

# COOPERATION IN HANDLING CROSS-BORDER CORRUPTION CRIMES FOR THE RETURN OF CORRUPTION-PROCEEDED ASSETS ABROAD: AN INTERNATIONAL LEGAL PERSPECTIVE

**ALIF OKTAVIAN**

Universitas Pasundan, Bandung, Indonesia. Email: alif.oktavian@unpas.ac.id

## Abstract

**Introduction:** The development of criminal acts seen from the quality and quantity aspects is no longer an ordinary crime, but the crime of corruption is an extraordinary crime, and this requires special handling to stop this crime. Currently, criminal acts of corruption do not only involve people in one community (one country) but also involve people or groups outside the country. Corruption crimes currently cross-national borders or are transnational. The perpetrators of these crimes cross national boundaries by taking advantage of loopholes in the national legal system, so that this will have an impact on the country of origin and other countries involved. **Objective:** The research aims to analyze the application of information technology in cooperation in handling criminal acts of corruption across countries for the return of assets resulting from corruption abroad from an international legal perspective. **Method:** The research method used in this research is a descriptive method with a normative juridical approach, namely legal research carried out by examining library materials or secondary data as basic material. **Result:** Handling the problem of corruption requires efforts to prevent and eradicate it and these efforts can no longer be done locally or nationally but must be done internationally, namely by establishing cooperation between countries in the world by utilizing information technology. One of the important instruments in eradicating corruption and returning assets resulting from criminal acts located abroad is through cooperation agreements, both bilateral, regional and multilateral cooperation, this needs to be done so that these crimes do not develop and harm many countries in the world, one of which is through an institution formed by the UN, namely the United Nations Convention Against Corruption (UNCAC). **Conclusion:** Information Technology can be used as an effective tool in international cooperation to deal with cross-border criminal acts of corruption and return assets resulting from corruption abroad.

**Keywords:** Cooperation, Handling Corruption Crimes, Cross-Border, Information Technology, Returning Assets Abroad

## INTRODUCTION

The evolution of criminal acts, when viewed from both qualitative and quantitative aspects, no longer pertains to ordinary crimes. Instead, corruption has risen to the status of an extraordinary crime. This necessitates specialized measures for combating this type of criminal behavior. It is not solely the focus of the Indonesian government to address these criminal activities; corruption has evolved into a global concern. Internationally, corruption is considered a highly complex crime due to its systematic and widespread nature.

One of the United Nations organizations, the Centre for Crime Prevention (CICP), which dedicates significant attention to corruption issues, defines corruption as the "misuse of (public) power for private gain." According to the Centre for Crime Prevention (CICP), corruption encompasses a wide range of criminal activities, including bribery, embezzlement, fraud, extortion related to official positions, abuse of power, the exploitation of one's position in

business activities for personal and illegal gain, nepotism, illegal commissions received by public officials, and illegal financial contributions to political parties.

As a global issue, corruption has transformed into a transnational border crime. Given its complexity and the adverse effects it generates, categorizing corruption as an extraordinary crime inherently calls for extraordinary measures in its eradication. [1].

Corruption as a criminal offense is not merely about business; rather, it is an economically motivated crime. Whether driven by pressing needs or lifestyle choices, individuals engage in unlawful activities. Due to its extraordinary nature, corruption has become a subject of discussion at both the national and international levels.

When we talk about economically motivated crimes in general, they typically involve conventional offenses like theft, fraud, and embezzlement. However, these crimes have evolved into more complex forms, often involving educated perpetrators and having transnational or cross-border characteristics. These types of crimes not only generate substantial wealth but also require significant funding for the tools, facilities, and infrastructure that support their commission. [2]

In many parts of the world, corruption is viewed as a complex societal phenomenon that is difficult to eradicate. Corruption is often carefully concealed and shrouded in secrecy, as it frequently involves both those who perpetrate the wrongdoing and those who benefit from it, either directly or indirectly. The proceeds of corruption do not always manifest as money but can take the form of movable or immovable assets. As a result, the involved parties often collaborate to cover up each other's tracks, aiming to eliminate any trace of their actions.

