

Contribution of Islamic Law in Tackling Money Laundering Crimes in Indonesia

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Abstract

Money laundering is an attempt by a person to hide the origin of the proceeds of the crime he has committed. When viewed from the origin of the word, money laundering comes from two syllables, namely washing and money. Washing means cleaning something dirty or attempts to remove dirt stuck to something, and money is a tool that is used to exchange something and is generally accepted. In Jinayah's point of view, money / property is obtained from a way that is vanity / haram, for example, obtained from taking / seizing property that is not his property, narcotics, terrorism and so on. On that basis, in order to eliminate traces of his / her crime, a person then laundered the "illegal money / property" in various ways including making his own business, investing, and so on, so that it is as if what is produced from his business or investment is a lawful result. . The sentence "laa ta'kuluu" in the above verse according to Indonesian tafsir expert Prof. Quraish Shihab does not only mean "to eat" in the sense of putting something in the mouth and swallowing it. However, the meaning also means "how to obtain or perform activities". The procedure used to collect data in this study is documentation, namely the guidelines used in the form of notes or quotations, search for legal literature, books and others related to the identification of problems in this study both offline and online. Analysis of legal materials is carried out using the content analysis method (content analysis method) which is carried out by describing the material of legal events or legal products in detail in order to facilitate interpretation in the discussion. Explicitly, Islamic criminal law (jinayah) does not explicitly mention the term money laundering. He only mentions terms that have the same elements in his actions as money laundering, including theft, embezzlement, fraud, and treason.

Keywords:

Islamic Law, Money Laundering.

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A. Introduction

The constitution clearly states that Indonesia is a constitutional state that guarantees and protects the rights of citizens, such as the rights of citizens to obtain and enjoy their rights..¹ During the Covid-19 pandemic like this, the Indonesian people have been hit by an economic burden that is not good and unstable, many legal problems that have resulted in civil disputes and criminal acts, disputes in the civil sector, one of which is land disputes. According to Mudjiono, there are several factors that cause land disputes. First, incomplete regulations; second, regulatory inconsistencies; third, land officers are not responsive to the needs and the amount of land available; fourth, inaccurate and incomplete data; fifth, wrong soil data; sixth, limited human resources in charge of resolving land disputes; annoying and wrong land deals; and in the end there was a settlement from another agency, resulting in overlapping authority.² Meanwhile, criminal crimes in Indonesia that are happening again are money laundering crimes.

Indonesia is currently undergoing a process of globalization so that it will also affect the progress of relations in the economic and technological fields, and this will result in an increasing trend of

¹ Rahmat Ramadhani dan Rachmad Abduh, "Legal Guarantee for the Land Registration Process during the Covid-19 Pandemic", *Budapest International Research and Critics Institute-Journal* 4, No. 1, (2021), p. 349.

² Rahmat Ramadhani dan Ummi Salamah Lubis, "Opportunities and Challenges for the Badan Pertanahan Nasional (BPN) in Handling Land Cases in the New Normal Era", *Legality: Jurnal Ilmiah Hukum* 29, No. 1, (2021): p. 2.

economic crime in the banking sector. One of the economic crimes in the banking sector that is relatively new and is beginning to develop rapidly is money laundering activities or practices that can also cross territorial borders. The crime of money laundering has been regulated in Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. Based on Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, to be precise in Article 1 point 1 Money Laundering is any act that fulfills the elements of a criminal act in accordance with the provisions of this Law.

Money laundering is an attempt by a person to hide the origin of the proceeds of the crime he has committed. When viewed from the origin of the word, money laundering comes from two syllables, namely washing and money. Washing means cleaning something dirty or attempts to remove dirt stuck to something, and money is a tool that is used to exchange something and is generally accepted. Based on this meaning, the simple question arises, why does money need to be laundered? To answer this problem, it does not mean that the money is physically dirty, which needs to be washed with water. Because money in Islamic law cannot be punished with lawful or haram, what can be punished as such is the act of the person or the person's process of obtaining the money. Thus, the phrase money laundering is more oriented to the meaning that the money obtained by a person is the result of a crime. In Jinayah's point of view, money / property is obtained from a way that is vanity / haram, for example, obtained from taking / seizing property that is not his property, narcotics, terrorism and so on. On that basis, in order to eliminate traces of his / her crime, a person then laundered the "illegal money / property" in various ways including making his own business, investing, and so on, so that it is as if what is produced from his business or investment is a lawful result. . The sentence "laa ta'kuluu" in the above verse according to Indonesian tafsir expert Prof. Quraish Shihab does not only mean "to eat" in the sense of putting something in the mouth and swallowing it. However, the meaning also means "how to obtain or perform activities". Thus, the above paragraph also implies that all activities or activities (including money laundering) carried out by a person in order to obtain property in vain, are punished as haram.³

