

# THE CONCEPT OF CASH FLOW IN MONEY LAUNDERING IN INDONESIA

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Article	Abstract
<p><b>Article History:</b> Submitted: July 2023 Reviewed: March 2024 Accepted: April 2024 Published: April 2024</p> <p><b>Keywords:</b> <i>Asset Tracing; Fund Flows; Money Laundering.</i></p>	<p><i>The development of criminal acts that occur in a country moves with the development of social civilization. One of the criminal acts in the economic sector that has arisen as a result of modern civilization is the crime of money laundering, namely the concealment of assets resulting from a crime so that it appears as if they originate from a legal source. This article will examine the asset tracing strategy which is an effective step in tackling money laundering crimes with cash flow concept. The approach used in discussing the problem is a case study. The results of the research in this article are that efforts to trace assets with a fund tracking process need to be developed and adopt existing technological developments. This is to ensure the effectiveness of handling money laundering in Indonesia.</i></p>

## A. Introduction

Indonesia as a state of law (*rechstaats*) reflects that the law organizes various aspects of life in society in order to achieve justice, benefit, and legal certainty. However, it is not uncommon for the law's development over time to cause the law to earn the title of a "double-edged sword" because on the one hand the law protects the public interest, however on the other side, its implementation causes law suffering.<sup>1</sup> Of course, the existing law enforcement is more or less influenced by the rapid and inevitable development of Science and Technology. Law is required for the protection of individuals and society.<sup>2</sup> The development of science and technology in addition to providing a positive influence also has a negative influence on it. One of the negative effects that we can feel today is the increasingly various types of criminal offenses that occur in Indonesia. There is an old adage that "the poorer the country, the higher the crime rate". However, in reality, this only applies to conventional crimes such as robbery, theft, fraud, embezzlement and various other conventional crimes.<sup>3</sup>

<sup>1</sup> Muhammad Taufiq, *Mahalnya Keadilan Hukum* (Surakarta: MT&Law Firm, 2013), 4.

<sup>2</sup> Muhammad Taufiq, *Keadilan Substansial Memangkas Rantai Birokrasi Hukum* (Surakarta: MT&Law Firm, 2014), 129.

<sup>3</sup> Dwija Priyatno, *Kebijakan Legislasi tentang Sistem Pertanggungjawaban Pidana Korporasi di Indonesia* (Bandung: CV. Utomo, 2009), 1.

Initially, only conventional crimes were considered as crimes, but as society has developed, new types of crimes that are more complex have emerged. In the 2003 International Narcotics Control Strategic Report (INCSR) published by the Ministry of Foreign Affairs of The United States, as quoted by Yunus Husein, explained that the more advanced the economy and financial system of a country, the more interesting it is for criminals to commit their crimes. And the most common crime committed through financial system services in a country is money laundering.<sup>4</sup> The use of financial institutions in money laundering crime can be in the form of investing and transferring money from criminal proceeds such as money from corruption, bribery, fraud, crimes in the banking sector, capital markets and others into deposits, purchase of traveler cheques, stocks, bonds, mutual funds and other financial instruments. There is an excerpt that states that “Indonesia as a developing country, economic crime in Indonesia such as corruption, money laundering, tax evasion and so forth has grown substantially, which is in turn having a negative impact both economically and morally”.<sup>5</sup>

It can be seen that various economic crimes such as corruption and money laundering crimes not only have a negative impact on the economy but also morally. Money laundering is one of the most complex problems faced by Indonesia. The crime of money laundering emerged because of a situation where the perpetrator has difficulty. The origin of the case of money laundering is because in general the actor enjoys the proceeds of his crime safely as well as an effort to wash the hands of the perpetrators of organized crime from the crimes he has committed.<sup>6</sup> The perpetrators of criminal acts try to hide or disguise the origin of the wealth that is the result of a criminal offense in various ways so that the assets of the criminal offense are difficult to trace. These efforts are made so that it is difficult for the authorities to conduct investigations and tracing so that the proceeds of criminal wealth can be used freely. The perpetrator who commits money laundering has the intention to utilize the assets of the crime for both legitimate and illegitimate activities. Therefore, the crime of money laundering not only threatens stability and integrity of the economic and financial

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<sup>4</sup> Yunus Husein, “Pembangunan Rezim Anti Pencucian Uang di Indonesia Dan Implikasinya Terhadap Profesi Akuntan”, Paper presented at the Scientific Forum for Economic Study of Accounting (FIESTA 2006) and the National Meeting of the Indonesian Accounting Student Network (TN-JMAI, organized by the Faculty of Economics, Bung Hatta University, in Padang, 8 May 2006, 1.

