



JLPH: Journal of Law, Politic and Humanities

<https://dinastires.org/JLPH> ✉ dinasti.info@gmail.com ☎ +62 811 7404 455

E-ISSN: 2962-2816
P-ISSN: 2747-1985

DOI: <https://doi.org/10.38035/jlph.v5i4>
<https://creativecommons.org/licenses/by/4.0/>

Indonesian Obstacles in the Implementation of Assets Confidential Proceedings from Corruption Crimes Overseas Based on the UN Convention AS Set Forth in UNCAC

Muhammad Anwar¹, Agus Surono².

¹PDIH Universitas Pancasila, moch.anwar1998@gmail.com.

²PDIH Universitas Pancasila, surono.agus7030@gmail.com.

Corresponding Author: moch.anwar1998@gmail.com¹

Abstract: The eradication of corruption in Indonesia, classified as an extraordinary crime, has not been optimally implemented, particularly in addressing perpetrators who flee to other countries. The international community, through the United Nations Convention against Corruption (UNCAC), has committed to combating corruption among member states. Corruption, in addition to being an extraordinary crime at the national level, has also become an international (transnational crime) threat, endangering global society and the international economy. Indonesia's commitment to eradicating corruption includes efforts to recover and repatriate assets resulting from corruption that have been moved abroad. This has been carried out through cooperation agreements, including extradition treaties and mutual legal assistance agreements, with countries where corrupt individuals hide stolen assets. While these measures have shown progress, they remain suboptimal due to obstacles in implementation, arising from political and legal factors as well as the execution of agreements. Consequently, convicted perpetrators of corruption in Indonesian courts are often able to resist enforcement due to differences in legal systems between Indonesia and partner countries. To optimize efforts and reduce these legal and implementation challenges, strong political will from the Indonesian government and proactive diplomatic relations between heads of state and law enforcement officials are needed to foster effective cooperation in pursuing corrupt individuals hiding abroad.

Keyword: Implementation Barriers in Indonesia, Corruption, Fleeing Abroad, UNCAC.

INTRODUCTION

Settlement of criminal acts of corruption against perpetrators of corruption in Indonesia through court decisions for criminal acts of corruption which have permanent legal force (*incracht*) since Law no. 31 of 1999 as amended by Law no. 20 of 2001 concerning the Eradication of Corruption Crimes and the establishment of the Corruption Eradication Commission based on Law no. 30 of 2002, has not had a maximum impact on the recovery and return of state money from the proceeds of corruption crimes, according to Indonesia Corruption Watch (ICW). The condition of eradicating corruption in Indonesia is increasingly

worrying, as evidenced by the findings of Transparency International Indonesia (TII) through the 2023 Corruption Perception Index, Indonesia's score is the same as the previous year, namely, 34 and the ranking dropped from 110 to 115. When compared with the score nine years ago or when President Joko Widodo was first inaugurated, Indonesia's IPK is practically stagnant or running in place. This is a bad sign that requires a thorough evaluation of corruption eradication policies, including the reform of law enforcement agencies. (Indonesia Corruption Watch, 2019).

Before the formation of UNCAC in 1995, Indonesia had received the title of the most corrupt country by ranking last based on data from Transparency International Indonesia with a Corruption Achievement Index (GPA) of 1.97 and was ranked 41st out of 41 countries surveyed for the level of corruption cases, (Muhammad Ade Rizandi et-al, 2022), After Indonesia ratified UNCAC in 2006 which was formalized through Law no. 7 of 2006, the eradication of corruption has not yet had a deterrent effect on perpetrators of criminal acts of corruption, on the contrary, perpetrators of criminal acts of corruption are increasing and there is a tendency for trust in the Anti-Corruption Institution, the Corruption Eradication Commission, to slowly begin to question its effectiveness. How could it not be, a series of controversies have changed over the last four years. Starting from the low quantity and quality of enforcement, scandals about ethical violations, to worsening institutional governance, almost all opinion polls conducted by survey institutions place the anti-corruption agency at the lowest point in terms of public trust. Johan A. Gardner and Davis J. Olson group corruption into 3 (three) groups as follows: (Ade Mahmud, 2020)

1. Physically, for example, acts of destruction that intentionally cause decay with unreasonable and disgusting actions
2. Moral, political in nature, namely making someone's morals corrupt or can mean the fact of the condition of corruption and decline that occurs in society
3. Perversion of purity

As a serious economic crime (eco crime), corruption has a special model and nature in committing crimes by using their position as an official who has great authority in making decisions that are detrimental to other people and the state. Corruption crimes are always committed by those who have power. Authority and strong relationships with power, therefore corruption can only be carried out by people and legal entities who have good knowledge and are educated, this crime is also called those who make white collar crime or White Collar Crime, which is always in their modus operandi of crime uses position or bureaucrat (Occupational Crime), and has complex consequences and has attracted the attention of the international community.

