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The Application of Indirect Proof Methods to Independent Money Laundering Crimes

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Abstract: This article examines how the indirect method of proof developed in the Netherlands can offer a solution to the unresolved normative debate surrounding Article 69 of the Indonesian Anti-Money Laundering Law (UUTPPU), particularly the phrase "it is not mandatory to first prove the predicate crime." The study aims to clarify the juridical meaning of stand-alone money laundering under Article 69, to examine how the Dutch indirect method of proof operates as a mechanism for establishing the criminal origin of assets without direct evidence of the predicate offense, and to assess the extent to which this mechanism may inform the future application of Article 69 in Indonesia without violating the presumption of innocence. This is normative legal research employing statutory and comparative approaches, examining Indonesian legislation, Constitutional Court decisions, and Dutch jurisprudence and regulations. The findings show that the indirect method of proof allows a money-laundering suspect to be held criminally liable once sufficient evidence demonstrates that an asset did not originate from a legitimate source, without requiring proof of the time, place, or perpetrator of the predicate offense. The study concludes that this method does not reverse the burden of proof and remains compatible with the presumption of innocence, offering a workable model for reformulating the application of Article 69 of the UUTPPU.

1. Introduction

Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia guarantees every person the right to recognition, security, protection, and legal certainty that is just, and equal treatment before the law. This constitutional guarantee functions as a *das Sollen*—a normative ideal—requiring that every criminal process, including the prosecution of money laundering, must rest on certain and provable legal grounds, so that no person is deprived of liberty or property without a fair and accountable evidentiary process. Within this framework, the presumption of innocence enshrined in Article 66 of the Indonesian Criminal Procedure Code (KUHAP), which provides that a suspect or defendant bears no burden of proof, stands as a constitutional safeguard meant to prevent the state's punitive power from being exercised on the basis of mere suspicion.[1]

[1] See further in Republic of Indonesia, Law Number 8 of 1981 concerning the Criminal Procedure Code (State Gazette of 1981 Number 76), December 31, 1981, art. 66, and its Elucidation, which states that this provision embodies the principle of presumption of innocence.

Money laundering, however, presents a structural challenge to this ideal. It can be described as a process through which a person conceals or disguises the identity or origin of illegally obtained funds, making them appear to originate from a legitimate source.[2] Such conduct has become a matter of global concern because of its corrosive effect on the social, economic, and cultural development of nations. As the saying goes, crime is old but forever young in the news—meaning that, across history, society has continually confronted offenses ranging from the ordinary to the extraordinarily difficult to prove, and money laundering exemplifies the latter, since its methods evolve constantly to evade detection. The Financial Crimes Enforcement Network (FinCEN) defines money laundering as the disguising of financial assets so that they can be used without detection of the illegal activity that produced them, converting criminal proceeds into funds that appear legitimate.[3] The United Nations Office on Drugs and Crime (UNODC) reaffirms that money laundering and related illicit financial activities inflict severe economic and social harm, financing organized crime, corruption networks, conflict, and terrorism, and constitute a vital component of nearly every form of transnational organized crime.[4]

To respond to this *das Sollen*, Indonesia enacted Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (UUTPPU). Article 69 of this Law provides that, in order to conduct investigation, prosecution, and examination in court for the crime of money laundering, it is not mandatory to first prove the predicate crime. According to the Indonesian Financial Transaction Reports and Analysis Centre (PPATK), this provision reflects the concept of stand-alone money laundering: the indictment for the predicate crime and the indictment for money laundering must be treated as two distinct offenses, even though, chronologically, money laundering cannot occur without an underlying predicate crime.[5] The Supreme Court has likewise affirmed that, although the handling of a money-laundering case must be preceded by the existence of a predicate crime, that predicate crime does not need to be proven first—meaning only that law enforcement need not wait for a final and binding decision on the predicate offense before proceeding.

The *das Sein*—the empirical and doctrinal reality—tells a far more contested story. Defid Tri Rizky, in research published in *Media Iuris*, finds that handling a stand-alone money-laundering case can indeed proceed independently of any prior prosecution or verdict on the predicate crime, yet the evidentiary process still requires proof connecting the asset to the crime that produced it, applied through indirect or circumstantial evidence under the general evidentiary principle of Article 183 of the KUHAP—leading the author to conclude that the norm in Article 69 of the UUTPPU requires reformulation.[6] Fadel Ilato and colleagues go further, arguing that prosecuting money laundering without proof of the predicate offense breaches the presumption of innocence

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2 See further in United Nations Office on Drugs and Crime and International Monetary Fund, "Model Law on Money Laundering and Financing of Terrorism," December 1, 2005, https://www.unodc.org/documents/money-laundering/2005%20UNODC%20and%20IMF%20Model%20Legislation.pdf, 1.

3 See further in Financial Crimes Enforcement Network, "What Is Money Laundering?," Financial Crimes Enforcement Network, August 18, 2017, https://www.fincen.gov/what-money-laundering.

