The Impact of Criminal Policy on Money Laundering Against the Resilience of the Law (Study in the Military Court Law Area I-03 Padang)

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ABSTRACT

Differences in the authority of investigators over money laundering crimes committed by members of the Indonesian National Armed Forces lead to disharmony of norms, thus creating polemics in the law enforcement process, especially in efforts to eradicate money laundering. Currently, there is an expansion of investigative competence based on the Decision of the Constitutional Court of the Republic of Indonesia, which states that predicate criminal investigators are officials or bodies authorized by laws and regulations to conduct investigations. Violations committed by members of the Indonesian National Armed Forces against the crime of money laundering should be under the jurisdiction of the Military Court. This study aims to determine the development and impact of legal policies related to members of the Indonesian National Armed Forces who commit criminal acts in the jurisdiction of the Military Court I-03 Padang. The analysis of this research uses a descriptive qualitative approach by using primary and secondary data. The results indicate that the competence of military courts is vulnerable to discontinuing the legal process of money laundering. Military courts should also be given the authority to try Indonesian National Armed Forces members who commit money laundering crimes. Investigation of The Crime of Money Laundering committed by members of the Indonesian National Armed Forces in the ius constitutendum must be formulated more firmly in the Money Laundering Law. Thus, the Indonesian National Army members who violate the entered in categorization of General Crimes or non-military will be subject to the general justice system, and in the investigation carried out by investigators in the general court as described in the provisions in accordance with the limitative theory.

Keywords: Criminal Policy; Investigation Competence; Money Laundering;

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INTRODUCTION

Cultivating an attitude of obeying the law will not be realized if the agency that should uphold law enforcement is not able to show support for law enforcement. The Indonesian National
Army as an institution that prioritizes discipline and obedience to the rules will not be able to contribute strongly in terms of law enforcement if it does not reflect an attitude that makes the law a benchmark in taking action. For this reason, every member of the Indonesian National Armed Forces must have legal awareness that upholds the principle of the rule of law, namely placing the law above all else and always respecting human rights. To ensure this, efforts are made to increase awareness and law enforcement in the environment. The Indonesian National Army must receive special attention. (Oschewitz, 2018) This is because a lack of understanding of the law is a trigger that can be a source of unlawful acts among the Indonesian National Armed Forces in addition to other internal and external factors. (Syahnakri, 2009)

The organizational structure of the Indonesian National Armed Forces is commander, so the commander is someone who has the authority to make decisions. For this reason, the legal awareness of Indonesian National Armed Forces soldiers is the duty of each commander from each level of the army unit. Thus, the level of legal understanding and discipline of Indonesian National Army Soldiers is something that a commander must consider. In addition to providing awards or imposing mandatory sanctions to be done as well as possible to ensure that law enforcement functions properly. Mandatory awards are based on achievements in carrying out obligations or duties, not on other factors that are not related to professionalism in carrying out tasks. (Arifin et al., 2018) If a Soldier is not professional, fails in carrying out his duties, is unable to complete the task according to the standard time set, is not disciplined or acts against the law, then the soldier is obliged to receive punishment. The sanctions given are mandatory with firm action, and if necessary the sanctions are conveyed within the soldier's duty environment so that they become an example and have a deterrent effect. In imposing sanctions, it must be based on positive intentions. In other words, the sanctions must have a positive and long-term impact so that they can shape the character of Indonesian National Army Soldiers and prevent other Indonesian National Army Soldiers from taking unprofessional actions or violating these regulations.

Law must be used as guiding sign for the formulation of rules to increase the professionalism of Indonesian National Armed Forces Soldiers who are dynamic and have sensitivity to social dynamics, in implementing policies to enforce the law, they must consider the pace of reform. So increasing the professionalism of Indonesian National Army Soldiers is a crucial thing and must be improved based on the values of struggle and the identity of the Indonesian National Army in carrying out their duties as Soldiers. Sapta Marga Warriors.

The Indonesian National Armed Forces, the foremost organization in national defense, demands all its soldiers to be able to continuously improve their professionalism, which is the main factor in the national defense force to defend the sovereignty and territorial integrity of the Unitary State of the Republic of Indonesia. In order to increase the professionalism of the Indonesian National Army Soldiers so that they are always in a condition that meets expectations,
it can be carried out through the maintenance and improvement of the morality of the Soldiers by building awareness and enforcing the law. (Hicks, 2013)

Military criminal law becomes a reference in dealing with crimes or violations of the law by members of the military. However, international law does not include rules regarding international maritime law and international aerospace. (Abdurrasyid, 2006) in fact, emphasizes that this is something crucial because the working group of the Indonesian National Armed Forces consists of ground units known as the Indonesian Army National Army, the Indonesian National Army Air Force, and the Indonesian National Army Navy. However, there is currently no statutory provision for the military civil law for the working group.

Law should be used as capital for terms of position, role and military duties in Indonesia. This is a demand from the rule of law which is used as a prerequisite for realizing democracy in all countries in the world. Violations committed by military personnel when carrying out their duties and roles in a professional context, including their position in the government structure or outside it must be regulated by legal provisions. Likewise, even the doctrine in military matters, if it is to be used as a basis for military work or authority, should be included in the laws and regulations. The law should be used as a legal instrument that becomes a sign for the implementation of military duties in Indonesia, which is also a reference for control.