The complexity of corruption crimes is following and in line with the 8th UN Congress on "Prevention of crime and treatment of offenders" which passed the resolution "Corruption in Government" in Havana in 1990 formulating the consequences of corruption, namely (Lilik Mulyadi, 2020):

1. Corruption among public officials (corrupt activities of public officials)
 - a. Can destroy the potential effectiveness of all types of government programs
 - b. Can hinder development
 - c. Causing individual victims to community groups
2. There is a close connection between corruption and various forms of economic crime, organized crime and illicit money laundering

From the 8th UN Congress which passed the resolution on Corruption in Government, a basic conclusion can be drawn that Corruption is an extraordinary crime (Extraordinary Crime), transnational organized crime, *primum remedium* and a very serious crime (the most serious crime) are systemic and multidimensional in the sense that they correlate with systemic, juridical, sociological, cultural, economic aspects between countries and so on. According to Romli Atmasasmita, corruption in Indonesia is a very serious and extraordinary crime

(extraordinary crime), so the demand for the availability of extraordinary and sophisticated legal instruments and institutions that deal with corruption is inevitable because corruption has been proven to be very serious. Suffering the people is even a violation of the economic and social rights of the Indonesian people.

The regulation of criminal acts of corruption as extraordinary crimes is contained in the general explanation of Law no. 20 of 2001 concerning the Eradication of Corruption Crimes states: "In addition to this, considering that corruption in Indonesia occurs systematically and widely so that it not only harms state finances but also violates the social and economic rights of society at large, it is necessary to eradicate corruption needs to be done extraordinarily. "Therefore, the eradication of criminal acts of corruption must be carried out specially, including the application of a reverse proof system, namely proof that is charged to the defendant."

In the consideration of point a of Law no. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption also states that: "Criminal acts of corruption that have occurred so far are widespread, not only causing harm to state finances, but also a violation of the social and economic rights of the wider community, so that criminal acts of corruption need to be classified as crimes whose eradication must be carried out extraordinarily" In the Corruption Crime Law Articles 2 and 3, perpetrators of criminal acts of corruption other than individuals are also committed by corporations which in practice is difficult to prove, especially if the perpetrators corruption takes the proceeds of its crimes abroad, law enforcement officials find it difficult to track the assets and whereabouts of corruption perpetrators who flee abroad, let alone arrest them because of differences in legal treatment and only a few countries have cooperation with Indonesia regarding extradition agreements, one of the countries that has entered into an extradition agreement after a long time. For years, Singapore was the closest place for Indonesian corruptors to escape.

The Extradition Agreement between Indonesia and Singapore strengthens the reach of law enforcement to hand over perpetrators of criminal acts of corruption between Indonesia and Singapore which has been passed into Law no. 2023 (Ari Dwipayana, 2024). Apart from the extradition agreement, the Indonesian government to pursue assets resulting from criminal acts of corruption both domestically and abroad through asset confiscation can be carried out with international cooperation, which in this case is known as Mutual Legal Assistance. The extradition agreement and Mutual Legal Assistance is a collaboration that aims to assist in the process of investigation, prosecution and examination in criminal justice trials including investigation, confiscation and return of assets resulting from crime based on requested National law, through two forms of cooperation It is hoped that state losses caused by the corruption by corruptors who have fled abroad can be overcome quickly and optimally so that fugitive corruptors who have fled abroad will no longer be a problem for the Indonesian government in taking legal action, including confiscating the assets of corruptors hidden abroad.

The Indonesian government has signed mutual legal assistance cooperation bilaterally with Australia, China, Hong Kong, Korea and multilaterally, with the Association of South East Nations (ASEAN) countries. (Ika Yuliana Susilawati, 2016) The provisions regarding Mutual Legal Assistance are regulated in Law No. 1 of 2006 concerning Mutual Assistance in Criminal Law matters, in Article 9 of Law No. 1 of 2006 concerning Mutual Assistance in Criminal Matters states that:

- 1) The Minister can submit requests for assistance to foreign countries directly or through diplomatic relations
- 2) The request for assistance as intended in paragraph (1) is submitted by the Minister based on a request from the Chief of Police or the Attorney General

- 3) In the case of criminal acts of corruption, requests for assistance to Ministers other than the National Police Chief and the Attorney General can also be submitted by the Chair of the Corruption Eradication Commission.