4 See further in United Nations Office on Drugs and Crime, "Factsheet: Money-Laundering," United Nations Office on Drugs and Crime, January 8, 2014, https://www.unodc.org/documents/hlr/FactSheets/Money_Laundering.pdf.

5 See further in Pusat Pelaporan dan Analisis Transaksi Keuangan (PPATK), "Tipologi Pencucian Uang: Berdasarkan Putusan Pengadilan Pencucian Uang" (Jakarta: PPATK, 2017), 7.

6 See further in Defid Tri Rizky, "Prinsip Pembuktian Perkara Tindak Pidana Pencucian Uang yang Berdiri Sendiri (Stand Alone Money Laundering)," Media Iuris 5, no. 1 (2022).

and exposes inconsistencies within the legal norms of the UUTPPU, such that the construction of Article 69 needs to be revised.[7] Irsyad Noeri and colleagues, analyzing a concrete money-laundering verdict, contend even more pointedly that Article 69 risks violating the principle of due process of law—including the presumption of innocence, the privilege against self-incrimination, and the principle of legality—describing it as an emerging anomaly within Indonesia's constitutional concept of a state based on law (*rechtsstaat*).[8] This tension between the legislative ideal of efficient law enforcement and the constitutional demand for provable guilt is precisely the gap from which this study departs.

A number of recent studies have mapped this tension from different angles. Ira Fadilla Rohmadanti and colleagues revisit Constitutional Court Decision Number 77/PUU-XII/2014 and conclude that positioning money laundering as a stand-alone crime carries significant juridical implications for Indonesia's adopted system of proof, particularly regarding the presumption of innocence, warranting a reconstruction of how independent money-laundering offenses are legally situated.[9] On the procedural side, Ana Fauzia and colleagues examine the non-conviction-based (NCB) asset-recovery concept from the perspective of the presumption of innocence and find that, because initial guilt is not yet certain when assets are seized, the mechanism carries a real risk of curtailing a suspect's human rights unless carefully bounded.[10] A closely related but conceptually distinct strand of scholarship addresses the reversal of the burden of proof under Articles 77 and 78 of the UUTPPU. In research published in this very journal, Amrullah demonstrates that the reversal of the burden of proof in money-laundering crimes does not contradict the presumption of innocence; rather, it grants the defendant—as a legal subject entitled to respect for due process—the opportunity to explain the lawful origin of his or her assets, while the public prosecutor remains obligated to prove the charge itself.[11] A. Fikri and colleagues add that Indonesia's reverse-burden system, although adapted from Anglo-Saxon legal traditions, remains under-implemented compared to its countries of origin, where the burden is more evenly balanced between prosecution and defense and civil proceedings are available to recover criminal assets.[12]

These two strands of scholarship—one on the non-proof of predicate crimes under Article 69, the other on the reversal of the burden of proof under Articles 77 and 78—are frequently discussed in adjacent literature as though they were a single evidentiary problem, when in fact they address different stages and different logics of proof: the former concerns whether the predicate offense itself must be established, while the latter concerns who bears the burden of explaining the lawful origin of an asset once money laundering is already alleged. The indirect method of proof developed in Dutch jurisprudence is best understood as occupying conceptual territory adjacent to both:

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7 See further in Fadel Ilato et al., "Criminal Action Without Proven in Money Laundering in Indonesia," Jambura Law Review 3, no. 2 (2021).

8 See further in Irsyad Noeri et al., "Proof of the Original Criminal Act as a Condition of Conviction of the Criminal Act of Money Laundering (Analysis of Verdict No. 57/Pid.Sus/2014/PN.Slr)," International Journal of Advanced Research (2022).

9 See further in Ira Fadilla Rohmadanti et al., "Money Laundering and Corruption Offences After the Constitutional Court Decision Number 77/PUU-XII/2014," International Journal of Humanities Education and Social Sciences (IJHESS) (2024).

10 See further in Ana Fauzia et al., "Analysis of the Implementation of the Non-Conviction-Based Concept in the Practice of Asset Recovery of Money Laundering Criminal Act in Indonesia from the Perspective of Presumption of Innocence," Jurnal Jurisprudence 12, no. 1 (2022).

11 See further in M. Arief Amrullah, "The Principle of Reversing the Burden of Proof in Money Laundering Crimes," Jurnal Cakrawala Hukum 14, no. 2 (2023): 146–54, https://doi.org/10.26905/idjch.v14i2.10813.

12 See further in A. Fikri et al., "Reverse Evidence in Money Laundering Cases with Corruption Predicate Crime," Cessie: Jurnal Ilmiah Hukum (2025).

it neither requires prior proof of the predicate crime nor formally reverses the burden of proof, but instead permits a court to infer the criminal origin of an asset from a structured chain of circumstantial evidence and the suspect's response to it. Importantly, the European Court of Human Rights (ECtHR) has affirmed that the use of such indirect methods of proof in money-laundering cases does not violate Article 6 of the European Convention on Human Rights, provided the inference rests on logically sound assumptions supported by factual evidence rather than functioning as the sole basis for conviction.[13] This affirmation directly answers the human-rights concerns raised by Noeri, Fauzia, and others regarding the compatibility of non-conventional proof mechanisms with the presumption of innocence, yet it has not been systematically connected to the Indonesian debate on Article 69 in the existing literature.