Corruption is defined as the act of abusing one's position (power) for personal or collective gain. Many instances of corruption involve government officials, whether from ministries, agencies, state-owned enterprises, regional-owned enterprises, or the private sector. The consequences of these actions are highly detrimental to the people. As Dimitri Vlasits conveyed, the global population, in both developing and developed countries, is becoming increasingly frustrated and suffering due to the injustice and poverty caused by corrupt criminal activities. The global community resigns itself to cynicism when it discovers that the proceeds of corruption, even those held by state officials, cannot be repatriated because they have been transferred and placed overseas. This is often achieved through money laundering practices, with the intention of erasing the trail of the ill-gotten gains. [4].

Various efforts to combat corrupt criminal activities are continually being undertaken because these crimes are evolving. Attempts to apprehend those involved in corrupt criminal acts, followed by their arrest and prosecution, have met with gradual failures, especially for crimes committed solely for financial gain. Furthermore, a significant portion of the ill-gotten gains is often stored or converted into assets abroad. Many cases of corruption remain unresolved, like the Bank Century corruption case, despite Indonesia having enacted laws such as Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 on the Eradication of Corruption and Law Number 8 of 2010 on the Prevention and Eradication of Money Laundering, which include various penalties, including imprisonment, fines, and additional penalties. Moreover,

Presidential Regulation (Perpres) Number 13 of 2018 on the implementation of the beneficial owner principle to prevent money laundering and terrorist financing has been established. However, in reality, these legal regulations have not been able to address the issue of corruption, particularly concerning the proceeds of criminal activities stored or used as personal assets abroad. Notably, many members of the public who fall victim to corrupt offenders have their assets transferred abroad and deposited in financial centers in developed countries protected by the legal systems of those countries and by professional services hired by the corrupt individuals. [6].

Handling cases of corruption, especially in addressing the assets resulting from corrupt activities located outside of Indonesia, is not a simple task. It requires specialized approaches that go beyond the national level. International cooperation is essential in dealing with these issues because corruption has now become a transnational crime. Consequently, the international community should also consider this matter.

Several cases of transnational corruption that have occurred in Indonesia can be summarized by the perception that the Indonesian government has been slow in responding. Poor coordination among law enforcement agencies in Indonesia is one of the hindering factors in repatriating the assets resulting from corruption to Indonesia. In fact, some corruption cases have stalled within the Corruption Eradication Commission (KPK). So far, it is believed that Indonesia's seriousness in combating corruption is only seen in terms of quantity, indicating the number of cases being handled, rather than the quality of the resolutions of these corruption cases. [7].

Indonesia is one of the countries committed to combating corrupt criminal activities, especially in tracking and seizing the proceeds of corrupt criminal acts conducted by corrupt individuals who intentionally store these proceeds abroad. One significant demonstration of Indonesia's dedication to combating corruption is the ratification of the UNCAC 2003, which was ratified as Law Number 7 of 2006 concerning the endorsement of the United Nations Convention Against Corruption, 2003 (UN Convention against Corruption). This ratification represents a legal act to bind itself to an international agreement [8].

The tasks of UNCAC are as follows: [9]

1. Corruption Prevention
2. Formulating types of crimes (corruption)
3. Law Enforcement
4. International Cooperation Provisions, and
5. Asset Recovery Mechanisms, especially across borders.

The objectives of the establishment of UNCAC are:

1. To enhance and strengthen actions to prevent and combat corruption more efficiently and effectively.
2. To enhance, facilitate, and support international cooperation and technical assistance in efforts to prevent and combat corruption, including asset recovery.
3. To enhance the integrity, accountability, and proper management of public issues and wealth.

