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Research paper



Extradition As International Cooperation In International Crime Handling

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Abstract

Criminals from a country can avoid the reach of the law of their country by fleeing to other countries this is possible because of technological advances, especially transportation and communication, which in the end crime can become international. In general, every country in the world asserts that national law is inherent and reaches out to every citizen wherever he is, this is so that the person who commits a crime cannot be separated from the legal responsibility attached to him. However, the use of state power over citizens who are in the territory of another country cannot be implemented because it is hindered by the limited jurisdiction owned by the country. State jurisdiction is limited and limited by international law so that in handling criminals who escape to other countries having jurisdiction and legal authority having difficulty in prosecuting and punishing such criminals, and the necessary steps are to conduct international cooperation. In this literature study, the most appropriate method for tackling international crime was examined and from the study it was found that extradition agreements are effective and effective means of handling international crimes..

Keywords: *Extradition , International Crime.*

1. Introduction

1.1. Research Backround

The international community at this time has developed rapidly so that the relationship between humans as members of society can be done in a short time, the advancement of transportation technology, enabling the achievement of the movement of individuals from one country to another. The transfer of individuals from one country to another can occur through legal procedures that apply but some occur abnormally, namely if the movement is due to escape as an attempt to avoid criminal responsibility or the crime committed. the illegal movement of individuals is a complicated problem if the country of origin of the person who commits a crime or crime will apply its national law.

This is due to the principle known in international law, namely "Par in parem non habet empire" which means that a sovereign state cannot exercise jurisdiction over other sovereign states [1]. Breakthroughs can only be made if there is a cooperative relationship with other countries so that legal order can be implemented

For crimes committed by these individuals international responsibility can be imposed. A powerful way to overcome this is to carry out international cooperation so that every perpetrator who has international character can be punished for the crime committed. Universally every crime is the enemy of society and nation, but the practice of punishment is different according to the legal system in each country.

A powerful way is by extradition, which is a form of cooperation between countries to hand over perpetrators of crimes to the state requesting surrender. This extradition is a form of cooperation between countries which in practice is carried out bilaterally.

Although there is already a form of extradition cooperation, in practice not all perpetrators of crimes can be handed over if a country requests the surrender of people who commit politically motivated crimes. Often countries are asked to refuse the surrender of political criminals to the requesting country with this reason related to human rights which ensures freedom of expression, is an exception to the form of extradition, however the holding of extradition agreements between countries is a powerful step in overcoming and combating crime .

Thus the author feels the need to conduct research in the form of a literature review entitled: "Extradition as international cooperation in handling international crime".

1.2. Problem Formulation

The problems that arise are:

1. What is the influence of crime on the stability of the international community?

2. Can extradition be an effective tool in handling international crime?

1.3. Purpose Of Research

The purpose of this study is

1. To assess the effect of crime on the stability of the international community

2. To find out whether extradition as a means of cooperation between countries in combating international crime, is an ef-

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fective and effective means of finding solutions to the problem of international criminals.

1.4. Benefits Of Research

The benefits of this research are:

1. Develop legal science in relation to international relations.

2. Providing experience to researchers about library research research methods

3. Provide broad insight into the handling of crime by extradition**.**

2. Literature Review

2.1. Extradition

The term extradition (Extradition, l 'extradition) comes from the Latin word "Extradere". "Ex" means to leave, while "tradere" gives meaning and the intention is to submit. The noun is "extradition" which means surrender [2].

In RI Law no. 1 of 1979 concerning Extradition in Chapter I of article 1 which reads:

"Extradition is the surrender by a country to a country requesting the surrender of someone who is suspected or convicted of committing a crime outside the territory of the country that submits and in the jurisdiction of the region requesting the submission, because it has the authority to try and convict it."