This is the research gap that the present study addresses: existing Indonesian scholarship has extensively diagnosed the normative weaknesses of Article 69 of the UUTPPU and has, separately, examined the reversal of the burden of proof under Articles 77 and 78, but has not yet examined in depth how the Dutch indirect method of proof—doctrinally distinct from both reverse burden of proof and from requiring prior conviction of the predicate crime—could operationalize the phrase "not mandatory to first prove the predicate crime" in a manner that is both practically workable and consistent with the presumption of innocence. The novelty of this study lies in its comparative reconstruction of the Dutch indirect method of proof, including the six-step assessment framework developed by the Amsterdam Court of Appeal, as a concrete evidentiary model that Indonesian law enforcement and lawmakers may draw upon to give substantive, rather than merely declaratory, meaning to Article 69 of the UUTPPU.

Based on this background, the study addresses three research questions: first, how should the indirect method of proof, as developed in the Netherlands, be understood as a mechanism for establishing stand-alone money laundering; second, what is the juridical meaning of the phrase "not mandatory to first prove the predicate crime" in Article 69 of the UUTPPU, particularly as it has been interpreted by the Constitutional Court; and third, to what extent can the Dutch indirect method of proof serve as a comparative model for the future application of Article 69 of the UUTPPU without infringing the presumption of innocence. This study aims to answer these three questions in turn, with the ultimate objective of offering a prescriptive contribution toward resolving the doctrinal ambiguity that has persisted around Article 69 since its enactment.

The urgency of this research lies in the practical consequences of leaving Article 69 doctrinally unsettled. Law enforcement officials, as the primary actors responsible for enforcing anti-money-laundering law, often struggle to apply provisions drafted decades ago against increasingly sophisticated criminal methods that exploit legal loopholes.[14] Without a clear and rights-compatible evidentiary method for establishing stand-alone money laundering, prosecutors risk either overreaching against defendants' constitutional protections or under-enforcing the law in cases where the predicate crime is genuinely unprovable—as where the perpetrator is unknown, deceased, has fled, or where evidence of the predicate offense has simply been lost to time. Resolving this tension is therefore not a matter of academic interest alone, but a precondition for money-laundering enforcement that is both effective and constitutionally sound.

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[13] See further in B. Malyshev, "Limitation of the Presumption of Innocence in the Practice of the European Court of Human Rights (Theory of Law Aspects)," Uzhhorod National University Herald: Series Law (2025).

[14] See further in Defid Tri Rizky, "Prinsip Pembuktian Perkara Tindak Pidana Pencucian Uang yang Berdiri Sendiri."

2. Method

This study uses normative legal research, examining law as an authoritative text consisting of primary and secondary legal materials. Primary legal materials comprise binding legal provisions—principally the 1945 Constitution, the Indonesian Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (UUTPPU), Constitutional Court Decisions Number 77/PUU-XII/2014 and Number 90/PUU-XIII/2015, Supreme Court Regulation (PERMA) Number 1 of 2013 and Number 2 of 2022, and relevant Dutch legal materials, including Supreme Court of the Netherlands Decision ECLI:NL:HR:2004:AP2124, the assessment framework developed by the Amsterdam Court of Appeal, and Directive (EU) 2018/1673 on combating money laundering by criminal law. Secondary legal materials consist of scholarly books, journal articles, and doctrinal commentary that support and strengthen the interpretation of these primary sources, including recent comparative literature published between 2021 and 2026 that updates the academic debate on stand-alone money laundering, reverse burden of proof, and non-conviction-based asset forfeiture.

The purpose of this study is to understand the principles, concepts, and legal doctrines relevant to money laundering as a stand-alone offense, with particular focus on the application of indirect methods of proof. Two complementary approaches are used. The first is the statutory approach, carried out by tracing, interpreting, and analyzing the Indonesian legislation and judicial decisions related to the legal issues under study, including an in-depth review of the UUTPPU, its implementing regulations, and the constitutional review decisions that have tested Article 69 against the 1945 Constitution. The second is the comparative approach, examining law-enforcement practice in the Netherlands concerning money laundering, particularly the indirect method of proof developed through Dutch jurisprudence and the step-by-step assessment framework established by the Amsterdam Court of Appeal. Through this comparative lens, the study seeks to make a theoretical contribution to understanding how criminal-law norms on money laundering may be formulated, interpreted, and implemented in a manner that resolves the ambiguity surrounding Article 69 of the UUTPPU while remaining consistent with the presumption of innocence.

All legal materials were analyzed qualitatively through the inventory of norms, doctrinal construction, and critical comparison between the Indonesian and Dutch evidentiary frameworks, in order to formulate a prescriptive assessment of how Indonesian law enforcement might give concrete, rights-compatible meaning to the phrase "not mandatory to first prove the predicate crime."