Establishing laws and regulations aims to provide valuable values, a sense of justice and legal certainty to the community so that life in the nation and state becomes organized and orderly. Harmonization of the formation of good laws and regulations that are easy to apply in society is the central pillar of the administration of a country’s government (Indrati, 2013). However, when the law was enacted, various problems arose beyond its unthinkable discussion and formulation and beyond the reach of legislators. (Harahap, 2010). This fact is due to the dynamic changes of society both nationally, regionally and internationally which cannot be accurately predicted by humans. Society is constantly changing (social change) and has become an eternal law in the development of human history.

In many cases, social changes that occur in the community require the ability of law enforcement officials’ ability to interpret legal elements to produce new legal policies. Interpretation is the most important activity in law. This method of interpretation makes it possible for law enforcement officers to understand the textual meaning of the law in resolving cases or making concrete decisions (Khalid, 2014). For example, crimes committed by members of the military or the Indonesian National Armed Forces in the Crime of Money Laundering are saved together with civil society. In the judicial system, the case of Crime of Money Laundering This can be done through the judicial system of connectivity. However, during the investigation process, a problem arose regarding the competent investigative authority of the crime.

The Money Laundering Law limits the agencies that have the authority to investigate money laundering crimes, which include The Police, the Prosecutor’s Office, the Corruption
Eradication Commission, the National Narcotics Agency, and the Directorate General of Taxes, and the Directorate General of Customs and Excise, Ministry of Finance of the Republic of Indonesia. Unlike the case according to Law Number 31 of 1997 concerning Military Courts, all criminal acts by military members, including general and military crimes, are investigators from the Indonesian National Armed Forces who have the authority to investigate.

The contradiction between the two laws and regulations regarding investigative competence creates a dilemma in law enforcement in Indonesia. Moreover, Law Number 34 of 2004 concerning the Indonesian National Armed Forces affirms the submission of members of the Indonesian National Armed Forces to the power of the general judiciary when involved in a public criminal act, and vice versa, if engaged in a military crime, they must comply with the law. Military Justice system. This separation of judicial powers will take effect if the Law on Military Courts is amended. This condition becomes a dilemma for Indonesian National Armed Forces members who are involved in general crimes, such as money laundering.

Money laundering practices carried out by unscrupulous members of the Indonesian National Armed Forces are often carried out on money obtained from the proceeds of the crime of buying and selling narcotics. Money laundering is a further crime (derivative crime) from the predicate crime. Law enforcement against money laundering and narcotics crimes requires synergy and strategic roles from each institution simultaneously following their authority (Bahreisy, 2018). However, the crime of money laundering committed by members of the Indonesian National Armed Forces leaves a legal loophole related to the investigation authority. There is a conflict of investigative authority between Law No. 8 of 2010 and Law No. 31 of 1997. Law No. 8 of 2010 explicitly and imitatively states that the investigation of money laundering crimes originates from investigative institutions within the general court environment without including investigators from the military court environment. Meanwhile, Law Number 31 of 1997 stipulates that investigators authorized to conduct investigations into all kinds of criminal acts committed by the Indonesian National Armed Forces are investigators within the military court environment.

METHOD

This study uses a normative legal research method with an analytical approach to the authority of investigators in cases of money laundering crimes committed by elements of the Indonesian National Armed Forces. Meanwhile, the types and sources of legal materials used in this study are secondary data types in the form of primary, secondary, and tertiary legal materials related to the problems in the research. The technique of collecting legal materials or secondary data in this research is done by using a literature study that examines written information about the law from various sources related to the problem.
ANALYSIS AND DISCUSSION

A. The Position of Judicial Jurisdiction Against Members of the Indonesian National Armed Forces as Perpetrators of Criminal Acts.

The conception of judicial jurisdiction for Indonesian National Armed Forces soldiers involved in criminal acts can be conveyed in a number of public thoughts, including civil society or military members. (Qamar et al., 2017) Muladi said that military courts are still needed but are limited to military cases, which civilians cannot do, for example desertion and insubordination. However, for other violations of criminal law such as theft of money, weapons and military secrets, adultery, and corrupting funds, even though the incident occurred at the headquarters or in contact with military duties or positions, it is still processed in the general court and the police investigation because these cases are not unique military.

Here are some examples of other jurisdictional thinking:

1. If a soldier is involved in the act of violating military law, it must be resolved through a military court. However, problems that often arise in Indonesia, namely soldiers with ordinary offenses, are also resolved through military courts. Military courts should only process offenses related to the military. For example, the theft of weapons, data or military secrets. (Supriyatna, 2017)

2. Courts only function to enforce justice for purely military offenses, such as desertion. The competence of Military Courts should be limited to crimes that are directly related to military matters, such as desertion and theft of weapons of war. (Hanggonotomo, 2013)

3. It is recommended to limit the scope of criminal acts by the Indonesian National Armed Forces, which are included in the realm of Military Courts. The limitation is only on criminal acts by Indonesian National Armed Forces members related to their positions and authorities in the military organizational structure. These crimes include non-criminal acts that have an impact on the performance of the Indonesian National Armed Forces. For example, the misuse of information or data of institutions, military facilities, and infrastructure. (Utami & Supriadi, 2014)

