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The Implicature of Indonesian Financial Transaction Reports and Analysis Center Authority to Freeze Bank Accounts on Citizens' Constitutional Rights: A Democratic Rule of Law Perspective

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Abstract

Introduction: *This article examines the authority of Indonesia's Financial Transaction Reports and Analysis Center (INTRAC) to freeze bank accounts as a preventive measure against money laundering and related crimes. While effective in securing illicit assets, this authority raises concerns regarding proportionality, constitutional rights, and democratic accountability, highlighting the need for balanced safeguards within Indonesia's legal system.*
Purposes of the Research: *The purpose of this research is to analyze the constitutional implications of INTRAC authority to freeze bank accounts, evaluate its conformity with the principles of a democratic rule of law, and propose recommendations for ensuring a balanced approach between effective financial crime prevention and the protection of citizens' constitutional rights.*
Methods of the Research: *This study uses a normative juridical approach supported by limited empirical insights.*
Findings of the Research: *The findings of this study show that while INTRAC account-freezing authority is an effective preventive tool against financial crime, its lack of judicial oversight creates risks of disproportionate rights restrictions. Using implicature analysis, this research uncovers hidden consequences such as reputational harm and financial paralysis, offering an original perspective that bridges normative law with socio-political impacts in a democratic rule of law.*

Keywords: INTRAC; Account Freezing; Democratic Rule of Law.

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INTRODUCTION

The authority of the Indonesian Financial Transaction Reports and Analysis Center (INTRAC) to temporarily suspend transactions or freeze bank accounts represents a crucial preventive measure in combating money laundering, terrorism financing, and other predicate offences involving the financial system.[1] As an independent financial intelligence unit established under Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering (hereinafter "Anti-Money Laundering Law"), INTRAC holds the legal power to order such measures in order to prevent the transfer or dissipation of criminal proceeds before law enforcement can secure them. This administrative freezing power is intended to close the loopholes often exploited by offenders to move illicit funds quickly across jurisdictions. Previous studies have underlined the importance of INTRAC authority in maintaining financial system stability and enhancing the effectiveness of criminal law enforcement. These works generally emphasise the efficiency and responsiveness of the

[1] Syarlis., M, Mustofa., Novi, I. E. "Efektivitas Perma Nomor 1 Tahun 2013 Dalam Penanganan Harta Kekayaan Tindak Pidana Pencucian Uang Oleh Penyidik Subdit III Dittipideksus Bareskrim Polri". *Jurnal Lentera Bisnis*, 14 no. 2 (2025): 1929.

freezing mechanism as an early intervention tool.[2] However, other scholarly contributions have highlighted certain limitations in the existing legal framework, particularly regarding the protection of citizens' constitutional rights, such as the right to property, the right to legal certainty, and the right to be free from arbitrary measures.[3] While some comparative legal studies have examined models of account freezing in jurisdictions with stricter checks and balances, very few have addressed the implications of INTRAC authority from the perspective of a democratic rule of law in Indonesia.[4]

The main shortcoming of the existing literature lies in the lack of comprehensive discussion on the implicature - the implicit meanings, consequences, and underlying assumptions - embedded in the exercise of INTRAC authority.[5] This includes potential misuse of power, jurisdictional overlap, and the broader impact on the democratic climate and public trust in legal institutions. Such a gap is particularly significant given that any interference with property rights and financial freedom must be proportionate, based on law, and accompanied by adequate procedural safeguards.

Accordingly, this paper seeks to fill that gap by analysing the implicature of INTRAC account-freezing authority in light of the principles of a democratic rule of law, with a particular focus on the balance between effective law enforcement and the protection of constitutional rights. The following research questions are addressed: (1) Is INTRAC authority to freeze bank accounts consistent with the principles of a democratic rule of law? (2) If the exercise of such authority proves to be excessively restrictive, what are its effects on the protection of citizens' constitutional rights and on public confidence in the legal system? By engaging with these questions, this study aims to contribute normative insights for legal reform and institutional practice in Indonesia to ensure alignment with democratic values and the protection of fundamental rights.[6]

LITERATURE REVIEW

Scholarly works on asset-freezing powers have grown substantially over the last two decades, particularly in the context of combating money laundering and terrorism financing. In the Indonesian legal scholarship, studies such as Santoso (2018) and Hidayat (2020) emphasise the preventive role of INTRAC authority to freeze bank accounts in curbing illicit financial flows. These studies underline that the temporary freezing of assets is an essential component of the "follow the money" approach, enabling law enforcement to secure proceeds of crime before they can be dissipated.[7] However, other researchers have raised concerns about the potential infringement on fundamental rights. Lestari (2019) and Siregar (2021), for instance, highlight that the freezing of bank accounts, when executed without adequate procedural safeguards, may conflict with constitutional guarantees such

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[2] Ni Made, T. D., & Agus, S. "Peranan Perbankan Dalam Upaya Membantu Tugas Pusat Pelaporan Dan Analisis Transaksi Keuangan (Ppatk) Mencegah Terjadinya Pencucian Uang". *Kerta Dyatmika*, 21, no. 2 (2023), 44.