So far Indonesia's obstacles in pursuing corruptors' assets abroad are more normative in nature and differences in legal systems in countries where corruptors keep their assets so that special attention is needed between countries in overcoming obstacles in the field, especially in terms of correspondence and technical evidence, UNCAC regulates that Assistance Reciprocity (Mutual Legal Assistance) must be provided as widely as possible based on the laws, treaties and related regulations of the requested State Party regarding investigations, prosecutions and court proceedings. Mutual Legal Assistance can be requested for this purpose:

- 1) Taking evidence or statements from people
- 2) Submit court documents
- 3) Carrying out investigations and confiscation and freezing
- 4) Checking goods and places
- 5) Providing information, evidence and assessments
- 6) Provide original documents or official copies and relevant records, including government, bank, financial, corporate or business records.
- 7) Identify or trace the proceeds of crime, wealth, means, or other things for evidentiary purposes
- 8) Facilitate the voluntary presence of people in the requesting party country
- 9) Other assistance that does not conflict with the national law of the requested party country
- 10) Identify, freeze and trace the proceeds of crime in accordance with the provisions of Chapter V of this Convention and
- 11) Return assets, in accordance with the provisions of Chapter V of this Convention.

After Indonesia signed the Treaty on Mutual Legal Assistance on January 17 2006, it strengthened its position and optimism in pursuing corrupt assets taken abroad and strengthened its commitment to eradicate corruption and confiscation of assets through cross-border legal instruments by adopting UNCAC and the Reciprocal Assistance Commitment (Mutual Legal Assistance) ASEAN is as follows: ratification of Law no. 1 of 2006 concerning mutual assistance in criminal matters, the enactment of Law no. 7 of 2006 concerning Ratification of the United Nations Convention against Corruption (United Nations anti-corruption convention, subsequently ratified by Law No. 15 of 2008 concerning Ratification of the Treaty on Mutual Legal Assistance in Criminal Matters (MLA) with the ratification and signing of UNCAC and MLA ASEAN It is hoped that the obstacles in implementing the confiscation of assets of corruptors resulting from criminal acts of corruption who were taken abroad will usually be implemented well so that Indonesia will no longer have difficulty chasing down corruptors as before. There is cooperation and ratification of UNCAC and MLA.

METHOD

In this context, the researcher aims to determine a model of strong and fair international cooperation between state parties in order to avoid difficulties in both legal and technical systems in implementation, especially in the confiscation of assets related to criminal acts of corruption that are taken abroad by perpetrators of criminal acts of corruption. , in connection with this, the question in this research is: What is the ideal concept of cooperation in returning assets resulting from corruption crimes that have been taken abroad based on UNCAC and in Indonesia, including the obstacles and constraints?

Method The approach used in this research is a juridical approach, by studying statutory regulations and other provisions relevant to the subject of discussion. It is hoped that the results of this research can provide information on thoughts and considerations in handling criminal acts of corruption, especially in the case of confiscation of assets located abroad with international cooperation through mutual legal assistance, both bilaterally and multilaterally,

and can contribute ideas to institutions. law enforcers and related institutions in Indonesia in coordinating to confiscate state assets resulting from criminal acts of corruption which can be used for the greatest justice and prosperity of the Indonesian people.

RESULTS AND DISCUSSION

Obstacles to the Implementation of Confiscation of Assets Proceeding from Corruption Crimes Abroad Based on UNCAC and Mutual Legal Assistance.

Obstacles from the legal aspect of the country where the perpetrator of corruption hides assets resulting from corruption.

Asset confiscation aimed at recovering state finances resulting from criminal acts of corruption which corruptors have fled abroad is a job for the Indonesian government that is not easy because it requires diplomacy between countries and the issue of legal cooperation on how the two countries can help each other in eradicating corruption, especially the perpetrators. The corruption escapes to the state party to establish cooperation, namely Mutual Legal Assistance. The importance of confiscation of assets in the context of recovering assets resulting from criminal acts of corruption cannot be denied considering that the resulting losses to the state are also very large.