4. Rear Admiral of the Indonesian National Armed Forces name as N. Tarigan as the former Executor of the Supreme Military Court and Brigadier General of the Indonesian National Armed Forces Bachrudin, who once served as Head of the Legal Bureau of the Ministry of Defense also conveyed in interviews with researchers that all criminal acts of members of the Indonesian National Armed Forces that occurred at the headquarters were included within the jurisdiction of the Military Court. The basis for consideration is that even though the crime is categorized as a general public Crime, such as adultery (Article 284 of the Criminal Code, it will have the potential to have a negative impact on troop performance. This thinking is based on a soldiering tradition that includes quick reaction, le esprit de corps, loyal, courage and self-sacrifice, made all members of the Indonesian National
Armed Forces potentially not accept, or fight against other parties who are not members of the Indonesian National Armed Forces to handle their problems or their units, moreover, when carrying out their duties they carry weapons.

5. Name as Bachrudin believes that if the provisions of Article 3 paragraph (4) letter a, decision of the People's Consultative Assembly Number VII/MPR/2000, are applied, the impact will be that cases that fall under the authority of the Military Court include (1) all criminal acts included in the Judicial Law. Military; (2) General Crimes committed by members of the Indonesian National Armed Forces in military service; (3) General Crimes committed by members of the Indonesian National Armed Forces in headquarters, knighthood, dormitories, and ships/planes; and (4) General Crimes committed by soldiers in a state of martial law and a state of war. Furthermore, it was conveyed that criminal acts in the Military Court Law are criminal acts that include military rebellion, desertion, insubordination, and holding goods for war purposes. Such crimes have the potential to have a negative impact on the work of the Indonesian National Armed Forces. On the other hand, general crimes committed by members of the Indonesian National Armed Forces in military service are interpreted as criminal acts committed in office, for example, acts of corruption committed by logistics officials in purchasing war equipment.

It can be understood that there are differences of opinion between civilians and the military regarding the jurisdiction of the judiciary for the Indonesian National Armed Forces soldiers. Thus, these thoughts can be categorized into 3 (three) groups, namely:

1. The idea is that the jurisdiction of the Military Courts is limited to typical military crimes. The violation can occur only if the person concerned is a member of the Indonesian National Army. In other words, the offense is not possible for civilians to commit. So it can be said that this idea provides clear boundaries for the jurisdiction of the Military Courts.

2. Thoughts that want the jurisdiction of the Military Court include crimes related to its position and authority in the structured military and all matters relating to or relating to the army. This thinking has a greater scope than the previous thought. This can be seen from the jurisdiction of the Military Court, which includes other crimes related to the military other than those involved in the military typical or purely military. (Utami & Supriadi, 2014).

3. Thoughts that want the jurisdiction of the Military Courts include specific crimes or purely military, related, as well as general ones as long as the perpetrators are members of the Indonesian National Armed Forces and occur in military areas. From this statement, it can be understood that this idea has the broadest scope compared to the previous two ideas by making the location of the crime (locus delicti) the basis. N. Tarigan conveyed this thought as Rear Admiral of the Indonesian National Army, Bachrudin as Brigadier General of the Indonesian National Army, Major Warsono, and Special Lieutenant Colonel Budiharto.
The legal process for Indonesian National Armed Forces members involved in criminal acts (general, military, and special) is carried out at the Military Court according to the state constitution, which is stated in the 1945 Constitution of the Republic of Indonesia and derivative legislation. Article 24 Paragraph (2) of the 1945 Constitution of the Republic of Indonesia states that judicial power is exercised by the Supreme Court and the judicial bodies under it in the General Courts, the Judiciary Religion, the Military Court environment, the State Administrative Court environment, and the Constitutional Court.

Regulations regarding Military Courts are contained in Law Number 20 of 1982 concerning Basic Provisions for the Defense of the Republic of Indonesia, which was later replaced by Law Number 1 of 1988 concerning Amendments to Law Number 20 of 1982, which mandated that the Armed Forces should have a judiciary. Separately and each commander has the authority to submit cases.

Military Court Regulations are also contained in Law Number 48 of 2009 concerning Judicial Power. Furthermore, in Law Number 48 of 2009, there are 4 (four) pillars for implementing judicial power in Indonesia. First, the General Court, which is regulated in Law Number 49 the Year 2009 Jo. Law No. 8 of 2004 Jo. Law Number 2 of 1986. In the General Courts, there are a number of special courts, namely the Juvenile Court, Commercial, Human Rights, Industrial Relations, Corruption Crimes, and Fisheries. Second, the Religious Courts, whose regulations are contained in Law Number 50 of 2009 Jo. Law No. 3 of 2006 Jo. Law Number 7 of 1989. Third, the State Administrative Court, whose regulations are contained in Law Number 51 of 2009 Jo. Law No. 9 of 2004, Jo. Law Number 5 of 1986, has one special court, namely the Tax Court. Fourth, the Military Court, whose regulations are contained in Law Number 31 of 1997. (Pramono, 2016)

Military Courts exist in the justice system in Indonesia as a logical consequence of the status of objects of criminal acts with military status. This trial is intended for members of the military or those who are equated with the military. This means that if a criminal act involves military members, a military criminal law is applied whose regulations are contained in the Military Court Law as the material law and the formal law is the Military Criminal Procedure Code. Military Courts are aimed at ensuring the implementation of military tasks or state defense in accordance with the provisions of the applicable laws. Suppose the unit commander does not have the authority to settle cases of his subordinate soldiers. In that case, he has the potential to face obstacles due to interference in terms of fostering the readiness of the unit to carry out tasks. The purpose of giving this authority is to be used as an instrument to control subordinates as an effort to develop the unit's operational readiness.

