
ORGANIZED CRIME IN THE CORRUPTION OF GARUDA INDONESIA'S FORMER DIRECTOR (ANALYSIS OF THE JAKARTA DISTRICT COURT DECISION)

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Abstract

This study aims to analyse the profiles, criminological consequences, and legal issues of organized crime as manifested in Garuda-Rolls Royce corruption. Organised crime, especially of a transnational and corporate kind, poses an increasingly sophisticated challenge to public authority and legal systems. The former CEO of Indonesian airline Garuda Indonesia's instance, which involved cross-border corruption and money laundering, demonstrates the link between transnational organized crime and domestic governance failure. The research uses a normative juridical method and is based on the analysis of books and case documents. The sources of law on which the conviction was based. The main sources are the judgments of the Court of Fact No. 121/Pid.Sus-TPK/2019/PN Jkt.Pst and No. 122/Pid.Sus-TPK/2019/PN Jkt.Pst. Findings show that the corruption scheme involves all of the ingredients of organized crime: international participation, sophisticated money-laundering techniques, and institutional complicity. The offences were organised in a hierarchical chain involving public figures, involving the perpetrators in various countries, including government officials, business corporations, and financial men. These were operations that took advantage of legal gaps and regulatory deficiencies, and of a lack of coordination across borders. The study brings out the relevance of international legal frameworks such as the UN Convention Against Transnational Organized Crime (Palermo Convention) in reinvigorating prosecution and cooperation. Second, from a criminological perspective.

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Introduction

Along with the development of the times in society, this often has a real and fast influence on the behavior in that society as well (Harkrinowo Harkristuti, 2004). Finally, not only does it have a positive impact, but the development and change in behavior often ends up having a negative influence. The more people are educated in science, the more likely they are to use this knowledge to trick existing systems and regulations. Therefore, the law is required to be a product that is responsive and follows developments in the life of the community itself. If the law is not responsive in responding to changes in the pattern of people's lives, then the law will become a written product that is easy for people to avoid using science to find loopholes in the law itself (Satuan Tugas Pemberantasan Mafia Hukum, 2011). The implication that arises from the existence of a society that is finally able to find loopholes in the law is the increasing variety of types of crime that exist in society (Sudarto, 2006). These crimes have indeed been regulated in statutory regulations, but often certain individuals use their knowledge to commit legal deviations for their personal or group interests. Actions taken by these persons also not only cause harm to other individuals but can also harm and threaten the security of the country itself (Sudarto, 2006).

Organized crime, or what is commonly called structured crime, is a type of crime committed by a group of people or gangs in which one individual action has continuity with a specific purpose that is against the law (Light et al., 1994). The definition explained by Light, Keller, and Calhoun is further divided into two types, namely organized crime on a national scale (domestic) and transnational organized crime (between countries). In the history of disclosure, organized crime has become a crime that is complicated in the process of examining the case, because in one case, there may be continuity with other crimes. Crimes that may have a relationship with organized crime itself are of various types, including white collar crime, corporate crime, transnational crime, and international crime. From several types of crimes that can become crimes from organized crime alone, it can already be illustrated that organized crime is usually carried out by people who are competent in their fields so that they can organize every scenario that is carried out both before and after the crime is committed (Lilik Mulyadi, 2015).

One example of a case of transnational organized crime is the bribery case of the former Main Director of PT Garuda Indonesia with a British aircraft manufacturing company, Rolls-Royce. This case finally dragged the defendants Emirsyah Satar and Soetikno Soedardjo into charges that were different from the Public Prosecutor's. This case has become quite a public concern because it dragged the CEO of PT Garuda Indonesia, the CEO of PT Mugi Rekso Abadi, and Rolls-Royce PLC over corruption in procurement and aircraft engines. Not only related to corruption cases, but both of them were also charged with money laundering (Zunita Putri, 2022). This case can be categorized as a transnational organized crime because in the implementation of the crime, it involved many individuals both from within the country and abroad, besides that between one case and another case they were related to each other with the main objective to commit an unlawful act (Teuku Fahmi, 2014).

