

## Criminal Liability of Passive Perpetrators in Money Laundering Crimes Involving the Families of State Officials

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### Abstract

This research examines the criminal liability of passive perpetrators in money laundering cases, with a specific focus on the family of Syahrul Yasin Limpo (SYL), a former Indonesian Minister implicated in a high-profile corruption case. The primary purpose of this study is to explore whether individuals who indirectly benefit from illicit assets, without directly engaging in concealment, can be held criminally accountable under Indonesian anti-money laundering laws. Employing a normative legal research method, the study adopts both a statutory approach – analysing Law No. 8 of 2010 on the Prevention and Eradication of Money Laundering – and a case approach through the judicial findings and evidence presented in SYL's corruption trial. The results indicate strong grounds to suspect SYL's family members as passive perpetrators, as they knowingly enjoyed the benefits of unlawful wealth through luxury lifestyles, property maintenance, and asset acquisition, without questioning the origin of the funds. These actions fulfil the elements required under Article 5, Paragraph (1) of the Money Laundering Law and suggest potential criminal liability. The originality of this research lies in its focus on passive actors – typically overlooked in legal practice – highlighting the legal and moral responsibility of beneficiaries in money laundering schemes. The findings imply a need for more comprehensive law enforcement strategies that include not only active perpetrators but also passive participants, in order to uphold the rule of law and combat impunity in corruption-related crimes.

## INTRODUCTION

Government officials in Indonesia who hold strategic positions in governance are not always fully committed to carrying out their duties and responsibilities in a proper and accountable manner. When public officials engage in actions that violate legal norms, harm society, and contradict moral values, such conduct can be classified as a criminal offense.<sup>1</sup> According to the World Bank, corruption is defined as a deliberate crime committed by public officials who abuse their governmental power for personal or group gain.<sup>2</sup> In accordance with Law Number 31 of 1999 on the Eradication of Criminal Acts of Corruption, as amended by Law Number 20 of 2001, there are seven simplified categories of corruption offenses: (1) causing state financial losses; (2) bribery; (3) embezzlement in office; (4) extortion; (5) fraudulent acts; (6) procurement practices involving conflicts of interest; and (7) gratification.<sup>3</sup> The Corruption Eradication Commission (KPK) has handled 2,730 corruption cases across five key sectors: public services, education, health services, procurement, and bribery related to mining and energy procurement involving private actors during the 2020–2024 period.<sup>4</sup> This presents a significant ongoing challenge, particularly when the proceeds of corruption are concealed through money laundering mechanisms.

Money laundering (Tindak Pidana Pencucian Uang or TPPU) ideally refers to the process of concealing or disguising the proceeds of a predicate crime committed by an offender, meaning that TPPU cannot stand alone. Through this process, illicit proceeds are made to appear as if they originate from legitimate activities, enabling the offender to continue or expand the predicate offense – such as corruption. This process undoubtedly harms both the state and the public. It is important to note that Law Number 8 of 2010 on the Prevention and Eradication of the Crime of Money Laundering (TPPU Law) distinguishes two types of money laundering: active and passive. An example of active TPPU is when a corrupt official, even before being formally named a suspect, attempts to retain illicit funds by purchasing properties, transferring assets between accounts, or concealing them under others' names. On the other hand, a person who assists in concealing such assets or benefits from them – despite not being directly involved – may

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<sup>1</sup> Emilia Susanti and Eko Rahardjo, *Hukum Dan Kriminologi* (Lampung: Anugrah Utama Raharja, 2018), 13.

<sup>2</sup> Nathanael Kenneth, "Maraknya Kasus Korupsi Di Indonesia Tahun Ke Tahun," *JLEB: Journal of Law, Education and Business* 2, no. 1 (2024): 335–40, <https://doi.org/10.57235/jleb.v2i1.1645>.

<sup>3</sup> Komisi Pemberantasan Korupsi, *Memahami Untuk Membasmi: Buku Panduan Untuk Memahami Tindak Pidana Korupsi* (Jakarta: Komisi Pemberantasan Korupsi, 2006), 16–17.