The Decree of the People's Consultative Assembly of the Republic of Indonesia Number VIII/2000 and Article 65 Paragraph (2) of Law Number 34 of 2004 explained that the People's...
Representative Council of the Republic of Indonesia and the government were represented by the Minister of Defense, the Minister of Law and Human Rights, and the National Armed Forces Headquarters. Indonesia took follow-up actions to discuss changes to Law Number 31 of 1997 concerning Military Courts. The Special Committee for the People's Representative Council of the Republic of Indonesia has held a working meeting with the government. However, there has been no agreement regarding the proposal of the House of Representatives of the Republic of Indonesia in terms of the draft law on the Military Court Law, especially in terms of changing the competence of the Military Courts. The government remains guided by the legal principles contained in Law Number 31 of 1997 concerning Military Courts. In addition, the government also hopes to amend other legal instruments regarding criminal acts where the perpetrators are members of the military. Thus, because the Law on Military Courts has not been finalized and has not yet been ratified as a law, in order to avoid a legal vacuum (recht vacuum), the handling of criminal acts involving members of the military is still using Law Number 31 of 1997 concerning Military Courts.

The implementation of Law Number 31 of 1997 on money laundering crimes committed by military members will impact criminal policies related to investigative authority. Military Police have the powers and functions of superiors who have the right to punish officers who submit cases in the investigation and investigation stages that should be carried out by the police. In addition, the military prosecutor has the authority to prosecute, which should be the authority of the prosecutor in criminal cases.

B. The Impact of Criminal Policy on the Crime of Money Laundering in the Legal Area of the Military Court I-03 Padang

The National Narcotics Agency of Indonesia (BNN) on July 2, 2013 has arrested 2 (two) narcotics dealers who are elements of the Indonesian Air Force, known as Roesmin Nurjadin from Air Base Unit in Pekanbaru city. The Regional National Narcotics Agency arrested a member of the Indonesian Air Force Sergeant Two (Serda) Riki Yurdani at the same time as Sergeant Major (Serma) Bambang Winarno. Both were detained based on the Decree of the Roesmin Nurjadin Airbase Pekanbaru Number: Kep/05/VII/2013 dated July 10, 2013. The evidence that was confiscated by BNN in the two arrests were: 12 packs of ecstasy (1 pack containing 19 pills and 11 packs containing 18), a backpack, cell phone, 2,400,000 IDR in cash, one motorcycle key and one car key, and an Indonesian Air Force identity card. In addition to the main supplier of ecstasy and became a dealer of ecstasy type drugs. From the BNN investigation process, Sergeant Major (Serma) Bambang Winarno is suspected of committing the Crime of Money Laundering from the proceeds of his drug business so far. The indications are that Serma Bambang Winarno has assets worth billions of rupiah which is allegedly obtained from money laundering. Serma Bambang Winarno placed the cash proceeds from the drug business in the bank, so this money laundering became a further criminal act of the drug business crime committed.
Investigation into the crime of money laundering, with the main crime being drugs, which the National Narcotics Agency will carry out, has a different understanding of the authority of the investigation. The reason is that the perpetrator is a member of the Indonesian National Army, and the Indonesian National Army carries out the legal process in conducting the investigation – Air Force Rusmin Nuryadin New Week and then the trial was examined and brought to trial the defendant Serma Bambang Winarno and Serda Riki Yurdadi at the Military Court I-03 Padang. The decision of the Military Court I-03 Padang on February 12, 2014 to Defendant Bambang Winarno and Defendant Riki Yurdani with each imprisoned for 5 (five) years, a fine of IDR 300,000,000,- (three hundred million Indonesian Rupiah) and dismissed from military service.

In this decision, it was proven that he had legally committed a criminal act without the right to buy, receive, or become an intermediary in the sale and purchase of narcotics. The allegation of committing no crime of money laundering from the proceeds of the drug business as a follow-up crime from not being convicted of narcotics as a non-predicate crime, at the Padang Military Court I-03 trial was investigated so that it was not revealed, who was tried in this case about the predicate crime or the main crime, namely narcotics crime.

The two decisions are a dilemma phenomenon in the practice of law enforcement in Indonesia, harmonized investigations in the legal process of the Crime of Money Laundering have an impact on law enforcement against members of the Indonesian National Armed Forces who commit the Crime of Money Laundering. The paradigm of the Indonesian National Army, which is still adamant in using Law Number 31 of 1997 concerning Military Courts in criminal acts committed by members of the Indonesian National Armed Forces makes the existence of Law Number 8 of 2010 concerning the Crime of Money Laundering not strong and the seriousness of the State to eradicate the crime of laundering money weakens. The conflict between these two regulations causes the inability to achieve legal certainty, justice, and benefit in giving an appropriate sentence to the defendant. Concrete rules should not conflict with legal principles, namely the principle of lex posteriori derogat legi priori. This principle means law the new law changes or abolishes the old law which regulates the same material. The lex posteriori category of the new regulation is Law Number 8 of 2010 concerning the Crime of Money Laundering, while Law Number 31 of 1997 concerning Military Courts is in the legi priori category.

