

CURRENCY CRIMES IN INDONESIA

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Abstract

The rupiah currency serves as a symbol of state sovereignty and is utilized to realize people's well-being. The goal of this study is to examine the criminal law countermeasures for money crimes, as well as the formation of legislative policy on currency crimes based on Law Number 7 of 2011. The research is normative legal research with a law approach and a concept approach, and the analysis of legal materials is done through interpretation. According to the study's findings, combating criminal acts, especially currency crimes, is a criminal policy that must be linked with social policies in order to achieve public welfare and protection. The legislative policy formulations of currency crimes in Law Number 7 of 2011 concerning Currency are as follows: First, the formulation of criminal acts is more about reformulating the forms of criminal acts that already exist in the Criminal Code, only adding a new form of crime, namely the crime of using rupiah in transactions and criminal acts of refusing to accept rupiah in transactions, the qualifications of criminal acts consist of crimes and violations, as well as the qualifications of criminal acts based on legal subjects, namely if the crime is committed by a bank employee, printing operator, agency that manages the manufacture of rupiah, the crime is committed by a corporation, and criminal acts committed in an organized manner with the aim of terrorism. Second, both individuals (people) and corporations face criminal charges. Third, there is the criminal justice system: The main punishment consists of imprisonment, detention, and a fine, while the extra punishment consists of confiscation of the convict's assets and license revocation. The rule governing the application of the main punishment employs a cumulative system between the penalties threatened, whereas the regulation governing the application of further penalties employs a facultative system.

Keywords: Crime, Currency, Criminal Code, Rupiah

INTRODUCTION

As an independent and sovereign state, the Unitary State of the Republic of Indonesia possesses currency as a symbol of state sovereignty that all Indonesian citizens must respect and be proud of. Currency is required as a legal means of payment in both domestic and foreign economic activity in order to achieve social welfare for the entire Indonesian population.

The position of currency is so vital and strategic for the State and the people of Indonesia that it is emphasized in Chapter VIII with the title Concerning Finance as a constitutional basis in the 1945 Constitution of the Republic of Indonesia, and specifically regarding the types and prices of currencies are regulated in Article 23B.

The Law of the Republic of Indonesia Number 7 of 2011 concerning Currency was enacted in order to carry out the mandate of Article 23B of the 1945 Constitution of the Republic of Indonesia, which established the Central Bank of Indonesia. As the national currency of the Unitary State of the Republic of Indonesia, the Currency Regulation seeks to provide legal protection and certainty for the various forms and prices of rupiah.

Money plays an essential role in a country's economic life because it serves multiple roles such as a means of trade, a method of payment, and a measure of price, making money one of the main means or tools of the economy (Davies, 2010). By money, a country's economy will run smoothly, supporting the attainment of the state's aims, namely the creation of a just and wealthy society. For that reason, the money must be

appropriately managed in accordance with the needs of the economy and development.

Once the significance of money in the functioning of the state has been established, money must be created in such a way that it is difficult to imitate or counterfeit by irresponsible parties. To establish the qualities, designs, and raw materials of rupiah, hence the function of a professional authority is required.

Money (*rupiah*) has a huge influence in people's lives because it is a means to meet all of life's demands, and it can even become a symbol of one's social status. Conflicts frequently arise in social relationships as a result of the influence of money; as a side effect of money, someone conducts unethical behaviors, even to the point of fighting or murder.

Science and technological advancements have altered the techniques, methods, and modes of committing currency-related crimes, including currency counterfeiting, and have created a problem for law enforcement personnel. Currency crimes, primarily currency counterfeiting, on both of a small and large scale are quite concerning, especially when considering the impact. Three dealers of fake US dollars and euros have been arrested by Sub Directorate 3 Resmob Ditreskrim Polda Metro Jaya (Tribunnews, 2019). In West Nusa Tenggara, counterfeiting and circulation of counterfeit money also occurred in Wawo, Kabupaten Bima where a police suspect was arrested by the police (Syarifudin, 2019). Furthermore, on Saturday 8 June 2019, the Mataram Police Criminal Investigation Unit managed to arrest a syndicate of counterfeit money makers and dealers and detained 3 suspects from East Lombok, Central Lombok and Bau-Bau, Southeast Sulawesi. Moreover, on February 18, 2020, the Directorate of Special Economic Crimes of the Criminal Investigation Unit of the Police arrested eight suspects in a syndicate of counterfeit money in Indonesia. As a result, police have seized 21.700 pieces of fake rupiahs and 1.000 pieces of fake US dollars (Halim, 2020).