Apart from the description above, recently, money laundering strategies have become the prima donna of criminals, especially white collar crimes. This cannot be separated because in many cases, proving the crime of money laundering (TPPU) is quite complicated and difficult. There are many factors that cause the difficulty of proving TPPU, including because the perpetrators of crime always involve many parties, abuse of technological sophistication to weak law enforcement. Although the laws and regulations regarding TPPU already exist and are enforced in Indonesia, starting from Law no. 15 of 2002 concerning the Crime of Money Laundering, jo. UU no. 25 of 2003 concerning Amendments to Law no. 15 of 2002, until Law No. 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, however ML is still rife.⁴

In Indonesia, banking institutions have a mission and function as agents of development, namely as institutions that aim to support the implementation of national development in order to increase equity, economic growth and national stability towards increasing the welfare of the people at large. Advances in information technology and financial globalization have resulted in an increasingly globalized trade in goods and services and financial flows. Progress does not always have a positive impact on society, but sometimes it actually leads to the development of crime, especially white collar crime, business crime, or corporate crime. This situation is used by people who want to benefit from illicit actions, namely saving the money they get, for example the narcotics trade, the proceeds of corruption, insider trading in buying and selling shares, smuggling of weapons, counterfeiting credit cards and so on. Money laundering is a crime that is very detrimental to society as well as the state, because it can affect or damage the stability of the national economy, especially state finances. This contradicts the goal of tasyri', namely preventing mafsadah and creating mashlahah. Money laundering causes damage, loss, harm, as well as keeps the benefit from human life, is despicable and prohibited so that it can be called a criminal act and in the context of Islamic law, it can be subject to ta'zir punishment for the perpetrators.⁵

³ Ismail Marzuki, "Melumpuhkan Tindak Pidana Pencucian Uang Dengan Hukum Pidana Islam", *Jurnal Wajah Hukum* 1 No. 1 (2017): p. 1-2.

⁴ *Ibid.*,

⁵ Sumadi, "Telaah Kasus Pencucian Uang Dalam Tinjauan Sistem Ekonomi Syariah", *Jurnal Ilmiah Ekonomi Islam* 3 No. 3, (2017): p. 2.

The formation of the money laundering law is intended so that all forms of money laundering can be prevented and eradicated and the perpetrators are given legal sanctions, as they are very detrimental to the public and the State which can affect and damage the stability of the national economy or state finances and increase various crimes. This actually contradicts the goal of tasyri 'itself, namely preventing mafsadah and creating maslahah, meaning that actions that actually cause damage, loss, fade and at the same time keep the benefits of human life away are despicable and forbidden and these actions can be called criminal acts. Therefore, it is important for Islamic law to contribute to law enforcement and prevent or overcome money laundering crimes in Indonesia.

Based on the description above, the main problem can be drawn, namely how the crime of money laundering in the perspective of Islamic law and how Islamic law contributes to tackling money laundering crimes in Indonesia. The procedure used to collect data in this study is documentation, namely the guidelines used in the form of notes or quotations, search for legal literature, books and others related to the identification of problems in this study both offline and online. Analysis of legal materials is carried out using the content analysis method (content analysis method) which is carried out by describing the material of legal events or legal products in detail in order to facilitate interpretation in the discussion.⁶

B. Discussion

1. Money Laundering Crimes in Islamic Law Perspective

Before describing the problem of money laundering in Islamic criminal law, it is necessary to know that money laundering is as outlined in Article 1 of Law no. 25 of 2003 concerning Amendments to Law Number 15 of 2002 concerning the Crime of Money Laundering is an act. placing, transferring, paying, spending, granting, donating, entrusting, taking abroad, exchanging, or other acts of assets which he knows or can reasonably suspect are the result of a criminal act with the intention of concealing it, or disguising the origin of the assets so that it appears as if become legal assets.