<sup>4</sup> Komisi Pemberantasan Korupsi, "Kinerja KPK 2020–2024: Tangani 2.730 Perkara Korupsi, Lima Sektor Jadi Fokus Utama," [www.kpk.go.id](http://www.kpk.go.id), 2024, <https://www.kpk.go.id/id/ruang-informasi/berita/kinerja-kpk-2020-2024-tangani-2730-perkara-korupsi-lima-sektor-jadi-fokus-utama>.

be classified as a passive TPPU offender. Therefore, individuals or groups who aid in disguising the proceeds of corruption by state officials may be prosecuted under the TPPU Law.<sup>5</sup>

Both active and passive forms of money laundering are deliberately practiced to disguise the proceeds of a predicate offense, allowing the illegal activity to continue undetected. Corrupt officials often employ various tactics to prevent their illicit wealth from being easily identified by law enforcement, making it necessary for passive perpetrators to also be held criminally accountable under the TPPU Law. Criminal liability should not only be imposed on active money launderers but also on passive ones, as criminal liability fundamentally seeks to punish individuals involved in a crime when fault or intent is present.<sup>6</sup> A person may be considered a passive money launderer and held criminally responsible when there is evidence of culpability, which must be proven in court. In legal proceedings, investigators during their investigations, prosecutors during prosecution, and judges during trials in TPPU cases must begin with the predicate offense, even though proving the predicate crime is not a formal prerequisite for initiating TPPU investigations. Therefore, TPPU proceedings should not be postponed pending the final verdict of the predicate crime.<sup>7</sup> TPPU and the predicate offense must be treated as distinct crimes, and thus charges should be structured cumulatively. Passive actors often knowingly use assets obtained from money laundering while fully aware of their illicit origin. Instead of reporting the active perpetrators, they continue to engage in unlawful conduct.<sup>8</sup> Nevertheless, corrupt officials still find ways to protect their illicit gains, complicating the work of law enforcement agencies.

One significant case of corruption suspected to involve money laundering is that of Syahrul Yasin Limpo (SYL), former Minister of Agriculture. SYL was proven to have committed extortion in collaboration with his colleagues. Beyond extortion, the KPK has identified signs of money laundering in this case, supported by substantial evidence. Witness testimonies in court revealed that SYL's family also benefited from and accepted

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<sup>5</sup> FAT, "Erat, Hubungan Korupsi Dan Pencucian Uang," [hukumonline.com](http://hukumonline.com/berita/a/erat--hubungan-korupsi-dan-pencucian-uang-lt510a46a7325da), 2013, <http://hukumonline.com/berita/a/erat--hubungan-korupsi-dan-pencucian-uang-lt510a46a7325da>.

<sup>6</sup> Fithri Mawaddah et al., "Pertanggungjawaban Pidana Pemalsuan Merek Dalam Hukum Positif Indonesia Dan Hukum Islam," *At-Tasyri': Jurnal Ilmiah Prodi Hukum Ekonomi Syariah* 15, no. 2 (2023): 129–49, <https://doi.org/10.47498/tasyri.v15i2.1710>.

<sup>7</sup> Putusan Mahkamah Konstitusi Nomor 90/PUU-XIII/2015 Permohonan Uji Materil Undang-Undang Tindak Pidana Pencucian Uang Tahun 2016 oleh R.J. Soehandoyo, SH, MH. 14 Juli 2016.

<sup>8</sup> Yenti Garnasih, "Anti Pencucian Uang Di Indonesia Dan Kelemahan Dalam Implementasinya," *Jurnal Legislasi Indonesia Depkumham RI* 3, no. 4 (2006).

proceeds from the corrupt activities.<sup>9</sup> This raises an important legal question: can SYL's family be held criminally liable? To date, the Public Prosecutor and the KPK have not extended their investigation into the alleged money laundering involving SYL and his family, despite the proven predicate crime of corruption.

In light of this background, the focus of this study is the legal regulation and criminal liability of passive money laundering perpetrators, with particular reference to the corruption case involving former Minister of Agriculture, Syahrul Yasin Limpo. Previous research has discussed the criminal liability of recipients of laundered funds, such as in Decision Number 172/Pid/2020/PT BNA, in which the defendant Muhibut Tibri – nephew of Murtala Ilyas, a narcotics money laundering convict – was held liable under Article 5 paragraph (1) of the TPPU Law.<sup>10</sup> However, in this study, the potential involvement of SYL's family members as passive TPPU offenders has not yet been investigated by authorities. Therefore, the author recommends that law enforcement agencies conduct a follow-up investigation into SYL's alleged money laundering case, including possible involvement by his family, to ensure legal accountability for their crimes. Such law enforcement processes must be aligned with the existing legal framework and applicable legislation.

## **METHOD**

This research employs a normative juridical method, drawing upon primary, secondary, and tertiary legal sources, including statutory regulations, legal theories, expert opinions, legal literature, and court decisions. Accordingly, the study adopts a statute approach and a case approach, with a particular focus on a corruption case involving the former Minister of Agriculture of the Republic of Indonesia, Syahrul Yasin Limpo.

## **RESULT AND DISCUSSION**

### **1. Criminal Regulation of Passive Perpetrators in Money Laundering Offenses**

Indonesia is no stranger to money laundering; in fact, the country has established specific regulations governing such crimes through Law Number 8 of 2010 on the

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<sup>9</sup> Martyasari Rizky, "Parah! Anak, Cucu, Hingga Kakak SYL Ikut Cicipi Duit Kementan," CNBC Indonesia, 2024, <https://www.cnbcindonesia.com/news/20240525080025-4-541015/parah-anak-cucu-hingga-kakak-syl-ikut-cicipi-duit-kementan>.