In this paper, the author will provide an analysis related to organized crime starting from its history, its development, the perspective of criminology, as well as the discussion of cases from Decision No. 121/Pid.Sus-TPK/2019/PN Jkt. Pst and Decision No. 122/Pid. Sus-TPK/2019/PN Jkt. Pst. The author will provide an overview of how, in the end, the two cases,

which are related to each other, are an illustration of organized crime, which involves not only domestic legal subjects but also foreign ones. From the several points that will be conveyed by the author, the main goal is to identify that organized crime can also be viewed from the science of criminology and how these perpetrators can carry out their actions.

Several studies show that this cross-border corruption committed by Rolls-Royce belongs to a new type of corruption that is not only committed by private entities, but also Foreign bribery. Satria Unggul Wicaksana Prakasa mentioned that corruption is a transnational crime committed by multinational companies and how acts of cooperation between countries can prosecute corruption cases. Corruption that occurred in the Garuda Indonesia and Rolls-Royce cases is an extraordinary crime that not only harms business practices but also the rule of law in Indonesia and other countries involved. Corruption committed by Rolls-Royce. The legal system to eradicate corruption in Indonesia needs a new interpretation after the ratification of UNCAC through Law No. 7/2006 (Prakasa, 2019). Fiki N. Ardiansyah et al. describe the bribery scandal at PT Garuda Indonesia as an international corruption case that spans multiple nations. The bribery case concerning PT Garuda Indonesia spanned several jurisdictions, including Indonesia, the United Kingdom, Singapore, Hong Kong, France, and Canada. The KPK-SFO-CPIB international collaboration illustrates a novel cooperation model as it is executed by the Anti-Corruption Agency using a parallel investigation method. KPK collaborates with organizations via MoU and MLA frameworks that pertain to global instruments, specifically the United Nations Convention Against Corruption (UNCAC) (Fiki N. Ardiansyah et al., 2022). Zico Junius Fernando et al. stated that indications of bribery practices in the private sector need to be immediately regulated in the law on corruption in Indonesia, especially in facing the era of the industrial revolution 4.0 and society 5.0, to avoid a legal vacuum that can be used by perpetrators of corruption to commit corruption crimes. However, in drafting laws and regulations regarding the prevention and control of corruption in the private sector, it must still refer to Pancasila (Indonesian ideology) and not ignore the values of Pancasila as a source of vital values in the life of Indonesian society (Fernando et al., 2022).

Research Method

This study employs a normative juridical research method (Jacobs & Tschötschel, 2019) that focuses on an in-depth understanding of the crime of "organized crime" in Decision No.121/Pid.Sus-TPK/2019/PN Jkt. Pst and Decision No. 122/Pid. Sus-TPK/2019/PN Jkt. Pst. By using normative legal research methods, namely, research conducted by examining library materials or secondary data. On the other hand, the nature of this research is descriptive, namely providing a written description of an existing problem. The analysis process involved qualitative content analysis of judicial reasoning, identification of organized crime elements, and the interpretation of legal doctrines and criminological concepts. The study also used comparative legal analysis to assess the gaps between Indonesian domestic law and international standards on the prosecution of transnational corruption.

Results and discussions

History and Development of Organized Crime

Before we discuss the history of organized crime, it is necessary to dissect the two types of organized crime that can occur domestically or abroad, or between countries involving two or more countries (Pratama, 2020). Why in the end, this type of crime can develop not only within the country but can also occur between countries because these perpetrators often open loopholes for transnational crimes in the hope that these crimes will be difficult to uncover, because territorially they do not only involve one jurisdiction. In addition, the existence of legal dualism that occurs if the crime is committed transnationally is also the reason why organized

crime continues to grow in various countries (Pratama, 2020).