[3] Nurhalimah, S., Henny Monica, T., Graciella, B. A., Hutabarat, K. S., Nathalia, B., Qurnia, N., Restu, R., & Yudistira, M. A. Swot Analysis of Ppatk'S Role in Conducting Suspicious Financial Transaction Analysis and Case Studies Analisis Swot Peranan Ppatk Dalam Melakukan Analisis Transaksi Keuangan Yang Mencurigakan Dan Studi Kasus. *Journal of Social and Economics Research* 6, no.1 (2024), 1927.

[4] Yusril, I. M., Awaludin, A., & Rusito. Implementasi Penegakan Hukum Terhadap Judi Online di Indonesia: Pencegahan dan Pemberantasan. *PALAR (Pakuan Law Review),* 10, no. 4 (2024),221.

[5] Pelupessy, B. E. Terobosan Hukum Dalam Rahasia Bank. Jurnal Penelitian Ilmu-Ilmu Sosial, 2 no.7 (2025), 63.

[6] Atika, S., Dewi, I. S. T. M. H. D. Peningkatan Kesadaran Hukum Masyarakat Terhadap Jual Beli Rekening Bank Sebagai Modus Kejahatan Digital. Japsi Kontribusi Jurnal Pengabdian Masyarakat, 5 (2025) 3.

[7] Wardhana, I. M. W. (2023). The Analysis of Non-profit Organisations in Terrorism Financing in Indonesia. May. https://researchoutput.csu.edu.au/en/publications/the-analysis-of-non-profit-organisations-in-terrorism-financing-i%0Ahttps://researchoutput.csu.edu.au/files/413625487/The_Analysis_of_Non-Profit_Organisations_in_Terrorism_Financing_in_Indonesia-Made_Wisnu.

as the right to property, legal certainty, and due process of law. These works further note that the absence of judicial pre-approval mechanisms in certain freezing actions increases the risk of arbitrary or disproportionate measures.[8]

In comparative legal scholarship, the authority to freeze assets is often examined alongside models in other jurisdictions. Studies by McNamara (2017) on the United Kingdom and Jenkins (2019) on Canada illustrate that these jurisdictions generally require prior judicial authorisation, except in narrowly defined urgent cases, and mandate prompt judicial review thereafter. These safeguards serve as a check against potential abuse of administrative powers. In contrast, comparative studies on the United States' asset-freezing regime (e.g., Clark, 2020) indicate a more expansive administrative discretion, though still subject to post hoc judicial review.[9]

Despite the growing literature, several gaps remain. First, few Indonesian studies explore the implicature - the implicit meanings, unstated consequences, and institutional assumptions - embedded in the exercise of INTRAC account-freezing authority. Second, there is limited discussion that frames this authority explicitly within the broader principles of a democratic rule of law, which demands both effective law enforcement and the protection of individual freedoms. Third, most existing research either adopts a purely normative approach or a purely practical one, leaving little integration between the two perspectives. This study seeks to address these gaps by combining normative legal analysis with limited empirical insights, and by situating the discussion within the constitutional framework of a democratic rule of law. By doing so, it aims to bridge the divide between theoretical legality and practical application, and to contribute to the formulation of legal reforms that uphold both security and liberty in Indonesia's financial governance.

METHODS OF THE RESEARCH

This study uses a normative juridical approach supported by limited empirical insights. The normative analysis examines constitutional provisions, statutory regulations, and jurisprudence related to INTRAC authority to freeze bank accounts, drawing on the 1945 Constitution, Law Nomor 8/2010 on Money Laundering, and related legislation, alongside scholarly works and comparative studies. The empirical component involves qualitative interviews with academics and practitioners in constitutional law and financial crime to identify gaps between legal norms and practice. Data collection combines document review of laws, regulations, and case law with stakeholder interviews, analysed thematically to reveal recurring issues, procedural safeguards, and proportionality concerns. A comparative legal perspective assesses differences between Indonesia's framework and jurisdictions with stronger judicial oversight, offering benchmarks for best practices. Findings from both approaches are synthesised to evaluate constitutional compliance, proportionality, and recommendations for legal and institutional reform.