The initial process of investigating the crime of narcotics against Serma Bambang Winarno and Serda Riki Yurdani of the Indonesian National Armed Forces – The Air Force is committed to the enforcement of the Crime of Money Laundering starting from the investigation process to the trial process at the Military Court I-03 Padang, it is not complicated from the applicable legal aspect. Law Number 31 of 1997 concerning Military Courts stipulates that the authority to investigate all kinds of criminal acts committed by soldiers of the Indonesian National
Armed Forces, whether general crimes or military crimes, is the investigative authority of the
Indonesian National Armed Forces. Likewise, PPATK is of the opinion that the Indonesian
National Armed Forces has the authority to investigate and investigate cases of Money
Laundering involving members of the Indonesian National Armed Forces. (Ahy, 2013)

Article 74 of Law Number 8 of 2010 concerning the Crime of Money Laundering states
that investigations are carried out by investigators of predicate crimes who is an official from the
agency authorized in the investigation, namely the Police of the Republic of Indonesia, the
Prosecutor's Office, the Corruption Eradication Commission, the National Narcotics Agency,
the Director General of Taxes, and the Director General of Customs and Excise, contrary to the
concept of investigation according to Law No. 31/1997 on Military Courts, which strongly
maintains investigative authority, comes from the Indonesian National Armed Forces. The
contradiction in the investigative authority in the two laws also intersects with Law No. 34 of 2004
concerning the Indonesian National Army, implying that the investigatory authority of the Military
Courts regarding violations of military criminal law is subject to investigations in the general
jurisdiction regarding violations of general criminal law, and it was regulated by law.

Article 74 limitatively clearly does not include other investigative institutions other than
the ones already mentioned. In addition, the Money Laundering Law also clearly states its use for
citizens, and members of the military in general can also be referred to as citizens (Reza et al.,
2007). This provision is strengthened by Article 68 concerning investigation, prosecution and
examination of court hearings as well as the implementation of decisions, which have permanent
legal force, on the provisions that have been regulated in the two articles that do not require
interpretation. The concept conveys that if we consider the provisions of Article 68 of Law Number
8 of 2010, then the provisions of the legislation as the basis for doing the investigation of the
Crime of Money Laundering is the Criminal Procedure Code, with the exception of Law Number
8 2010 states otherwise. This shows that deviation is possible as long as it is determined by Law
Number 8 of 2010 (Amrullah, 2020).

Until now, the regulation that still applies to criminal acts of military personnel is the Law
on Military Courts. Regarding investigators who have the right to conduct investigations, it is
regulated in Article 1 number 11 of the Military Court Law, namely Investigators of the Armed
Forces of the Republic of Indonesia. It was further explained that investigators are superiors who
have the authority to give punishment, certain military police officers, and public prosecutors with
special powers under applicable laws.

This rule is reaffirmed by Article 69 paragraph (1) of the Military Court Law which explains
that investigators are superiors who have the right to give punishment, Military police, and the
prosecutor. Furthermore, Article 1 point 16 of the Law on Military Courts explains that what is
meant by investigation is the process of action by the investigators of the Armed Forces of the
Republic of Indonesia carried out according to the technical regulations regulated in the law with
the aim of finding and collecting evidence that can provide a clear picture of criminal acts, so that the suspect can be identified.

Prosecution activities, in fact, mainly at the stage of proving the Crime of Money Laundering, are not a simple process, this is due to the complexity of Evidence collection starts from the investigation stage. Besides that, reverse assumption evidence has been carried out at the investigation stage, namely that the prosecutor did not need to prove that the elements of assets that are predictable and or is known to originate from a criminal act is not proven. Thus, it becomes a concern that it will pass at the stage of presenting evidence in court. The source of the problem is because of this rule does not require the search for evidence at the investigation stage, however in the indictment must fulfill the formulation of the offense as well as the elements of assets originating from from a crime that is suspected or known is the essence of the offense (bestandeel). This condition has the opportunity to be used as an opportunity by lawyers, unless the formulation is there is no offense that element. Meanwhile, if the element is omitted, the meaning of the provisions washing money will be lost and not in line with the concept of the proceeds of crime Act.

At the prosecution stage, it must be well understood if the indictment must be built with a cumulative concept is not an alternative, this is because predicate offense and money laundering are criminal acts. Even though money laundering must be linked to its predicate offence. Unfortunately, money laundering is a separate crime (as a particular crime). Which means that the indictment for the crime of money laundering, for example, relates to the indictment of Article 3, then predicate offense and the follow-up crimes were charged at once.