3. Results and Discussion

3.1 The Indirect Method of Proof for Stand-Alone Money Laundering

Indirect proof, as explained in mathematical reasoning, addresses situations where a proposition is difficult or impossible to prove directly but can be established through inference from observable consequences.[15] Translated into legal reasoning, the ECtHR has confirmed that this logic does not contravene the European Convention on Human Rights: a suspect may be expected to provide a reasonable explanation of the origin of certain funds, and if convincing indirect evidence

[15] See further in Patrick Keef and David Guichard, "Indirect Proof," Introduction to Higher Mathematics, accessed August 14, 2025, https://www.whitman.edu/mathematics/higher_math_online/section02.06.html.

exists, a refusal to provide such an explanation may itself be taken into consideration.[16] This principle underlies the Dutch approach to money-laundering enforcement, codified within the framework of Directive (EU) 2018/1673 of the European Parliament and of the Council on combating money laundering by criminal law.

In the Netherlands, the handling of money-laundering cases does not require proof of a predicate offense; it suffices to prove that the asset in question originates from criminal activity rather than from a legitimate source.[17] The indirect method of proof is applied precisely when there is no direct indication linking the object to a specific predicate crime. According to the Anti-Money Laundering Centre (AMLC), this so-called "step-by-step approach" can be applied even where the predicate offense is not clearly identified, because money laundering inherently involves assets whose specific criminal origin is not always traceable.[18] The Dutch Supreme Court has made clear that, in cases concerning assets derived from crime, it is unnecessary to prove who committed the predicate offense, or when and where it occurred—a construction that makes Dutch enforcement considerably more streamlined than its Indonesian counterpart, since the central evidentiary question becomes simply whether the asset was obtained through unlawful means.[19]

The Amsterdam Court of Appeal has formalized this approach into a six-step assessment framework for adjudicating money laundering in the absence of a known predicate offense:[20]

Step 1 – No direct evidence of a crime of certain origin. Where the predicate crime is unknown or unprovable, and there is no need to first investigate it before proceeding, the indirect method may be applied immediately. Where direct evidence of the predicate offense does exist, the step-by-step approach becomes unnecessary.

Step 2 – Suspicion of money laundering. Investigators assess whether facts or circumstances—evaluated against known money-laundering typologies and indicators—give rise to a reasonable suspicion of money laundering.

Step 3 – Statement from the suspect. Once suspicion is established, the suspect is expected to provide a written statement explaining the origin of the suspected assets; refusal to do so may itself be weighed in the court's conclusion.

Step 4 – Requirements for the suspect's statement. Any explanation offered must be concrete, verifiable, and not implausible, including a clearly traceable flow of funds from a lawful source.

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16 See further in Anti Money Laundering Centre, "Step by Step Plan, Handout," AMLC.EU, April 24, 2019, https://www.amlc.eu/step-by-step-plan-handout/.

17 See further in Anti Money Laundering Centre, "Analysis of Case Law on the Indirect Method of Proof," AMLC.EU, November 10, 2021, https://www.amlc.eu/analysis-of-case-law-on-the-indirect-method-of-proof/.

18 See further in Anti Money Laundering Centre, "Step by Step Plan, Handout."

19 See further in Supreme Court of the Netherlands, "ECLI:NL:HR:2004:AP2124," Supreme Court, September 28, 2004, https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:HR:2004:AP2124.

20 See further in Anti Money Laundering Centre, "Step by Step Plan, Handout"; see also Amsterdam Court of Appeal, "ECLI:NL:GHAMS:2013:BY8481," Amsterdam Court, January 11, 2013, https://uitspraken.rechtspraak.nl/details?id=ECLI:NL:GHAMS:2013:BY8481.

Step 5 – Investigation by the public prosecutor. If the suspect's explanation meets these criteria, the prosecutor investigates the claimed alternative origin of the asset.

Step 6 – Drawing the conclusion. If, after investigation, no legitimate origin can reasonably be established, the court may conclude that the asset originated from a criminal act, this being the only explanation that remains plausible on the evidence.[21]

Crucially, this framework does not reverse the burden of proof. The suspect is not required to prove that the property was lawfully obtained; rather, the obligation to respond to a sufficiently grounded suspicion functions as an evidentiary expectation, not a legal burden.[22] This distinction directly addresses the concern raised by Prashant Popat regarding Article 6 paragraph (2) of the European Convention on Human Rights, which enshrines the presumption of innocence, and corresponds with Article 66 of the Indonesian KUHAP, which similarly provides that a suspect or defendant bears no burden of proof.[23] The Australian Attorney-General's Department reaches the same conclusion: the presumption of innocence places the burden of proving a charge on the prosecution and ensures that an accused is not presumed guilty before that charge is proven in court—a guarantee that is also enshrined in Article 14 paragraph (2) of the International Covenant on Civil and Political Rights (ICCPR).[24]

Recent comparative scholarship reinforces this reading. Malyshev's analysis of ECtHR jurisprudence confirms that the use of indirect or circumstantial evidence in money-laundering prosecutions is compatible with the presumption of innocence so long as such evidence is grounded in logical inference supported by fact and is never treated as the sole basis for conviction; the accused's silence, while constitutionally protected, may nonetheless strengthen an already well-supported inference of criminal origin.[25] This finding speaks directly to apprehensions raised in Indonesian scholarship—including Noeri's concern that Article 69 risks violating due process, and Fauzia's concern that non-conviction-based mechanisms may curtail a suspect's human rights[26]—by showing that an indirect, inference-based method of proof, properly bounded by procedural safeguards, need not collapse into a presumption of guilt.