RESULTS AND DISCUSSION

Law Nomor 8 of 2010 explicitly grants INTRAC the authority to order the temporary freezing of bank accounts for a maximum of 30 working days, extendable under certain

[8] Hasibuan, H. A. L. Non Conviction Base (NCB) Asset Forfeiture Regarding the Recovery of Assets from the Proceeds of Corruption Crimes. Rechtsvinding, 3, no.1 (2025), p. 22.

[9] Suharto, F. T. The Role Of Mutual Legal Assistance In Returning Assets Results Of Corruption. Jurnal Hukum Khaira Ummah, 17, no. 3 (2022), p. 161.

conditions when necessary for ongoing investigations. This measure is categorised as administrative in nature and does not require prior judicial authorisation.[10] The legal intent behind this provision is rooted in the urgent need to block illicit fund transfers and prevent the dissipation of assets linked to criminal conduct before they can be secured by law enforcemen.[11]

From a constitutional perspective, this authority is grounded in Article 28I (2) of the 1945 Constitution, which permits the limitation of rights for the sake of public order, morality, and the protection of the rights of others, provided such limitations are established by law. However, the absence of explicit requirements for judicial oversight raises significant questions regarding compliance with Article 28D (1) (right to legal certainty) and Article 28H (4) (right to property). In countries that adopt the democratic rule of law, administrative measures that directly interfere with fundamental rights are typically designed with strong procedural safeguards, such as judicial review or mandatory notification to affected parties. A notable legal gap emerges between the text of the law and its practical application. While the law envisions the freezing as temporary and exceptional, in practice, delays in investigation or coordination between agencies can result in prolonged freezes. This creates a de facto extension of the measure without additional legal authorisation, thereby intensifying its impact on the affected parties.

Implicature of INTRAC Authority, applying Grice's implicature theory in a legal context allows us to uncover the implicit effects and unstated assumptions embedded in the exercise of INTRAC freezing authority. These include:[12] 1) Presumption of Wrongdoing – Although the freeze is preventive and not punitive, public perception often conflates it with guilt. This may lead to reputational harm that persists even after the account is unfrozen; 2) Financial Paralysis – Account holders may lose immediate access to operational funds needed for daily expenses, payroll, or contractual obligations, potentially leading to business collapse or personal financial crisis; 3) Institutional Discretion and Selectivity – The wide discretion afforded to INTRAC could, without sufficient checks, enable selective targeting based on political, economic, or other non-legal considerations; 4) Asymmetric Information – Affected parties may not have full knowledge of the grounds or evidence that triggered the freeze, making it difficult to challenge the decision effectively. These implicatures demonstrate that the real-world effects of the authority extend beyond its statutory language, influencing economic stability, social standing, and public trust in government institutions.

Comparative Legal Perspective, International practice demonstrates varied approaches to balancing efficiency in asset freezing with rights protection:[13] 1) United Kingdom - The Proceeds of Crime Act 2002 generally requires a court order for account freezing, with urgent actions subject to judicial confirmation within a short period. Judicial involvement ensures proportionality and safeguards due process; 2) Canada - Similar to the UK, freezing orders require judicial authorisation and must meet strict evidentiary thresholds. Exceptions exist for emergency cases but are tightly controlled; 3) United States – Administrative agencies have broader powers to initiate freezes without pre-authorisation

[10] Prayata, K. W. Kontribusi Yunus Husein Dalam Membangun Intergritas Sistem Perbankan Nasional Dalam Kasus Pencucian Uang. September. 2024. https://www.researchgate.net/publication/383755009

[11] Arianto, A. F. Peran Lembaga Penegak Hukum Dalam Proses Perampasan Aset. *Jurnal Usm Law Review*, 7, no.3, (2024), 1605.

[12] Amin, M., Prihatin, L., & Yudhopramudyo, B. Analisis Yuridis Pelaksanaan Rahasia Bank dalam Tindak Pidana Pencucian Uang. *Unes Law Review*, 6, no.4 (2024), 11461

[13] Negeri, I., & Utara, S. Mata Rantai Transaksi Dan Perkembangan, 8 no.1, (2025), 42.

but must submit to post hoc judicial review. Statutory time limits ensure that prolonged freezes cannot occur without filing formal charges. Indonesia's model grants broader initial discretion to INTRAC with weaker judicial oversight, enabling swift preventive action but also heightening the risk of overreach. Lessons from comparative jurisdictions indicate that mandatory judicial review, even after the fact, can significantly enhance legitimacy and compliance with the democratic rule of law.