In addition I Wayan Parthiana, SH also provided a definition of extradition which was combined from the definitions proposed by two international law scholars namely:

"Formally submitted either based on an extradition agreement held previously, or based on the principle of reciprocity for someone accused of a criminal offense (suspect, accused, defendant) [3] or for someone who has been sentenced for the crime committed (convicted , convicted) by the country where he fled or was in hiding, the State has jurisdiction to try or punish him at the request of the State, with the aim of adjudicating or carrying out his sentence. "[4]

2.2. Criminal Behavior

The perpetrators of crime are objects rather than the emergence of extradition requests, however the perpetrators of crimes remain a legal subject that is inherent in human beings, thus the perpetrators of crimes are those who commit crimes. Some criminal sociologists have provided the following meanings of crime:

"Criminal behavior is behavior in violat or other criminal law." [5]

(Attitudes or criminal acts are attitudes or actions that violate criminal law provisions).

Likewise, Bonger gives an understanding of crime, namely:

"Crime is a very anti-social act, which is opposed by the State with sentencing." [6]

The definition of crime proposed by Paul Moedikdo Moeliono is as follows:

"Crime is a human act which is an act of violation of legal norms that is interpreted by the community as an act that is detrimental, irritating, so that it cannot be allowed." [7]

From the understanding and limitations raised by the experts above the author concludes that crime is an act that violates legal norms which because of its very detrimental nature, the need for action to eradicate and try it according to the law

2.3. International Crime

In practice, international crime is given the following meaning:

"Any criminal activity or crime involving more than one country, both the nature of the crime committed and the identity or behavior of the criminal or his accomplice."

The definition stated above may include the crimes of locus delicti carried out in two or more countries, where locus delicti is in a country but the criminal fled to another country or the locus delicti will affect other countries.

Therefore international criminals are declared to be international enemies and to prevent and eradicate them international cooperation is needed that requires cooperation between countries.

Suggestions used to overcome international crime by several countries have been formed by the International Criminal Police Organization which is often referred to as INTERPOL.

3. Methodology

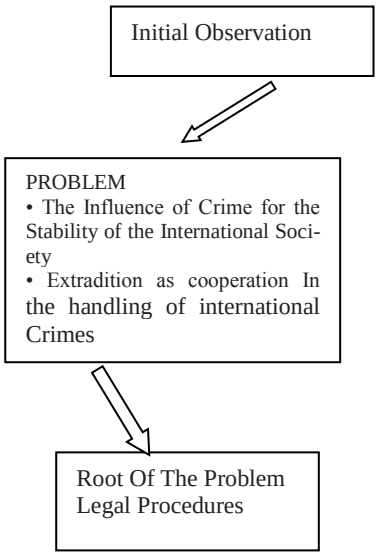
3.1. Research Methods

The stages of the study began by conducting document study first, followed by using other library research and interviews with several speakers. From the typology point of research, this research includes normative juridical research with legal materials that are used according to the explanations previously stated, namely:

a. Primary Legal Material covering Law Number 01 of 1979.
b. Secondary legal material which includes books containing Extradition
c. Tertiary materials include dictionaries, legal dictionaries and legal encyclopedias including interviews..

3.2. Research Framework

The research framework can be discussed as follows:



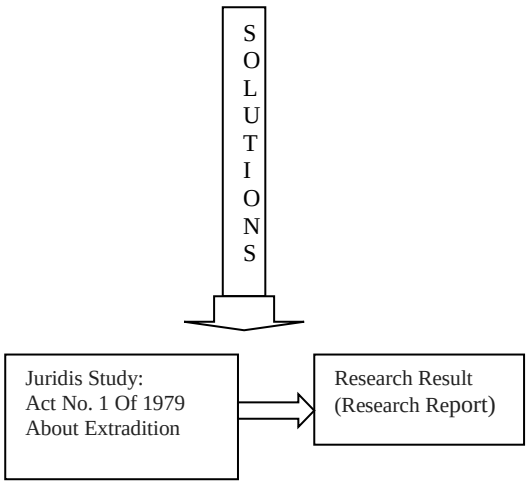


Fig. 1: Framework Research

4. Results And Discussion

4.1. Crimes and Its Effect for International Community Stabilities

4.1. 1. Crime Can Be International

At the end of the 20th century, legal crime was no longer merely a national problem, but more than that had involved a number of countries to become international. Then the crime is classified as international crime .