<sup>5</sup> Anastasia Suhartati Lukito, “Financial Intelligent Investigations in combating Money Laundering Crime,” *Journal of Money Laundering Control* 19, no. 01 (2016): 3. <https://doi.org/10.1108/JMLC-09-2014-0029>.

<sup>6</sup> Yunus Husein, *Bunga Rampai Anti Pencucian Uang* (Bandung: Books Terrace & Library, 2007), 1.

system, but can also endanger the social, national, and state life based on Pancasila and the 1945 Constitution of the Republic of Indonesia.

In essence, there is a strong relationship between corruption and money laundering. The relationship between corruption and laundering is revealed in law enforcement practices carried out by the Corruption Eradication Commission. This is reflected in several cases that have been filed, proven, and decided by judges with final legal force and those still at the appeal or cassation level, where corrupt perpetrators commit corruption crimes and money laundering.<sup>7</sup> Based on the 2023 Corruption Perception Index (CPI), Indonesia scored 34/100 and is ranked 115th out of 180 countries surveyed. This figure is the same as the CPI score in 2022.<sup>8</sup> According to a report from Indonesia Corruption Watch (ICW), 2023, there were 791 corruption cases, with the number of suspects reaching 1,695 people and total state losses of IDR 28.4 trillion.<sup>9</sup>

Money laundering is a subsequent criminal act to the previous criminal act that has been committed by the perpetrator. There is often a strong connection between corruption offenses and money laundering offenses. Corruption cases in Indonesia can't be ignored, "In Indonesia corruption has been a major problem for decades. It robs the economy of its competitiveness and effectiveness as well as eroding public trust in government."<sup>10</sup> The high rate of corruption in Indonesia will also increase the chances of money laundering crimes because the two crimes are interrelated. Based on data from the KPK's 2023 year-end report, there are 8 cases of money laundering crimes stemming from corruption that the KPK has resolved.<sup>11</sup>

One of the money laundering cases handled by the Corruption Eradication Commission (KPK) in Indonesia is the case of the inactive Mayor of Madiun Bambang Irianto. The inactive Mayor of Madiun, Bambang Irianto, was indicted by prosecutors from the Corruption Eradication Commission for corruption in the construction of the Madiun Big Market. Bambang Irianto was charged with self-enrichment and received gratuities with a

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<sup>7</sup> Yudi Kristiana, *Pemberantasan Tindak Pidana Pencucian Uang: Perspektif Hukum Progresif* (Yogyakarta: Thafa Media, 2015), 4.

<sup>8</sup> Ti.or.od, "Corruption Perceptions Index 2023, Transparency International Indonesia," June 27, 2024, <https://ti.or.id/corruption-perceptions-index-2023/>.

<sup>9</sup> Katadata, "Ada 791 kasus korupsi di Indonesia pada 2023, terbanyak di desa," May 20, 2024, <https://databoks.katadata.co.id/datapublish/2024/05/20/ada-791-kasus-korupsi-di-indonesia-pada-2023-terbanyak-di-desa>.

<sup>10</sup> Hendi Yogi Prabowo, Jaka Sriyana, Muhammad Syamsudin, "Forgetting Corruption: Unlearning The Knowledge Of Corruption In The Indonesian Public Sector," *Journal of Financial Crime* 25, no. 1, (January, 2018): 28-56, <https://doi.org/10.1108/JFC-07-2016-0048>.

<sup>11</sup> Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), "Laporan Tahunan 2022," June 28, 2023, [https://www.ppatk.go.id/backend/assets/images/publikasi/1681795460\\_.pdf](https://www.ppatk.go.id/backend/assets/images/publikasi/1681795460_.pdf).

total value of around Rp 59 billion.<sup>12</sup> The case trial was held at the Surabaya Corruption Court (PN Tipikor). The Corruption Eradication Commission indicted Bambang on three counts of corruption, gratuities, and money laundering. Bambang Irianto was accused of profiting from the Madiun Big Market project by providing loans to the winning company. The company allegedly uses a subsidiary owned by Bambang Irianto as a material distributor for the project. According to the Prosecutor of the Corruption Eradication Commission, Feby Dwiyaendospandy, Bambang Irianto received allowances totalling Rp 4.1 billion. In addition, Bambang was also charged with receiving gratuities related to the Madiun Big Market development project with a nominal value of Rp 55.5 billion from several Regional Apparatus Work Units (SKPD) and Entrepreneurs. Then, the Corruption Eradication Commission prosecutor also charged Bambang with money laundering. As a result, Bambang Irianto was charged with violating Article 12 letter i of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption, Article 12 B of Law Number 20 of 2001 jo Article 65 paragraph (1) of the Criminal Code and Article 3 letter I of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