For example, in the old case of Corruption, the misappropriation of the State-Wide Certificate of Bank Indonesia Liquidity Assistance (SKL BLBI), of which a total of Rp. 284 trillion in state losses until 2019 the state only received a refund of Rp. 546 billion, which became an obstacle to solving this case because 52 corrupt people involved in it had fled abroad, 23 Corruption Suspects of whom had fled to Singapore, Australia and several other countries, (Ricardo Santos and Hery Firmansyah, 2016) next is the Century Bank case of Rafat Ali Rizli and Hesham Al Warraq whose assets were hidden in Hong Kong and have been sentenced since 2010 with a verdict both were sentenced to 15 years in prison at the Central Jakarta Corruption Court each and both were required to pay compensation of Rp. 3.1 trillion and a fine of Rp. 15 Billion with a subsidiary of 6 Months of Confinement.

Attempts were made to confiscate the assets of the two defendants. The Indonesian government succeeded in obtaining from the Hong Kong High Court a decision to confiscate assets amounting to Rp. US\$. 4,075,000,- which is in Hong Kong. However, in 2017 the verdict could not be executed because the two Corruption perpetrators appealed, in order to win the appeal Rafat Ali Rivi and Hesham Al Warraq filed a lawsuit at the Arbitration Forum including the Islamic Conference Organization (OKI) regarding the freezing and confiscation of assets in Hong Kong where the OIC arbitration tribunal decided that the legal process against Rafat Ali Rizvi and Hesham Al Warraq in Indonesia was the underlying The seizure in Hong Kong violates human rights as regulated in the International Covenant on Civil and Political Rights (ICCPR) (Agus Raharjo, 2024).

The resistance of corruptors who have been convicted through the Indonesian legal system causes the Indonesian government to experience serious obstacles due to the lack of a unified legal system and the same understanding regarding the crimes referred to in the Corruption Crime Law that applies in Indonesia so that the perpetrators of corruption can fight back in the State party. Where the perpetrators of corruption hid assets, this was done by two corruption convicts Rafat Ali Rizvi and Hesham Al Warraq who annulled the decision of the Central Jakarta corruption crime court through the decision of the Arbitration Forum Tribunal including the Islamic Conference Organization (OIC) and The convict asked the Hong Kong government to withdraw its support for Indonesia's asset recovery efforts and asked the Indonesian government to implement the arbitration decision.

Obstacles and resistance like this also occur in several countries that have established cooperative relations in the form of Mutual Legal Assistance and Extradition agreements for criminals who have fled abroad. The success of the State in pursuing criminals who have fled

abroad cannot be separated from the existence of good relations. and friendship between countries, both in bilateral and multilateral relations, which will influence court decisions for criminal acts of corruption that can be executed and assets that have been confiscated by corruptors can be brought back to Indonesia, so that the state parties do not simply annul the decisions of the Indonesian Corruption Crime Court which have permanent legal force, in several cases Countries in handing over perpetrators of criminal acts of corruption do not solely depend on the existence of the agreement (Abdul Wahid, 2023), but on good diplomatic relations.

On the other hand, the Anti-Corruption Law has not been fully ratified based on UNCAC, several laws and articles in UNCAC have not been harmonized by the government in law, resulting in legal imbalances in implementation, especially Law no. 31 of 1999 has been amended by Law no. 20 of 2001 concerning the Eradication of Corruption Crimes is considered lagging behind and not harmonized with UNCAC, for example Article 18 letter (a) UNCAC Trading in Influence, obtaining wealth illegally (illicit enrichment), and bribery of public officials (foreign bribery) , Article 18 UNCAC reads (UNCAC Text and Legal Framework, 2004):

“Each State party shall consider adopting such legislative and other measures as maybe necessary to establish as criminal offences, when committed intentionnally :

- a) The promise, offering or giving to a public official or any other person, directly or inderectly, of an undue advantage in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an adminstration or public authority of the state party an undue advantage for the original instigator of the act or for any other person.
- b) The Solicitation or acceptance by a public official or any other person, directly or inderectly, of an undue advantage for himself or her self or for another person in order that the public official or the person abuse his or her real or supposed influence with a view to obtaining from an administration or public authority of the state Party an undue advantsge”

Based on the Traiding Influence regulations in Article 18 of the UNCAC, the elements contained therein can be analyzed, namely: in the phrase "each party state can consider... indicating that the alleged behavior described as "Trading influence" is an optional violation or non-mandatory official. This optional violation means that there is no agreement among the member countries participating in the UN convention in UNCAC to criminalize this act as a criminal act of corruption, thus giving states the option to adopt or not adopt this act, in other words Article 18 of UNCAC is provision laws that not all countries make it a criminal offense, including in Indonesia, so that the different meanings of the law regarding self-enrichment, obtaining wealth illegally and trading in influence, as well as state losses cannot be applied in all countries where corruptors flee and hide the resulting assets. Criminal acts of corruption.