Based on the foregoing issue that arise, this study aims to examine the criminal law countermeasures for money crimes, as well as the formation of legislative policy on currency crimes based on Law Number 7 of 2011.

RESEARCH METHODS

Legal research methods have certain characteristics that are their identity, because legal science can be distinguished from other sciences. Legal research can be divided into 2 (two) namely normative legal research and socio-legal research. Normative legal research is carried out by researching library materials which are secondary data and is also called library law research. Sociological legal research or empirical legal research mainly examines primary data (Hanitijo, 1994).

This type of research is normative legal research or also called doctrinal research, namely law is conceptualized as what is written in laws and regulations (law in books) or law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate (Asikin & Zainal, 2004).

The legal materials used in this research are primary legal materials and secondary legal materials. Primary legal materials consist of the 1945 Constitution of the Unitary State of the Republic of Indonesia in One Manuscript, the Criminal Code (hereinafter referred to as KUHP), and Law Number 7 Year 2011 concerning Currency. Secondary legal materials are materials that provide an explanation of primary legal materials such as research results, journals and opinions of legal experts. How to obtain legal materials is done by studying documents or studying literature.

The analytical method used is by interpreting or interpreting the law associated with the content of the law, namely what is stated and what is implied, to obtain an accurate understanding and accuracy of the translation of written legal norms.

RESEARCH RESULT

1. Currency Crime Countermeasures with Criminal Law.

Crime or violent act from the standpoint of criminology, is a symptom that always exists in every society, even the community itself, which consciously or unconsciously created a crime, as such erasing or eliminating crime from people's lives is impossible, and efforts made at best can limit or reduce crime rates. Likewise, currency crimes such as counterfeiting money and other types of deviant behavior.

Criminal policy includes the prevention and regulation of crime (crime in currency) through the use of criminal law, and criminal policy is inseparable from broader policies, namely social policy, which includes all policies aimed at achieving public welfare (social welfare policy) and policies aimed at protecting the community (social defense policy). According to Hoefnagels, crime prevention activities must be integrated, including prevention, law enforcement, and influencing public opinion to assist in crime eradication. Crime prevention can be accomplished by the following methods: a) influencing the public's perception of crime and punishment through the media, b) prevention without illegality, and c) implementation of criminal law (Hoefnagels, 2013).

According to Barda Nawawi Arief, crime prevention policies are an integral part of community protection and efforts to achieve community welfare; thus, the ultimate goal or main goal of crime prevention policies is community protection to achieve citizens' satisfaction, cultural life that is healthy and refreshing (a whole some and cultural living), social welfare, or achieving balance (equality) (Arief, 1996).

Barda Nawawi Arief further said that the most strategic policy is through non-penal facilities because it is more preventive in nature, whereas penal policy has flaws/limitations, including being fragmentary (not structurally functional), symptomatic (not causative/not eliminative), individualistic (offender oriented/not victim oriented), more repressive, and requiring high-cost infrastructure to support (Arief, 2001).

Prevention and control of crime through the functional or operational application of criminal law in three stages: formulation (legislative policy), application (judicial/judicial policy), and execution (executive/administrative policy). Therefore, crime prevention and control efforts are not solely the responsibility of law enforcement, but also of legislators (legislative officers), and legislative policies are the most critical step in preventing and overcoming crime through the use of criminal legislation. Legislative policy (law) flaws can obstruct attempts to prevent and prevent crime at the application (law enforcement) and execution stages (criminal implementation).