When viewed from the history of the development of organized crime in our own country, of course, this has occurred since positive laws have existed in our country. If defined philosophically, there will be many types of crimes that can be categorized as organized crime, such as premeditated murder committed by more than one person, corruption, illegal gambling, collection of stolen goods, loan sharks, and many more. These crimes are categorized as organized crime because they are committed by more than one person playing different roles to achieve a goal by breaking the law. The Criminal Code ("KUHP") has also recognized the term organized crime with the existence of an article regarding participation in which the participation itself is also part of the subject of organized crime. However, the inclusion itself is not perfect to serve as a basis for validating organized crime because inclusion must be carried out by several people who join to realize the offense committed at that time and completed at that time, while in organized crime it is often other people who are involved in it is not included in the inclusion qualifications because it does not contribute to perfecting the crime but it is included in the complex network structure that exists within it (Yulistyowati, 2017).

Over time, these crimes not only occur on a national scale but also transnational. Organized crime itself has existed since the 21st century, which at that time threatened many important sectors in various countries, such as politics, the economy, and national security (Teuku Fahmi, 2014). The person who first introduced transnational crime was Philip C. Jessup. According to him, transnational crime is a crime that crosses the boundaries of a country, both in terms of the method used, the impact of the crime, and the means used (Andika, 2019). This crime is growing rapidly with the existence of the internet. At first, several transnational crimes occurred in the United States, where these crimes came from syndicates of criminal organizations from Asia, the Balkans, the Middle East, and Russia. This action succeeded in destroying democracy and market discipline in the United States, which resulted in a decrease in the number of capital investments due to the high number of crimes that threaten national security, economic development, and political stability (Andika, 2019). In fact, from these events, several points can be drawn regarding opportunities for organized crime to enter the economic sector, starting from unhealthy business practices such as insider-trading, price-gouging, economic intimidation, graft, polluting, and others. Second, through the underground economy, which can occur through trafficking of illegal merchandise or black market activities, which will result in state losses for unregistered economic activities. Third, namely legitimate business and money laundering, this is, of course, a black circle where a business is developed from illegal sources of money funding (Kristin Finklea, 2009).

Of these several possibilities, eventually the United States also pays more attention to making policies related to the possibility of organized crime aimed at profit and terrorism aimed at ideology. Organized crime and terrorism also have different motivations, but there is one link that is the same, namely, money. This linkage begins when terrorist groups need funding, which is obtained by partnering with organized crime so that both run simultaneously. Apart from that, the United States is also wary of other types of organized crime committed by using the services of these organized crime groups, such as debt collectors, contract killers, bouncers, and other illegal jobs (Teuku Fahmi, 2014). Not only is organized crime a threat to security, but there is also a relationship between organized crime and the politics of several countries. For example, what happened in Mexico in 2003, where these organized criminals entered the world of politics with a two-way relationship that mutually influenced one another. Politicians use organized crime to fulfill what these politicians want, while organized crime uses politicians as its criminal protection. This is, of course, caused by the weakness of the political system in a country. If the relationship between politics and organized crime is allowed, the political conditions will no longer be clean politics because there is a political reciprocation in the future between the politician and the person in organized crime (Teuku Fahmi, 2014).

From several transnational organized crime cases other than what happened above, it

can be concluded that organized crime has expanded and has multi-sectoral impacts on the countries involved. Therefore, to minimize new opportunities for organized crime to emerge, international legal instruments regarding organized cross-border crime, or what is called the United Nations Convention Against Transnational Organized Crime ("Palermo Convention"), have been developed. This convention was born to provide regulations regarding the setting of standards for the national law of each participating country, where, in the problem related to the rule of law, each country still has differences which ultimately make it difficult to investigate or prosecute organized crime (Kristin Finklea, 2009). The formulation of this convention involved 120 UN member states in the Millennium General Assembly in Palermo, Italy. Finally, this convention was adopted in November 2000 and entered into force after being ratified by 40 countries (United Nations Convention Against Transnational Organized Crime, 2003). The birth of the convention became a guide for member countries regarding what policies they should carry out with the existence of standardization regarding the problem of organized crime. In general, this convention regulates the obligations of its member countries to create categories regarding all crimes committed by organized crime groups, which include acts of corruption, corporate crime, and cooperation of other crimes as a criminal offense regulated in laws and regulations.