<sup>10</sup> Ilham Isabana, Lalu Parman, and Laely Wulandari, "Pertanggungjawaban Pidana Bagi Orang Yang Menerima Dana Hasil Money Laundering Berdasarkan UU Tindak Pidana Pencucian Uang (Studi Kasus Putusan Nomor 172/Pid/2022/PT BNA)," *Parhesia* 1, no. 1 (2023): 7-14, <https://doi.org/10.29303/parhesia.v1i1.2537>.

Prevention and Eradication of the Crime of Money Laundering. According to legal expert Sutan Remy Sjahdeini, money laundering ideally refers to activities carried out by an individual or group with the purpose of concealing or disguising illicit funds derived from criminal acts, often by integrating such assets into the financial system to make them appear lawful or legitimate.<sup>11</sup> Meanwhile, legal scholar Munir Faudy asserts that money laundering has been broadly categorized as a criminal offense within the realm of White Collar Crime.<sup>12</sup> Money laundering is commonly used by perpetrators to benefit from the proceeds of predicate crimes, which, as defined under the Money Laundering Law, include corruption, bribery, narcotics trafficking, human trafficking, illegal arms trading, terrorism, kidnapping, theft, or any other offense punishable by four years or more of imprisonment, whether committed within Indonesia or extraterritorially in accordance with Indonesian law.<sup>13</sup>

As stipulated in Article 2 paragraph (1) of the Money Laundering Law, there is a strong correlation between corruption and money laundering. Offenders under the Money Laundering Law are divided into two classifications. First, active perpetrators are described in Article 3, which states: "Any person who places, transfers, assigns, spends, pays, donates, entrusts, carries abroad, converts, exchanges for currency or securities, or conducts other acts involving property known or reasonably suspected to be proceeds of a criminal offense as referred to in Article 2 paragraph (1), with the intent of concealing or disguising the origin of the property, shall be punished with imprisonment of up to 20 (twenty) years and a fine of up to IDR 10,000,000,000 (ten billion rupiah)." Furthermore, Article 4 adds that "Any person who conceals or disguises the origin, source, location, designation, transfer of rights, or actual ownership of property known or reasonably suspected to be proceeds of a criminal offense as referred to in Article 2 paragraph (1), shall be punished with imprisonment of up to 20 (twenty) years and a fine of up to IDR 5,000,000,000 (five billion rupiah)."<sup>14</sup>

Second, passive perpetrators are regulated under Article 5 paragraph (1), which reads: "Any person who receives or controls the placement, transfer, payment, donation, contribution, safekeeping, exchange, or use of property known or reasonably suspected

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<sup>11</sup> Wiyono, *Pembahasan Undang-Undang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang* (Jakarta: Sinar Grafika, 2014).

<sup>12</sup> Ali Geno Berutu, "Tindak Pidana Kejahatan Pencucian Uang (Money Laundering) Dalam Pandangan KUHP Dan Hukum Pidana Islam," *Tawazun: Journal of Sharia Economic Law* 2, no. 1 (2019): 1-18, <https://doi.org/10.21043/tawazun.v2i1.5223>.

<sup>13</sup> Pasal 2 ayat (1) dan (2) Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

<sup>14</sup> Pasal 3 dan 4 Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

to be proceeds of a criminal offense as referred to in Article 2 paragraph (1), shall be punished with imprisonment of up to 5 (five) years and a fine of up to IDR 1,000,000,000 (one billion rupiah).<sup>15</sup> Legal expert R. Wibowo also supports this classification, stating that money laundering can be divided into two categories: active money laundering, as outlined in Articles 3 and 4 of the law, and passive money laundering, as provided in Article 5.<sup>16</sup>

In Practice, individuals frequently employ various methods to conceal assets derived from criminal activities, such as storing illicit wealth, giving gifts to others, transferring funds, using proceeds of crime, investing in businesses, and employing other similar strategies. These actions demonstrate the typical stages of money laundering, which are generally classified into three phases. The first is *placement*, which refers to the introduction of criminal proceeds into the financial system. The second is *layering*, which involves separating the illicit funds from their source by moving them through multiple transactions or financial institutions. The final stage is *integration*, which means combining the funds from the previous stages so they appear legitimate and are then used in lawful activities, including asset acquisition or commercial investments.<sup>17</sup>

The Money Laundering Law (Law No. 8 of 2010) provides a number of legal principles intended to ensure the effective handling of money laundering cases:<sup>18</sup>

- a. The principle of dual criminality, as stated in Article 2 paragraph (1), affirms that Indonesian nationals who commit criminal acts either within or outside the territory of the Republic of Indonesia remain subject to Indonesian criminal law.
- b. The principle of presumed guilt, found in Article 35, stipulates that a defendant may be convicted of money laundering if they fail to prove the lawful origin of their assets.
- c. The *lex specialis* principle, under Article 68, positions the Money Laundering Law as a specific and autonomous legal framework governing investigation, prosecution, and adjudication of money laundering cases, unless otherwise regulated.