Applicative policy (law enforcement) is a

process in an effort to enforce or actually function legal norms as guidelines for behavior in social and state life. According to Laurence M. Friedmann, the success or failure of law enforcement depends on the substance of the law, the structure or legal system, and the legal culture (Friedman, 1975). Legal substance, which includes laws and regulations that form the basis for law enforcement, both material criminal law and formal criminal law. The legal structure or legal institution, which includes law enforcement institutions (police, judiciary, courts, correctional institutions, and even advocates), the position of independent law enforcement institutions will ensure the enforcement of law and justice, as well as law enforcement officers, besides that it is also influenced by the facilities and infrastructure as well as the management of the law enforcement system. Meanwhile, in legal culture, includes attitudes, human behavior towards the law, beliefs, values, thoughts and expectations. Legal culture also includes the atmosphere of social thought and social forces that determine how the law is enforced, including how legal education functions (Hutabarat et al., 2022).

2. Legislative Policy Formulation of Currency Crime Based on Law Number 7 of 2011 concerning Currency.

Prior to the enactment of the Law of the Republic of Indonesia Number 7 of 2011 concerning Currency, criminal acts related to currency were still regulated in the Criminal Code (KUHP), which is a legacy of the Dutch colonial era. As a sovereign State, the mandate of the Constitution of the Republic of Indonesia determines that the types and prices of currencies are determined by law. Furthermore, on June 28, 2011, the President of the Republic of Indonesia, Dr. H. Susilo Bambang Yudhoyono ratified the Law of the Republic of Indonesia Number 7 of 2011 concerning Currency and declared to be effective on the date of promulgation, namely June 28, 2011, State Gazette of the Republic of Indonesia of 2011 Number 64.

The purpose of this Currency Act is that, philosophically, currency is a symbol of state sovereignty that all Indonesian citizens must respect and be proud of, and sociologically, currency is required as legal tender in national and international economic activities in order to realize social welfare for all Indonesians.

Meanwhile, the content of the Law of the

Republic of Indonesia Number 7 of 2011 concerning Currency consists of 12 Chapters and 48 articles and each Chapter regulates the following matters:

1) Chapter I concerning General Provisions, which consists of one article, namely Article 1 which regulates the limits, understanding or definitions of several terms used in this law, namely: Currency, Money, Bank Indonesia, Unitary Territory of the Republic of Indonesia, Characteristics of Rupiah, Paper Money, Metal Money, Counterfeit Rupiah, Counterfeit Rupiah, Rupiah Management, Planning, Printing, Issuance, Circulation, Revocation and Withdrawal, Destruction, Investigators, Government, and Everyone,

2) Chapter II on the Kinds and Prices of Rupiah, consists of 2 (two) parts, namely the first part on the Kinds of Rupiah which consists of one article, namely Article 2, and the second part on the Price of the Rupiah, which consists of one article, namely Article 3.

3) Chapter III concerning Design Features and Rupiah Raw Materials, consists of 3 (three) parts, namely the first part concerning the characteristics of the rupiah and consists of 4 (four) articles, namely Article 4, Article 5, Article 6 and Article 7. The second part is concerning Design of Rupiah. which consists of one article, namely article 8. Meanwhile, the third part concerning rupiah raw materials which consists of 2 articles, namely article 9 and article 10.

4) Chapter IV concerning Rupiah Management which consists of 7 (seven) sections, namely the first section concerning General Rules consisting of 2 articles, namely Article 11 concerning stages, planning, management institutions and serial numbers of banknotes. Article 12 concerning Security procedures. The second part on planning consists of one article, namely article 13. The third part on printing consists of one article, namely article 14. The fourth part on expenditure consists of one article, namely article 15. The fifth section on circulation consists of one article, namely article 16. The sixth part is about revocation and withdrawal which consists of one article, namely article 17. The seventh part is about annihilation which consists of 3 articles, namely article 18, article 19 and article 20.

5) Chapter V on the Use of Rupiah consists of one article, namely Article 21.

6) Chapter VI concerning Rupiah Exchange consists of one article, namely article 22.

7) Chapter VII on Prohibition consists of 5 articles, namely Article 25 prohibition against damaging, cutting, destroying and/or changing rupiah. Article 26 prohibits counterfeiting rupiah, and article 27 prohibits producing, selling, buying, importing, exporting, storing and/or distributing machines, printing equipment, printing plates or other tools used to make counterfeit rupiah.