In addition, the state must also be able to track money laundering that occurs from these crimes because it can be ascertained that organized crime has a high probability of being accompanied by money laundering crimes. Apart from focusing on the perpetrators, this convention also orders each country to protect and guarantee the rights of witnesses who testify against this group. (Mansyur Semma, 2008).

Corruption as a Form of Transnational Organized Crime: a Criminological Perspective

The problem of corruption itself has become a problem not only nationally but also internationally. One of the reasons for the high level of corruption is the weak rule of law and law enforcement related to corruption itself (Keintjem, 2016). The development of the level of complexity of this corruption case itself is increasing over time. Now, corruption can be carried out across countries in a variety of ways that were not previously regulated in law. Because corruption crimes can be carried out more and more by sophisticated and unlimited methods, at present national borders are no longer a problem because there are currently two conventions international law that regulates the crime of corruption as a transnational crime, namely the United Nations Convention Against Corruption and the United Nations Convention Against Transnational Organized Crime (Keintjem, 2016). Article 8 of the United Nations Convention Against Transnational Organized Crime states that every country must adopt a legislative action to determine it as a crime, namely (United Nations Convention Against Transnational Organized Crime, 2003): promise, offer to a public official, directly or indirectly, undue advantage, for the official himself or himself or another person or entity, so that the official acts or refrains from acting in his official duties; and the request or acceptance by a public official, directly or indirectly, of undue advantage, for the official himself or another person or entity, for the official to act or refrain from acting in the exercise of his or her official duties.

The article emphasizes that any action that aims to offer something, whether to do or not to do something to a public official, can be categorized as a crime. Apart from that, this article can also be charged with foreign public officials or international civil servants, and the state party is obliged to consider and determine it as another form of criminal act of corruption (Arifin & Fatasya, 2019). Public officials here can also be interpreted as providers of public services as described in the domestic law of each country. The existence of this convention emphasizes that corruption is a crime that must be fought together, bearing in mind the complexity of corruption itself and the losses arising from corruption, which are very wide, not only for the state but also for society (Arifin & Fatasya, 2019).

Former Main Director of PT Garuda Indonesia, Emirsyah Satar, and former Director

of PT Mugi Rekso Abadi, Soetikno Soebardjo, have been named as defendants in the alleged corruption case in the procurement of CRJ 1000 and ATR 72-600 aircraft (Fachrur Rozie, 2019). Emirsyah Satar was proven to have accepted bribes from Rolls-Royce PLC for the procurement of PT Garuda Indonesia's Airbus SAS aircraft. The bribe money was obtained from Soetikno Soedarjo for IDR 46 billion. In addition to the alleged bribery case, Emirsyah was also proven to have committed money laundering for the money he received from the bribe. Money laundering that occurred alone was not a stand-alone case but a case that was directly related to the alleged corruption that occurred. Emirsyah transferred bribes to some accounts in other people's names, he also fled the money abroad by buying assets abroad.

Soetikno Soedarjo was proven guilty of disguising USD 1,458,364.28 in cash by depositing it into a Woodlake International account in Soetikno's name, paying for an apartment unit in Australia and Singapore, and paying debts at Bank UOB Indonesia. In their indictment, the panel of judges sentenced Soetikno Soedarjo to six months in prison and a fine of IDR 1 billion, a subsidiary of three months in prison on Friday, 8 May 2020 (Fachrur Rozie, 2019).