The increasing rate of corruption in Indonesia, accompanied by money laundering, needs to receive more attention because this criminal act concerns the country's wealth. The perpetrators should get the heaviest punishment oriented towards the return of state wealth and restoring state wealth by impoverishing the poor corruptors. Therefore, departing from the above problems, the author compiled this article by relating the concept of following the cash flow approach, which focuses on tracing assets to recover state losses that occur and break the chain of crime in money laundering cases with the predicate of corruption and gratuities by Bambang Irianto and research related to the influence of the cash flow approach in order to eradicate money laundering crimes.

## **B. Method**

The type of research used in this study is normative or doctrinal legal research, which is research by examining written Law from various aspects, namely theoretical, historical, philosophical, comparative, general explanations and article by article, formality and binding force of law, as well as the legal language used. However, it does not examine the applied

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<sup>12</sup> Zaenal Affendi, "Walikota Madiun Bambang Irianto didakwa korupsi Rp. 59 miliar," July 13, 2017, <https://news.detik.com/berita/d-3471504/wali-kota-madiun-bambang-irianto-didakwa-korupsi-rp-59-miliar>.

aspects or its implementation.<sup>13</sup> The approach used in writing this article is a case approach, which is an approach that studies one or several cases in depth, allowing researchers to gain deep insights into complex phenomena. Based on the chronology of the money laundering case with the defendant Bambang Irianto, the author relates the concept of following a cash flow approach that focuses on tracing assets to recover state losses that occur and break the chain of crime in the money laundering case with the predicate of corruption and gratuity by Bambang Irianto. The legal materials used in this study are secondary legal materials derived from primary data, one of which is the Law on the Eradication of Corruption Crimes, and secondary data derived from literature such as books, journals, and other online literature.

### **C. Analysis and Discussion**

#### **1. Bambang Irianto Money Laundering Case**

The crime of money laundering by inactive Madiun Mayor Bambang Irianto began with corruption committed during his period as Madiun Mayor for the 2009-2014 and 2014-2019 periods. The corruption crime was committed due to the construction project of Pasar Besar Madiun. In addition to committing corruption, Bambang Irianto also received gratification as a state organizer, namely the Mayor of Madiun. Bambang Irianto ordered the Head of Madiun City Development Administration Anggoro Wahyu to collect and receive fees from partners who work on projects in the Madiun City area. Bambang Irianto has received money totaling IDR 55,564,245,812.00 (fifty-five billion five hundred sixty-four million two hundred forty-five thousand eight hundred twelve rupiahs) which came from fees from partners working on projects in the Madiun City area, money from processing Principle Permit at the Madiun City Government Integrated Licensing Service Office, receiving money claimed as the Togetherness Fund from all Madiun City Government SKPDs, and receiving the results of additional deductions for Echelon 2 and Echelon 3 Public Employees in all Madiun City Government SKPDs. Regarding the fee, Bambang Irianto did not report it to the Corruption Eradication Commission until the 30 (thirty) day deadline as required by Law No. 31/1999 on the Eradication of Corruption, even though the receipt had no legal basis.

Bambang Irianto as a civil servant and as a state organizer, namely the Mayor of Madiun for the 2009-2014 and 2014-2019 periods, also committed money laundering. Based on the latest State Implementation Assets Report (LHKPN) on May 1, 2016,

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<sup>13</sup> Ani Purwati, *Metode Penelitian Hukum Teori & Praktek* (Surabaya: Jakad Media Publishing, 2020), 20.

Bambang Irianto has a wealth of IDR 76,967,646,116.41 (seventy-six billion nine hundred sixty-seven million six hundred forty-six thousand one hundred sixteen rupiah and forty-one cents). Based on the summary of the State Organizer's Asset Report consisting of:

- a. Immovable assets worth IDR 32,018,975,100.00
- b. Movable assets worth IDR 5.059.144.000,00
- c. Marketable securities worth IDR 23.699.835.000,00
- d. Cash, deposits, giro, savings and other cash equivalents IDR 16,189,935,016.41

During the period Bambang Irianto served as Mayor of Madiun, he received money from other parties several times from corruption crimes related to his position, totaling IDR 59,787,042,412.00. Bambang Irianto received the money with the aim of hiding and disguising the source of money known to be the proceeds of corruption, Bambang Irianto committed an act:

