

Indonesia-South Korea Extradition Agreement as a Form of Cooperation in Efforts to Eradicate International-Scale Crimes

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ABSTRACT

Globalization which is marked by the development of increasingly sophisticated information and communication technology has led to the development of forms of transnational crime called trans-organized crime. The Indonesia-Korea extradition agreement is a form of cooperation based on the national interests of the two countries in an effort to eradicate international-scale crimes that worry countries in the world.

This research is a normative juridical research, which is research which is oriented towards literature study. Data sourced from library materials includes conventions, extradition agreements, laws and regulations, scientific articles and other documents relating to the problem.

The results showed that organized crime or trans-organized crime is a result of global developments as an international crime. This crime has the characteristics of white collar crime, strict self-regulating, received support from professionals and often uses coercion, violence or corrupt efforts to gain immunity. The obstacles that occur in the implementation of the Indonesia-Korea extradition agreement are related to the difficulty of obtaining evidence, low knowledge of law enforcement officers, and activities that are highly confidential and professional in nature thus organized crime is difficult to track and reveal.

Keywords: Extradition, organized crime, confidential, professional

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INTRODUCTION

Globalization and current international developments, the complexity of relations between countries, communication across national borders, and global community relations are driving the development of forms of transnational crime or international crime. Transnational crime develops rapidly demanding countries around the world in national and international law enforcement encourage the creation of international security, to have a legal instrument that is jointly recognized based on international customs in the fight against and eradicating increasingly widespread transnational crime.

Globalization with all its effects has been felt by many countries in the world including Indonesia. Relationships, information acquisition and transactions that cross national borders are part of the positive effects of globalization. On the other hand, globalization must be accompanied by efforts to anticipate the negative impacts that arise. One of the many effects of the latter is related to the problem of crime that utilizes the facilities above, especially those related to science and high technology¹.

Indonesia, which is still experiencing many problems to deal with various crimes, is required to be prepared to handle crimes committed in the international sphere with the use of high technology. Sense of optimism, that organized crime has not yet spread in Indonesia seems to be a manifestation of a sense of turmoil towards crime that is increasingly rampant lately.

Joseph Albini 30 years ago stated, that how slippery the group called mafia or whatever name is used to indicate

the existence of "the enemy within", "The Alien Conspiracy". Stories about the Triads in China, cartels in Colombia, Yakuza in Japan and Cosa Nostra in the United States adorn many mass media worldwide. All seemed to display the existence of a large group with power, wealth, resources, and collusive efforts so large in managing crime, so they could survive for decades in the dark world. The target of this organization is large countries that have residents with large assets as well. The fundamental question is whether there is any possibility of operating in developing countries².

So much information about organized crime raises concerns about the spread of organized crime for countries in the world including Indonesia and South Korea as industrial countries. Anxiety is increasing with the discovery of a number of drug traffickers from various countries including Indonesia and South Korea, money trading and various frauds under the guise of business resulting in many victims with phenomenal losses.

In the midst of the spread of transnational organized crime that hit the world, Indonesia has ratified an extradition treaty between Indonesia and South Korea with Law no 42/2007 concerning Ratification of the EXTRADITION AGREEMENT BETWEEN THE REPUBLIC OF INDONESIA AND THE REPUBLIC OF KOREA.

Article 1 of Law 42/2007 states that the Indonesia - South Korea extradition treaty was ratified and signed on 28 November 2000 in Jakarta. The ratification of the extradition treaty of the two countries is accompanied by copies of the original manuscripts in Indonesian, English

¹ Harkistuti Harkisnowo, Transnational Organized Crime; Dalam Perspektif Hukum Pidana dan Kriminologi, Indonesian Jurnal of International Law, Vol 1, Number 2 January 2004, p. 323-324, ¹. *Ibid.* p. 325

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and Korean languages and is an inseparable part of this Act.

Problem Formulation

a. What are the characteristics of international-scale crime, especially trans-organized crime?

b. What are the obstacles in implementing the Indonesia-South Korea extradition agreement?

Methodology

This research is a normative juridical research, which is an oriented research in library research. So, the source of the data in this study is secondary data, namely data sourced from international conventions, legislation, scientific papers, scientific articles and documents relating to the subject matter. Data collection and analysis techniques are library research and descriptive.

Discussion

A. Historical aspects of South Korean citizens in Indonesia.

1. Total Population

The total populations of South Koreans who are staying in Indonesia, which in Korean is called Hangukgeny Indonesia, are approximately 31,760 people until 2005. The population of South Koreans is the 13th largest in the world based on data from the South Korean Ministry of Foreign Relations and Trade. Some estimates even show the population of South Koreans in Indonesia is even higher, up to 50,000 people³.