Regarding international crime itself, J. G. Starke mentions tha there may be two decisive events that apply universal jurisdiction namely crimes of piracy and war crimes. Likewise with the crime of the opium trade, the trafficking of women and children, as well as counterfeiting of

money, all of them have been included in international conventions, but are still governed by the principle of punere aut, aut dedure "that criminals must be punished by the territorial state or handed over to the state run jurisdiction against them [8].

The first example of international crime, what stands out today is flight crime. This is one of the consequences of the increase in the number, range and frequency of international air traffic. In addition, currently there are countries that are registering air flights regularly. This condition caused various complicated jurisdictional problems, caused by violations committed on the aircraft that were on a flight. If this is not addressed, it will be a serious threat to the safety of international civil aviation, due to doubling of hijacking incidents, terrorist acts against aircraft that will take off or land, and to all passengers inside.

As a major effort to overcome the international crime it was passed

Tokyo convention on September 14, 1963, regarding violations and certain other actions carried out on aircraft. The main objectives of the convection are:

a. To guarantee that people commit crimes on an aircraft that is on a flight, or on the high seas or in an area or outside the territory of a country, or who are carrying out actions in such aircraft, without being punished solely because no country will assume jurisdiction to hold or prosecute it.

b. For the purpose of disciplinary protection, to give special authority and power to aircraft pilots, airplane crews and even passengers. [9]

Other international crimes, namely narcotics crime which has been a serious concern of the international community. In anticipating the narcotics crime, the international community has made a convention, namely the 1961 single narcotics convention which was later amended in 1972 in Geneva through additional protocols. The Convention aims to:

a. Creating an international convention that is generally accepted by countries in the world, and can replace international surveillance rules that are divorced in eight international agreements;

b. Improve the ways of controlling narcotics and limit their use specifically for medicinal purposes and / or scientific purposes;

c. Ensuring international cooperation in supervision, so that these goals and objectives can be achieved. [10]

The Convention was shown to eradicate narcotics crime, especially international narcotics trade. As a result of advances in science and technology, especially transportation, these international crimes have become increasingly critical, namely the use of aircraft in transporting narcotics. Likewise due to technological advances in the electronic field, the narcotics smuggling is often difficult to detect, by the detectors made for it.

4.1.2. Disruptive International Crime

Inter-State Relations

Against criminals who are in the territory of another country, there is a difficulty in how one country can apply its national law in giving punishment to criminals. Regarding this matter, Grotius asserted that based on natural law, no one may escape the law and punishment. So because of that against the perpetrator wherever he is to be punished. If the country where he is located is not willing to punish him, then the escape criminals must give up criminals where the crime is committed, as a state that has the authority to try and punish him.

It is often found that there are countries that are not willing to give up the perpetrators of crimes to a country requesting the surrender of criminals. The territory of the country will be a place of shelter for those who escape or hide themselves. This can disturb friendly relations between countries which often cause tension and there can be a breakdown of relations between countries. On the other hand this action can hamper the efforts of the international community in combating fleeing crime. Moreover, the criminals who committed international crimes.

Thus the result is a country that is unwilling to call on the people who are asked, the territory of the country will be a shelter for those who escape or hide themselves. This can disturb you

friendly relations between countries which often cause tension and there can be a breakdown of relations between countries. On the other hand this action can hamper the efforts of the international community in combating fleeing crime. Moreover, the criminals who committed international crimes.

Therefore an effort to overcome the tensions between countries that eradicate crime is the implementation of agreements between countries, both bilateral and multilateral.

4.2. Extradition as a Means That Have Been in Handling of International Crimes

4.2.1. History of Extradition Development

The activity of handing over criminals who fled to other countries known as extradition is an agreement on a peace pact between King Rameses II of Egypt and Hattusili II of Kheta in 1277 BC [11].