As a responsible nation committed to combating corruption, Indonesia signed the convention on December 18, 2003. Subsequently, Indonesia ratified Law Number 7 of 2006 on April 18, 2006, as a follow-up to its commitment to UNCAC. This commitment aims to create a corruption-free state. As part of the international community, the government is actively participating in the fight against corruption, aligning with the three strategies outlined by UNCAC. [11].

Cooperation among countries worldwide, utilizing information technology, is crucial in combating corrupt criminal activities, particularly in repatriating the assets resulting from criminal acts stored abroad.

## LITERATURE REVIEW

In the current era of collaboration, cooperation among elements is highly essential for the sustainability of an organization. Collaboration is not limited to large organizations; it focuses on the shared goals and interests in advancing an organization. In organizational theory, there are three elements that form the foundation of an organization: people, objectives, and structure. Similarly, in the case of a nation, a state is a system composed of individuals or groups with shared objectives. As Hasibuan expressed, "An organization is a formal, structured, and coordinated system of groups of people working together to achieve specific goals." [12].

According to Budiardjo, "A state is an organization within a territory that holds legitimate supreme authority and is obeyed by its citizens." [13]

Based on the theories presented above, in order to achieve the state's goal of realizing a just and prosperous condition and promoting the welfare of its people, as mandated by the Constitution of the Republic of Indonesia in 1945, Article IV, it is essential to cooperate with other countries. Indonesia adheres to the concept of the rule of law in the broad sense (*rechtstaat* in *ruimezin*), emphasizing the administration of public interests while simultaneously achieving the welfare of the people (welfare state). As a rule of law state guided by the Pancasila philosophy, Indonesia is committed to achieving national development goals by prioritizing justice and prosperity to ensure the physical and spiritual well-being of all Indonesian citizens. International cooperation encompasses a set of rules, principles, norms, and decision-making procedures that govern the functioning of the international regime.

Cooperation can occur between countries, organizations, or individuals. Cooperation is a necessity resulting from interdependence and the increasing complexity in international society. Collaboration can be undertaken to address various issues such as economics, security, the environment, and more. Actors in international cooperation vary and include countries, non-governmental organizations, individuals, and companies.

In the context of international relations, the state is the primary actor. Therefore, in any cooperation, a state's actions and decisions are motivated to direct its foreign policy towards achieving national interests. There are three forms of international cooperation, namely:

1. Bilateral Cooperation:

Bilateral cooperation involves agreements or treaties made and carried out by only two countries to address the interests of both parties.

2. Regional Cooperation:

Regional cooperation involves collaboration among more than two countries within a particular region.

3. Multilateral Cooperation:

Agreements made by countries outside the boundaries of a specific region.

Cooperation can be undertaken to address various issues such as economic, social, security, environmental, political, legal, and others. Actors in international cooperation can vary and include countries, non-governmental organizations, individuals, and companies.

International cooperation in law enforcement is a *conditio sine qua non*. The need for international cooperation is related to the nature of criminal acts that not only involve two or more legal jurisdictions but also have international aspects, such as threats to world security and peace or jeopardizing humanity. Involving more than one different legal system inevitably creates interdependence among countries around the world. [15]

The development of the Convention against Transnational Organized Crime in 2003 through UNCAC has outlined several acts categorized as corrupt criminal activities, including: bribery of national public officials, bribery of foreign public officials and officials of public international organizations, embezzlement, misappropriation or other diversion of property by a public official, trading in influence, abuse of function (Law Number 7 of 2006 concerning the Endorsement of the United Nations Convention Against Corruption, 2003).

While regulations regarding corrupt criminal activities have been established in Indonesian legislation, such as Law Number 31 of 1999 on the Eradication of Corruption Crimes, later amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 (Corruption Crime Law), they do not encompass cases of bribery in the private sector. However, this is explicitly addressed in the UNCAC.