Article 43 paragraph (1) UNCAC concerning International Cooperation, determines that party countries are obliged to cooperate in criminal matters. Paragraph (2) This article determines that in terms of International Cooperation, dual criminality is considered a requirement, and this is deemed to have been fulfilled, furthermore, Article 44 paragraph 5) Concerning Extradition, determines that if a state party carrying out extradition under the terms of a treaty receives an extradition request from another party state with which that state does not have an extradition treaty, it can consider conventions This is the legal basis for extradition (Klitgaard Robert, 1988). In other words, corruptors who flee abroad can be returned to Indonesia and have their assets confiscated to recover state losses by a court decision that has permanent legal force.

Criminal Law Expert Romli, although the regulations regarding the mechanism of mutual legal assistance (Mutual Legal Assistance) confiscating the assets of corruptors who have been taken abroad is still not a simple matter of confiscating the assets of corruptors abroad, it still requires International, Multilateral and Bilateral Agreements and will become difficult obstacles if the perpetrator of corruption changes citizenship (foreigner) permanently so that

Indonesian law which has judged perpetrators of criminal acts of corruption does not apply (Danil Elvi, 2016). Another obstacle that makes it difficult to return money for corruption crimes to Indonesia is that the Corruption Crimes Law has limited the amount of compensation money that can be given to the same as the money obtained from corruption crimes or as much as can be proven in court, an obstacle from the legal aspect of the legal paradigm for eradicating criminal acts. Corruption, and efforts to recover state money are also hampered by the characteristics of criminal acts of corruption, the proof of which is very detailed and takes a very long time. On the one hand, efforts by corruptors to hide assets resulting from criminal acts of corruption have been carried out since the corruption was committed, the average period for completing corruption cases until the verdict is permanent legal force (*incracht*) of 2 years to 3 years, this is a very long time for corrupt actors to eliminate traces of the assets they obtained from criminal acts of corruption (National Legal Development Agency of the Ministry of Law and Human Rights of the Republic of Indonesia, 2022).

Eradication of Corruption based on UNCAC and diplomacy between countries. Solutions for Returning Assets of Corruption Crime Offenders Abroad.

In looking at the obstacles to the implementation of eradicating corruption that is carried away by corruptors abroad based on international agreements, it can be seen from the results of agreements that have been made in the form of physical evidence and the contents of agreements between countries, the text of agreements containing rules or technical details and handling mechanisms and pursuit of corruptors and return of assets resulting from corruption in the country where the party is located, if the language used in the content of the agreement text is general, has multiple meanings, can give rise to broad interpretations causing differences in meaning in the agreement text which can be difficult to implement in law enforcement practice, thus This will make things difficult for the applicant country, Indonesia to process corruptors and corrupt assets that have fled abroad. (Andi Hamzah, 2006)

The commitment to eradicating corruption based on UNCAC can be seen in eight chapters and 71 articles. In UNCAC 11 acts are criminalized as acts of corruption. Of the 11 acts that are criminalized in UNCAC, there are two categories, namely those that are mandatory or mandatory offenses and those that are optional or non-mandatory offenses. These two characteristics cannot be separated from the agreement between the countries participating in the UNCAC convention, mandatory offenses mean that an act is criminalized with the agreement of all parties to the convention to regulate the act in their national law, thereby giving rise to obligations for member countries, on the other hand, non-mandatory offenses means that there is no agreement between the parties to the convention to declare the act a crime (Evi Hartanti, 2005).

Looking at the two types of actions that are criminalized in UNCAC, the author sees that there is legal uncertainty in implementation in each party country that is a member of the convention, especially for the State of Indonesia which has determined that corruption is an extraordinary crime which has been regulated in the general explanation of Law no. 20 of 2001 concerning the Eradication of Corruption Crimes states that: (Etty Indriati, 2014) "In addition to this, considering that corruption in Indonesia occurs systematically and is widespread so that it not only harms state finances, but also violates the social and economic rights of the community. Broadly speaking, eradicating corruption needs to be carried out extraordinarily. "Thus, the eradication of criminal acts of corruption must be carried out specially, including the application of a reverse proof system, namely proof that is charged to the defendant."