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<sup>15</sup> Pasal 5 ayat (1) Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

<sup>16</sup> Wiyono, *Pembahasan Undang-Undang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang*, 20.

<sup>17</sup> Alfitra, *Modus Operandi Pidana Khusus di Luar KUHP*, (Jakarta: Raih Asa Sukses, 2014): 74.

<sup>18</sup> Yudhia Ismail and Achmad Rizki, "Tinjauan Yuridis Tentang Tindak Pidana Pencucian Uang Dalam Pasar Modal Menurut Undang-Undang Republik Indonesia No 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang," *Yurijaya: Jurnal Ilmiah Hukum* 3, no. 1 (2020): 97-98, <https://doi.org/10.51213/yurijaya.v3i1.36>.

- d. The principle of reversed burden of proof, according to Articles 77 and 78 paragraphs (1) and (2), obliges the accused to demonstrate the legal origin of their assets. This provision is designed to prevent the destruction or concealment of evidence and facilitate judicial proceedings.
- e. The in absentia principle, under Article 79 paragraph (1), ensures that proceedings continue even if the accused is absent, without delaying the legal process.

Corruption is explicitly recognized as one of the predicate offenses from which illicit assets are commonly derived prior to being laundered. In such cases, illegal wealth obtained through corruption is concealed, deposited, or disguised using methods that mimic legitimate economic activity, thereby enriching individuals or groups under the false pretense that the funds are legal.<sup>19</sup> Corruption and money laundering are interlinked crimes; perpetrators of corruption often resort to money laundering to obscure their offenses. It is not uncommon for corrupt actors to involve others in the receipt or use of proceeds from corruption, aligning with the definition of passive money laundering as articulated in Article 5 paragraph (1) of the Money Laundering Law.

The scope of passive money laundering often extends to the immediate family of the primary offender, particularly in corruption cases. Offenders frequently channel illicit assets to family members, who then enjoy the benefits of the crime, making them liable as passive money launderers. Determining their liability often involves examining whether their assets are consistent with their lawful income. This assessment may provide vital clues regarding the true origin of the assets.<sup>20</sup> A passive money launderer does not commit the predicate crime themselves but participates in actions that facilitate or conceal it. Under Article 5 paragraph (1), criminal intent can be inferred from certain conditions surrounding the transaction—such as awareness, purpose, or intent—that reflect a violation of legal norms. In this context, passive perpetrators commit wrongdoing either intentionally or negligently. The two key legal thresholds in determining passive liability are “known” (intentionally) and “reasonably suspected” (negligently), both recognized in legal doctrine.

According to Article 5 of the Money Laundering Law, passive offenders may face imprisonment of up to five years and a fine of up to IDR 1,000,000,000 (one billion rupiah).

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<sup>19</sup> FN Gandhung Wahyu and FN Wahyu, “Urgensi Penanggulangan Tindak Pidana Pencucian Uang Pada Kasus Korupsi,” *Recidive: Jurnal Hukum Pidana Dan Penanggulangan Kejahatan* 3, no. 3 (2014): 248–58, <https://doi.org/10.20961/recidive.v3i3.40531>.

<sup>20</sup> Cahaya Maduma Situmorang and Radisman Saragih, “Upaya Penanggulangan Tindak Pidana Pencucian Uang Dari Hasil Tindak Pidana Narkotika (Studi Kasus Putusan Pengadilan Negeri Cilacap Nomor: 114/Pid. Sus/2011/PN. Clp)” (Fakultas Hukum Universitas Kristen Indonesia, 2020), <http://repository.uki.ac.id/2491/>.

However, if the individual could not reasonably be expected to know or suspect that the assets were derived from a criminal offense, they may not be held criminally liable and would instead be subject only to asset forfeiture.<sup>21</sup> Article 69 of the same law clarifies that investigation, prosecution, and trial of money laundering offenses can proceed without prior proof of the predicate crime, although such proof is required at a subsequent stage. This affirms the independent status of money laundering as a distinct criminal offense, as upheld in Constitutional Court Decision No. 77/PUU-XII/2014 in the case filed by M. Akil.<sup>22</sup>

Thus, a passive perpetrator of money laundering who possesses or receives illicit assets without actively participating in the concealment or disguise of the proceeds of a predicate offense, such as corruption, may be subject to punishment under Article 5 paragraph (1) of the Money Laundering Law (Law No. 8 of 2010), which stipulates a maximum imprisonment of five (5) years and a fine of up to IDR 1,000,000,000 (one billion rupiah).