UNCAC describes bribery in the private sector, including:

1. The offer, promise, or provision, directly or indirectly, of an undue advantage to a person who leads or works, in any capacity, within a private sector entity, for themselves or for someone else, to induce them to act or refrain from acting in violation of their duties.
2. The request for or acceptance, directly or indirectly, of an undue advantage by a person who leads or works, in any capacity, within a private sector entity, for themselves or for someone else, to induce them to act or refrain from acting in violation of their duties.

The inclusion of corruption crimes in international law is evident through the issuance of UN General Assembly Resolution 56/61, which states the "need for regulations to combat corruption on an international level."

Indonesia's membership in UNCAC brings several advantages, as it enables the country to enforce the law by seeking assistance from other UNCAC member states not only in addressing corruption but also in enforcing other laws, such as human trafficking, smuggling of migrants, arms trafficking, terrorism-related crimes, and drug-related offenses.

### **International Law**

International law is a legal system that governs the relationships between nations and states worldwide. Initially, the presence of international law referred to the relations between states, but due to the rapid advancement of science and technology, the scope of international law has expanded significantly. This broader understanding of international law also encompasses the structure and behavior of international organizations and, to a certain extent, multinational companies and individuals. [16]

International law is based on the concept of an international society consisting of sovereign and independent states, each standing on its own and not under the authority of another. It establishes a legal order for coordination among the equal members of the international society. [16]

Based on this, International Law can be defined as a legal system primarily consisting of principles and rules of conduct that states feel bound to adhere to, and, as a result, are genuinely adhered to in their relations with each other. The primary goal of international law is to create order rather than merely establishing a system of fair international relations, but in subsequent developments (such as the principles of state responsibility for injustices), this understanding has evolved. Therefore, in simple terms, international law can be understood as a set of rules directed and created exclusively by sovereign states.

International law is based on the concept of an international society consisting of a number of sovereign and independent states, each standing on its own and not under the authority of another, thus establishing a legal order of coordination among equal members of the international society. [16]



The existence of international law plays a very important role in creating stability among countries worldwide, especially in maintaining cooperation among countries in the face of rapid globalization, where almost every aspect of life undergoes changes, from economics, social aspects, politics, and law, all influenced by these developments. Thus, all nations must be able to adapt to these changes.

In the field of law, one of the aspects expected to contribute positively to the current world civilization is that law is an important instrument. As stated by Ellya Rosana, "Law is a set of rules that apply to society, whether it is a traditional or modern society. Naturally, tranquility and peace in life are achieved when society provides control and social oversight, whether written or unwritten." [19].

Conflicting interests often do not adhere to any rules. Thomas Hobbes, in one of his theories, stated that "Man is a wolf to man" (*Homo homini lupus*), often leading to individuals waging war against each other (*Bellum omnium contra omnes*) driven by their interests. Based on these interests, individuals tend to impose themselves on each other, resulting in conflicts of interest. [14]

The development of law, which includes efforts to establish a legal order, must be continuous to ensure that the law can fulfill its function as a behavioral guide (the function of order) in society, both imperatively and effectively, serving as a guarantor of justice within the community [19].

The role of law in development is to ensure that change occurs in an orderly manner. Order is the primary and fundamental goal of all law. The need for order is a fundamental requirement for the existence of an organized human society. Regardless of other goals of the law, the paramount objective of law is to establish and maintain order, which is an objective fact applicable to all human societies in all forms.

The term "law" can be viewed from eight different perspectives, including law in the sense of authority, law in the sense of officials, law in the sense of attitudes and actions, law in the sense of a system of rules, law in the sense of a network of values, law in the sense of legal order, law in the sense of legal science, and law in the sense of legal discipline. Various meanings of law from different viewpoints, as presented by Soedjono Dirdjosisworo, illustrate that law is not merely written legal regulations and law enforcement officers, as commonly understood by the general public who are unfamiliar with the law. Instead, law also encompasses elements that are already present in societal interactions.