Practical illustration is found in Dutch case law applying the exclusion method, which follows the principle of "follow the money": where a known and legitimate income source shows no traceable connection to a disputed asset (forward tracking), and the asset itself cannot be traced back to any legitimate origin (backward tracking), the absence of a lawful explanation strengthens the inference of criminal origin. In one Amsterdam Court of Appeal decision, the court held that

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21 According to the ECtHR, expecting a suspect to provide a reasonable explanation of the origin of money is not contrary to the European Convention; where convincing circumstantial evidence exists, refusal to provide such an explanation may also be taken into consideration. See Anti Money Laundering Centre, "Step by Step Plan, Handout."

22 See further in Anti Money Laundering Centre, "Analysis of Case Law on the Indirect Method of Proof."

23 See further in Prashant Popat, "Reverse Burden of Proof: Developments in the Law," Henderson Chambers, January 4, 2014, https://www.hendersonchambers.co.uk/wp-content/uploads/2017/11/reverse-burden-of-proof-developments-in-the-law.pdf; Republic of Indonesia, Criminal Procedure Code, art. 66.

24 See further in Australian Government Attorney-General's Department, "Presumption of Innocence," Attorney-General's Department, June 11, 2020, https://www.ag.gov.au/rights-and-protections/human-rights-and-anti-discrimination/human-rights-scrutiny/public-sector-guidance-sheets/presumption-innocence.

25 See further in Malyshev, "Limitation of the Presumption of Innocence."

26 See Noeri et al., "Proof of the Original Criminal Act"; Fauzia et al., "Analysis of the Implementation of the Non-Conviction-Based Concept."

once facts and circumstances raised a reasonable allegation of money laundering, the suspect was expected to explain the source of an expensive car purchase—since only the suspect could meaningfully account for it.[27] In a related decision, the court found that a suspect had purchased a car for €24,500 in cash despite having no salary income during that period and owing €6,917 in unpaid taxes; this combination of facts was held sufficient to justify the inference that the vehicle had been purchased with criminally derived funds, absent a reasonable explanation from the suspect.[28] Dutch jurisprudence further confirms that a suspect's silence, while never directly probative on its own, may be weighed by the court where the surrounding circumstances "demand further explanation" and none is forthcoming.[29] The standard required of any explanation offered is similarly well defined: it must be concrete, verifiable, internally consistent across separate statements, and supported by authentic documentation or credible third-party testimony; documents later shown to be forged are treated as confirming, rather than rebutting, the inference of illegitimate origin.[30]

This comparative method is not unique to the Netherlands. Khaled S. Al-Rashidi documents its relevance to Kuwait's Anti-Money Laundering and Countering of Terrorism Financing Law 106/2013, arguing that the indirect method of proof offers a practical instrument for addressing entrenched patterns of corruption-linked money laundering where direct evidence of the predicate offense is often unavailable.[31] Taken together, the Dutch and Kuwaiti experience demonstrates that the indirect method of proof is not a parochial doctrinal artifact, but an adaptable evidentiary architecture capable of being incorporated into diverse criminal-procedure traditions—including, this study argues, Indonesia's own.

The Indonesian UUTPPU already contains structural elements that could accommodate such a model, even though they have not yet been organized into a coherent evidentiary framework comparable to the Dutch six-step approach. Article 79 paragraph (1) of the UUTPPU permits trial in absentia where a defendant has been lawfully summoned but fails to appear without valid reason, reflecting the law's broader orientation toward pursuing illicit wealth even where the perpetrator cannot be physically prosecuted—a principle commonly described as *follow the money* rather than merely *follow the suspect*.[32] This orientation is reinforced by Article 79 paragraph (4), which allows confiscation of a deceased defendant's assets where sufficient evidence shows the person committed money laundering, precisely so that the defendant's heirs cannot benefit from the proceeds of crime, and by Article 81, which empowers a judge to order confiscation of any unconfiscated assets upon sufficient evidence—together embodying the maxim that crime should not pay.[33] Yet without an articulated evidentiary method analogous to the Dutch framework, these provisions risk being applied inconsistently, since Indonesian law currently offers no settled standard for what counts as "sufficient evidence" that an asset's origin is illegitimate.