The increase in the crime of money laundering by utilizing the financial system to hide or obscure the origin of proceeds from criminal acts will further have a negative impact on people's lives, especially in the economic and business sectors. The impact caused by this crime of money laundering is extraordinary, it even threatens the economic stability of a country. In the economic field, money laundering can undermine the legal private sector because usually money laundering is carried out using the services of a company (front company) to mix illegal money with legal money so that legitimate businesses cannot compete with the company. And the subsequent impact is the increase in crimes in the financial sector and create high social costs, especially costs in increasing efforts to overcome, prevent, and enforce the law. The crime of money laundering as a type of white collar crime has actually been known since 1867. At that time, a pirate at sea, Henry Every, in his last piracy robbed a Portuguese ship in the form of a diamond worth £ 325,000. pounds (equivalent to Rp.5,671,250,000). The loot was then shared with his men, and Henry Every's share was invested in the diamond trade transaction where it turned out that the diamond company was also a money laundering company owned by other pirates on land..⁷

However, the term money laundering only appeared when Al Capone, one of the big mafias in the United States, in the 1920s, started a Laundromats (automatic washing place) business. This business was chosen because it uses cash that speeds up the money laundering process so that the money they earn from extortion, prostitution, gambling, and liquor smuggling is seen as lawful money. However, Al Capone was not charged and sentenced to imprisonment for this crime, but rather for tax evasion. Apart from Al Capone, there is also Meyer Lansky, the mafia that makes money from gambling and covers up his illegal business by establishing a hotel business, a golf course and a meat packaging company. The proceeds from this illegal business are sent to several banks in Switzerland which prioritize customer confidentiality, to be deposited. These deposits are then pledged as collateral to get a loan which is used to build the legal business. In contrast to Al Capone, Meyer Lansky is actually free from charges of tax evasion, a criminal offense including money laundering. Basically, the crime of money laundering does not directly harm a certain person or company. At first glance, it seems that the

⁶ Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana Prenada Media Group, (2011), p.171.

⁷ Iwan Kurniawan, "Perkembangan Tindak Pidana Pencucian Uang dan Dampaknya Terhadap Sektor Ekonomi dan Bisnis", *Jurnal Ilmu Hukum* 3, No. 1, (2013): p. 3.

crime of money laundering has no victims. Money laundering is not the case with robbery, theft, or murder in which there are victims and which cause harm to the victims.⁸

Based on Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, it is stated that the meaning of money laundering is any act that fulfills the elements of a criminal act in accordance with the provisions of this law. Regarding what is meant by the phrase "money laundering" until now there is no comprehensive definition or meaning. In the Indonesian state itself, the case of money laundering has been legally regulated in the Law of the Republic of Indonesia No. 8 of 2010 concerning the prevention and eradication of money laundering crimes committed by corporations. Those that regulate the corporation can also be subject to criminal sanctions or penalties if it is proven that the proceeds of money laundering are used to carry out activities for seeking profit in the corporation's business. In general, money launderers do not really consider the results to be obtained and the costs involved. Because the main purpose of money laundering is to disguise or eliminate the origin of money. Then they can enjoy the results in the future. In Law No. 8 of 2010 regarding the crime of money laundering, it is determined that the corporate directorate mind is the corporate management itself, as long as the management has a functional position in the corporate organizational structure.⁹

However, many parties are opposed to this, they argue that the sanctions or penalties regarding the crime of money laundering are imposed on the corporation itself, because this can benefit the corporation directly. In the case of money laundering committed by corporations in Indonesia, only corporate controlling personnel receive sanctions which are then legally processed so that the proceeds from money laundering are still used by the corporation in carrying out its business activities. In general, the elements of the money laundering crime are as follows:¹⁰

- a. The existence of money (funds) which is an illegal or illegitimate result in the eyes of the law.
- b. There is dirty money that is processed in certain ways through legal (legal) institutions so that the perpetrator gets a large profit.
- c. With the intention of eliminating traces, so that the source of origin cannot be or is very difficult for legal entities to find and trace because the proceeds of the profits are not directly spent on goods.

According to Remy Syahdaeni, what is meant by money laundering is a series of activities which is a process carried out by a person or organization against illicit money, namely money originating from a criminal act with the intention of hiding it or disguising the origin of the money from the government or other authorities. has the authority to take action against criminal acts, by among other things and especially by entering the money into the financial system, so that the money can then be removed from the financial system as lawful money..¹¹

The brief review of the definition of money laundering according to the positive law above can at least be used as a reference for further reading about the crime of money laundering in the perspective of Islamic criminal law. Based on the explanation above, it can be simply understood that money laundering is an act or process of hiding assets obtained from the proceeds of crime, with the aim of disguising the origin of the assets, so that they appear to be legitimate assets. Concealment of assets by disguising the origin of the assets obtained from the proceeds of crime is done to avoid law enforcement by law enforcement officials. Therefore, money laundering is still an attractive business among white collar criminals.¹²

