crime of Money Laundering.

Money laundering or known as money laundering literally means money laundering or cleaning of money resulting from crime. In general, the definition of money laundering is a process or act that aims to hide or disguise the origin of money or assets obtained from the proceeds of criminal acts which are then converted into assets as if derived from legitimate activities.¹⁹

According to Article 1 point 1 Law no. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, states that: "Money Laundering is any act that fulfills the elements of a criminal act in accordance with the provisions of this Law"²⁰ So that Law no. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering does not provide a concrete definition of this act. As for referring to the doctrine, some legal experts state that according to Welling, money laundering is: Money laundering is

¹⁷ NHT Siahaan, Money Laundering and Banking Crimes, Elaborating Law No. 15 of 2002 concerning the Crime of Money Laundering, (Jakarta: Pustaka Sinar Harapan, 2002), 7

¹⁸ Andy Hamzah, Corruption in Management of Development Projects Edition 1. (Jakarta: Akademik Pressindo, 1985), 56.

¹⁹ Adrian Sutedi, Capital Market Knows Customers as Prevention of Money Laundering, (Bandung : Alfabeta, 2013), 9.

²⁰ R. Wiyono, Discussion on the Law on the Prevention and Eradication of the Crime of Money Laundering, (Jakarta: Sinar Graphic 2014), 17.

a process of hiding, illegal sources, illegal income applications, and disguised income to make it look legal/legal.²¹

As for Article 2 of Law no. 8 of 2010 states that the proceeds of criminal acts are assets obtained from criminal acts such as, Corruption; Bribery; Narcotics; Psychotropics; Labor smuggling; Migrant smuggling; In the banking sector; In the field of capital market; In the field of insurance; Customs; excise duty; Trafficking in persons; Illegal arms trade; Terrorism; Kidnapping; Theft; Embezzlement; Fraud; Counterfeiting money; Gambling; prostitution; In the field of taxation; In the forestry sector; In the environmental field; in the field of marine and fisheries; and Other criminal acts punishable by imprisonment of 4 (four) years or more, which are committed in the territory of the Unitary State of the Republic of Indonesia or outside the territory of the Unitary State of the Republic of Indonesia and such criminal acts are also criminal acts according to Indonesian law.

Money laundering activities have a serious impact on the stability of the financial system and the economy as a whole. Money laundering is a follow-up crime from the previous crime (core crime). The crime of money laundering is multidimensional and transnational, which often involves large amounts of money and financial institutions.

PURPOSE AND PROCESS OF MONEY LAUNDERING

The purpose of money laundering is to give legitimacy to illegally obtained funds. Although it can be said that no money laundering system is the same, basically the money laundering process in financial institutions or banks can be grouped into three stages of activity, namely: placement, layering and integration.²²

²¹Sarah N Welling, "Money laundering is a process by which one conceals the existence, illegal source, or illegal application of income, and then disguises that income to make it appear legitimate". *Money Laundering and The United States Criminal Federal Law*, *Journal of Business Law* 22 No.3 (2003): 5.

²² Erman Rajagukguk, *Anti-Money Laundering Regime and the Law on Money Laundering*, Paper Presented at the "Anti Money Laundering" Workshop, Faculty of Law, University of North Sumatra, (Medan : 15 September 2005), 2.

a. *Placement*

Placement is an effort to place funds generated from a criminal activity into the financial system. The forms of this activity include:

- a) Placing funds in the bank. Sometimes this activity is followed by an application for credit/financing.
- b) Depositing money to a Financial Service Provider (PJK) as a credit payment to obscure the audit trail.
- c) Smuggling cash from one country to another. Financing a business that seems legitimate or related to a legitimate business in the form of credit/financing, thus converting cash into credit/financing.
- d) Buying valuables of high value for personal use, buying gifts of high value as appreciation/gifts to other parties whose payments are made through Financial Services Providers (PJK)

b. *Layering*

Layering is to separate the proceeds of a crime from its source, namely the crime through several stages of financial transactions to hide or disguise the origin of the funds. In this activity, there is a process of transferring funds from certain accounts or locations as a result of placement to another place through a series of complex transactions designed to disguise and eliminate traces of the source of these funds. The forms of this activity include:

- a) Transfer of funds from one bank to another and or between regions/countries.
- b) Use of cash deposits as collateral to support legitimate transactions.
- c) Transferring cash across national borders through a network of legitimate business activities or shell companies

c. *Integration*

Integration is an attempt to use assets that have appeared legitimate, either to be enjoyed directly, to be invested in various forms of material or financial wealth, to be used to finance legitimate business activities, or to refinance criminal activities. In conducting money laundering, perpetrators do not really consider the results to be obtained, and the amount of costs that must be incurred, because the main goal is to disguise or eliminate the origin of the money so that the final results can be enjoyed or used safely.²³ Integration can