In consideration of point a of Law no. 20 of 2001 concerning the Eradication of Criminal Acts of Corruption also states that: "Criminal acts of corruption that have occurred so far are widespread, not only causing harm to state finances but also a violation of the social and economic rights of the wider community so that criminal acts of corruption need to be classified as crimes whose eradication must be carried out extraordinarily".

Differences in the interpretation of criminalization actions between countries can hinder the implementation of eradicating corruption and the return of assets resulting from criminal acts of corruption that were taken abroad. If you look carefully at the commitment of the UNCAC convention, it has provided strong support regarding the recovery of cross-border assets resulting from criminal acts of corruption which is built on the main pillars as follows: First: Empowerment of legal and institutional instruments in the field of recovery of assets resulting from crime (penal system), Second: cooperation between governments, legislators, financial institutions, the community to foster collective responsibility and unity of action in the prevention, detection and recovery of assets stolen goods, Third: developing innovations in techniques that can be used to trace and return criminal assets, and Fourth: Encouraging the strengthening of international standards in asset recovery efforts through the implementation of the provisions of Chapter V of UNCAC and other International Conventions, with the basic principle of protecting sovereignty in UNCAC being The basic principle of international law requires that victim countries and countries where corruptors flee need to optimize cooperative efforts to eradicate corruption and return the assets of victim countries that were taken abroad as confirmed in Article 51 of UNCAC. (Sylvana Agnetha Wulan Widyastuti, 2022).

Regarding the return of these assets, participating countries are required to provide the widest possible cooperation and assistance. Article 53 of UNCAC states that each participating State is obliged, by its national law:

- 1) Take such measures as may be necessary to permit other contracting states to initiate civil suits in their courts to enforce rights to or ownership of property obtained through the commission of crimes established under this convention.
- 2) Take such measures as may be necessary to permit its courts to order persons who have committed crimes established under this convention to pay compensation or reparations to other contracting states who have been harmed by such crimes
- 3) Take such measures as may be necessary to allow other courts or competent authorities, when having to decide on confiscation, to recognize the claims of other participating countries as the legal owners of assets obtained through criminal acts as determined by the convention.

The commitment to the UN Convention as outlined in UNCAC as an international agreement between countries participating in the convention is an international legal certainty to prevent, and pursue perpetrators of corruption who flee abroad and return assets resulting from corruption to the country of origin. Mochtar Kusumaatmadja stated that international agreements are agreements that are entered into. Between members of the community of nations and aims to result in certain laws and I Wayan Perthiana think that an international agreement is an agreement between two or more subjects of international law regarding a certain object or problem with the aim of legal relations or giving birth to rights and obligations regulated by law international, that is is also strictly regulated in Article 1 point a of Law no. 24 of 2000 concerning International Agreements, International Agreements are agreements in a certain form and name, which are regulated in international law which are made in writing and give rise to rights and obligations in the field of public law, whether outlined in UNCAC or ASEAN MLA are international agreements which in their implementation Prioritizing cooperation, in this case, requires an implementing agreement agreed bilaterally by each country. (Purwaning Yanuar, 2007).

Furthermore, Article 46 of UNCAC which regulates Mutual Legal Assistance states that countries participating in the convention are obliged to provide mutual assistance based on the existence of laws, treaties, and agreements which are an obligation for participating countries to cooperate. International efforts to eradicate corruption are through extradition to article 44 of UNCAC, transfer, transfer of convicted persons, where people who have been sentenced to prison or other forms of deprivation of liberty for offenses related to corruption that is outside

another country are transferred to the country that imposed the sentence so that the convict can complete his sentence in that country as stated in article 45 of UNCAC.

For example, the MLA implementing agreement is the Indonesia-Singapore extradition agreement, after going through a long process, the extradition agreement between Indonesia and Singapore was finally signed on January 25, 2022, as an implementing or complementary agreement to the cooperation contained in the ASEAN MLA, while the scope of the extradition agreement means that both countries agree to carry out extradition for every person who is found to be in the territory of the country requested and sought by the requesting country for prosecution or trial or execution of punishment for a criminal offense that can be extradited, as mentioned in the following points:

- 1) Has a retroactive period (retroactive from the date of promulgation) for the past 18 years, this is by the maximum expiry provisions as regulated in Article 78 of the Criminal Code.
- 2) Determining the nationality of the perpetrator of a crime is determined at the time the crime is committed, this is to prevent privileges that may arise as a result of changing the citizenship of the perpetrator of the crime to avoid legal proceedings against him.
- 3) There are 31 types of criminal acts whose perpetrators can be extradited according to this extradition agreement, including corruption crimes, money laundering crimes, bribery crimes, narcotics crimes, banking crimes, terrorism crimes and funding activities related to terrorism
- 4) The extradition agreement between Indonesia and Singapore allows the two countries to carry out the extradition of criminals who, even though the crime is not directly stated in this agreement, have been regulated in the legal systems of both countries.