8) Chapter VIII concerning the Eradication of Counterfeit Rupiahs consists of 2 articles, namely Article 28 concerning the agency that coordinates the eradication of counterfeit rupiahs and Article 29 concerning the authority of BI in determining the authenticity of the rupiah.

9) Chapter IX concerning Examination of Criminal Acts Against Rupiah consists of 3 articles, namely Article 30 regulates the procedural law used, Article 31 regulates evidence, Article 32 concerning the authority of investigators.

10) Chapter X on Criminal Provisions consists of 9 articles, namely article 33 of the criminal act of using rupiah, article 34 of the crime of imitating rupiah, article 35 of the crime of destroying, cutting, destroying and/or changing rupiah, article 36 of the criminal act of counterfeiting rupiah, article 37 of the criminal act producing, selling, buying, importing, exporting, storing and/or distributing machinery, equipment, printing equipment, printing plates and/or other tools used or intended to counterfeit rupiah, article 38 criminal dispensation for perpetrators of special legal subjects, article 39 provisions criminal law for corporate legal subjects, article 40 rules for replacement of unpaid fines, and article 41 regarding the qualification of criminal acts in violations and crimes.

11) Chapter XI concerning Transitional Rules consists of 2 articles, namely Article 42 which regulates the start date of the entry into force of the rupiah, and Article 43 regulates the application of rupiah issued by BI as long as it has not been revoked.

12) Chapter XII concerning Closing

Provisions consists of 5 articles, namely Article 44 regulates the application of existing laws as long as they do not conflict, Article 45 regulates the application of provisions of the Criminal Code on counterfeiting money as long as they do not conflict, Article 46 concerning the revocation of several previous laws with the enactment of this law, Article 47 regulates the time limit for making implementing regulations, which is a maximum of 1 year, and Article 48 regulates the enforcement of this law.

Therefore, the chapter on criminal provisions in Law No. 7 of 2011 concerning Currency is basically a reconstruction of currency crimes governed by the Criminal Code, with amendments and additions relating to the formulation of criminal acts, errors, and criminal provisions. Further information can be found in the table below:

Table 1

Criminal Action in The Field of Currency Based on Law Number 7 of 2011 regarding Currency

No.	CHAPTER	ELEMENTS OF CRIMINAL ACTION	CRIMINAL SANCTIONS
1.	33 (1) Jo 21 (1)	<ul style="list-style-type: none"> - Each person - Do not use rupiah in: - Every transaction that has a payment purpose; - Settlement of obligations that must be met with money' and/or - Other financial transactions. 	Imprisonment for a maximum of 1 year and a fine of not more than Rp. 200 million.
2	33 (2) Jo 23	<ul style="list-style-type: none"> - Each person - It is forbidden to refuse to accept rupiah: - whose delivery is intended as payment, or - To settle obligations that must be met in rupiah, and/or - For other financial transactions in the territory of the Republic of Indonesia; - Except because there are doubts about the authenticity of the rupiah. 	Imprisonment for a maximum of 1 year and a fine of not more than Rp. 200 million.
3.	34 (1) Jo 24 (1)	<ul style="list-style-type: none"> - Each person; - Imitating rupiah, except for educational and promotional purposes with the word specimen. 	Imprisonment for a maximum of 1 year and a fine of not more than Rp. 200 million.
4.	34 (2) Jo24 (2)	<ul style="list-style-type: none"> - Each person - Spreading or circulating counterfeit Rupiah 	Imprisonment for a maximum of 1 year and a fine of not more than Rp. 200 million.
5.	35 (1) Jo 25 (1)	<ul style="list-style-type: none"> - Each person - Damage, - cut, - destroy and/or - change rupiah - With the intention of lowering the rupiah as a symbol of the state 	5 years imprisonment and 1 billion fines