2. History.

The existence of South Koreans in Indonesia has been going on for a long time. The Jakarta International Korean School (JKS) in East Jakarta, which opened on February 1, 1975, still survives. In terms of education, in 2007 there were 719 elementary students, 357 junior high school students and 375 high school students. JKS is the largest school for South Koreans in Southeast Asia, twice as many as in Ho Chi Min City⁴. A Koreatown (Korean Village) was formed in Kebayoran Baru, South Jakarta in early 1982, when a South Korean Kim-Woo-Jahe opened a Korean restaurant that sold Kim Chi and Doenjang⁵. Between 2011 and 2013, the population of Koreans increased by 11 percent. Almost all (38,401 or 95 percent) live in Indonesia on ordinary residence visas. Another category shows that growth has been rapid in recent years but has remained small in absolute numbers. Korean citizens who get international student visas amount to 664,000 people (increased by 134 percent since 2011, 814 increased by 285 percent), has permanent residence status, and 405 (increased by 58 percent) have become Indonesian citizens. The sex ratio of Korean citizens is unbalanced, with 1.3 men for each woman, similar to the pattern seen in most South Korean expatriate communities in countries in Southeast Asia besides Malaysia and Singapore. This is different from like Japanese expats. Some South Korean expatriates were followed by their families. South Koreans have a great enthusiasm for learning Indonesian. To facilitate Indonesian language, most South Korean students take

Indonesian language courses at the University of Indonesia⁶.

3. Spread.

The Tangerang City has a significant number of Korean women, especially in Lippo Village which is a residential and business place for Koreans with a dominance of 80 percent consisting of shops, restaurants, JjimJilband (Korean Spa), karaoke (Noraebang) and so on⁷. Korean citizens in Indonesia are spread out in various types of professions. The majority of Koreans in Tangerang are mostly engaged in manufacturing, while in Bekasi, Koreans work in the electronics industry. In Cibubur and Bogor City there are quite large communities of Koreans⁸. While in Surabaya, (East Java), Hangul school, a school for Koreans was established on January 1, 1989 and has 42 kindergarten and elementary school children. In Bandung, West Java, Hangul School was founded in 1992. And has 66 students ranging from kindergarten to junior high⁹. Semarang and Bali¹⁰ also has a quite number of Korean communities.

4. Religion.

According to the Korean Association Director, that in Indonesia 14 Korean churches are registered (from various denominations including Presbyterianism) and a Buddhist temple from the Jogye Order in the Greater Jakarta area¹¹. South Korean Muslims as a minority form the Korean community¹². The Indonesian branch of the Korean Muslim Federation was established in 1982, which sponsored 22 Korean Muslims between 1983-1984 to study at various universities in Indonesia about Islam. The numbers of Korean Muslims in Indonesia until 2005 are in total of 50 people¹³.

B. International crime characteristics.

International-scale crime that is often called trans-organized Crime or Organized crime has a diversity of definitions. This diversity is due to the fact that some international law experts emphasize trans organized crime on the term "organizational" which implies broader meaning, not just mere planning. The following are several definitions of organized crime that have different meanings

1. Donald Cressey.

Cressey provides a broad definition by saying that organized crime is.

*"... any crime committed by a person occupying, in an established division of labour, a position designed for the commission of crime providing that such division of labour also included at least one position for a corruptor, one position for a corruptee, and one position for an enforcer..."*¹⁴

Cressey's formulation above emphasizes on the existence of relationships and organizations that occur in the crime rather than the crime itself.

³ Koreans of Indonesia: Global Village Report, Jae'oe Dongpo Sinmun, accessed on 14 May 2007

⁴ Overseas Korean Educational Institutions: National Institute for International Education Development Republik of Korea, accessed on 15 Mei 2007

⁵ More Converge around "Little Korea" in Jakarta, The Jakarta Post, accessed 14 May 2007

⁶ Otto, Ben (2015-04-02), In South Jakarta, South Korea Learn Bahasa Indonesia WSJ (in English) accessed on 19 July 2018

⁷ Nurbianto, Bambang, "Koreans made to feel at home in their Village in Karawaci, The Jakarta Post, accessed on 14 May 2007

⁸ Korea of Indonesia: Global Village Report, *Loc Cit*

⁹ Overseas Korean Educational Institution, *Loc Cit*

¹⁰ Koreans of Indonesia: Global Village Report, *Loc Cit*

¹¹ Hagwuns, Medical Care Religion, and Social Welfare, Korean Business Directory (in Korean), Korean Chamber of Commerce / Korean Association in Indonesia, accessed 19 June 2009

¹² <http://www.thejakartapost.com/community/korea3.asp>

¹³ Dynamic Korea: Muslims, a minority among minorities "Dynamic minorities. The Jakarta Post, accessed on 14 May 2007

¹⁴ 1969, The Theft of a Nation : The Structure and Operation of Organized Crime in America, New York : Harper and Row, p. 319

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2. Commission on Organized Crime.