- a. The act of placing, namely placing into several accounts on behalf of Bambang Irianto
  - 1) On BTN Batara Prima Account at Bank BTN Madiun Account Number 0002901540005704 in the name of Bambang Irianto in stages in the total amount of IDR 177,794,103.76 (one hundred seventy-seven million seven hundred ninety-four thousand one hundred three rupiah and seventy-six cents).
  - 2) On TASETO PREMIUM at bank BTPN Madiun account number 00210001735 in the name of Bambang Irianto in total of IDR 805,542,729.00 (eight hundred five million five hundred forty-two thousand seven hundred twenty-nine rupiah).
  - 3) On BRITAMA GOLD PRIORITY Savings at Bank BRI Madiun Account number 004501036687501 on behalf of Bambang Irianto in stages in total of IDR 208,230,858.62 (two hundred eight million two hundred thirty thousand eight hundred fifty-eight rupiah and sixty-two cents).
  - 4) On BRI Dollar Deposit at Bank BRI Madiun Account Number 0004502000004406 in the name of Bambang Irianto in stages in the total amount of USD 60,000.00 (sixty thousand United States dollars).
  - 5) On SIMPEDA at Bank Jatim Madiun Account Number 0052139074 in the name of Bambang Irianto in stages in total of IDR 855,469,536.68 (eight hundred fifty-five million four hundred sixty nine thousand five hundred thirty six rupiah sixty eight cents).

- 6) On Time Deposit at Bank Jatim Madiun account number DB 306029 on behalf of Bambang Irianto in stages in total of IDR 2,500,000,000.00 (two billion five hundred million rupiah).
  - 7) In the Rupiah Individual Savings at Bank BNI Madiun Branch Account Number 100716554 in the name of Bambang Irianto in stages totaling IDR 321,070,291.00 (three hundred twenty-one million seventy thousand two hundred ninety-one rupiah).
  - 8) In the Rupiah Individual Savings at Bank Mandiri Madiun Account Number 1440095037484 in the name of Bambang Irianto in stages in the total amount of IDR 971,006,190.00 (nine hundred seventy-one million six thousand one hundred ninety rupiah).
- b. The act of converting or exchanging into foreign currency, namely Bambang Irianto has committed the act of converting or exchanging the proceeds of corruption into foreign currency in the total amount of IDR 1,883,456,000.
  - c. The act of spending and paying, namely Bambang Irianto spent and paid assets that he knew were the proceeds of corruption in the form of cars, land, shop houses and stocks on behalf of other people with the aim of hiding or disguising the origin of wealth from 2009 to 2016.
  - d. Other actions on assets, namely on assets known to be the proceeds of corruption, given to other parties from 2010 to 2016 in the total amount of IDR 5,486,000,000.00.

In general, there are three stages of money laundering crimes: Placement, layering, and integration.<sup>14</sup> In the case of money laundering carried out by Bambang Irianto, some stages have been fulfilled from the crime of money laundering, namely the placement stage. As an initial stage, this stage is essential and vulnerable, so the investigator can investigate without waiting for the three stages to be fulfilled.<sup>15</sup> However, the assets resulting from criminal acts in the accounts placed have not been carried out in the next stage in the form of layering, namely efforts to transfer assets resulting from criminal acts (dirty money) that have been successfully placed in banks as a result of placement efforts to other financial

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<sup>14</sup> Ahmad Dwi Nuryanto, "Problem Penyidikan Tindak Pidana Pencucian Uang Yang Berasal Dari Predicate Crime Perbankan.," *Bestuur* 7, no. 1 (2019): 54-65, <https://doi.org/10.20961/bestuur.v7i1.43437>.

<sup>15</sup> Eva Syahfitri Nasution, "Pertanggungjawaban Pidana Korporasi Dalam Tindak Pidana Pencucian Uang," *Jurnal Mercatoria* 8, no. 2 (2015): 132-144, 10.31289/mercatoria.v8i2.652.

service providers.<sup>16</sup> It does not mean that Bambang Irianto does not intend to hide the results of corruption and gratuities. Placement, layering, and integration events do not have to occur entirely and sequentially but can occur separately or individually to be categorized as money laundering.