Islamic law in detail never mentions the prohibition of money laundering, because this term did not exist at the time of the Prophet. However, in general, Islamic teachings have forbidden seeking fortune in ways that are falsehood and control that does not belong to him, such as robbery, theft, or murder in which there are victims and cause harm to others or the victims themselves. However, departing from the disturbing, dangerous, and destructive reality, Islamic criminal law needs to discuss it, that this crime can be classified as Jarimah ta'zier (Syeikh Zainudin al-Malibari, translation of „irsyadul, ibad).¹³

⁸ *Ibid.*, p. 4.

⁹ Ridwan Arifin dan Shafa Amalia Choirinnisa, "Pertanggungjawaban Korporasi dalam Tindak Pidana Pencucian Uang dalam Prinsip Hukum Pidana Indonesia", *Jurnal Mercatoria* 12 No. 1, (2019): p. 46.

¹⁰ *Ibid.*, halaman 48.

¹¹ *Ibid.*, p. 5.

¹² Ismail Marzuki, *Op.Cit.*, p. 3.

¹³ Sumadi, *Op.Cit.*, p. 5.

The view of Islamic law regarding money laundering is part of the Jarimah ta'zir. Jarimah ta'zir according to the language is mashdar from azzara which means rejecting or preventing evil as well as strengthening, glorifying, and helping. In terms of terminology, Jarimah ta'zir is an act of immorality, namely leaving the obligatory order and committing an act that is forbidden, in which the act is subject to both had and kifarat punishment (Nasution, 1965). Thus, the crime of money laundering is included in the category of Jarimah ta'zir and therefore in Islam, it prohibits and prohibits money laundering activities.¹⁴

Furthermore, explicitly, Islamic criminal law (jinayah) does not explicitly mention the term money laundering. He only mentions terms that have the same elements in his actions as money laundering, including theft, embezzlement, fraud, and treason. In general, Islamic law prohibits all forms of action to obtain income or property (rizki) in vain or attempts to possess property illegally. Money laundering is likened to theft (sariqah) in Islamic law, because ML perpetrators hide the assets they have taken without giving a mandate for it. Money laundering is identified with embezzlement (ghulul) in Islamic law, because ML perpetrators take property that is not their right and hide it in their property. Money laundering is called fraud, because it contains the element of deceiving law enforcement officials by hiding the proceeds of crime, as if the assets were the result of legitimate activities. Even so, it is said to be a form of betrayal, because ML is generally a form of betrayal of the public's mandate that should be carried out properly.¹⁵

The mandate that has been given by the community or the people as a whole should not be wasted, but must be fulfilled and given to the person entitled to receive it. So it is not permissible for people who are charged with the mandate, deny, hide or even spend their deposit without the permission of the right owner in accordance with the law. Allah SWT said:

إن هلا يأمركم أن تؤدوا المائات إلى أهلها

Meaning: "verily Allah told you to convey the mandate to those who deserve it".¹⁶

Because Islamic criminal law does not explicitly mention money laundering in the texts, both al-Qur'an and hadith, TPPU can be categorized as Jarimah ta'zir, which is a criminal act whose punishment is determined by the State (legal government). Al-Mawardi defines ta'zir as follows:

والتعزير تأديب على ذنوب لم تشرع فيها الحدود

Meaning: "Ta'zir is an educational punishment for sinful acts whose punishment has not been determined by the syara".¹⁷

Based on the above definition, ta'zir is a term for punishment (criminal), but among fiqh experts, the meaning of ta'zir is expanded, not only referring to punishment, but also the criminal act. So, if it is said, Jarimah ta'zir means a criminal act whose terms and punishment have not been determined by syara '. In other words, the term ta'zir in Islamic criminal law, can be used for the term punishment and can also be for Jarimah (criminal act). Among the examples of Jarimah ta'zir relating to property are manipulating the property of orphans, embezzling waqaf assets, including embezzling deposits into their property or other people's assets with the aim of developing them, enriching themselves, and / or owning them. Because money laundering has no legal provision in the text (classified as Jarimah ta'zir), the legal basis and determination is based on ijma '(consensus / agreement), in the context of the Indonesian State it means the government's consensus to criminalize and punish all acts that cause loss or damage to physical, social, political, financial, or moral for individuals or Indonesian society as a whole.¹⁸

