

Law Enforcement Against Transnational Crime

Amdi Karna¹, Yasmirah Mandasari Saragih².

Panca Budi Development University

E-mail: amdikarna8102@gmail.com yasmirahmandasari@gmail.com

Abstract

Transnational crime, which develops along with advances in science and technology, poses major challenges to law enforcement in Indonesia and the world. This study analyzes Indonesia's legal framework and international cooperation in dealing with cross-border crimes such as corruption, money laundering, narcotics and terrorism. Using desk research methodology, this research explores relevant regulations and practices of international cooperation through UN conventions and bilateral agreements. Findings show that even though Indonesia has regulations such as the Law on Mutual Assistance in Criminal Matters, challenges remain due to the transnational nature of crime which often involves multiple jurisdictions. This research proposes increasing international cooperation mechanisms and policy harmonization to strengthen transnational law enforcement, as well as increasing the capacity of law enforcement officials in handling cross-border cases.

Keywords: *Transnational Crime, International Cooperation, Law Enforcement*

INTRODUCTION

Crime continues to develop according to human civilization from primitive times to modern times. In order to achieve the goals of the Republic of Indonesia as stated in the Preamble to the 1945 Constitution of the Republic of Indonesia, namely protecting the entire Indonesian nation and all of Indonesia's blood, advancing general welfare, making the life of the nation intelligent and participating in implementing world order based on independence, eternal peace, and social justice, the Government of the Republic of Indonesia as part of the international community carries out international relations and cooperation which is manifested in international agreements.

Advances in science and technology, especially in the fields of transportation, communication and information, on the one hand have positive benefits, namely making it easier for human activities to achieve a better level of quality of life, but on the other hand they can be misused for negative things, for example making things easier. opportunities for unlawful acts to occur. The increase in cross-border crimes is thought to be a direct impact of technological advances. Eradicating these crimes becomes increasingly difficult when carried out across a country's jurisdictional boundaries.

Transnational organized crime shows an increasing trend at the moment, and not only has a psychological impact on individuals or groups of society, but also has an impact on the foundations of the national and international economy and the integrity of a country. This form of transnational crime which can pose a serious threat to global security and prosperity because it involves various countries is also called Transnational Crime. Transnational crime is a form of crime that poses a serious threat to global security and prosperity considering its nature involving various countries. Forms of crime

organized across countries include: corruption, money laundering, narcotics and psychotropic substances, trafficking in persons, telematics crime (cybercrime), criminal acts of human smuggling (smuggling migrants), criminal acts of terrorism (terrorism), illegal fishing, so overcoming them requires cooperation between one country and another. Cooperation between countries is needed to facilitate the handling of the process of investigation, prosecution and examination in court regarding a problem that arises, both in the requesting party and the requested party, in terms of cooperation in the field of law and criminal justice. According to the

2000 UN Convention on Transnational Organized Crime, transnational refers to offenses involving at least two countries. This can occur in various combinations, for example if there is a crime committed in more than one country or the planning and supervision of a crime is carried out in one country but the crime is committed in another country. Apart from that, a crime can also be said to be transnational if the crime is committed in one country but has an impact on other countries.

In order to enforce the law against transnational criminal acts, since 2006 Indonesia has had Law Number 1 of 2006 concerning Mutual Legal Assistance in Criminal Matters. This Law has regulated in detail regarding requests for mutual assistance in criminal matters from the Government of the Republic of Indonesia to the requested party and from the Requesting Party to the Government of the Republic of Indonesia. Therefore, the presence of bilateral agreements regarding mutual assistance in criminal matters between Indonesia and other countries will support law enforcement efforts as expected in carrying out law enforcement against perpetrators of transnational crimes. For Indonesia, transnational crime needs special attention considering Indonesia's strategic location making it vulnerable to various forms of transnational crime. For this reason, the Ministry of Foreign Affairs, as the spearhead of the Indonesian Government in international cooperation, always intensifies international cooperation in dealing with transnational crime in order to protect Indonesia's national interests and sovereignty.

Based on the explanation above, the author has determined the formulation of the problem. How is the legal regulation regarding transnational crime in Indonesia? What are the Classifications of Crimes Included in Transnational Crime? and How is Law Enforcement Against Transnational Crime in Indonesia?

METHOD

Literature research on law enforcement against transnational crime is carried out by collecting and analyzing available secondary sources, such as legal journals, books, articles and official documents related to transnational crime. This method focuses on theoretical and normative studies regarding applicable international and national law, as well as strategies used by various countries in responding to transnational crimes such as drug trafficking, money laundering and terrorism. The analysis is carried out in a systematic way to identify weaknesses and strengths in the existing legal framework, as well as recommend improvements to law enforcement policies and practices. This research aims to produce an in-depth understanding of the mechanisms, challenges and effective solutions in dealing with transnational crime.