In the 20th century, extradition was increasingly accepted in the life of international relations. The important thing about the development of efforts to overcome ordinary crimes and international crimes was the establishment of INTERPOL (International Police) in 1914.

However, with the outbreak of World War I, what was produced in the congress could not be carried out, later at the Second Congress held in September 1923 in Vienna Austria the results of Congress I were enhanced by the constitution of the ICPC (International Criminal Police Commission).

In the mid-20th century in Europe, it was established at a convention known as the European Convention An Extradition which was held in Paris on December 13, 1957 with a view to increasing a wider unity to establish a uniform legal regulation relating to extradition. Likewise in many countries there are bilateral agreements regarding extradition agreements. For the Republic of Indonesia concerning extradition, a law has been enacted, namely Law No. 1 of 1979 concerning Extradition.

4.2.2. Extradition as Law Enforcement Efforts for Criminals

In each extradition agreement there are provisions which regulate the extradition of nationals. Regarding the citizenship of the person requested or the perpetrator of the crime, there are five possibilities, namely:

1. The person requested is a citizen of the country requested.

2. Citizens of requesting countries;

3. Having citizenship;

4. Without citizenship;

5. Third citizen and country [12].

In order to avoid disputes regarding citizenship, I Wayan Parthiana SH said: "It is recommended that inside or in extradition legislation a provision that affirms citizenship at any time, whether citizenship at the time of the crime of surrender is included.

Thus the good intentions of a country that has given citizenship to foreigners will not be misused by the person concerned.

4.2.3. Extradition and Relations with Human Rights

In Indonesia concerning human rights clearly seen in the state constitution, namely the 1945 Constitution both in the opening and in the articles and their explanation. So as a legal state guarantees the protection of human rights are regulated in the Constitution.

The application of the law to the perpetrators of this crime was carried out by international cooperation by entering into extradition agreements between countries. However, in the practice of implementing extradition, this cannot be separated from the guarantee of human rights. Some human rights appear in "The Universal Declaration of Human Rights" which are translated by declarations of human rights

In relation to the articles referred to in the declaration above, the linkages in the application of law to perpetrators of crime, there are several extraditions that consist of:

a. Principles do not hand over perpetrators of political crimes

b. Principles do not give up citizens

c. The principle of ib bus is idem. (A person may not be tried and sentenced more than once to the same crime)

d. The principle expires

4.2.4. State Practices in Extradition Implementation

Efforts to break through the weaknesses about the acceptance of perpetrators, the steps taken by countries in the world in carrying out international cooperation are through extradition agreements and participating through the international police (Interpol) which advocates that each country form the National Center Bureau. The ICPO regulates extradition requests regarding procedures, and crimes that can be extradited, which are generally adopted by the Indonesian Extradition Law based on 4 things:

1. National legislation

2. Extradition agreements, both bilaterally and multilaterally

3. Expansion of international conventions

4. International Courtesy (International Courtesy)

The practice of countries concerning political crimes creates legal uncertainty and is left to each country to determine whether a crime is a political crime or not, there is a positive aspect, namely through the practice of these countries can be attempted to mutually approach the contents of the political crime itself, because in many ways, the practices of these countries show similarities even though there are still many fairly basic differences.

Indonesia in the context of the practice of eradicating crimes that cross national borders has laws against extradition, namely Law no. 1 of 1979.

With the Extradition Law, preventive measures and eradication and punishment of criminals are more guaranteed by law.

5. Conclusion

From the discussion that the author has described in previous chapters, some conclusions can be drawn as follows:
1. The perpetrators of crime to be able to avoid the reach of the law of the country where the crime is committed can cross national borders, so that the crime has become international. International crime has developed so as to disrupt international order which has bad consequences for countries in the world.
2. Limited state jurisdiction and limited by international law so that in dealing with criminals who have fled to other countries, and the necessary steps are to establish international cooperation in the form of extradition agreements in addition to diplomatic cooperation, including Indonesia to enter into international cooperation with extradition treaties. other countries as well as being members of the International Police, are the most appropriate and effective steps in tackling international crime, which at this time is increasing..
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