6	35 (2) Jo 25 (2)	- Each person - Buy, or Sell - Rupiah that has been damaged, cut, destroyed and/or changed	5 years imprisonment and a fine of 1 billion
7	35 (3) Jo 25 (3)	- Each person - Import or export - Rupiah that has been damaged, cut, destroyed and/or changed	10 years imprisonment and a fine of 10 billion
8	36 (1) Jo 26 (1)	- Each person - counterfeit rupiah,	10 years imprisonment and a fine of 10 billion
9	36 (2) Jo 26 (2)	- Each person - Save physically by any means - What he knows is counterfeit rupiah	10 years imprisonment and a fine of 10 billion
10	36 (3) Jo 26 (3)	- Each person - Circulate and/or - Spend - What is known is fake rupiah	15 years imprisonment and a fine of 50 billion
11.	36 (4) Jo 26 (4)	- Each person - Bring or - Entering fake rupiah - Into and/or outside the territory of the Republic of Indonesia	15 years imprisonment and a fine of 50 million
12	36 (5) Jo	- Each person - Import or export - Fake rupiah	Life imprisonment and a fine of 100 billion
13	37(1) Jo 27 (1)	- Each person - Produce, sell, buy, import, export, store and/or distribute - Machinery, equipment, printing tools, printing plates or other tools; - Which is used or intended to make counterfeit rupiah	Life imprisonment and a fine of 100 billion
14	37 (2) Jo 27 (2)	- Each person; - Produce, sell, buy, import, export, store and/or distribute; - Rupiah raw materials - Which is used or intended to make counterfeit rupiah	Life imprisonment and a fine of 100 billion
15	38 (1) J	- Qualifications of legal subjects in criminal acts Article 33, 34, 35 and 36 are carried out by bank employees, printing executives, agencies that coordinate the manufacture of counterfeit rupiahs	Additional punishment by 1/3
16	38 (2)	- Qualification of criminal acts in Article; 36, which is carried out in an organized manner, is used for the purpose of terrorism crimes or	Life imprisonment and a fine of 100 billion

		activities that can cause disruption to the country's economy	
17	39 (1)	- Criminal acts committed by corporations	Additional punishment by 1/3
	39 (2)	- The rules for replacing fines are if the corporation does not pay the fine.	Confiscation of corporate assets and/or management
18	39 (3)	- Additional penalties for corporations	Revocation of permits and or confiscation of certain goods belonging to the convict
19	40 (1)	- Criminal rules in lieu of fines for people who commit criminal acts in Articles 33,34,35, and Article 36	Replaced with confinement with the provision that every 100 million is replaced in 2 months
	(2)	- The length of the substitute confinement must be included in the judge's decision	
20	41 (1)	- Qualifications of Articles 33 and 34 are Violations	
	(2)	- Qualification of a crime in 35, 36 and 37 is a crime	

Source: Law Number 7 of 2011 concerning Processed Currency.

Based on the table above, it can be explained matters related to the formulation of criminal acts or criminalization of prohibited acts, criminal liability and the criminal system as follows:

1) The formulation of the crime includes the addition of new types of criminal acts or types of criminal acts in the Criminal Code, namely the crime of using rupiah and refusal to receive rupiah, a crime that is qualified as a ballast because the legal subject (perpetrator) is

committed by bank employees, printing executives, the agency that coordinates the making of rupiah, criminal acts that are qualified for the purpose of using counterfeit money, namely for the purpose of terrorism, and activities that can cause disruption to the country's economy. Criminal acts committed by corporations. In the Criminal Code, all currency crimes are qualified as crimes, while in Law Number 7 of 2011 concerning Currency there are qualifications for criminal acts in violations, namely the crime of using rupiah,

2) The legal subjects in Law Number 7 of 2011 concerning Currency are expanded to not only individuals (natuurlike person), but also corporations. The form of error is formulated in the form of intentional in a broad sense, as well as intentional as an intention or intentional as a certainty (which he knows). There is also an article that does not formulate the form of error as in Article 33, the legislator thinks that because the crime in Article 33 is a violation, then the form of error is not formulated and is interpreted as negligence or negligence, from the point of legal certainty this should be formulated explicitly.