Because money laundering has no legal provision in the text (classified as Jarimah ta'zir), the legal basis and determination is based on ijma '(consensus / agreement), in the context of the Indonesian State it means the government's consensus to criminalize and punish all acts that cause loss or damage to physical, social, political, financial, or moral for individuals or Indonesian society as a whole. Furthermore, in Islamic teachings there are several stories that can be used as role models for all mankind, especially for Muslims. The first story is about a man who was on a long journey, so that his hair looked matted and very dirty. Suddenly he raised his hand to the sky saying "yes Rabb ... yes Rabb ..." even though behind that, he likes to eat haram food, drink with something that is haram, his clothes

¹⁴ *Ibid.*,

¹⁵ Ismail Marzuki, *Op. Cit.*, p. 3-4.

¹⁶ *Ibid.*, p. 4.

¹⁷ *Ibid.*,

¹⁸ *Ibid.*, p. 5.

are made of haram, and is full of haram things. So the words of the Prophet SAW regarding the incident, "how can his request be granted while he is happy with things that are haram?"¹⁹

The enforcement of the above legal rules is certainly expected to be able to eradicate money laundering crimes, at least be able to minimize them. Because in essence these crimes have the potential to threaten the stability of a nation's economy. In other words, because the crime of money laundering has more mafsadat (element of loss) than maslahah (element of benefit) for the life of the community, nation and state, it is necessary to have a rule of law that can overcome legal problems regarding money laundering.

2. Contribution of Islamic Law in Tackling Money Laundering Crimes in Indonesia

Before discussing the contribution of Islamic law in tackling money laundering crimes, we will describe a little about the role of banks in overcoming money laundering crimes, then it will be compared with the contribution of Islamic law itself, because banks are institutions that are considered related to money laundering crimes. Bank Indonesia is the Central Bank of the Republic of Indonesia according to the provisions of Article 4 paragraph (1) of Law of the Republic of Indonesia Number 3 of 2004 concerning Amendments to Law of the Republic of Indonesia Number 23 of 1999 concerning Bank Indonesia, Bank Indonesia has the obligation to carry out bank guidance and supervision throughout the region. Republic of Indonesia. This is in accordance with the provisions of Article 29 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking. Bank Indonesia conducts inspections of banks, either periodically or at any time if necessary.

In addition, Bank Indonesia in carrying out bank guidance and supervision tasks may request the assistance of a public accountant for and on behalf of Bank Indonesia to carry out an examination of a bank. The results of the bank inspection report are kept confidential to anticipate things that are not desired. Central Bank Indonesia in Jakarta in the implementation of its duties is assisted by Bank Indonesia which is domiciled in the city of the province and the municipality. In order to participate in tackling the money laundering crime, Bank Indonesia. has issued several Bank Indonesia Regulations and Bank Indonesia Circular Requirements, with the aim that the implementation of anti money laundering by commercial banks can proceed as expected. According to the provisions of Articles 2 and 3 of Bank Indonesia Regulation Number: 11/28 / PBI / 2009 concerning Implementation of the Anti Money Laundering and Prevention of Terrorism Funding Program for Commercial Banks,²⁰

- a. Banks are required to implement the AML and CFT programs
- b. In implementing the AML and CFT programs, Banks are required to adhere to the provisions stipulated in Bank Indonesia Regulations
- c. The AML and CFT programs are part of the implementation of overall bank risk management
- d. The implementation of the AML and CFT programs includes at least the following::
 - 1) active supervision of the Board of Directors and the Board of Commissioners
 - 2) policies and procedures
 - 3) internal control
 - 4) management information system
 - 5) human resources and training.

In carrying out active supervision of the board of directors and board of commissioners, Bank Indonesia requires certainty about whether the bank has policies and procedures for the AML and CFT programs, ensures that the AML and CFT program are implemented in accordance with the written policies and procedures that have been implemented, and ensures that the work units implementing the APU and PPT program policies and procedures are separate from the work unit that oversees their implementation. According to the explanation from the Head of the Bank Indonesia Statistical and Survey Study Group Section in Solo, the separation of work units in implementing policies and procedures for the AML and CFT programs and the supervisory work unit is so that there is no overlap in work implementation and there is a clear separation of responsibilities in the implementation of work. between work units. Furthermore, it was said that each bank was obliged to form a special work unit or

¹⁹ Topo Santoso, *Membumikan Hukum Pidana Islam; Penegakan Syari'at dalam Wacana dan Agenda*, Jakarta: Gema Insani Press, (2003), p. 23.