Suppose you look at the perpetrator's condition under Article 3. In that case, Single charges are possible, namely when the person who launderers money from the proceeds of a criminal act in which the perpetrator is not directly involved with the crime, but he should suspect that the money came from a criminal act. These perpetrators, are not obliged to account for their predicate offense but only for the crime of money laundering. Furthermore, there is still a single indictment for the crime of money laundering which is not required to link it with the predicate offence. An example is if the perpetrator is only related to the indictment of Article 6, namely the perpetrator is only responsible for his actions, namely passive money laundering, namely receiving and other assets that are known or reasonably suspected to have originated from criminal acts. Thus, it can be said that the perpetrator is only related to Article 6, so that the indictment is only single or alternatively charged with other relevant Articles. The main thing that must be considered is its suitability with the fact that there is only one involvement.

Article 1 number 25 of the Law Military Court explained that the suspect is someone who is classified as a Military Court judiciary, namely: because of the things that were done or the circumstances that were proven At the outset, it is reasonable to suspect that he is the perpetrator
of a crime. (Kurniawati et al., 2018) Furthermore, regarding the judiciary of the Military Courts, an explanation can also be obtained in Article 9 point 1 of the Military Courts Law, namely that the Courts in Military Courts have the authority to conduct trials of criminal acts whose perpetrators, when committing these actions, are (1) Soldier; (2) According to the Law equated with soldiers; (3) Member of a group or ministry or body or equivalent or considered a soldier based on Constitution; and (3) Someone who is not a soldier or according to the law equated with soldiers or member of a group or service or body or equivalent and considered as a soldier; by decision commander in chief and approval of the Minister Judiciary, tried by the Military Court.

Article 1 number 25 and Article 9 number 1 of the Military Court Law provide legal possibilities for the Money Laundering Law which provides interpretation to make exceptions for the perpetrators of the Crime of Money Laundering, namely members of the Indonesian National Armed Forces, even though the Law on the Indonesian National Armed Forces has stated in Article 65 paragraph (2) Soldiers are subject to the authority of the Military Courts for military crimes regulated by law. However, the enactment of the article is carried out with conditions, as stated in the transitional provisions of Article 74 paragraph (1). The provisions referred to in Article 65 were enacted when the new Law on Military Courts was enacted. And paragraph (2) reads as long as the new Law on Military Courts has not been drafted, the provisions of Law Number 31 of 1997 concerning Military Courts will still apply. This condition shows a conflict of norms or disharmony between the Law on Money Laundering and the Law on Military Courts.

Consequently, there has been a tug of war on authority/competence regarding the conduct of investigations between the investigative institutions which are regulated in a limited manner in the Law on the Crime of Money Laundering and within the Military Courts. Thus, the solution requires legal politics regarding conflicts to ensure legal certainty for the implementation of law enforcement. Criminal law policy (penal policy) or penal law enforcement policy possible to do in a number of stages namely formulation (legislative policy), application (judicial policy) and execution (executive policy or administrative policy). (Setyowati & Rusdiana, 2020)

The jurisdiction of the subject of the perpetrator of the crime (rational personae) in addition to being limited only for members of the military also only for military offenses (criminal). (Decaux, 2005) Violation (criminal), according to this concept, can be distinguished from General Crimes. Of course, it is not easy thing to be able to provide a clear definition of military criminal offenses caused by many variations of categorization contained in a number of military criminal law books in the world. (Moran et al., 2019)

Even at the international law level, problems are still found in formulating definitive criminal offences. There is a convention that regulates the problem of extradition, the European Convention on Extradition 1957, which implicitly explain the difference between military and general criminal offenses, which are needed for the process of determining whether or not an extradition of a suspect can be carried out. (Wijayath, 2018) Another problem is declaring an act
of military violation in the context of work and peacekeeping operations. However, this convention is still not able to provide a definition or a list of actions of military offenses. In the research on Military Justice by the United Nations expert, Mr. Emmanuel Decaux advises that the Code of military justice be evaluated through a regular period systematically so that it does not happen overlap between the military Criminal Code and the general Criminal Code. (Sucipto et al., 2022)

Other provisions confirming the exclusive jurisdiction of the Military Courts over military criminal offenses prepared using a non-binding instrument, namely the "Singhvi Declaration" a draft declaration of a group of experts who committed elaboration of the principle of independence and impartiality of judges, jurors, lawyers, and other court equipment. In fact it has been stated in the previous invention that the jurisdiction of military tribunals shall be confined to military offences. There shall always be a right of appeal from such tribunals to legally qualified appellate court or tribunal or a remedy by way of an application for annulment. (Gutiérrez & Cantú, 2010)

In Principle 31 concerning Restrictions on the Jurisdiction of Military Courts, the current Military Court system is believed to maintain the practice of impunity, (Joinet, 1997) with a character that is not independent and not accommodating to the principle of command responsibility, which results in limited jurisdiction to try military members who violate the law/committed military crimes according to the formula. (Joinet, 1997)

In order to avoid military courts in those countries where they have not yet been abolished, helping to perpetuate impunity owing to a lack of independence resulting from the chain of command to which all or some of their members are subject, their jurisdiction must be restricted solely to specifically military offenses committed by military personnel, to the exclusion of human rights violations, which shall come under the jurisdiction of the ordinary domestic courts or, where appropriate, in the case of serious crimes under international law, that of an international criminal court.