Indonesia is not unfamiliar with money laundering. The country has enacted specific legislation governing money laundering offenses, namely Law Number 8 of 2010 concerning the Prevention and Eradication of the Crime of Money Laundering. According to legal scholar Sutan Remy Sjahdeini, money laundering is ideally understood as an activity conducted by an individual or a group of individuals aimed at concealing or disguising illicit assets obtained through criminal acts. This often involves integrating such assets into the financial system to make them appear legal or legitimate.<sup>23</sup> Money laundering is commonly employed by perpetrators to benefit from the proceeds of their predicate offenses. As outlined in the Money Laundering Law, predicate offenses include corruption, bribery, narcotics trafficking, human trafficking, illicit arms trading, terrorism, kidnapping, theft, or any other crime punishable by imprisonment of four years or more, whether committed domestically or abroad, as long as it falls within the regulatory scope of Indonesian law.<sup>24</sup>

As regulated in Article 2 paragraph (1) of the Money Laundering Law, the link between corruption and money laundering is particularly strong. Offenders under this

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<sup>21</sup> Sapto Handoyo Djarkasih Putro et al., "Analisis Tindak Pidana Pencucian Uang Pasif Dalam Undang-Undang Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang," *PALAR: Pakuan Law Review* 10, no. 3 (2024): 28-39, <https://doi.org/10.33751/palar.v10i3>.

<sup>22</sup> Muhammad Junaidi, "Pemisahan Penyidikan Tindak Pidana Pencucian Uang (Money Laundering) Dari Tindak Pidana Korupsi Sebagai Pidana Asal (Predicate Crime)" (Universitas Sumatera Utara, 2018), <https://repository.usu.ac.id/handle/123456789/5096>.

<sup>23</sup> Wiyono, *Pembahasan Undang-Undang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang*, 17.

<sup>24</sup> Pasal 2 ayat (1) dan (2) Undang-Undang Nomor 8 Tahun 2010 Tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.



law are classified into two main categories. The first is the active perpetrator, as defined in Article 3, which states: "Any person who places, transfers, assigns, spends, pays, donates, entrusts, brings abroad, converts, exchanges for currency or securities, or performs other acts involving assets known or reasonably suspected to be the proceeds of a criminal act as referred to in Article 2 paragraph (1), with the intent to conceal or disguise the origin of such assets, shall be punished with imprisonment for up to 20 (twenty) years and a fine of up to IDR 10,000,000,000 (ten billion rupiah)." Additionally, Article 4 affirms that "Any person who conceals or disguises the origin, source, location, use, transfer of rights, or actual ownership of assets known or reasonably suspected to be derived from a criminal act as referred to in Article 2 paragraph (1), shall be subject to the same maximum penalties."<sup>25</sup> These provisions indicate that active perpetrators are directly involved in the act of disguising or concealing illicit assets. The second classification, passive perpetrators, is addressed in Article 5 paragraph (1), which states: "Any person who receives or controls the placement, transfer, payment, donation, contribution, safekeeping, exchange, or use of assets known or reasonably suspected to be the proceeds of a criminal act as referred to in Article 2 paragraph (1), shall be punished with imprisonment for up to 5 (five) years and a fine of up to IDR 1,000,000,000 (one billion rupiah)." This provision implies that passive perpetrators are involved in the possession, use, or indirect concealment of illicit assets without actively participating in the criminal scheme.<sup>26</sup>

Legal expert R. Wibowo concurs with this classification, distinguishing between active money laundering (Articles 3 and 4) and passive money laundering (Article 5). In practice, individuals often engage in schemes involving the storage of criminal proceeds, giving gifts, transferring funds, using the proceeds of crime, investing in businesses, and similar tactics. Consequently, money laundering is generally understood to involve three stages: placement, which refers to introducing illicit funds into the financial system; layering, which involves separating the funds from their source through complex financial transactions;<sup>27</sup> and integration, which refers to combining the laundered funds into legitimate assets or business ventures.<sup>28</sup>

To ensure the effective enforcement of the Money Laundering Law, several core legal principles must be observed:

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<sup>25</sup> Pasal 3 dan 4 Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

<sup>26</sup> Pasal 5 ayat (1) Undang-Undang Nomor 8 Tahun 2010 tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang.

<sup>27</sup> Alfitra, *Modus Operandi Pidana Khusus Di Luar KUHP* (Jakarta: Raih Asa Sukses, 2014).

<sup>28</sup> Wiyono, *Pembahasan Undang-Undang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang*.