²⁰ Budi Setiyanto, "Peran Bank Indonesia dalam Menanggulangi Tindak Pidana Money Laundering", *Jurnal Yustisia* 1, No. 1, (2012): p. 39.

else it could appoint one of the bank officials who was responsible for implementing the AML and CFT programs. The members of the special work unit must be persons or bank officers who have adequate capabilities and have the authority to access all Customer data and other related information. In carrying out its duties, the special work unit will be responsible to the Compliance Director. The Compliance Director is the one who assists the leadership of the bank in monitoring the implementation of the AML and CFT programs based on Bank Indonesia Regulations and Circular Letters issued by Bank Indonesia.²¹

Based on the provisions of Article 7 of Bank Indonesia Regulation Number: 11/28 / PBI / 2009 concerning the Implementation of Money Laundering and Terrorism Funding Prevention Programs for Commercial Banks, special work unit officers or officers responsible for the AML and CFT programs must:²²

- a. monitor the existence of a system that supports the AML and CFT programs
- b. monitor the validity of customer profiles
- c. coordinating and monitoring the implementation of AML and CFT program policies with work units and work units that deal with customers, such as the bank finance unit and customer identification and research work units.
- d. ensure that policies and procedures are in line with the latest AML and CFT program developments, bank product risks, bank business activities and complexity, and bank transaction volume.
- e. receive reports of potentially suspicious financial transactions (red flag) from related work units dealing with customers and conduct analysis of these reports.
- f. compile reports on suspicious financial transactions and other reports related to the crime of money laundering as regulated in the Money Laundering Law (Law Number 25 Year 2003 Concerning Amendments to Law Number 15 Year 2002 Concerning Money Laundering). Then the results of the report can be submitted to the Financial Transaction Reports and Analysis Center (PPATK) with the approval of the Director of Compliance after obtaining permission from Bank Indonesia.
- g. monitor whether there has been good communication from each work unit related to the implementation of the AML and CFT programs by maintaining the confidentiality of information.
- h. The related work unit performs functions and duties in preparing reports in the event of suspicion of Suspicious Financial Transactions before submitting them to the Special Work Units or officials responsible for implementing the AML and CFT programs.
- i. Monitor, analyze, and recommend AML and CFT program training needs for bank employees.

According to Abdul Wahab Khallaf, the general purpose of implementing Islamic law (maqashid as-syari'ah) is to realize the benefit of the people in order to fulfill dharuriyat (primary) needs, (namely to protect religion, soul, reason, descent and property, pen.), hajjiyat (secondary) and tahsiniyat (tertiary). The five legal interests that must be protected above, which AlGhazali calls Kulliyat al-Khams, will be damaged if someone commits a money laundering crime. Keeping religion (hifd ad-din) as the first principle in maqashid asy-syari'ah theory in the present context does not only refer to the issue of individual beliefs. In other words, for the sake of maintaining religion, everyone who apostates (leaves Islam), his blood is lawful. The interpretation of the text in the text which states that apostasy causes a person's blood to be halal needs to be reexamined, considering the teachings of Islam, as the name implies, is the teaching that saves a person from destruction. In addition, there are many texts in Islamic law that uphold respect for human rights and are more relevant to be applied in the present and in the future.²³

The destruction of religion (Islam) is not because many Muslims choose to move to teachings or beliefs other than Islam, but rather the behavior (morals) of a Muslim himself. A Muslim who likes to cover up or disguise the results of his crime, and is proven in court as a criminal, will keep the empathy and sympathy of others against him. The behavior of a Muslim who continuously denies others will

²¹ *Ibid.*,

²² *Ibid.*, p. 40.

²³ Ismail Marzuki, *Op. Cit.*, p. 7.

ultimately tarnish the image of Islam itself, which essentially has the principle of *laa dharara wa laa dhirar* (prohibition of judging oneself or others). Furthermore, guarding the soul (*hifd an-nafs*) as the second principle in *maqashid asy-shari'ah* theory requires that Islamic teachings respect a person's right to life. That's why there is a prohibition against killing, injuring, and molesting someone in a vanity way. Money laundering seriously disturbs the soul (*an-nafs*) of a person who should be guarded and respected. Especially when viewed from the predicate crime from money laundering crimes, such as corruption and terrorism. The proceeds of crime obtained from corruption crimes, then he disguises them with the aim of adding and accumulating as much wealth as possible in order to fulfill his desires, for example, he invests some of it in property and others he distributes it to others to create terror, it will not be counted. how many victims / lives were harmed as a result of the tricks of the money launderers.²⁴