As a comparison, the implementation of the extradition agreement as outlined in UNCAC is China. Chinese Police Officials said that until the end of 2011, there were many losses experienced by the State because government officials and executives of State-Owned Companies embezzled large amounts of public money. 500 suspects fled the country to escape. The punishment was mostly state officials, they carried a total of 70 billion yuan (8.4 billion US dollars) in illegal funds, a small part of which has been successfully extradited to China, for the Chinese government International cooperation is very necessary in fighting corruption since 1998. Chinese prosecutors have arrested more than 70 suspected corruptors abroad through diplomatic channels between countries and Mutual Legal Assistance. The most praised success was returning the head of the Bank of China Branch in Guangdong Province from the United States. and managed to bring home 483 million dollars in corrupt money, in 1993 The Chinese Police had arrested more than 230 Chinese crime suspects in more than 30 countries and regions with the help of the International Police (Interpol), which is the International Police agency.

The success of the Chinese government in establishing international cooperation cannot be separated from the existence of mutual assistance and diplomacy between the countries involved in allowing corruptors to flee and hide the proceeds of criminal acts of corruption, according to the author, the steps taken by the Chinese government through the Chinese police and prosecutors with the assistance of the International Police (Interpol) is a manifestation of the success of the UN Convention on the fight against corruption crimes as outlined in UNCAC, apart from that there is active and responsive diplomatic relations between heads of State where corruptors flee, Indonesia in this case needs to follow in China's footsteps in pursuing corruptors who have fled abroad. With more active and responsive ways to build diplomatic relations with heads of state in ASEAN and internationally who are always used as corruptors. A paradise country for corruptors, the President of the Republic of Indonesia, Prabowo Subianto, during a working visit abroad, reiterated his commitment to eradicating corruption, the President stated that he would pursue corruptors to the most remote areas in the world to enforce justice and ensure that there is no safe place for corruptors, even if they fled to outer space, he would send special forces to look for them. This was conveyed in the Closing Address of the Leadership Meeting National Gerindra Party.

According to A.A Oka Mahendra, eradicating corruption in Indonesia can no longer be handled using conventional methods because corruptors have strong power, strong solidarity and lots of money and networks abroad. Wealth looted by corruptors has often been transferred to other countries through strong network solidarity as an anticipatory measure and to obscure the origins of this ill-gotten wealth, and the problem of corruption is no longer a local problem but is an international phenomenon that affects all societies and the world economy. Therefore, international cooperation to prevent and eradicate corruption is very important, apart from extradition agreements, mutual legal assistance, as well as diplomatic relations between countries and their law enforcers, they must be established well and proactively to help search for and find corruptors who have fled abroad through a legal approach, comprehensive and multidisciplinary

CONCLUSION

The conclusion that can be found in this research is that the eradication of criminal acts of corruption in Indonesia is still not optimal, especially pursuing perpetrators of criminal acts of corruption who have fled abroad. The obstacles that occur are because the Indonesian government and the House of Representatives (DPR RI) have not focused on pursuing Corruptors and Corruptor Assets that have been taken abroad, Law no. 31 of 1999 as amended by Law no. 20 of 2001 concerning the Eradication of Corruption Crimes, there are still many criminal acts of corruption that have not been ratified or adopted as criminal acts (crimes), including acts of trading in influence (Traiding in Influence), obtaining wealth unreasonably (Illicet Inreachment), bribery of foreign officials, country (brebery) and others.

On the other hand, international countries and ASEAN members of the UN Convention have been proactive in implementing their commitment to the fight against corruption as outlined in UNCAC. Indonesia, to eradicate corruption, has carried out cooperation both at the international and ASEAN levels through Multilateral and Bilateral agreements, concrete forms of cooperation. Through the form of mutual legal assistance (Mutual Legal Assistance) and extradition agreements. However, in implementation, the Indonesian government through the Ministry of Law and Human Rights, the Republic of Indonesia Police and the Republic of Indonesia Prosecutor's Office still experiences many obstacles both from legal aspects and technical implementation in the field, by Therefore, apart from the agreements that have been made by the Indonesian Government which has been running and have been successful but are not yet optimal, there need to be concrete steps taken by the Indonesian Government to return assets that have been taken abroad, especially national political will which must be deemed necessary and It is important to pursue corruptors who have fled abroad, then build intensive and pro-active diplomatic relations between heads of state to work together to help and make things easier for the victim country, track, block, confiscate, arrest and bring the corruptors back to the victim country, then make it a national law. The victim can be executed after a court decision is made and has permanent legal force as stated in UNCAC.