The Law on the Crime of Money Laundering clearly explains following Article 1 point 9 that the legal subjects of the Law on the Crime of Money Laundering are individuals who can be individuals or corporations, which furthermore on the formulation of predicate crime in Article 2 paragraph (1) describes predicate crime or predicate offense occurred outside the territory of the Unitary State of the Republic of Indonesia, and the crime is also a criminal act according to Indonesian law. According to this provision, it can be understood that the principle of personality or the principle of nationality is based on this principle, all citizens, wherever they are, remain obtain legal treatment from their country. (C. F. Wijayanti, 2020)

So that this principle has extraterritorial power, which means that the law of that country still applies to its citizens even though they live in another country. The principle given by the principle of nationality has an open nature but must meet the requirements that a country has set. So that civilians or military citizens are citizens, because they are the people of a country (Reza et al., 2007). So it is a must to comply with the provisions of the Money Laundering Law. However,
considering that the Military Court Law is still in effect, it provides legal opportunities for exceptions for perpetrators who are members of the Indonesian National Army. Thus, a solution is needed like what has been conveyed in a number of laws, such as:

1. Article 49 of Law Number 26 of 2000 concerning the Court of Human Rights.
2. Article 40 of Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption.
3. Article 44 Government Regulation in lieu of Law of the Republic of Indonesia Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism which is stipulated by Law of the Republic of Indonesia Number 15 of 2003 concerning Stipulation of Government Regulation in Lieu of Law Number 1 of 2002 concerning Eradication of Criminal Acts of Terrorism becomes Constitution.

Provisions regarding the authority of superiors who have the right to punish and officers who submit cases in accordance with the explanations of Article 74 and Article 123 of Law Number 31 of 1997 concerning Military Courts stipulated that they do not apply to examinations of gross violations of human rights in accordance with this law. it only applies to gross human rights violations and its jurisdiction applies to anyone, civilian or military.

In connection with this case, the perpetrator was charged with Article 114 paragraph (1) Jo paragraph (2) of Law Number 35 of 2009 concerning Narcotics. The legal subject of the article does not explain specifically and only mentions the phrase "everyone". It means that the legal subject is an individual or human (natuurlijke persoon) without mentioning civil or military so that the mention is generally accepted (Bahreisy, 2018). This has implications for the authority to try narcotics criminals whose authority falls on the general court so that starting from the investigation process until the trial is subject to the authority of the general court. Likewise, the phrase mentioning the legal subject of the perpetrator of the crime of money laundering contained in Articles 3, 4, and 5 is "everyone". In this case, the perpetrator is indicated to have committed an act as stated in Article 3, namely placing money in a bank from the proceeds of the narcotics business. If referring to the legal subjects contained in Article 3, the authority to try money laundering cases committed by the perpetrators should be in the general court.

Different for the filing of corruption cases within the Military Courts, the provisions as described in Article 123 paragraph (1) letter g of Law Number 31 of 1997 concerning Military Courts are declared invalid. In the three laws, it is clearly stated that a number of provisions in the Military Court Law are not enforced, although Law Number 31 of 1999 has very limited limitations. This condition is a step that is compatible with the national legal policy, namely the State of Indonesia in the implementation of legal politics using the basic philosophy of the State, namely Pancasila and the 1945 Constitution of the Republic of Indonesia. In addition, every five years, the People’s Consultative Assembly determines the concept of direction and purpose of Indonesia, known as GBHN, which is a body that legally holds the sovereignty of the people.
(Kosasih, 2019) In Article 3 paragraph (4) TAP of the People’s Consultative Assembly Number VII/People’s Consultative Assembly/2000 concerning the Role of the Indonesian National Army and the Role of the Police of the Republic of Indonesia it is stated that the law holds the sovereignty of the people. Article 3 paragraph (4) TAP of the People’s Consultative Assembly Number VII/People’s Consultative Assembly/2000 concerning the role of the Indonesian National Army and the Role of the Police of the Republic of Indonesia is stated.

The problem of norms between the Law on Money Laundering and the Law on Military Courts which has implications for the existence of a tug-of-war of authority and legal uncertainty, so that a solution is needed in the form of criminal law politics whose application can be with policy formulations at the legislative level through reformulation of the applicable legislation, which is the stage of legal reform in order to eliminate existing legal loopholes. In its implementation, it is harmonized with the national legal politics that have been determined, namely the TAP of the People's Consultative Assembly Number VII/MPR/2000 which is seen from the substantive side containing the reformation paradigm of the Indonesian National Army, which implies that violations of general criminal provisions must be subject to public justice.

When compared to Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering and Law Number 31 of 1997 concerning Military Courts both have specifics, Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering, the specificity of which is seen in the types of crimes and investigators, where the types of Money Laundering and the investigators have been determined. On the other hand, Law Number 31 of 1997 concerning Military Courts can be seen from the perpetrators of criminal acts and investigators, who specialize in the perpetrators of crimes being members of the Indonesian National Army or equivalent. As for the investigators from the Military Police. Even so, the Military Police Investigator is authorized to carry out investigations for the Crime of Money Laundering and all criminal acts (general, military, and extraordinary crimes). When compared based on the investigator, nothing was found to specialization of investigators in the two laws (Sitompul, 2020).