²³ Financial Transaction Reports and Analysis Center (PPATK), General Guidelines for the Prevention and Eradication of Money Laundering for Financial Service Providers, (Jakarta 2003) 4-5

also be interpreted as the stage where the perpetrator re-enters funds whose original origin is no longer visible into a legitimate transaction, so that it does not appear that the funds originally came from illegal acts. Integration, carried out in the form of resale of shares, houses, ships or jewelry.²⁴ The three activities mentioned above can occur separately or simultaneously, but are generally carried out in an overlapping manner.

IMPACT OF THE CRIME OF THE CRIME OF MONEY LAUNDERING

Money laundering does not directly harm certain people or certain companies. At first glance it seems that money laundering has no victims. Money laundering is not the same as robbery, theft or murder where there are victims and cause harm to the victims. Billy Steel said about money laundering “it seems to be a victimless crime”.²⁵

According to the Canadian government in a working paper entitled electronic money laundering: an environment scan issued by the Canadian Department of Justice in October 1998, there are several negative impacts caused by money laundering activities on society. The consequences that can be caused are:²⁶

- a. Money laundering allows drug dealers and dealers, smugglers, and other criminals to expand their operations. This will increase the cost of legal pressure to eradicate it, the cost of medical care and medical treatment for victims or drug addicts.
- b. Money laundering activities have the potential to undermine the financial community as a result of the large amount of money involved in these activities. The potential for corruption increases along with the circulation of very large amounts of illicit money.
- c. Money laundering reduces government revenue from taxes and indirectly harms honest taxpayers and reduces legitimate employment opportunities.
- d. The ease with which money enters Canada has drawn unwanted elements across the border, reduced quality of life, and raised national security concerns.

²⁴ Erman Rajagukguk, Op.Cit...2

²⁵ Billy Steel, tt, Money Laundering - What is Money Laundering , Billy's, money lounderinformation”, <http://www.laundryman.u-net.com>, accessed 3 November 2021.

²⁶ Adrian Sutedi, Banking Law: An Overview of Money Laundering, Mergers, and Bankruptcy, (Jakarta : Sinar Graphic (2008) 18

The crime of money laundering has the potential to influence or disrupt the economy both nationally and internationally because it endangers the operational effectiveness of the economic system and can lead to bad economic policies, especially in certain countries.²⁷

CYBER MONEY LAUNDERING

Cyber money laundering is money laundering that is carried out through cyberspace ("mayantara"), so that in addition to committing money laundering ("money laundering"), the perpetrators ("offenders") have also committed crimes of cybercrime ("cyber crime"), namely committing a crime/ crime by means of a computer system/network.²⁸

Cyber money laundering also through 3 stages of activities such as money laundering, namely placement, layering and integration.²⁹ Activities are carried out using or through a computer network. Cyber money laundering is thus a criminal act that can be subject to Law Number 15 of 2002 concerning the Crime of Money Laundering; which was updated by Law Number 25 of 2003, and lastly was amended by Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. Unfortunately, Law Number 11 of 2008 concerning Information and Electronic Transactions does not regulate "cyber crime" related to illegal or unlawful financial transactions.

Cyber money laundering is a crime that is possible beyond the territory of the state and is transnational in nature, therefore cooperation between countries to jointly tackle Cyber Money laundering needs to be continuously pursued, because of its significant impact on the community's economy at the local, regional, national and international and global levels.

²⁷ Bismar Nasution, *Anti-Money Laundering Regime in Indonesia*, (Bandung: Books Terrace & Library, 2008), 2.

²⁸ Iskandar Wibawa, *Cyber Money Laundering (A form of White Collar Crime in the 21st century)*, *Yudisia* 8 no. 2 (2017): 252.

²⁹ *Ibid*

CONCLUSION

Technological developments that are increasingly advancing rapidly have an influence on developments in various sectors, especially crime in the banking sector. Cyber money laundering can be caught through Law Number 15 of 2002 concerning the Crime of Money Laundering which was later updated by Law Number 25 of 2003, and lastly amended by Law Number 8 of 2010 concerning Prevention and Eradication of the Crime of Money Laundering. Law Number 11 of 2008 concerning Information and Electronic Transactions has not accommodated cyber crime ("cyber crime") related to economic, financial transactions that are against the law or illegal. In this regard, the readiness of law enforcement officers is very important, both in terms of expertise in operating computers,

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