The purpose of law is to integrate and coordinate various interests within society because, in the realm of conflicting interests, there are certain aspects that can only be achieved by limiting other interests. [2]

One of the United Nations' efforts to address issues related to corruption is the establishment of UNCAC, which was officially adopted on December 4, 2000, by the United Nations General Assembly, emphasizing the need for regulations to tackle corruption on an international scale. It was put into practice by the United Nations Office on Drugs and Crime (UNODC) on

December 14, 2005. UNCAC serves as an international agreement aimed at strengthening the national laws of each country in combating corruption [8].

UNCAC encompasses a series of guidelines for the participating countries in implementing anti-corruption measures. These guidelines cover preventive efforts, the definition of various corruption-related crimes, the law enforcement process, international cooperation provisions, and asset recovery mechanisms, especially those with transnational implications. Inter-state cooperation is essential to facilitate the investigation, prosecution, and trial processes for criminal cases that arise in both the Requesting State and the Requested State [20], and one of the forms of this cooperation is through mutual legal assistance (MLA) between countries.

Indonesia signed UNCAC on December 18, 2003, and ratified it on September 19, 2006. The UN Convention Against Corruption is expected to provide convenience in addressing the critical issue of corruption, which currently disrupts national stability.

Indonesia ratified the UNCAC convention through Law No. 7 of 2006 concerning the ratification of the international agreement UNCAC, which introduced new anti-corruption policies in Indonesia. While Indonesia has ratified UNCAC into the positive law of the country, the mechanisms for its implementation vary from one country to another.

### **Transnational Corruption**

Corruption is the misappropriation or embezzlement of state or company funds by someone working for personal gain or for others. Literally, corruption is something rotten, evil, and destructive. This is because corruption indeed concerns the moral aspects, corrupt nature, and situation, positions in government agencies or the government apparatus, abuse of power in positions due to bribery, economic and political factors, and the placement of family or groups in positions under its authority.

According to Beveniste, corruption is defined in 4 (four) types, namely: [7]

1. Discretionary corruption: corruption that occurs due to the freedom to determine policies, even if it seems legitimate, it is not practices acceptable to the organization members.
2. Illegal corruption: a type of action intended to disrupt language or legal meanings, laws, and legal regulations.
3. Mercenary corruption: a type of criminal corruption intended to obtain personal gain through the abuse of authority and power.
4. Ideology corruption: illegal or discretionary corruption intended to pursue group objectives.

In Article 2, paragraph (1) of Law Number 20 of 2001 concerning the Eradication of Corruption, it is stated that "any person who, contrary to the law, enriches oneself or another person or a corporation to the detriment of state finances or the national economy."



Contrary to the law here includes both formal and material wrongdoing. This means that even if an action is not regulated by legislation, if it is considered reprehensible because it does not conform to the sense of justice or the norms of social life in society, then that action can be subject to criminal prosecution.

The development and modus operandi or forms of crime evolve in line with the dynamics of society and technological advances created by humans. Every opportunity or chance is always exploited by individuals, groups, and organized organizations, including states, using any method or means as long as the goal is achieved.

Crime can only be eliminated but cannot be completely eradicated in the life of a nation or in international relations, because humans still possess evil tendencies. It is these evil tendencies that need to be addressed in understanding one's existence as a human being and in viewing others as entities with their own interests and the need for fair and proportionate treatment. [21]

The forms of transnational crimes are highly diverse and have complex characteristics. This arises due to globalization, human migration or mobility, rapid advancements in information technology, communication, and transportation, as well as unstable global economic and political conditions.

Various facilities and technological advancements available are always utilized to achieve desired objectives or targets, even if it means sacrificing certain parties.

Based on Law Number 5 of 2009 regarding the Ratification of the United Nations Convention on Transnational Organized Crime (UNTOC), there are several categories of transnational crimes, such as:

1. Money laundering
2. Corruption
3. Human trafficking
4. Smuggling
5. Migration and production
6. Illicit arms trade
7. The Convention also recognizes terrorism and drug-related crimes as part of the transnational crime category.