REFERENCE

- Ade Mahmud, "Pengembalian Aset Tindak Pidana Korupsi Pendekatan Hukum Progresif" Sinar Grafika, Cet. 2. Tahun .
- Danil, Elwi, 2016 Konsep, Tindak Pidana dan Pemberantasannya, Jakarta: Rajawali Pers.
- Hamzah, Andi, 2006, Pemberantasan Korupsi Melalui Hukum Pidana Nasional dan Internasional, Jakarta : PT Raja Grafindo Persada.
- Lilik Mulyadi, "Model Ideal Pengembalian Aset (Asset Recovery) Pelaku Tindak Pidana Korupsi" Kencana, Cet. I, Tahun
- Klitgaard Robert, "Controlling Corruption", 1988, University of California Press

- Badan Pembinaan Hukum Nasional Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, “Hasil Penyelarasan Naskah Akademik Rancangan Undang-undang Tentang Perampasan Aset Terkait dengan Tindak Pidana” Jakarta, 2022.
- Muhammad Ade Rizandi et-al, “Hambatan Indonesia dalam Implementasi United Nation Convention Against Corruption (UNCAC) Tahun 2015-2020,” Departemen Hubungan International, Fakultas Ilmu Sosial dan Ilmu Politik, Universitas Andalas, Padang Indonesia, *Politics, Humanities, Laws, International Relations and Social (Palito)* Vol. 01.02 (2022).
- Ika Yuliana Susilawati, “Perampasan Aset Hasil Tindak Pidana Korupsi di Luar Negeri Melalui Bantuan Timbal Balik (Mutual Legal Assistance)”, *Jurnal IUS Fakultas Hukum Universitas Mataram*, Vol. IV No. 2 Tahun 2016.
- Ricardo Santos dan Hery Firmansyah, “Prosedur Pelaksanaan Mutual Legal Assistance terhadap Pemulihan Aset Hasil Korupsi yang di Larikan Ke Luar Negeri”, *Fakultas Hukum Universitas Tarumanegara, Jurnal Hukum Lex Generalis*. Vol. 2. No. 1, Januari 2021
- Abdul Wahid, “Pemberlakuan Hukum Ekstradisi bagi Pelaku Tindak Pidana Korupsi”, *Fakultas Hukum Universitas Tadulako, Palu, Jurnal USM Law Review* Vol. 6 No. Tahun 2023.
- Sylvana Agnetha Wulan Widyastuti, at-all, “Pengembalian Aset Tindak Pidana Korupsi Berdasarkan UNCAC dikawasan ASEAN, Fakultas Hukum Universitas International Batam, *Jurnal Legal Spririt*, Vol. 6 (2) Desember 2022
- ICW, “Laporan Evaluasi Kinerja Komisi Pemberantasan Korupsi 2019 – 2024”, diakses dari : <https://antikorupsi.org/id/laporan-evaluasi-kinerja-komisi-pemberantasan-korupsi-periode-2019-2024>, Pada Tanggal 6 September 2024, Pukul 17.33.
- Ari Dwipayana , “Istana: Ekstradisi RI-Singapura Berlaku Surut 18 Tahun demi Jerat 31 Buron” diakses dari, <https://news.detik.com/berita/d-7257277/istana-ekstradisi-ri-singapura-berlaku-surut-18-tahun-demi-jerat-31-buron>, Pada tanggal 14 November 2024 pukul 15.20
- Agus Raharjo, “”Jalan Berliku Perburuan Aset Koruptor di Luar Negeri”, diakses dari <https://validnews.id/nasional/Jalan-Berliku-Perburuan-Aset-Koruptor-ke-Luar-Negeri-pJB>, Pada tanggal 21 November 2024, Pkl. 17.00.
- Pidato Presiden Prabowo, “Prabowo Subianto akan Kejar Koruptor Hingga Ke Antrtika, Pernah disampaikan pada tahun 2019,” diakses dari : <https://www.tempo.co/politik/prabowo-subianto-akan-kejar-koruptor-hingga-keantartika-pernah-disampaikan-pada-2019-13150>, Pada tanggal 28 November 2024, Pukul: 13.20 .