Likewise, reason (*al-'aql*) is one of the most important parts that must be preserved based on the purpose of the law in Islamic teachings. The position of reason for human life is very fundamental, because without reason, humans are only animal creatures. In the life principle of the animal group, who is strong, then he is in charge. This is certainly different from human life, which is full of creativity, skills, covered in various social, cultural, religious, educational and so on. Where everything is carried out solely to achieve benefit for human life, both in this world and in the hereafter. The process to achieve this benefit cannot be achieved without one of which involves the role of reason in it. Therefore, reason needs to be preserved and guaranteed its safety from destruction. One of them is by stopping the circulation of narcotics in this country. In addition, law enforcement officers are obliged to trace, destroy and seize the proceeds of crime from the narcotics crime perpetrator, so that its circulation is interrupted. Because it is feared that the proceeds of narcotics crimes will be disguised through the financial system or something else, and are reused to carry out these illicit activities..²⁵

Furthermore, the third mandate of *maqashid ash-syari'ah* is to guard the offspring (*hifd an-nasl*). Heredity in Islamic teachings is something that many married couples dream about. Therefore, to create *maslahah* related to heredity, Islam requires marriage and to preserve it Islam prohibits adultery, accuses adultery (*qadzaf*), abortion and all forms of pregnancy prevention except for *dharurat / hajat*. 16 From this, then a simple question arises, why is adultery, accusing adultery, abortion and the like is prohibited in Islamic law? This cannot be separated because of the enormous influence between a woman and the fetus she is carrying, even this influence can be carried over to the time of childbirth. Rasulullah SAW said:²⁶

الشقي من شقى في بطن أمه والسعيد من سعد في بطن أمه

Meaning: "What is miserable is what is miserable in his mother's stomach and what is happy is those who are happy in his mother's stomach".

One example that can be put forward is what was conveyed by Prof. Mansur Rajab in his book *Ta'ammulat fi Falsafati al-Akhlaq*. She told the story of a woman who had illegal sex (adultery, pen) with a family doctor. Once when the intercourse was taking place, the woman's husband came, so that she (the woman) was overcome with fear which caused her to tremble. Finally she gave birth to a child who was crippled and trembled all over. Therefore, psychologists conclude that whatever a woman feels about her pregnancy, whether it is filled with fear or optimism, whether it concerns the fetus or herself, all affects the mother and the fetus during pregnancy and childbirth. In the context of globalization, the issue of adultery is closely related to the perpetrators of money laundering. Because one of the predicate crimes from the money laundering crime as defined in Article 2 paragraph 1 letter u is constitution. Thus it can be understood that assets from the proceeds of the crime of prostitution can also be washed in activities that look lawful, so that it is as if the perpetrators of prostitution get the assets from legitimate sources. For this reason, efforts are needed that lead to the eradication of the crime of money laundering, so that the principles of *hifd* and *nasl* can be guaranteed safety.²⁷

Finally, what is also very fundamental in *maqashid ash-syari'ah* is safeguarding property (*hifd al-maal*). The issue of property in human life can be said to be a complicated problem. Because on the one hand, property can sometimes make someone commit despicable acts, such as murder, corruption, selling narcotics, and so on. While on the other hand, wealth can make someone to do praiseworthy

²⁴ *Ibid.*,

²⁵ *Ibid.*, p. 8.

²⁶ *Ibid.*,

²⁷ *Ibid.*,

deeds, such as charity, infaq, and all kinds of other forms of social worship. Therefore, to safeguard the benefit of wealth, Islam requires making various kinds of transactions (mu'amalah) that are lawful and trying to find a source of livelihood in a good way. Islam strongly prohibits forms of deprivation of the property of others in vain, such as theft, robbery, corruption and so on, including money laundering. Thus, it becomes clear that the perpetrators of money laundering crimes have violated the five very principles in Islamic law. So the perpetrator can be subject to sanctions in accordance with the size of the loss (mudharat) resulting from the crime he committed.²⁸

In the view of modern society, punitive sanctions in Islamic criminal law are still seen as cruel and sadistic sanctions, especially those related to crimes in the had and qishas categories. In cases of theft, for example, dogmatically in the Qur'an, they are subject to cutting off their hands. In fact, in the implementation of the cutting off of hands, the various requirements must be met beforehand. Likewise in cases of adultery, where the perpetrator can be sentenced to a severe sentence in the form of public flogging. The majority of the people view that the punishment is very severe or even harsh, even though the religious orientation is more about efforts to maintain the standard of moral values. However, this religious orientation tends to be regarded as taboo in modern society, which views adultery or sexual relations outside of marriage as not against morals. Considering that the two crimes above are one of the many predicate crimes of money laundering, it is necessary to have efforts or strategies to overcome them, both preventive and repressive. Several strategies that can be implemented to prevent money laundering are as follows:²⁹