- a. Dual criminality: Article 2 paragraph (1) affirms that Indonesian citizens who commit crimes either inside or outside Indonesia remain subject to prosecution under Indonesian law.
- b. Presumption of guilt: Article 35 establishes that a defendant may be convicted of a money laundering offense if they cannot prove the lawful origin of their assets.
- c. Lex specialis: Article 68 identifies the Money Laundering Law as a special and autonomous legal regime that independently governs investigation, prosecution, and adjudication of money laundering offenses.
- d. Reversed burden of proof: Articles 77 and 78 (paragraphs 1 and 2) impose the obligation on the accused to prove the legitimate origin of their assets to avoid destruction or concealment of evidence during trial.
- e. In absentia: Article 79 paragraph (1) affirms that proceedings will not be delayed due to the absence of the accused; the legal process shall continue in their absence.<sup>29</sup>

Corruption is expressly categorized as one of the primary predicate offenses for money laundering. The illicit gains obtained from acts of corruption are often hidden, entrusted to others, or disguised through various means to resemble legitimate income. These activities serve both economic and self-enrichment motives, either for individuals or groups, under the false pretense of legality.<sup>30</sup> Corruption and money laundering are therefore considered interconnected crimes, with perpetrators frequently relying on money laundering to obscure their illicit activities.

Corrupt actors often involve third parties to carry out parts of their laundering scheme, such as receiving or using proceeds from the crime—behavior consistent with the definition of passive perpetrators in Article 5 paragraph (1) of the Law. Frequently, passive perpetrators are found within the close circles of the primary offenders, such as family members. Offenders may transfer their illicit gains to family members, who benefit from and enjoy the proceeds, thereby making them liable under the passive money laundering provision. This can be demonstrated by analyzing whether a passive perpetrator's assets align with their lawful income, which may serve as an indication of the asset's illegal origin.

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<sup>29</sup> Ismail and Rizki, "Tinjauan Yuridis Tentang Tindak Pidana Pencucian Uang Dalam Pasar Modal Menurut Undang-Undang Republik Indonesia No 8 Tahun 2010 Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang."

<sup>30</sup> Gandhung Wahyu and Wahyu, "Urgensi Penanggulangan Tindak Pidana Pencucian Uang Pada Kasus Korupsi."

Passive perpetrators do not commit the predicate crime themselves, but their conduct reflects criminal culpability. As described in Article 5 paragraph (1), their actions often show intent, reasoning, or a specific aim during transactions that indicate legal violations. In such cases, passive offenders may be found liable either for intentional wrongdoing (*dolus*) or negligence (*culpa*), depending on whether they knowingly received the proceeds or failed to exercise due diligence.

Under Article 5 of the Money Laundering Law, passive perpetrators may be sentenced to up to five years in prison and fined up to IDR 1,000,000,000 (one billion rupiah). However, if the individual cannot reasonably be expected to know or suspect that the assets were derived from a criminal act, they may not be subjected to criminal sanctions, but only to asset forfeiture.<sup>31</sup> Article 69 affirms that investigation, prosecution, and adjudication of money laundering cases may proceed without first proving the predicate offense. Nevertheless, proof of the predicate offense is still required at a later stage. This confirms the independent nature of money laundering as a standalone criminal offense, consistent with the Constitutional Court Decision No. 77/PUU-XII/2014 in the petition submitted by M. Akil.<sup>32</sup>

Accordingly, passive money laundering perpetrators who control or receive illicit assets—despite not being actively involved in the concealment of the proceeds of crimes such as corruption—can be prosecuted under Article 5 paragraph (1) of the Money Laundering Law and sentenced to a maximum of five years' imprisonment and a fine of up to one billion rupiah.

## **2. The Application of Criminal Liability to Passive Perpetrators of Money Laundering**

In the context of law enforcement in Indonesia, it is imperative that both active and passive perpetrators of money laundering are held criminally accountable. In corruption cases, the offender who enriches themselves or their group typically facilitates efforts to obscure the origin of illicit assets resulting from corrupt acts, so that property or valuables obtained are not easily detected by law enforcement. Perpetrators of corruption often employ sophisticated and cautious methods to disguise the criminal nature of their wealth. Therefore, corruption is regarded as a predicate offense that significantly contributes to the occurrence of money laundering.<sup>33</sup>

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<sup>31</sup> Putro et al., "Analisis Tindak Pidana Pencucian Uang Pasif Dalam Undang-Undang Tentang Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang."

<sup>32</sup> Junaidi, "Pemisahan Penyidikan Tindak Pidana Pencucian Uang (Money Laundering) Dari Tindak Pidana Korupsi Sebagai Pidana Asal (Predicate Crime)."

<sup>33</sup> Gandhung Wahyu and Wahyu, "Urgensi Penanggulangan Tindak Pidana Pencucian Uang Pada Kasus Korupsi."