The chronology of Bambang Irianto's money laundering case begins with corruption, which acts as a predicate crime. Bambang Irianto was charged by the Public Prosecutor at the Indonesian Corruption Eradication Commission with TUT- 47/24/08/2017 on August 01, 2017 with the following charges:

- a. Stating that the Defendant Bambang Irianto has been proven legally and convincingly guilty of committing the crime of corruption as in the first charge of violating Article 12 letter i of Law Number 31 of 1999 concerning Eradication of the Crime of Corruption as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of the Crime of Corruption; The Second Indictment violates Article 12 B of Law Number 31 of 1999 on the Eradication of the Crime of Corruption as amended by Law Number 20 of 2001 on the Amendment to Law Number 31 of 1999 on the Eradication of the Crime of Corruption in conjunction with Article 65 paragraph (1) of the Criminal Code; and commits the Crime of Money Laundering as charged in the Third Indictment in violation of Article 3 of Law Number 8 of 2010 on the Prevention and Eradication of the Crime of Money Laundering in conjunction with Article 65 paragraph (1) of the Criminal Code.
- b. Therefore, the Defendant Bambang Irianto shall be imprisoned for 9 (nine) years minus the period of detention, with the order that the Defendant shall remain in detention and a fine of IDR 1,000,000,000.00 (one billion rupiah) in substitution of 6 (six) months imprisonment.

The crime of money laundering committed by Bambang Irianto is regulated and punishable by Article 3 of Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering in conjunction with Article 65 paragraph (1) of the Criminal Code. The formulation of the Article 3 provision states,

Every person who places, transfers, diverts, spends, pays, grants, entrusts, brings abroad, changes the form, exchanges for currency or securities or other actions on assets, which he

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<sup>16</sup> Zanuvar Achmad Afandi, "Dampak Money Laundering di Dunia Perbankan Terhadap Perekonomian di Indonesia," *Jurnal Online Universitas Negeri Surabaya* 1, no. 3 (2013): 1-20, <https://ejournal.unesa.ac.id/index.php/jurnal-akuntansi/article/view/2308>.



knows or should be suspected of being the proceeds of a criminal offense as referred to in Article 2 clause (1), with the aim of hiding or disguising the origin of the assets, shall be punished for money laundering with a maximum imprisonment of 20 (twenty) years and a maximum penalty of IDR 10,000,000,000.00 (ten billion rupiah).

Furthermore, in Article 65 clause (1) which reads, “In the event of a combination of acts which must be considered as independent acts so that they constitute several crimes punished with similar basic punishments, only one punishment shall be imposed.” Both articles emphasize the money laundering offense committed by Bambang Irianto.

According to Bambang Irianto, Endang Suliestywati and Bonie Laksmana, some of the company's proceeds were kept in cash at home, but according to Bambang Irianto's LHKPN in 2013, the cash reported was only IDR 21,000,000.00 (twenty-one million rupiah). Almost all of the assets purchased by Bambang Irianto in cash, most of them are in the name of other people and it turns out that these assets are not reported in the LHKPN, while other assets are not reported. In order to explore the case of money laundering by inactive Madiun Mayor Bambang Irianto, the Corruption Eradication Commission examined Bambang's wife and son, Suliestyawati and Bonnie Laksmana. Both of them were examined as witnesses because there was ownership of accounts and several land and building assets owned by Bambang in their names.

Money laundering significantly influences the country's economy and society, so it is necessary to counteract the crime of money laundering by using criminal legal means as a form of protection for the community. Similarly, the money laundering crime committed by Bambang Irianto has harmed the community in Madiun City, and the procurement of goods/services in Madiun City is for the benefit of the community. For this reason, Bambang Irianto must be held accountable for his actions because money laundering is prohibited by criminal law.<sup>17</sup>

Money laundering as a type of white collar crime has been recognized since 1867. At that time, a pirate at sea, Henry Every, in his last piracy robbed a Portuguese ship of diamonds worth £325,000 pounds (equivalent to IDR 5,671,250,000). The robbery was then divided with the crew, and Henry Every's share was invested in diamond trading where it

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<sup>17</sup> Puti Dwi Jayanti, *et.al.*, “Pembuktian Tindak Pidana Pencucian Uang Hasil Tindak Pidana Korupsi Pengadaan Barang/Jasa Di Kota Madiun,” *Dikmas: Jurnal Pendidikan Masyarakat dan Pengabdian* 3, no. 1, (2023): 197-206, <http://dx.doi.org/10.37905/dikmas.3.1.197-206.2023>.

turned out that the diamond company was also a money laundering company owned by other pirates on land.<sup>18</sup>