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27 See further in Amsterdam Court of Appeal, "ECLI:NL:GHAMS:2014:1835," Amsterdam Court, 2014.
28 See further in The Hague Court of Appeal, "ECLI:NL:GHDHA:2013:BZ0631," The Hague Court, 2013.
29 See further in Arnhem Court of Appeal, "ECLI:NL:GHARN:2010:BM7167," Arnhem Court, 2010.
30 See further in Fiscal Information and Investigation Service of the Netherlands, "Indirect Method of Proof," Anti Money Laundering Centre, April 15, 2019, https://www.amlc.eu/wp-content/uploads/2019/04/Money-Laundering-the-Indirect-Method-of-Proof-2019.pdf, 9–11.
31 See further in Khaled S. Al-Rashidi, "'Indirect Method of Proof' and the Kuwaiti Anti-Money Laundering Law: A Lesson from the UK," Criminal Law Forum 32, no. 3 (2021): 405–33, https://doi.org/10.1007/s10609-021-09415-3.
32 See further in Republic of Indonesia, UUTPPU, art. 79(1), and its Elucidation.
33 See further in Republic of Indonesia, UUTPPU, arts. 79(4) and 81; Longman Dictionary of Contemporary English, "Crime Doesn't Pay," Longman, October 5, 2016, https://www.ldoceonline.com/dictionary/crime-doesn-t-pay.

3.2 The Meaning of "Stand-Alone Money Laundering" under the UUTPPU

Money laundering is, by its conceptual nature, a follow-up crime: it exists only because a predicate offense first generated the proceeds to be laundered. Yet Article 69 of the UUTPPU provides that, to conduct investigation, prosecution, and examination in court for money laundering, it is not mandatory to first prove the predicate crime. The Elucidation to Article 69 states only that the provision is "sufficiently clear"—a characterization that practice has repeatedly proven false, since the meaning of "not mandatory to first prove" has generated persistent debate among Indonesian legal scholars and practitioners.

This ambiguity has twice reached the Constitutional Court. In Case Number 77/PUU-XII/2014, the applicant—represented through power of attorney on behalf of Dr. M. Akil Mochtar—argued that the phrase contradicts Article 2 paragraph (1) and Articles 3 through 5 of the UUTPPU, all of which require that an asset be proven to derive from a criminal act before a money-laundering conviction may be sustained; absent such proof, a defendant risks conviction on an indictment that lacks binding legal force (*inkracht*).[34] The Constitutional Court rejected this argument in its entirety, holding the applicant's reasoning legally unfounded.[35] A second challenge followed in Decision Number 90/PUU-XIII/2015, brought by R.J. Soehandoyo after the predicate banking offense underlying his money-laundering charge had itself been judicially found unproven, yet investigators continued to pursue the money-laundering prosecution on the strength of Article 69 alone.[36] The Constitutional Court again rejected the application, holding that Article 69 establishes money laundering as an independent crime with its own special character, such that the Public Prosecutor may pursue a money-laundering charge separately from the predicate offense; even where a person escapes prosecution for the predicate crime, this does not mean that person escapes liability for money laundering.[37]

The Court drew an instructive analogy to Article 480 of the Indonesian Criminal Code (KUHP), which criminalizes the receiving or trading of goods known or reasonably suspected to derive from theft, without requiring that the original theft first be proven or its perpetrator convicted—a construction the Court found doctrinally equivalent to Article 69's treatment of the predicate crime.[38] Moeljatno's classical analysis of Article 480 supports this reading: the provision applies under a "*pro parte dolus pro parte culpa*" model, whereby the perpetrator need not have actual knowledge that goods originated from crime, but only a degree of culpable awareness sufficient to have reasonably suspected as much.[39] Jan Remmelink similarly observes that this hybrid model—part intent, part negligence—recurs across Indonesian criminal-law provisions addressing the handling of criminally derived property, including Article 295 of the KUHP.[40] The Constitutional Court confirmed that this same interpretive logic applies to Articles 3, 4, 5, and 69 of the UUTPPU.[41]

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[34] See further in Constitutional Court Decision No. 77/PUU-XII/2014, 15.
[35] See further in Constitutional Court Decision No. 77/PUU-XII/2014, Consideration [3.23], 206–7.
[36] See further in Constitutional Court Decision No. 90/PUU-XIII/2015, Consideration [2.4], 48–54.
[37] See further in Constitutional Court Decision No. 90/PUU-XIII/2015, 117.
[38] See further in Republic of Indonesia, Criminal Code (KUHP), art. 480; Supreme Court Decision No. 79 K/Kr/1958.
[39] See further in Moeljatno, Asas-Asas Hukum Pidana (Yogyakarta: Fakultas Hukum Universitas Gadjah Mada, 1980), 125.
[40] See further in Jan Remmelink, Hukum Pidana: Komentar Atas Pasal-Pasal Terpenting Dari Kitab Undang-Undang Hukum Pidana Belanda Dan Padanannya Dalam Kitab Undang-Undang Hukum Pidana Indonesia (Jakarta: Gramedia Pustaka Utama, 2003), 165.
[41] See further in Minutes of the Trial of Case Number 90/PUU-XIII/2015 Concerning the Examination of Law No. 8 of 2010 Against the 1945 Constitution, 9.