This connection is evident in the corruption case involving Syahrul Yasin Limpo (SYL), former Minister of Agriculture, who has been found guilty of violating Article 12(e) in conjunction with Article 18 of Law No. 31 of 1999 on the Eradication of Corruption Crimes, as amended by Law No. 20 of 2001, in conjunction with Article 55(1)(1) and Article 64(1) of the Indonesian Criminal Code (KUHP). He was sentenced to 12 years of imprisonment and fined IDR 500,000,000 (five hundred million rupiah).<sup>34</sup> SYL, along with two of his associates, was accused of jointly committing extortion in office, which is classified as a form of corruption. Extortion in office refers to the unlawful exercise of authority to coerce others—often subordinates—into certain actions. SYL's actions were aimed at acquiring valuable assets such as cars, luxury watches, and jewelry. Additionally, he received various gifts from Ministry officials and agricultural machinery entrepreneurs through his two co-defendants, which constitutes *gratification* under anti-corruption law.<sup>35</sup>

The Corruption Eradication Commission (KPK) has also alleged that SYL engaged in money laundering by misusing state funds, making excessive purchases, and amassing disproportionate wealth relative to his official capacity. These actions were funded through extortion and gratification, thus qualifying SYL as an active perpetrator of money laundering, fulfilling the elements outlined in Articles 3 and/or 4 of the Money Laundering Law (UU TPPU). He intentionally spent, donated, transferred, deposited, or exchanged assets originating from criminal conduct in a manner meant to make them appear legitimate. Consequently, KPK continues its investigation into SYL's suspected money laundering, despite his current imprisonment. Several witnesses have been questioned, and KPK has also confiscated various high-value assets belonging to SYL, including luxury homes and vehicles.<sup>36</sup> Given these facts, SYL is reasonably suspected to be an active money laundering offender and may be prosecuted under Article 3 and/or Article 4 of the Money Laundering Law, which carries a maximum sentence of 20 years of imprisonment and a fine of up to IDR 10,000,000,000 (ten billion rupiah).

The investigation does not stop with SYL. KPK has also indicated that his family members may be involved in money laundering, albeit not actively like SYL. This allegation is supported by court evidence showing that members of SYL's family

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<sup>34</sup> Putusan Pengadilan Nomor 46/Pid.Sus-TPK/2024/PT DKI.

<sup>35</sup> Kuswan Hadji et al., "Analisis Kasus Korupsi Yang Menjerat Syahrul Yasin Limpo Mantan Menteri Pertanian," *Gudang Jurnal Multidisiplin Ilmu* 2, no. 12 (2024): 137–40, <https://doi.org/10.59435/gjmi.v2i12.614>.

<sup>36</sup> Haryanti Puspa Sari and Danu Damarjati, "KPK Gali Aliran TPPU Syahrul Yasin Limpo Lewat Pejabat Kementan," *kompas.com*, 2025, <https://nasional.kompas.com/read/2025/05/23/15261881/kpk-gali-aliran-duit-tppu-syahrul-yasin-limpo-lewat-pejabat-kementan>.

participated in disguising the illicit origin of assets. In practice, passive perpetrators often include those closest to the active offender, serving as recipients, users, or managers of the illicit funds, including controlling financial transactions, asset placements, and payments using wealth derived from predicate offenses. While family members are not legally obliged to report suspicions of money laundering, their failure to question the source of SYL's wealth—and their enjoyment of its benefits—raises legal concerns. Family members are expected to recognize inconsistencies in SYL's financial profile, especially if it deviates significantly from his official income and lifestyle.

The following evidence, compiled by KPK investigators and supported by court findings, suggests passive involvement of SYL's family in money laundering:<sup>37</sup>

- 1) Payment of apartment maintenance at The Belleza Permata Hijau totaling IDR 28,379,009 on February 2, 2022, billed to Ayunsri Harahap (SYL's wife), Evidence No. 33.
- 2) Payment of IDR 98,500,000 for house repairs at BPH Makassar received by William Thiodorus on July 21, 2021, from Ayunsri Harahap, Evidence No. 50.
- 3) One Saudi Airlines ticket under Ayunsri Harahap's name (Jeddah-Dubai, Flight SV590, Seat 5C, dated January 4), Evidence No. 28.
- 4) SYL's child received stem cell treatment at Widya Chandra, self-paid, with a traced fund flow of IDR 200,000,000 from the Directorate General of Food Crops.
- 5) Maintenance and loan payments for SYL's family's personal vehicles, including luxury cars.
- 6) A payment of IDR 455,306,500 for a Toyota Innova Venturer made by Nur Habibah, a household assistant of SYL's daughter, Thita Syahrul.
- 7) Costs associated with the circumcision and birthday celebration of Kemal Redindo's child (SYL's son), charged to the Household Affairs Division.
- 8) A beauty treatment bill of IDR 10,000,000 on March 24, 2021, for SYL's granddaughter, paid by the office to settle the outstanding balance.
- 9) Monthly allowance of up to IDR 30,000,000 for SYL's wife from January 2020 to January 2021.
- 10) A request for IDR 111,000,000 from Kemal Syahrul (SYL's son) to cover automotive accessories.
- 11) Additional corroborating evidence not listed above.