All the forms of transnational crimes mentioned above are crimes that have evolved in line with the dynamics of the international community and have become increasingly uncontrollable. For instance, corruption and money laundering.

Currently, corrupt practices involve not only individuals within a single community (one country) but also individuals or groups from outside the country where the corrupt activities occur. In other words, corruption crimes have transcended national borders and become transnational. Perpetrators of these crimes cross national boundaries by exploiting gaps in the

national legal systems in carrying out their criminal activities. This, in turn, affects the originating country and the other countries involved.

Corruption is an extraordinary crime, and its handling requires extraordinary procedures, one of which is the need for political will from the government.

One of the legal instruments needed in the fight against corruption and the recovery of assets located abroad is mutual legal assistance agreements. Interpol's assistance and support in handling transnational corruption cases are noteworthy achievements and best practices. This is because corruption not only affects the psychology of individuals or groups within society but also has an impact on the foundations of national and international economies and the integrity of a nation. Moreover, corruption has become a global concern and focus, as evidenced by the United Nations Assembly recognizing the detrimental effects of corruption as an extraordinary crime. One important instrument in combating corruption and recovering the proceeds of crimes located abroad is through cooperation agreements, whether bilateral, regional, or multilateral. This is necessary to prevent the spread of this crime, which can harm many countries worldwide.

Corruption is also categorized as a transnational crime because it has crossed national borders. As a result, combating it cannot be done solely at the local or national level but requires international cooperation among countries worldwide.

The transnational nature of corruption has been introduced in various legal instruments, both on a national and international scale. The United Nations Convention Against Corruption (UNCAC) states in its preamble: "Corruption is no longer a local problem but has become an international phenomenon affecting all societies and economies, making international cooperation essential for its prevention and control."

Therefore, cooperation in combating corruption involving intellectual actors, where these intellectual actors commit corrupt acts and divert the proceeds abroad (used for business capital or stored overseas), is deemed necessary. Collaboration with other countries, particularly in law enforcement, is crucial in the effort to recover assets resulting from corrupt activities. The Indonesian Criminal Procedure Code (KUHAP) does not explicitly mention assets in its regulations. However, KUHAP provides a similar definition using the term "property." This is formulated in Article 1, point 16, which states that seizure is a series of investigator actions to take over and/or store movable or immovable, tangible or intangible property for evidentiary purposes in investigations, prosecutions, and trials.

The regulation related to asset seizure is stipulated in various criminal law provisions, such as Article 18(a) of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Criminal Acts (the Corruption Law), Law Number 35 of 2009 concerning Narcotics, Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Criminal Acts. [23] In the Draft Asset Forfeiture Law, assets are defined in Article 1, point 1, as all movable or immovable, tangible or intangible property with economic value.

According to Romli Atmasasmita, criminal assets are viewed as subjects and objects of criminal law. Criminal assets, as a subject of criminal law, refer to assets used as a means to commit a criminal act or those that have assisted or supported activities related to the preparation and planning of a criminal act. On the other hand, criminal assets as an object of criminal law refer to assets that are the proceeds of a criminal act. The legal aspect of the term "criminal assets" has legal consequences where criminal assets are considered separate from their owners (the perpetrators of the criminal act) who have controlled (not necessarily owned) the assets in question. The separation of the relationship between "assets" and the "asset owner" in the context of confiscating criminal assets through civil means has a legal implication that "assets" are equivalent to the criminal perpetrator. [23].

Confiscation can be equated with confiscation and forfeiture. In UNCAC, there is a definition of confiscation in Article 2(g), which states, "confiscation" which includes forfeiture where applicable, shall mean the permanent deprivation of property by order of a court or other competent authority. Article 2(g) is translated by UNODC as follows: "Confiscation," which includes the imposition of a fine where applicable, means the permanent deprivation of property by order of a court or other competent authority. The existing legal framework in Indonesia is currently not able to comprehensively regulate and accommodate activities related to the recovery of assets resulting from corruption and financial and banking crimes in general. Efforts are needed in the field of combating corruption, particularly in asset forfeiture and the recovery of assets from abroad.

