

# Reversal Burden of Proof Principle Not Optimum in Money Laundering Case

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Implementation of Reversal Burden of Proof principle in preventing and eradicating money laundering is seen as ineffective because there are still weaknesses in such principle.

The weaknesses may arise if the suspect is able to prove that the wealth is not the results of criminal acts. The suspect, however, is not automatically freed. The judge still gives chance to the prosecutors to submit a counter-proof.

This was said by Commissioner Martua Raja Taripar Laut Silitonga in his doctoral promotion at Faculty of Law UGM on Thursday (8/2). The chief of Drugs Search Unit in the Soekarno-Hatta airport defended his dissertation entitled *Use of Reversal Burden of Proof in Acts of Money Laundering*. He was accompanied by his promoter, Prof. Dr. Marcus Priyo Gunarto, S.H., M.Hum, and co-promoter, Prof. Dr. Nurhasan Ismail, S.H., M.Hum.

Martua Raja Taripar said if the suspect cannot prove that his possession of wealth was not accumulated from acts of crime, the judge will give a chance to the prosecutor to submit evidence that the wealth accumulated by the suspect is the result of act of crime. This is done to strengthen

the judge's opinion that the suspect has done an act of crime through one of predicate crimes stated in the Money Laundering Law (UU TPPU).

"Based on the weaknesses of the use of Reversal Burden of Proof principle, it can be concluded that the implementation of reversal burden of proof principle in several cases with the focus of studies in the Law is seen as not yet optimum. Even it is still doubtful in some cases, said Martua.

According to Martua Raja, this was related to the problem whether the predicate offense/crime has to be proven first or not. While on the form of reversal burden of proof charges, it can be concluded that the use of reversal burden of proof is ineffective.

"Therefore, it needs another principle and theory, namely Economic Analysis of Law and the New Separation of Power Theory. The use of Economic Analysis of Law is to see several basic theories that can explain the act of money laundering under the crime of corruption source," he said.

Martua Raja suggested if law enforcement of money laundering cannot show effective facts, the law enforcers should start prepare themselves and take measures and policy for investigation and prosecution as part of the effort to formulate a regulation on Reversal Burden of Proof in the Law of Criminal Procedure.

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