3) In the formulation of a criminal, there are 3 (three) things that must be considered, namely the use of the type of crime, determining the severity of the crime and the formulation of guidelines or rules for the application of criminal acts that serve as a guide for judges in operationalizing or implementing crimes. The 3 aspect that must be considered are :

a. Determination of the Type of Criminal

In general, the determination of the type of crime refers to Article 10 of the Criminal Code, but in a special law not all types of crime in the Criminal Code are used, this is very dependent on the quality of the crime or the quality/weight of the prohibited act. In Law Number 7 of 2011 concerning Currency, the types of crimes used for the main crime are imprisonment, imprisonment and fines. Additional punishments include confiscation of corporate property or its management, confiscation of the convict's property and revocation of corporate license.

The use of long-term imprisonment (15 years, for life) is a hallmark or model of classic criminal law. The traditional criminal law paradigm has the following characteristics: incarceration is the head case and is formulated as one; the goal of jail is deterrent; the nature of prison is punishment; and the longer it is held, the safer and better it is.

b. Determination of the severity of the crime

There are several systems for determining the severity of a crime, namely: first, a general minimum system and a special maximum, meaning that the minimum (lowest) criminal limit is generally determined which applies to all types of criminal acts and the maximum

(highest) limit is specifically determined in the criminal offense article. which is prohibited. Furthermore, a special minimum and special maximum system, meaning that the minimum (lowest) and maximum (highest) limits are specifically determined in the articles of prohibited criminal acts.

The formulation of the severity of the crime in Law Number 7 of 2011 concerning Currency uses the same system as the Criminal Code, namely the general minimum system and the special maximum system.

c. Guidelines or Rules of Criminal Application

Guidelines for the application of crime are a set of regulations that are used as guidelines for judges in imposing a sentence. Guidelines for the application of crime consist of general guidelines and specific guidelines. General guidelines are general rules and are formulated in general provisions, for example the general guidelines for punishment in the Criminal Code which are regulated in Book I on General Provisions. Special Guidelines, are guidelines for punishment that are regulated in criminal threats in the articles of prohibited criminal acts.

Law Number 7 of 2011 concerning Currency formulates criminal rules that are different from the rules for applying criminal offenses in the Criminal Code, in particular the rules for applying basic criminal offenses. If the Criminal Code uses an alternative (using the word "or"), namely the judge chooses one crime among several types of crime formulated in the article concerned, while in Law Number 7 of 2011 concerning Currency it is used cumulatively (using the word "and") which means the judge applies two penalties at the same time according to the type of crime that is threatened in the article in question.

For additional penalties not specifically regulated in Law Number 7 of 2011 concerning Currency, Law Number 7 of 2011 concerning Currency, thus the application of additional penalties uses a facultative, meaning that legislators give discretion to judges, namely they can apply additional penalties or not applying additional penalties.

Hence, if the convict is unable to pay the fine, it will be replaced with confinement with the provision that every Rp. 100.000.000 (one hundred million rupiah) is replaced by 2 (two)

months, while for corporations it is the confiscation of the assets of the corporation and/or its management.

CONCLUSION

Based on the results of research and analysis that have been described in this study, the conclusions in this study are as follows:

1. Preventing criminal acts or crimes, especially currency crimes, is a criminal policy that cannot be separated from social policies in achieving public welfare and protection. The enforcement of criminal law is strongly influenced by factors of legal substance, legal structure and legal culture, both law enforcers and the community.

2. Legislative policy formulations or currency crime formulations in Law Number 7 of 2011 concerning Currency are: First, the formulation of criminal offenses reformulates more and more forms of criminal acts in the Criminal Code, only adding a new form of crime, namely the crime of using rupiahs in transactions and criminal acts of refusing to accept rupiahs in transactions, the qualifications of criminal acts consist of crimes and violations, as well as the qualifications of criminal acts based on legal subjects, namely if the crime is committed by a bank employee, printing operator, agency that manages the manufacture of rupiah, the crime is committed by corporations, and criminal acts committed in an organized manner with the aim of terrorism. Second, criminal responsibility is imposed on individual criminals (people), as well as on corporations. Third, the criminal punishment system: the type of punishment used for the main crime consists of imprisonment, confinement and a fine, while additional penalties consist of confiscation of the convict's property and assets and revocation of license. The regulation on the application of the main punishment uses a cumulative system between the penalties threatened, while the application of additional penalties uses a facultative system.

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