However, the term money laundering only emerged when Al Capone, one of the great mafia in the United States, in the 1920s, started a Laundromats business. This business was chosen because it used cash which speeded up the money laundering process to make the money they earned from extortion, prostitution, gambling and liquor smuggling looked legitimate. However, Al Capone was not charged and sentenced to prison for the crime, but rather for tax evasion. Apart from Al Capone, there was also Meyer Lansky, a mafia who made money from gambling activities and covered up his illegal business by establishing a hotel business, a golf course and a meat packing company. The money from this illegal business was sent to several banks in Switzerland, which prioritized customer confidentiality, to be deposited. These deposits were then used to obtain loans that were used to build his legal business. Unlike Al Capone, Meyer Lansky was free from charges of tax evasion, criminal offenses including money laundering.<sup>19</sup>

The act of money laundering is gradually growing, this then raises concerns that money laundering will harm the community and the state because it can disrupt or damage the economic or financial stability of the country, due to the circulation of large amounts of funds can occur quickly from one place to another, even from one or more countries to one or more other countries. Therefore, money laundering activities need to be regulated strictly and clearly. In order to prevent and eradicate money laundering, various international and national regulations have been issued, and bodies and work teams have been established, including the Financial Action Task Force (FATF) on Money Laundering. The FATF aims to encourage countries to develop legislation relating to money laundering. At the regional level, the Asia Pacific Group on Money Laundering (APG) was also established, an international cooperation organization that takes the form and tasks of the FATF. Indonesia has been an APG member since 1997.

Indonesia has published Law No. 15 of 2002 on the Crime of Money Laundering as amended by Law No. 25 of 2003. Even before this law, Indonesia had made several attempts to eradicate it, such as:

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<sup>18</sup> Billy Steel, "Money Laundering: A Brief History, Billy's Money Laundering Information Website," July 13, 2019, [http://www.laundryman.u-net.com/page1\\_hist.html](http://www.laundryman.u-net.com/page1_hist.html).

<sup>19</sup> *Ibid.*

- a. Signed and ratified Convention on Psychotropic Substances 1971 with Law Number 8 of 1996, United Convention Againsts Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988 with Law Number 7 of 1977 dated 24 March 1977.
- b. Applying various Law provisions relating to money laundering, such as:
  - 1) Law Number 22 of 1997 concerning Narcotics, in Article 74, Article 75, Article 77, and Article 90.
  - 2) Law Number 31 of 1999 on the Eradication of Corruption in Article 28.
  - 3) Criminal Code, in Article 39, Article 480 and Article 481.

Since 2008, the practice of Money Laundering has increased drastically in Indonesia. As an illustration, in 2002 every month the Financial Transaction Reports and Analysis Center (PPATK) received reports of 103 cases. In 2005 it increased to 171 Suspicious Financial Transaction Reports (LKTM) per month, then increased again to 290 LKTM per month in 2006. In 2007 there were 486 reports per month, and in 2008 there was an increase of more than 90 percent over the previous year to 869 LKTM per month, with an average of 29 LKTM per day. Even in the January-December 2008 period, it has not decreased but increased with the mode of scam through the use of fake identities in opening bank accounts. Money laundering through the purchase of valuable assets, investment in financial markets has also emerged. Likewise, money laundering from corruption is still widely occurring, especially from the state budget (APBN) / regional budget (APBD) carried out by treasurers or officials in government agencies. PPATK noted that from January 1 to October 31, 2008, there was a 40% increase in LTKM from the previous year.<sup>20</sup>

## **2. Cash Flow Approach in Money Laundering Cases**

The investigation of the money laundering case carried out by Bambang Irianto is intended to trace the state's losses, recover the losses incurred and break the chain of crime. Tracing is carried out using an approach that follows cash flow. The approach of following cash flow is a way of disclosing criminal acts that is more asset-oriented, so that uncovering criminal acts does not have to start from what criminal events occurred and then trace the assets resulting from the criminal act, but can start from the assets found, to then look back, the assets were obtained legally or not, which is technically to prove whether the assets

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<sup>20</sup> Explanation by Head of PPATK Yunus Husein at the Seminar on Corruption Eradication and Money Laundering, Challenges, Prospects and Impact on the Economy at the Master of Economics Building, Gadjah Mada University, Bulaksumur, January 31, 2009.

were obtained legally or not which then becomes a burden proof of the defendant, this is from now on referred to as the burden of reverse proof.<sup>21</sup>