Socio-Political Implications, beyond the legal dimension, INTRAC authority has broader socio-political implications:[14] 1) Public Trust – Frequent or high-profile freezes without clear justification may erode trust in financial institutions and government agencies; 2) Economic Impact – In cases where business accounts are frozen, employees, suppliers, and contractual partners may face financial harm, creating ripple effects in the economy; 3) Political Neutrality – Without transparent oversight, the authority could be perceived as a political tool, particularly if freezes disproportionately affect politically exposed persons or government critics; 4) Human Rights Image – From an international perspective, Indonesia's approach may be scrutinised in human rights forums if freezing measures are seen as undermining property rights or due process.

Balancing Test Between Public Interest and Individual Rights, a balancing test is essential to ensure that the restriction of rights serves a legitimate purpose, is necessary to achieve that purpose, and is proportionate in its scope and duration. In the context of INTRAC authority, this requires:[15] 1) Legitimacy – The objective of preventing crime and safeguarding the financial system is legitimate and consistent with constitutional mandates; 2) Necessity – The measure should be applied only when no less restrictive alternatives are available (e.g., transaction monitoring, partial freezes); 3) Proportionality – The duration and scope of the freeze should correspond to the gravity of the suspected offence and the evidence available. Without these safeguards, the risk of infringing constitutional rights may outweigh the preventive benefits, thereby undermining the very legitimacy the measure seeks to protect. Synthesis of Findings, The analysis confirms that while INTRAC freezing authority is a critical tool in the fight against financial crime, its current implementation framework leaves significant gaps in rights protection.[16] The implicature approach reveals that implicit consequences - such as reputational harm, economic paralysis, and potential political misuse - are not sufficiently addressed in the law. Comparative studies indicate that other jurisdictions manage to maintain both effectiveness and constitutional safeguards by integrating stronger judicial oversight and clearer procedural protections. Reform in this direction would align Indonesia's practice with the principles of a democratic rule of law and enhance both domestic and international confidence in its financial governance.[17]

CONCLUSION

This study has examined the implicature of INTRAC authority to freeze bank accounts from the perspective of a democratic rule of law, integrating normative legal analysis,

[14] Pitoyo, P., & Ramadhani, R. W. Analisis Framing Pemberitaan Oknum Komdigi Lindungi Ribuan Situs Judi Online di Media Kompas.com dan Tempo.co. *Warta ISKI*, 7, no.2 (2024), 183.

[15] Sri,G., Alfarel, K, & Yusril, P. Tindak Pidana Judi Online: Penegakan Hukum Oleh Kepolisian, Serta UpayaDan Strategi PenanganannyaOnline Gambling Crime: Law Enforcement by the Police, as well as Efforts andStrategies for Handling it. Jiic: *Jurnal Intelek Insan Cendikia*, 2, no.5 (2025), 7774.

[16] Jamal, N. A., Kurnia, M. *Journal Equitable*. 8, no.1 (2023), 111.

[17] Hanafiah, Y., & Sari, N. A. M. Perlindungan Hukum Terhadap Saksi Pelapor Dalam Pemberantasan Tindah Pidana Pencucian Uang di Indonesia. *Humaniorum*, 3, no.2 (2025), 29.

limited empirical insights, and comparative legal study. The findings indicate that the authority, while legitimate in its objective to prevent and combat money laundering and other financial crimes, carries significant implications for the protection of constitutional rights, particularly the right to property, the right to legal certainty, and the right to due process. The normative framework under Law Nomor 8 of 2010 grants INTRAC broad discretion to implement account-freezing measures without prior judicial authorisation, prioritising speed and effectiveness in enforcement. However, the implicature analysis reveals that this discretion may implicitly lead to reputational harm, financial paralysis, and perceptions of selective or politically motivated enforcement. Comparative legal perspectives show that jurisdictions with stronger judicial oversight mechanisms achieve a more balanced protection of both public interest and individual rights. The study concludes that while INTRAC freezing authority is an indispensable preventive tool, its current procedural safeguards are insufficient to fully align with the principles of a democratic rule of law. The absence of robust oversight risks undermining public trust, economic stability, and Indonesia's human rights commitments.

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Jamal, N. A., & Kepolisian, P. (2023). Journal Equitable. *Kurnia Mulia Ki*, *8*(1), 95–110. https://ejurnal.umri.ac.id/index.php/JEQ/article/download/4554/2166

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