## **METHOD**

This research can be categorized as descriptive research, which is intended to provide data as carefully as possible about humans, situations, or other phenomena [24]. The research aims to systematically, methodologically, and consistently reveal the truth through the research process, which involves analysis and consistency. The research method in this thesis is analytical descriptive with a normative juridical approach. It is a legal research conducted by examining library materials or secondary data as the basis for research by investigating regulations related to the issues under discussion [25].

## **RESULT AND DISCUSSION**

As mentioned above, in dealing with corruption issues involving other countries (transnational crimes), efforts in enforcement and prevention are required. One of these efforts is through cooperation instruments and agreements with other countries through the framework established by the United Nations, namely the UNCAC (United Nations Convention Against Corruption), which was enacted by the international organization United Nations Office on Drugs and Crime (UNODC) on December 14, 2005. The UNCAC 2003 Convention here serves as an international agreement aimed at strengthening the national laws of each country in combating corruption [26]. The cooperation conducted by the United Nations Office on Drugs and Crime (UNODC) is not limited to a single avenue. Considering the prevalence of corruption in various sectors within Indonesian institutions, UNODC also collaborates with

other law enforcement agencies. This collaboration is part of an effort to protect and recover state assets and rebuild public trust. Some of the agencies and organizations involved include the Corruption Eradication Commission (KPK), the Indonesian National Police (POLRI), the Attorney General's Office (Kejagung), Interpol's National Central Bureau (NCB), the Financial Transaction Reports and Analysis Centre (PPATK), Bank Indonesia, the Ministry of Law and Human Rights (KEMHUMHAM), the Ministry of Foreign Affairs (KEMLU), and various non-governmental organizations (LSM) [7]. One form of international cooperation in the effort to combat corruption is through UNCAC, as emphasized in the UNCAC convention. Countries that have ratified this convention are obligated to cooperate in combating corruption crimes as long as it is necessary and in line with their respective national legal systems. Parties to the convention must consider assisting each other in investigations and proceedings related to civil and administrative matters related to corruption. The birth of UNCAC has become one of the hopes for developing countries, especially in dealing with transnational corruption crimes. One of UNCAC's powers is its enforcement authority over contracting states to fulfill their obligations, including imposing sanctions on contracting states that fail to meet their obligations. One of the essential topics covered in the Convention is Asset Recovery, the recovery of assets that have been taken out of the jurisdiction of the home country through international cooperation. This represents a new paradigm in global corruption prevention. Asset recovery regulations are specifically provided for in Chapter V, Article 51 of UNCAC, which states, "The return of assets pursuant to this chapter is a fundamental principle of this Convention, and Parties shall afford one another the widest measure of cooperation and assistance in this regard." There are three efforts related to the recovery of assets resulting from corruption under UNCAC, including:

1. Through civil allegations: In the effort to recover the assets, corrupt actors can be sued through civil law, where the recovery of assets from corruption is fully based on material and formal civil law discipline.
2. The government through UNCAC can forcibly seize physical assets owned by corrupt individuals abroad.
3. Using the strength of the convention in countries suspected as hiding places for corrupt individuals.

Based on this, the form of cooperation carried out by the Indonesian government in dealing with corruption crimes is through cooperation with UNCAC, as regulated in Chapter 4 of the United Nations Convention against Corruption (UNCAC) 2003.