Importantly, the Constitutional Court emphasized that "not mandatory to first prove" does not mean the predicate crime need never be proven at all; it means only that money-laundering proceedings need not await a final and binding decision on the predicate offense.[42] The Court grounded this interpretation in the practical urgency of anti-money-laundering enforcement: as organized crime increasingly crosses national borders and exploits rapidly evolving technology, requiring law enforcement to await a final predicate-crime verdict before pursuing money laundering would allow evidence and assets to disappear, harming both the state and society through the irrecoverable loss of laundered wealth and the concealment of the underlying crime itself.[43] Article 75 of the UUTPPU, which permits the joint investigation of a predicate crime and its associated money-laundering offense once sufficient preliminary evidence exists, was cited by the Court as a procedural safeguard intended to minimize the risk of inconsistent verdicts between the two proceedings.[44]

Even so, the Constitutional Court's reasoning, while doctrinally significant, remains general and offers no concrete evidentiary methodology for applying Article 69 in practice. The Court's own consideration [3.12] acknowledges that money laundering is fundamentally a follow-up crime that cannot exist without a predicate offense, and that the principle underlying Indonesia's anti-money-laundering regime is *follow the money* precisely because laundering offenses form part of an interlinked chain of criminal conduct.[45] This leaves unresolved precisely the question this study seeks to address: if the predicate crime need not be proven first but must nonetheless eventually be connected to the laundered asset, what evidentiary method should law enforcement use to establish that connection in the interim? Subsequent regulatory developments offer only partial answers. PERMA Number 1 of 2013 provides procedural guidance for the handling of unclaimed assets under Article 67 paragraph (2) of the UUTPPU, where no suspect is identified within thirty days, while PERMA Number 2 of 2022 governs third-party objections to asset confiscation in corruption cases—yet neither instrument articulates a structured method for proving that an asset, in the absence of a clearly identified predicate crime, indeed originates from criminal activity.[46]

This gap is compounded by Indonesia's continuing reliance on conviction-based asset forfeiture. Recent scholarship on the pending Asset Forfeiture Bill identifies three persistent structural problems: first, dependence on criminal conviction impedes confiscation whenever a defendant absconds, dies, or proceedings otherwise stall; second, regulatory disharmony and weak inter-agency coordination undermine the tracing, freezing, and management of suspect assets; and third, Indonesia still lacks clear standards of proof and governance mechanisms for confiscated assets, notwithstanding its ratification of the United Nations Convention Against Corruption (UNCAC) in 2006, Article 54 paragraph (1)(c) of which permits non-conviction-based confiscation where a perpetrator cannot be prosecuted due to death, flight, absence, or other appropriate grounds.[47]

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42 See further in Constitutional Court Decision No. 90/PUU-XIII/2015, Consideration [3.12], 113–14.
43 See further in Constitutional Court Decision No. 90/PUU-XIII/2015, Consideration [3.14], 114–15.
44 See further in Republic of Indonesia, UUTPPU, art. 75.
45 See further in Constitutional Court Decision No. 90/PUU-XIII/2015, Consideration [3.12], 113–14.
46 See further in Supreme Court Regulation (PERMA) No. 1 of 2013 concerning Procedures for Settlement of Applications for Handling of Assets in Money Laundering or Other Criminal Acts, art. 4; Asep Nursobah, "Aset Dirampas Dalam Perkara Tipikor, Begini Mekanisme Pengajuan Keberatan Oleh Pihak Ketiga," Kepaniteraan Mahkamah Agung, July 20, 2022, https://kepaniteraan.mahkamahagung.go.id/prosedur-berperkara/2065-aset-dirampas-dalam-perkara-tipikor-begini-mekanisme-pengajuan-keberatan-oleh-pihak-ketiga.
47 See further in Bambang Soesatyo, "The Urgency of Asset Confiscation Results of Corruption and Criminal Acts Money Laundering: Solutions to Eradicate Corruption and Reform of National Laws," Jurnal Greenation Sosial dan Politik (2025); United Nations Convention Against Corruption, 2003, art. 54(1)(c), as ratified by Republic of Indonesia, Law Number 7 of 2006.

Comparative experience confirms that resolving these structural problems requires exactly the kind of clear evidentiary methodology the Dutch indirect-proof framework supplies. In the United States, the pioneer of non-conviction-based asset forfeiture, civil recovery proceedings allow the state to recover criminally derived assets through a civil standard of proof entirely independent of criminal conviction, substantially minimizing state losses without requiring that the underlying perpetrator first be convicted.[48] This suggests that Indonesia's evidentiary gap concerning Article 69 of the UUTPPU and its broader gap concerning non-conviction-based asset recovery are, in fact, two faces of the same underlying problem: the absence of a settled, rights-compatible method for proving criminal origin without a finally adjudicated predicate offense.