The reason for the application of reverse proof for the crime of money laundering is that money laundering is considered a criminal act committed in a complicated way and involves perpetrators who have an organized crime network, so in the process of proving in court, sometimes the public prosecutor has difficulty in proving a money laundering case in court, plus the increasingly up-to-date information technology in the field of finance and banking makes It is challenging to ensnare the perpetrators of this crime.<sup>22</sup>

The system of reversing the burden of proof (*ordering van bewijslast*) in the criminal law of corruption in Indonesia is adapted from the law of proof of corruption cases from Anglo-Saxon countries, such as the United Kingdom, Singapore, and Malaysia. This system is only applied to criminal acts related to gratuities and bribery.<sup>23</sup> The application of reversal of the burden of proof in the crime of corruption can only be applied to new criminal acts regarding gratuities and to the demand for confiscation of the defendant's property allegedly derived from one of the criminal acts as referred to in Article 2, Article 3, Article 4, Article 13, Article 14, Article 15, and Article 16 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes and Articles 5 to 12 of Law No. 20 of 2001 concerning Amendments On Law Number 31 of 1999 concerning the Eradication of Corruption.

The burden of reversal of proof in the cash flow orientation is imposed on the defendant to prove that the assets he acquired are legitimate. In the case of money laundering, some categories indicate the existence of a criminal act of money laundering committed, namely unexplained wealth and suspicious transactions. Inexplicable property cannot be explained from where the property originates and is not recorded in the Annual Notification Letter and LHKPN. A suspicious transaction is a suspicious transaction. Included in the category of suspicious transactions are deviant transactions, financial transactions are carried out to avoid reporting related transactions that the complainant must carry out, financial transactions are carried out with assets that are suspected to come from

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<sup>21</sup> Yudi Kristiana, *Op. Cit.*, 16.

<sup>22</sup> Sahuri Lasmadi and Sudarti Elly, "Pembuktian Terbalik Pada Tindak Pidana Pencucian Uang," *REFLEKSI HUKUM Jurnal Ilmu Hukum* 5, no. 2 (2021): 199-2018, <https://doi.org/10.24246/jrh.2021.v5.i2.p199-218>.

<sup>23</sup> Muh Arief Syahroni, M. Alpian, and Syofyan Hadi, "Pembalikan Beban Pembuktian Dalam Tindak Pidana Korupsi," *DiH: Jurnal Ilmu Hukum* 15, no. 2 (2019):124-133, <http://jurnal.untag-sby.ac.id/index.php/dih/article/view/2478>.

the proceeds of criminal acts and financial transactions that PPATK requests to be reported by the complainant.<sup>24</sup>

Money laundering in its development is increasingly complex, crossing jurisdictional boundaries and using increasingly varied modes, utilizing institutions outside the financial system, and has even spread to many sectors. In general, actions to handle money laundering cases use the follow the suspect approach, but over time there has been a paradigm shift towards a follow the cash flowing approach. The approach of following the cash flow is to prioritize finding money or property resulting from criminal acts compared to finding criminals.<sup>25</sup> After the criminal proceeds are obtained through the financial transaction analysis approach, then look for the perpetrators and the criminal acts committed.

There are several advantages to the cash flow approach when maximized, such as:

- a. A further reach that can be felt more just because it does not only reach field actors, but also reaches intellectual actors, driving actors (*uitlokker*), protective actors (*backing*) and actors who support funds (*backer in finance*).
- b. It can be done “secretly”, making it easier and less risky because it does not directly confront the perpetrator who often has the potential to resist.
- c. The approach of confiscating the proceeds of crime reduces or removes people’s motivation to commit crimes.
- d. Incentivize the exception of bank secrecy and other confidentiality provisions.<sup>26</sup>

The follow the cash flow approach has a different approach from follow the suspect. Disclosure begins by pursuing assets (cash flow/financial transactions) first, then revealing the crime and the perpetrators. This disclosure is done from downstream to upstream (bottom up). This approach pursues the proceeds of crime, which will later be brought to the forefront of legal proceedings and confiscated by the state because the perpetrator does not have the right to enjoy the property obtained illegally. With the confiscation of the proceeds of this crime, the motivation of a person to commit a crime to find property is reduced or lost.<sup>27</sup>

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<sup>24</sup> Article 1 paragraph (5) letters a,b,c,d of Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes.

<sup>25</sup> PPATK E-learning, *Modul E-Learning Pengenalan Anti Pencucian Uang* (Jakarta: PPATK, 2015), 4.