This international cooperation covers the following areas:

#### 1. Extradition

Although a sovereign state has the authority to prosecute someone based on principles of jurisdiction in international law, it cannot simply enforce it. To implement this principle, a country must request another country to allow the suspect to be tried in their home country through an extradition request. Extradition only pertains to the surrender of a perpetrator of a

crime from one country to another. Thus, extradition agreements cannot be used by a country for purposes other than surrendering individuals, such as obtaining evidence or the proceeds of a crime. Requests and acceptance of extradition can be made based on an agreement, but in the absence of an agreement, requests and acceptance of assistance can be carried out on the basis of good relations founded on the principle of reciprocity. "Good relations" here refer to friendly relations guided by national interests and based on the principles of equality, mutual benefit, and respect for both national and international laws. In general, extradition agreements usually include principles such as:

- a. Double criminality principle
- b. Speciality principle
- c. Non-surrender of offenders for political crimes principle
- d. Non-surrender of own nationals principle
- e. Ne bis in idem principle
- f. Expiration principle

Currently, the UN has also issued a specific instrument that serves as a guide for the drafting of extradition agreements, namely the Model Treaty on Extradition. This model can be applied in both bilateral and international agreements.

## 2. Transfer of Sentenced Persons (Transfer of sentenced persons).

Cooperation in the transfer of individuals who have served part of their sentence and will continue serving the remaining sentence in their home country. The mechanism involves seeking assistance from another country (sentencing state) by a country (administering state) to transfer a convict to serve the remainder of their sentence in their home country. The principles of this transfer cooperation are as follows: [7]

- a. The transfer of convicts is carried out through an agreement.
- b. Each country agrees to the convict transfer.
- c. The convict is a citizen of the administering state (applicant).
- d. The legal force and binding nature of the decision.
- e. The remaining sentence to be served by the convict in the administering state is a minimum of 6 (six) months.
- f. The execution of the decision after the transfer can be carried out either continuously (continued enforcement) or converted (conversion of sentence).
- g. Convicts who have been transferred can be granted pardon, amnesty, or commutation.

## 3. Mutual Legal Assistance (Mutual legal assistance).

Mutual Legal Assistance in Criminal Matters, or Mutual Legal Assistance in criminal matters, is a request for assistance concerning investigations, prosecutions, and trial examinations as

well as the implementation of court decisions in accordance with the provisions of the requested country's laws and regulations.

#### 4. Transfer of Criminal Proceedings (Transfer of criminal proceedings).

Contracting states must consider the prosecution process according to the provisions set out in the convention, especially when multiple jurisdictions are involved, allowing for a more focused approach in the prosecution stage.

#### 5. Joint Investigations (Joint investigations).

Contracting states must consider entering into agreements within the framework of bilateral or multilateral cooperation arrangements related to the essence of investigations, prosecutions, or trial processes in one or more countries. This can be carried out by authorized officials to conduct joint investigations if such an agreement has not yet been established, and agreements will be made on a case-by-case basis.

The ratification of international agreements in Indonesia is regulated by Law No. 24 of 2000 on International Agreements. This law stipulates the procedures for ratifying an international agreement in accordance with the type of agreement.

## CONCLUSION

The development of criminal acts, both in terms of quality and quantity, is no longer an ordinary crime, but the crime of corruption is a very extraordinary crime, and this requires special handling to stop crimes, transactions and criminal acts of corruption. Not only is Indonesia focused on eradicating these criminal acts, but corruption has also become a global issue, where international corruption is a very complex crime, this is due to its systematic and widespread nature.

Corruption is also categorized as a transnational crime because this crime has crossed national boundaries so that efforts to eradicate it can no longer be carried out locally or nationally but must be carried out internationally by including cooperation between countries in the world.

Handling the problem of criminal acts of corruption that cross national borders cannot be resolved solely by relying on the laws in force in that country, but requires assistance through the form of cooperation in law enforcement, especially in returning assets resulting from criminal acts in other countries, by including Indonesia in UNCAC, is one of the efforts in handling cross-border criminal cases of corruption.

The authority of UNCAC is to have coercive power (enforcement) for the contracting state. Information Technology can be used as an effective tool in international cooperation to deal with criminal acts of corruption across national borders and the return of assets resulting from corruption abroad.



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