Read together, the Constitutional Court's interpretation of Article 69 and the Dutch indirect method of proof are not in tension but are, in fact, structurally complementary. The Constitutional Court has settled the constitutional question of *whether* money laundering may be prosecuted as a stand-alone offense; what remains unsettled is *how* the criminal origin of an asset should be established once that prosecution proceeds without a prior predicate-crime conviction. The Dutch six-step framework, grounded in ECtHR-sanctioned indirect proof and never functioning as a reversal of the burden of proof, offers exactly this missing methodological bridge—one that is conceptually distinct from, yet compatible with, Indonesia's existing reverse-burden mechanism under Articles 77 and 78 of the UUTPPU, since the former concerns establishing criminal origin in the absence of a predicate conviction, while the latter concerns the defendant's opportunity to rebut an already-established suspicion.[49]

4. Conclusion

Money laundering threatens not only economic stability and the integrity of the financial system, but also the foundations of social life, national cohesion, and the long-term sustainability of the state. Indonesia has sought to respond to this threat through the UUTPPU, a law generally regarded as reflecting current international standards, including the FATF Recommendations. Yet the formulation of Article 69, and in particular the phrase "not mandatory to first prove the predicate crime," continues to generate genuine doctrinal uncertainty in practice.

This study set out to answer three questions. First, regarding the indirect method of proof developed in the Netherlands: the analysis shows that this method allows a money-laundering suspect to be held criminally liable once sufficient circumstantial evidence establishes that an asset did not originate from a legitimate source, without requiring proof of the time, place, or perpetrator of the predicate offense. The Amsterdam Court of Appeal's six-step framework operationalizes this method through a structured sequence—from the absence of direct evidence of a specific predicate crime, through the suspect's opportunity (not obligation) to explain the asset's origin, to the prosecutor's investigation of that explanation and the court's final inference—without at any point reversing the burden of proof or breaching the presumption of innocence protected under Article 66 of the KUHAP and Article 14 paragraph (2) of the ICCPR.

Second, regarding the juridical meaning of Article 69 of the UUTPPU: the Constitutional Court has twice affirmed, in Decisions Number 77/PUU-XII/2014 and Number 90/PUU-XIII/2015, that

[48] See further in Ahmad Sofian et al., "Mechanism for Asset Forfeiture in the Money Laundering Criminal Law and Asset Forfeiture Bill (Law Comparison with the United States)," Journal of Law and Sustainable Development 11, no. 2 (2023).
[49] See further in Amrullah, "The Principle of Reversing the Burden of Proof"; Republic of Indonesia, UUTPPU, arts. 77–78.

money laundering constitutes an independent crime with its own special character, such that prosecution may proceed without first securing a final conviction for the predicate offense, by analogy to the established treatment of stolen-goods offenses under Article 480 of the KUHP. However, this study finds that the Constitutional Court's reasoning—although constitutionally settled—remains interpretively general and offers no concrete evidentiary methodology for establishing, in practice, that a given asset originates from criminal activity when the predicate crime itself is not first proven.

Third, regarding the extent to which the Dutch model may inform Indonesian practice: this study concludes that the indirect method of proof offers exactly the missing methodological bridge between the constitutional permissibility of stand-alone prosecution and the practical demands of rights-compatible evidence-gathering. It is conceptually distinct from, yet structurally compatible with, Indonesia's existing reverse-burden-of-proof mechanism under Articles 77 and 78 of the UUTPPU: the former addresses how criminal origin may be inferred in the absence of a predicate-crime conviction, while the latter addresses the defendant's opportunity to rebut a suspicion already substantiated by other evidence. Comparative experience from the Netherlands, Kuwait, and the broader jurisprudence of the European Court of Human Rights confirms that this model can operate within a rights-respecting criminal-procedure framework, and recent developments in non-conviction-based asset forfeiture in the United States, Switzerland, and elsewhere suggest that Indonesia's parallel difficulties in recovering criminally derived assets stem from the same underlying evidentiary gap.

On this basis, this study offers three recommendations. **First**, the Supreme Court should consider issuing a Supreme Court Regulation (PERMA) that articulates a structured, Indonesia-specific evidentiary framework for stand-alone money-laundering prosecutions under Article 69 of the UUTPPU, drawing on the architecture of the Dutch six-step approach while remaining anchored in Article 183 of the KUHAP and the presumption of innocence under Article 66. **Second**, the Elucidation to Article 69, which currently states only that the provision is "sufficiently clear," should be revised to expressly define the standard of evidence required to establish that an asset originates from criminal activity in the absence of a predicate-crime conviction, thereby closing the interpretive gap that has twice required Constitutional Court intervention. **Third**, the pending Asset Forfeiture Bill should be harmonized with the evidentiary standard developed for Article 69, so that Indonesia's broader transition toward non-conviction-based asset recovery rests on a single, coherent, and rights-compatible evidentiary foundation rather than fragmented and potentially inconsistent standards across different statutes. Taken together, these measures would allow Indonesia to give Article 69 of the UUTPPU substantive, rather than merely declaratory, meaning—strengthening the effectiveness of money-laundering enforcement without compromising the constitutional guarantees that protect every accused person from conviction on the basis of mere suspicion.

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