<sup>26</sup> *Ibid*, 5

<sup>27</sup> Ni Komang Sutrisni dan AA Ketut Sukranata, "Pendekatan Follow the Money dalam Penelusuran Tindak Pidana Pencucian Uang serta Tindak Pidana Lain," Universitas Udayana (2013): 1-5, <https://ojs.unud.ac.id/index.php/kerthasemaya/article/download/4684/3555>.

There is an investigation strategy that can be carried out by investigators in the process of investigating the crime of origin followed by money laundering. Investigators should sort out assets (asset tracing) related to criminal offenses to facilitate the process of transaction suspension, blocking, and confiscation at the investigation stage.<sup>28</sup> Investigators in asset identification must sort out assets (asset tracing) related to criminal acts to facilitate the process of delaying transactions, blocking, and confiscation at the investigation stage. Asset tracing is carried out by analyzing the profile of suspects and parties suspected of enjoying the results of criminal acts. In addition, it is also essential to profile immovable and shaky objects, vehicle tools, precious metals, and securities, as well as cash or deposits of suspects.<sup>29</sup>

If investigators encounter problems when requesting data and information from banks, companies, or The Indonesia Central Securities Depository (KSEI), they may request assistance from PPATK. After the data is obtained, the PPATK forwards the data or information that has been obtained to law enforcement, one of which is to KPK investigators. Investigators may also request PPATK assistance to temporarily suspend all or part of the transaction for a maximum of 5 working days and can be extended to 15 working days. Investigators can also request information, data, and information on behalf of the investigator, especially if previously or at the same time the investigator of the original crime is also conducting an investigation. This request for information, data and information by investigators has a stronger legal status because it is included in the corridor of law enforcement (*pro Justitia*).

The follow the cash flow approach in Indonesia has not shown significant progress because the practice of legal operations in Indonesia is generally still controlled by a perpetrator-oriented legal governance or commonly called the follow the suspect approach rather than the follow the cash flow approach.<sup>30</sup> Implementation of the follow the cash flow approach can be carried out effectively and maximally if it is supported by maximizing cooperation both formal and informal between relevant institutions to obtain information between PPATK, Financial Services Authority (OJK), and various other parties.

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<sup>28</sup> Komisi Pemberantasan Korupsi, *Pedoman Penanganan Tindak Pidana Pencucian Uang dan Pemulihan Aset di Pasar Modal* (Jakarta: KPK PSHK AIPJ, 2018), 121.

<sup>29</sup> Christyanda Sabrielle R N T, Nyoman Serikat Putra Jaya, and Pujiyono, "Praktik Penelusuran Aset (Asset Tracing) Hasil Kejahatan Oleh Pusat Pelaporan Dan Analisis Transaksi Keuangan (Ppatk) Dalam Penegakan Tindak Pidana Pencucian Uang," *Diponegoro Law Journal* 6, no. 1 (2016): 1-15, <https://ejournal3.undip.ac.id/index.php/dlr/article/view/14372>.

<sup>30</sup> Yudi Kristiana. *Op.Cit.*, 14.

Investigators in the context of asset identification must sort out assets (asset tracing) related to criminal acts to facilitate the process of delaying transactions, blocking, and confiscation at the investigation stage. Furthermore, entering the investigation stage is divided into two investigations of criminal acts of origin and the development of investigations of associated criminal acts that cause money laundering.

#### **D. Conclusion**

The money laundering case carried out by the inactive Mayor of Madiun, Bambang Irianto, began with a corruption crime committed while working on a project in Madiun City. Bambang Irianto often receives money from several parties in his position. Bambang Irianto received the money with the aim of hiding and disguising the origin of money known as the result of corruption, Bambang Irianto carried out the act of placed, changed the shape or exchanged it for foreign currency, the act of paying and spending and other actions on assets. The trial facts reveal that Bambang Irianto could not show the burden of proof of reversal and admitted that he had committed all the charges filed by the Corruption Eradication Commission Prosecutor.

The cash flow approach applied in this case begins with unexplained wealth and suspicious transactions. For assets suspected to be the proceeds of crime, the burden of reversal of proof in the orientation of following the cash flow is charged to the defendant to prove that the assets he obtained are legitimate. Suppose the following cash flow approach can be carried out optimally. In that case, it provides various advantages, including a longer reach so that it can be felt fairer because it not only reaches field actors but also reaches intellectual actors (*uitlokker*), protective actors (backing) and supporters in finance, can be done "secretly", so that it is easier and less risky because it does not deal directly with actors who often have the potential Against, the approach of confiscation of proceeds of crime reduces or eliminates people's motivation to commit criminal acts. There is an incentive to waive bank secrecy provisions and other confidentiality provisions.

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