Based on the evidence gathered by the Corruption Eradication Commission (KPK) and officially documented in Court Decision Number 20/Pid.Sus-TPK/2024/PN.Jkt.Pst,

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<sup>37</sup> Putusan Pengadilan Nomor 20/Pid.Sus-TPK/2024/PN.Jkt.Pst.

the family members of Syahrul Yasin Limpo (SYL) are highly likely to be named as suspects in the case as passive perpetrators of money laundering. The assets and expenditures reflected in the evidence are disproportionate to the lawful income of a state official, making it implausible that such extravagant family expenses could be legally financed. The presence of intent and conscious action supports the suspicion that SYL's family members may have knowingly engaged in acts classified as passive money laundering. Their deliberate enjoyment of the illicit gains—rather than rejecting or preventing the circulation of corruption-derived funds—indicates the presence of *mens rea*, or a guilty mind, in relation to their consumption of these luxurious benefits.

Instead of distancing themselves from the proceeds of corruption, SYL's family appears to have actively enjoyed them in extravagant ways. Accordingly, the family should be held legally accountable for enjoying illicit wealth derived from SYL's corruption, which aligns with the definition of passive perpetrators under Article 5 paragraph (1) of the Money Laundering Law (UU TPPU), carrying a maximum sentence of five (5) years' imprisonment and a fine of up to IDR 1,000,000,000 (one billion rupiah). However, as of the latest developments in KPK's ongoing investigation into SYL's money laundering, no comprehensive investigation has yet been conducted into his family members' potential role as passive perpetrators.

Law enforcement should adopt a holistic approach, extending beyond SYL to include his family members who enjoyed the benefits of criminally obtained assets. This would allow for the legal demonstration of *mens rea*, particularly their intention or mental disposition to derive pleasure from wealth unlawfully obtained through SYL's acts of corruption. The existence of unlawful elements in their conduct justifies their criminal liability. Justice should therefore be pursued through asset forfeiture and the seizure of any property reasonably suspected of originating from money laundering activities, along with the imposition of criminal liability and potential social sanctions within their community. Only by doing so can the normative ideal (*das sollen*) be brought into alignment with the reality (*das sein*) in the enforcement of anti-money laundering laws.

## CONCLUSION

This study concludes that the criminal regulation of passive perpetrators in money laundering cases is explicitly governed by Article 5 paragraph (1) of Law No. 8 of 2010 on the Prevention and Eradication of the Crime of Money Laundering (UU TPPU). Passive perpetrators are defined as individuals who, although not directly involved in the concealment or disguise of illicit assets, knowingly or negligently receive, possess, or utilize assets derived from predicate offenses. This legal provision allows for a maximum

imprisonment of five years and a fine of up to one billion rupiah. The case of Syahrul Yasin Limpo (SYL) reveals a strong potential for his family members to be classified as passive perpetrators, as they appear to have benefited from corruption proceeds without actively engaging in the original crime. Documentary evidence and court decisions demonstrate the use of illicit funds to finance luxury lifestyles, maintain properties, and purchase vehicles—highlighting a clear link between passive beneficiaries and the offense of money laundering under Indonesian law.

The strength of this research lies in its focused and case-driven approach, which illustrates the often-overlooked role of passive perpetrators in money laundering, especially within close familial networks. By applying a normative-empirical legal analysis, the study bridges doctrinal interpretations with real-world legal processes, as seen in the detailed examination of the SYL corruption case. The systematic use of statutory provisions, combined with factual evidence from court rulings and KPK investigations, enhances the credibility and relevance of the findings. This research provides a comprehensive legal foundation for expanding prosecutorial attention to passive actors and highlights the need for law enforcement to address the broader network of beneficiaries in corruption-related money laundering.

This study is limited by the scope of legal enforcement practices and the availability of official prosecutorial data concerning passive perpetrators. While the legal framework is robust, the actual application of Article 5 paragraph (1) UU TPPU remains inconsistent, particularly in cases where the familial or social proximity of the passive actor to the principal offender complicates legal proceedings. Moreover, the study's reliance on the SYL case, although rich in detail, may limit its generalizability to other contexts without similar levels of investigative depth. Future research could explore comparative jurisdictional approaches or empirical patterns of passive money laundering prosecution to build on the foundation laid by this case study.

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