RESULTS AND DISCUSSION

Legal Regulations Regarding Transnational Crime in Indonesia

Indonesia, with its vast land area and coastline, certainly has the potential to become an ideal area for transnational crime traffic, both as a transit point, source and target for various types of organized transnational crime. With such a large territory, it is impossible for Indonesia to prevent and eradicate various forms of transnational crime using its own strength alone, without involving other countries. Therefore, in efforts to prevent and eradicate transnational crime, the role of international cooperation between countries, especially in the field of law in criminal cases, both bilateral and multilateral in nature, is something that is "absolutely" necessary and its implementation cannot be delayed.

Every country in the world has a legal system or positive law to maintain and maintain security, order and tranquility for every citizen or person residing in its territory. Violations of the legal system are subject to sanctions as a coercive measure so that the law can still be enforced. In the Transnational Crime Criminal Code, the related articles referring to Mutual Assistance in Criminal Matters include: Article 2 of the Criminal Code which reads "Criminal regulations in Indonesian legislation apply to every person who commits a criminal act within Indonesia." This provision in addition to showing adherence to the principle of territoriality (region) where criminal law applies to anyone who commits a criminal act in the territory of a particular country, in this case Indonesia, also means that the person who commits the crime does not have to physically be in Indonesia, but the offense (strafbaar feit) occurs in the territory of Indonesia. Likewise, people or legal subjects who do so are not limited to only Indonesian citizens.

Article 3 of the Criminal Code: "Criminal rules in Indonesian legislation apply to every person who outside Indonesia commits a criminal act on an Indonesian boat." Indonesia, but also shows that national law also applies to crimes that cross national or transnational borders.

Furthermore, the laws and regulations governing transnational crime are as follows:

1. Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters, Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters provides a strong legal basis regarding cooperation between countries in the form of mutual assistance in criminal matters requiring legal instruments that are can be used as a guide for the Government of the Republic of Indonesia to make agreements and implement requests for cooperation assistance from foreign countries
2. Law Number 7 of 2006 concerning Ratification of the United Nations Convention Against Corruption, 2003 (United Nations Convention Against Corruption, 2003), in Article 43 of UNCAC in terms of International Cooperation emphasizes that State Parties are obliged to cooperate in crime problems in accordance with provisions of articles 44 to 50 of this Convention. To the extent necessary and in accordance with their respective national legal systems, States Parties shall consider assisting each other in investigations and proceedings in civil and administrative matters relating to corruption.
3. Law Number 5 of 2009 concerning Ratification of the United Nations Convention Against Transnational Organized Crime (United Nations Convention Against Organized Transnational Crime), the aim of this Convention is to increase international cooperation that is more effective in preventing and eradicating transnational criminal acts that occur organized.
4. Law Number 7 of 1997 concerning Ratification of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (United Nations Convention Concerning the Eradication of Illicit Traffic in Narcotics and Psychotropic Substances, 1988), In this convention, the Parties will provide mutual assistance reciprocity in investigations, prosecutions and trial proceedings relating to crimes as intended in Article 3 paragraph (1) of this Convention.

Classification of Crimes Included in Transnational Crime

Transnational crime is a form of crime that poses a serious threat to global security and prosperity considering its nature involving various countries. For Indonesia, transnational crime needs special attention considering Indonesia's strategic location making it vulnerable to various forms of transnational crime. These criminals cross national borders and exploit gaps in the legal and national security systems to carry out criminal activities that violate more than one law, and will automatically have an impact on the country of origin and other countries involved.

Transnational crime is "the impact of advances in technology and science, there are two impacts, apart from making it easier for us to travel between countries, it also makes it easier for transnational crimes to grow, increase and become more diverse". Transnational organized crime can be divided into three categories, namely transnational crime in the form of:

- a. Goods (drug trafficking, stolen property trafficking, arms trafficking and counterfeiting cases),
- b. Crime in the form of services (commercial sex and human trafficking),
- c. Business and government infiltration (fraud, extortion, money laundering and corruption).

The Indonesian Ministry of Foreign Affairs states that criminal acts that are categorized as Transnational Crimes are:

- a. TPPU
- b. Corruption Crime
- c. Crime of Illegal Trade in Protected Wild Plants and Animals.
- d. Crimes Against Cultural Art Objects (Cultural Property)
- e. Human trafficking,
- e. Immigrant Smuggling.

Ultimately, the definition of transnational organized crime within the framework of international relations has been outlined in the Convention against Transnational Organized Crime of 2000 or what is known as the

Palermo Convention. In Article 3 Paragraph 2 of this Convention, what is meant by transnational crime is one that meets the following criteria:

- a. Performed in more than one country
- b. Carried out in one country, but part of the preparation, planning, leadership or control is in another country
- c. Carried out in one country but involving an organized criminal group involved in criminal activities in more than 1 country
- d. Carried out in one country but has an impact on other countries.

The United Nations (UN) classifies transnational crimes (Transnational Crime) into 10 categories, including:

1. Drug trafficking (Illicit Trafficking in Drugs)
2. Illegal immigration (Smuggling of Illegal Migrants)
3. Arms Trafficking
4. Nuclear weapons smuggling (Trafficking in Nuclear)
5. Transnational organized crime and terrorism (Transnational Criminal Organization and Terrorism)
6. Trafficking in Women and Children
7. Trading in human body parts (Trafficking in Body Parts)
8. Theft and smuggling of vehicles (Theft and Smuggling of Vehicles)
9. Theft (Money Laundering)
10. Other actions (Other Activities) such as Bribery of police officers, Computer crimes, Environmental crimes, Marine insurance fraud, and Infiltration and domination of legal businesses.