The corruption case that occurred has cost the state Rp. 8.8 trillion, which in the procurement of the aircraft was allegedly against the law and benefiting the lessor. In this case Emirsyah and the team were deemed not to have carried out an evaluation and were also not transparent in determining the winner of the aircraft procurement following the Regulation of the President of the Republic of Indonesia Number 70 of 2012 concerning the Second Amendment to Presidential Regulation Number 54 of 2010 concerning Government Procurement of Goods/Services, which was then updated with Presidential Regulation Number 4 of 2015 concerning Document Standards for Electronic Government Procurement of Goods/Services Using E-Tendering (Putera Negara, 2017). On the part of the Rolls-Royce company, it is also considered that they did not heed the procurement principles that should be followed. This case has a scenario in which the funds for the project were initially provided by a third party, which was later from PT Garuda Indonesia would pay it to the lessor (Putera Negara, 2017). In this case, not only did Indonesia investigate the case, but the British Government also intervened, which was carried out through the Serious Fraud Office (SFO). Bombardier has conducted an internal investigation into the company, including the acquisition and leasing of the aircraft. This investigation was carried out after Emirsyah Satar and Hadinoto were charged with money laundering from the aircraft procurement process at Garuda.

From this case, it can be concluded that in committing a crime, someone can use any means so that the crime cannot be detected, as was done by Soetikno and Emirsyah by laundering the money they received from the bribe. Apart from that, from this case, it can be seen that bribery cases can also be carried out by foreign companies to win the tender. The British Government also did not remain silent in responding to this case, it also investigated alleged bribery cases committed by companies in their country. So it can be concluded that both the Government of Indonesia and the Government of England also responded swiftly and decisively because the losses incurred were not only one sector but also multi-sector.

Organized crime as a complex form of crime certainly makes it very difficult for law enforcement officials to track down the perpetrator and the actors in it (Levi, 2021). Often, the perpetrators of organized crime are finally revealed because of the testimony of one suspect who has been detained. People who become elements in organized crime cannot be considered as ordinary street criminals; they are people who have easy access, so that the crimes they commit are difficult to uncover (Levi & Soudijn, 2020). This is reinforced by reports from the National Advisory Committee, which explains that the perpetrators of organized crimes are those who include corrupt businessmen, members of their own jobs, public officials, certain work groups, and skilled extortionists (Pratama, 2020).

This led to the birth of four basic types of organized crime, namely the first is the traditional crime syndicate, which is a traditional organization that carries out secret actions, has a definite hierarchy, and often handles prohibited items. Furthermore, there are non-traditional

syndicates in which, in this group they are still below traditional because in terms of mass and dimensions, they tend to be smaller. Furthermore, there is semi-organized crime in this group, they have short-term crime goals with smaller members as well. Fourth, there are local, politically controlled organized crime in this organization, they are actual partners in a political structure and power. Their activities can also touch the political sphere. The last one is national, politically controlled, organized crime, where they operate at the national level and can intervene in national politics as well (Harkrinowo Harkristuti, 2004).

From the several types of organized crime, it can be concluded that organized crime has an organized organization and can be a patrimonial or patron-client network. This indicates that organized crime has become a phenomenon of structural crime that was born in society, and one of the contributing factors is the desire to find loopholes and gain profits in a way that violates the law. Therefore, in investigating cases that are indicated to be carried out in an organized manner, an in-depth and comprehensive investigation is required (Calderoni et al., 2022).

Conclusion

This article argues that the Garuda and Rolls-Royce graft is typical of the complex and transnational nature of organized crime. The participation of the business leaders, the offshore path of financial transfer, and the multi-jurisdictional character of the crime illustrate how structured corruption functions in a sophisticated way. Such confirmation highlights the glaring inadequacies in regulation and an inability to effectively control transnational crime. Drawing on both normative legal theory and criminological theory, this study allows a more comprehensive view of how organised crime takes advantage of corporate and legal fragmentation. It reiterates the requirement of domestication of international protocols such as the Palermo Convention to ensure robust inter-agency collaboration, witness protection, asset tracking, and criminal liability regimes. The limitation of the study is the use of judicial papers and literature review, without original field data from investigators or enforcement agencies.

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