This Commission defines organized crime as "...The problem can define organized crime not from the word crime but from the word organized¹⁵". Based on this understanding, the term organized crime refers to crimes committed by an established organization or by an organization whose existence is based on criminal acts

3. Frank Hagan.

Hagan provides definition, that organized crime includes:

"... any group of individuals whose primary activity involves violating criminal laws to seek illegal profits and power by engaging in racketeering activities and when appropriate, engaging intricate financial manipulations..."¹⁶

4. Michael Maltz.

Maltz suggests a definition of organized crime by stating. "... an organized crime is a crime in which there is more than one offender, and the offenders are an intend to remain associated with one another for the purpose of committing crimes . The means of executing the crime include violence, theft, corruption, economic power, deception, and victim participant..."¹⁷

From the definition or understanding of organized crime as mentioned above, it can be concluded that the characteristics of an organized crime are:

- a. Perpetrators are more than 1 person in a well-organized activity.
- b. Established to operate in an established pattern.
- c. Activities are carried out based on relationships that tend to be permanent.
- d. There are rules that apply internally (self-regulating).
- e. There is a strict hierarchy in sustainable organizations with clear division of labor.
- f. Profit-oriented motives.
- g. Often crimes are committed using force, violence or corrupt efforts to gain immunity.
- h. Continuity is not stopped by the death of someone in the organization
- i. Get support from a number of professionals

C. Perpetrators of organized crime.

Regarding the perpetrators of organized crime arises a fairly complex problem. It is difficult to track who the perpetrators are in an organized crime. This difficulty is due to the fact that information about organized crime is mostly obtained from journalists or written by people who claim to be part or former part of organized crime. It is undeniable that the people involved in conducting organized crimes are those who are qualified as white-collar crime and have professional character. This is as stated in the report from The National Advisory committee : "... The Perpetrators of organized crime may include corrupt business executive, members of the professions, public officials, or any occupational groups, in addition to the conventional racketeer-element"¹⁸.

Frank Hagan suggested five types of organized crime¹⁹;

1. Traditional Crime Syndicates.

Traditional Crime Syndicates have characteristics including neat organization, relying on hierarchy, limited membership, confidentiality, using violence, handling prohibited goods, profit-oriented, and gaining immunity through corruption and coercion.

2. Non-Traditional Syndicates.

Non-Traditional Syndicates have the characteristics of being organized, simple and less professional than Traditional Crime Syndicates. Included in this category are drug smuggling, and fraud groups in the business field.

3. Semi Organized Crime.

The purpose of this group is short-term and smaller members in line with the scope of its activities.

4. Local Politically Controlled Organized Crime.

Members are actual partners of local level political structures and powers. They are not merely establishing a corrupt and collusive relationship with "existing legitimate power". Their activities are diverse and often involve activities related to politics.

5. National politically controlled organized crime.

Organized crime operates at the national level and cooperates with structures of political power at the national level. A concrete example is the opium trade in Asia in the 19th century, especially what happened in the golden triangle. Local authorities are encouraging people to plant narcotics and to process and trade them. This is a historical legacy because previously in Indo China the colonial government (France and the United States) encouraged local ethnic groups to plant narcotics if they wanted to help eradicate communism.

Obstacles

1. Difficulties in obtaining evidence.

The neatness and sophistication of trans-organized crime behavior makes it difficult for law enforcers to find evidence needed for the criminal justice process.

2. One of the most important pieces of evidence is witness statements, including victim witnesses. In general witnesses and victims felt reluctant or objected to giving information because of concerns about the risk of retaliation from perpetrators of crime. This concern increases if there is no legal provision that provides protection for witnesses and victims.

3. There is an established and sophisticated relationship between the perpetrators of crime and public officials and politicians. This situation results in the perpetrators of crime creating a strong network thus law enforcement officials cannot be penetrated.

4. In the case of corruption and money laundering, investigators generally hold to the effort of conducting a tracing. On the other hand, the limited knowledge of investigators dealing with the crimes of criminals by utilizing advanced technology to hide the evidence that makes trans-organized crime difficult or not revealed.

5. In terms of efforts to eradicate trans-organized crime, in practice, law enforcement officials are not equipped with adequate facilities and infrastructure even though several countries have ratified various United Nations conventions as the basis for building international cooperation.

6. The existence and activity of trans-organized crime is very evasive, so it is very difficult for law enforcers to find a database of information about them. The consequence is that international information exchange efforts have not been able to function perfectly.

¹⁵ President " s Commission on Organized Crime, 1986, America "s Habit : Organized Crime, Business and Labour Union Interien Report, Washington DC , Government Printing Office, p. 25

¹⁶ National Advisojy Committe on Criminal Justice Standards and Goals, 1976, Whasinton DC, Law Enforcement Assistance Administration, p. 213

¹⁷ Michael Maltz, 1976, On Devining Organized Crime dalam Crime and Delinquency 22 (july) p. 338

¹⁸ National Advisory Committee, *Loc Cit*

¹⁹1990, Introduction to Criminology , Chicago : Nelson – Hall Inc, p. 474

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Conclusion

1. There is diversity in the definition of organized crime but there are general characteristics which are organized, strict self-regulation, forced effort and violence, continuity, and professionalism.
2. Obstacles in the implementation of cooperation through the Indonesia-Korea extradition treaty against organized crime criminals are related to the search for evidence, confidential nature, low level of law enforcement knowledge, shrewdness hiding the existence and activities of organized crime which are very evasive and sophisticated relations and

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