Law Enforcement Against Transnational Crime in Indonesia

Law enforcement is defined as the administration of law by law enforcement officers and by everyone who has an interest in accordance with their respective authorities according to applicable legal regulations. Criminal law enforcement is a unified process starting with investigation, arrest, detention, trial of the defendant and ending with the convict's correction. Good and fair law enforcement is determined by community participation, not just the wishes of law enforcement officials.

Transnational crime, or what is known as transnational crime, causes many losses to a country, even to certain areas within that country. Law enforcement provisions have an international dimension, sometimes the perpetrators of crimes who will be processed, tried or executed are not in the territory of the country that will carry out the process, but are in the territory of another country. Even though there are several regulations related to law enforcement in a country to eradicate and stop the operational activities of criminal group networks, unfortunately it is still not considered optimal.

In essence, the formulation of law enforcement has spread and influenced the routes used by these criminal groups, but other findings show that there are syndicates that are increasing their networks by trying to divert attention to less protected and less supervised zones. Transnational criminal acts result in legal problems arising in one country and another. So it is difficult to overcome and eradicate it without cooperation and harmonization of bilateral or multilateral policies between countries.

Law enforcement procedures for international and transnational crimes are an issue that is included in the development of bilateral and multilateral cooperation between countries. This cooperation is guided by preventing and eradicating international criminal acts. MLA or Mutual Legal Assistance is a form of agreement between countries which regulates efforts to overcome the problem of transnational crime.

One of the efforts to combat transnational organized crime has been going on for a long time, globally it has been supported by the United Nations (UN) organization with the establishment of the United Nations Convention Against Transnational Organized Crime (UNCATOC) in December 2000 in Palermo, Italy. This convention later became known as the Palermo Convention which was ratified by Indonesia with Law Number 5 of 2009 concerning Ratification of the United Nations Convention Against Transnational Organized Crime (United Nations Convention Against Transnational Organized Crime). This convention is a reference and

guideline for countries and UN member provisions for tackling transnational crime, as well as efforts to criminalize perpetrators of transnational crime.

International cooperation between law enforcement officials in the world in efforts to deal with, in this case, the prevention and control of transnational crime, is urgently needed in order to eliminate the elements and acts of crime that occur and are increasingly developing in the world. This transnational crime damages a country, even several of its regions. Law enforcement efforts against transnational crime can be carried out using 4 cooperation systems, namely:

1. Police Collaboration

A general fact in this world is that law enforcement only applies in its own territory. He has no powers in other jurisdictions. Therefore, some countries have personnel contacts in other countries either formally or indirectly. Then, issues regarding criminal acts are discussed, usually through informal channels and only cover certain cases. In addition, so far, coordination of investigations carried out across national borders has been very rare. Even if there is, it usually requires requirements that are not easy to fulfill.

In this collaboration, almost all members of the European Union signed the Schengen Convention which contains: (1) the existence of a Schengen information system where officers can share data used for national law enforcement, (2) allowing law enforcement to cross national borders to pursue criminals, (3) permits involvement in handling cases in other countries, (4) permits law enforcement authorities to engage in controlled delivery.

2. Prosecution Cooperation

So far, prosecution processes that cross national borders require bilateral cooperation agreements or several multilateral agreements. Meanwhile, informal contacts will be facilitated by the International Association of Prosecutors, which has the same status as NGOs. In addition, several European Union members station officers abroad with the specific task of facilitating extradition and MLA requests. Then cooperation between prosecutors and courts is also supported through the Schengen structure. Specifically, the international organization in the European Union, namely Eurojust, has also been created to assist coordination in the prosecution process for cross-border crimes.

3. Judicial Cooperation

So far, mutual legal assistance (MLA) and extradition are usually based on incomplete bilateral agreements (not directly regulated), or even based on multilateral agreements only. This agreement hampers law enforcement efforts. A country can submit a request such as extradition through the central government where this procedure tends to be slow and uncertain. In fact, it often causes frustration due to bureaucratic problems, resulting in rejection, and other consequences that actually hinder the judicial process.

4. Cooperation in formulating domestic laws and policies.

International cooperation to formulate national laws and policies is currently not yet contained in bilateral and multilateral agreements. The European Union also collaborates with third party countries or countries outside the European Union to fight transnational crime. This is an effort to encourage the country to participate in global cooperation, because regional cooperation alone is not enough.

CONCLUSION

Judging from history, transnational crime was born before cooperation developed by states. Over time, countries try to balance cooperation by making various breakthroughs such as cooperation in investigations, arrests, and so on. However, it is felt that the cooperation carried out by the state is not enough. The involvement of new actors and the increasing complexity of transnational crimes require countries to collaborate more closely.

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