Legal certainty in legislation is crucial in the application of the law. Therefore, things that are still contradictory to the Law on Military Courts and the Law on the Crime of Money Laundering have the potential to create a tug-of-war of authority when conducting an investigation into the Crime of Money Laundering can be resolved. The availability of legal policies with legal certainty will have an impact on improving the quality of the law. Furthermore, it will also make a positive contribution to law enforcement activities in which the Money Laundering Law regulates material and formal substance, in this context, namely the procedural law which strictly and limitedly regulates matters relating to authorized legal instruments.

The legal policy of the Money Laundering Law is not justified in abandoning legal principles, this is because legal principles relate to the legal system as explained previously,
namely legal principles have functions within and behind a positive legal system. Legal principles can have this function because right has a value measure. As a reference for assessment, these legal principles create the highest legal rules of a positive legal system. This is what causes the legal principles to become the basis for the system. The legal principle is too general to be used as a reference for actions. Thus, the legal principle must undergo a process of concretization (Sidharta, 2011).

Thus, in drafting legislation, especially when amending the Law on the Crime of Money Laundering, the principle of equality before the law (equality before the law) must be a matter of concern because it becomes a hallmark and at the same time an instrument to achieve what you want. achieved by law, namely justice. Thus, for the draft legal policy for the investigation of the Crime of Money Laundering where the perpetrators are members of the Indonesian National Armed Forces, strictly on the general provisions that explain the subject of norms, apply to all citizens, individuals or legal entities, civilian or military. Furthermore, it is also clearly stated in the transitional provisions that the provisions contained in the Military Court Law are not enforced. The aim is to provide legal certainty and eliminate the potential for interpretation. Legal policy regarding the Crime of Money Laundering within the scope of the ius constitutandum which makes the law enforcement process for perpetrators more effective. A good law designer will accommodate important evaluations of the law, because from the start he must face material facts that are impossible to predict and impossible to predict. He is only able to convey general norms in order to carry out cases normally (Kelsen, 2015).

Regarding the investigation authority, during the Covid 19 pandemic, it turned out that there were institutions that submitted applications to Article 74 of the Money Laundering Law so that with the results of the Constitutional Court's decision, the development of the investigation which was previously only 6 became a broad scope. The decision of the Constitutional Court Number 15/PPU-XIX/2021 is concrete evidence of the progress of investigators, this is related to a lawsuit by 2 institutions to the Constitutional Court, namely Investigators in the Civil Service Environment of the Ministry of Environment and Forestry and Investigators in the Civil Service Environment of the Ministry of Maritime Affairs and Fisheries. Fisheries (A. Wijayanti, 2013). Where these two institutions submitted applications related to Law Number 8 of 2010 to be exact, Article 74, this institution objected by only mentioning these 6 institutions so that these 2 institutions submitted to the Constitutional Court, meaning that in Article 74 the investigations were grouped only 6 so that in the decision of the Constitutional Court the Assembly The judge stated that the article was contrary to the 1945 Constitution of the Republic of Indonesia which was not binding as long as it was not interpreted. So the decision of the panel of judges states that investigators of predicate crimes are officials or agencies that are authorized by laws and regulations to carry out investigations.
Article 74 of the Money Laundering Law limits investigators authorized to investigate Money Laundering to only investigators from six agencies as previously mentioned which is contrary to the norms contained in this article which actually contains the substance that investigators from any agency can carry out money laundering investigations in accordance with the Law on Money Laundering Article 2 paragraph (1). With the decision of the Constitutional Court Number 15/PPU-XIX/2021, it means that those who can carry out investigations are officials or agencies authorized by law, which means that there is an expansion of who can conduct investigations so that the law moves according to legal developments and times. This is an extension of the law in preventing and eradicating the Crime of Money Laundering.

CONCLUSION
No crime committed by members of the Indonesian National Armed Forces with no predicate offense of committing a narcotic crime in a case tried at the Padang Military Court I-03, the judge only examines and hears the original case, namely narcotics crime, there is no further investigation of narcotics cases which can be traced is suspected to be a Money Laundering Crime. The disharmony in the jurisdiction between the Military Court and the General Court regarding the investigation of criminal acts committed by members of the Indonesian National Armed Forces has an impact on weakening legal resilience. Change through the formulation expressly the authority possessed by Military Police investigators to carry out investigations of members of the Indonesian National Armed Forces who commit the Crime of Money Laundering. Investigating the Crime of Money Laundering committed by members of the Indonesian National Armed Forces in the ius constitutendum must be formulated more firmly on the Money Laundering Law. So, members of the Indonesian National Armed Forces who violated this entered in categorization of General Crimes Court (non-military), subject to general courts, and in the process of investigation carried out by investigators in general courts as described in the limitative provisions. The military court should, with the Constitutional Court's ruling, be able to carry out further criminal investigations, namely the Crime of Money Laundering. Thus, the process of the crime of money laundering by the investigator of the predicate crime should be combined so that both the prosecution of the indictment and the file of the predicate crime and the crime of money laundering must be merged. Furthermore, the following are recommended: First, the case tried at the Military Court I-03 Padang becomes a lesson for the future in dealing with further crimes and building a better understanding so that there is a need for harmonization between judicial institutions in law enforcement between the Military Courts and the General Courts, in order to realize the legal resilience of the court. Second, the resilience of the judiciary must be continuously improved in order to create a cohesive situation so as to achieve broader national security.
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