- a. Educational instruments, the world of education is more or less tarnished by the reputation of the perpetrators of crime, especially money launderers, because the majority of those who commit these crimes are those who are educated in the world of education. Is there any hope in the world of education to instill anti-money laundering values? Especially in the midst of society the insinuation "don't go to high school, later it will work corruption". education is often referred to as the best space to impart moral values and knowledge from an early age to the nation's future generations. In addition, there is a need for teaching or learning about anti-money laundering materials. So far, what has often been heard, whether in training, seminars or other scientific forums, is only the issues of anti-corruption, anti-narcotics and anti-terrorism. The recognition of these three crimes is good, considering that most of the assets that are disguised as origin come from various types of crimes that are classified as organized crime or white-collar crime like the three forms of crime above. But even better, if at the same time, anti-money laundering material is also being disseminated and implanted in students. The goal is that they also know about the dangers of money laundering which is very detrimental to the nation and the State.
- b. Religious instruments, Religion for most people is believed to be a direction that will lead him to the path of salvation. Therefore, there is no religion whatsoever that condones behavior that can injure the interests of a person, both individually and communally / in general. But there is an irony in practice, because many religious followers go against the currents that have been determined in religion. So that not a few of them were sentenced or sanctioned as a result of their actions. The spirit of religion is normatively fixed and unchanging, that all kinds of injustices will end in destruction. Money laundering can be said to be a form of tyranny. Because the assets owned by the perpetrators of money laundering crimes are obtained by wrongdoing and most of them are reused to tyrannize others..

Furthermore, religious messages about the prohibition of taking and using other people's property illegally (illegally) need to be echoed in various activities of religious councils, both in formal and non-formal forums. The hope is that through religious institutions, the crime of money laundering can be minimized or even resolved. Therefore, several things that can be done through this religious route include:³⁰

- a. Optimizing the potential of worship institutions, such as mosques, as places for community formation.

²⁸ *Ibid.*, p. 9.

²⁹ *Ibid.*, p. 10-11.

³⁰ *Ibid.*, p. 11.

- b. Religious leaders (kiai, ulama ', muballigh, etc.) should equip themselves with knowledge of the dangers of extraordinary crime, especially money laundering. So that when delivering his speech at government agencies or in various corporations, it is not always filled with religious lectures alone, but is able to correlate religious perspectives on the dangers of various extraordinary crimes mentioned above, including money laundering crimes.
- c. It is no less important that the public is obliged to encourage the issuance of a fatwa on the prohibition of the crime of money laundering by religious leaders.
- d. The next task of the community and religious leaders to prevent money laundering is to clean religious institutions, such as mosques, madrasas, LAZIZ and so on, from various money laundering practices. In a way, always be careful when there are large funds under the guise of alms or grants from donors.

C. Conclusion

Explicitly, Islamic criminal law (jinayah) does not explicitly mention the term money laundering. He only mentions terms that have the same elements in his actions as money laundering, including theft, embezzlement, fraud, and treason. In general, Islamic law prohibits all forms of action to obtain income or property (rizki) in vain or attempts to possess property illegally. Money laundering is likened to theft (sariqah) in Islamic law, because ML perpetrators hide the assets they have taken without giving a mandate for it. Money laundering is identified with embezzlement (ghulul) in Islamic law, because ML perpetrators take property that is not their right and hide it in their property. Money laundering is called fraud, because it contains the element of deceiving law enforcement officials by hiding the proceeds of crime, as if the assets were the result of legitimate activities. Even so, it is said to be a form of betrayal, because ML is generally a form of betrayal of the public's mandate that should be carried out properly.

The contribution of Islamic law in the context of tackling the crime of money laundering is in the form of optimizing the potential of religious institutions, such as mosques, as places for community development, religious leaders (kiai, ulama ', preachers, and so on) should equip themselves with knowledge of the dangers of extraordinary crime. , in particular the crime of money laundering. The next task of the community and religious leaders to prevent money laundering is to clean religious institutions, such as mosques, madrasas, LAZIZ and so on, from various money laundering practices. In a way, always be careful when there are large funds under the guise of alms or grants from donors.

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