

Analysis of International Network Narcotics Cases (Thailand-Indonesia) Reviewed from a Transnational Crime Perspective

Rio Aginta Ginting¹

¹Program Study Ilmu Hukum, Fakultas Sosial Sains, Universitas Pembangunan Panca Budi

Email: ¹rioginting1123@gmail.com

Abstract

The global threat of narcotics or drug abuse has become an alarming spotlight throughout the world, posing a serious threat to humanity from local to global levels. Indonesia, as part of this reality, is also at the forefront of facing a wave of increasing narcotics use from year to year. The rapid growth and widespread spread of narcotics abuse has been accelerated by technological advances, enabling efficient communication between users, dealers and suppliers via online platforms. This phenomenon creates new variations in the narcotics market and encourages massive commercialization, with the narcotics trade turning into a complex and large network, supported by large capital and transnational organizations known as 'transnational organized crime'. Indonesia, as a country with a vulnerable archipelago, is in a complicated position in responding to cross-border narcotics trafficking. Law enforcement mechanisms, such as Mutual Legal Assistance (MLA) and extradition treaties, are important in pursuing perpetrators operating in different countries' sovereign territories. Case studies regarding narcotics trafficking cases between Indonesia and Thailand show the complexity of cross-border law enforcement and the importance of international cooperation in fighting transnational crime. With an approach that involves legal principles, international cooperation and relevant regulations, law enforcement efforts can be carried out effectively, even though they face challenges in the context of crimes that cross national borders.

Keywords: Narcotics, Transnational Crime, Law Enforcement Mechanisms

1. INTRODUCTION

The global threat of drug or drug abuse has become a spotlight that haunts various levels of society throughout the world, posing serious threats to humanity at local and global levels. Indonesia, as part of this reality, also stands at the forefront of facing the wave of increasing drug use from year to year. The rapid growth and widespread spread of drug abuse has been accelerated by technological advances, enabling efficient communication between users, dealers and suppliers via online platforms. While in the past drugs were only known in natural forms such as opium, marijuana and coca leaves, advances in chemistry have opened the door to new, more powerful and damaging derivatives, such as morphine, heroin and cocaine. This phenomenon not only creates new variations in the drug market, but also encourages massive commercialization. With the unstoppable pace of globalization, drug trafficking has changed from individual operations to complex and large networks, supported by large capital and transnational organizations known as 'transnational organized crime'. This poses a very real and serious threat to the stability and security of society. Southeast Asia, along with ASEAN member states, finds itself caught in a labyrinth of rampant transnational crime, particularly in narcotics trafficking and smuggling. The presence of carefully organized networks and increasingly advanced technology has made it easier for dealers to penetrate national borders with ease. In this context, narcotics smuggling which is still flowing rapidly requires serious and collaborative attention from ASEAN countries. The threat of increasingly organized transnational crime in the Southeast Asia region not only creates vulnerabilities at the regional level, but also spreads to the global level. This phenomenon is in the spotlight of the international community, which is increasingly aware of the need for cross-border cooperation to deal with this problem. The success of criminals in establishing cross-border narcotics trafficking networks shows how strong cooperation

between trafficking groups is, even beyond national, ethnic and business boundaries. Meanwhile, amidst this complexity, the illicit drug market in Southeast Asia is experiencing major changes, especially in the production of synthetic drugs such as methamphetamine. This sharp transformation in drug manufacturing creates new challenges in efforts to combat narcotics crime in the region. In terms of topography, Indonesia consists of a collection of $\pm 17,000$ islands with a coastline of $\pm 95,181$ km. Its special geographical position, with extensive land borders and a long coastline, makes Indonesia an easy target for smugglers operating in the illegal world. Not only that, the population of around 270 million people also makes Indonesia a market that is in demand internationally.

The illicit circulation of narcotics in Indonesia is influenced by several factors. First, demand from consumers who need a supply of imported narcotics. Second, Indonesia is seen as a strategic place for narcotics trafficking because its topography makes access easy. As an archipelagic country, Indonesia has a number of entry points, up to 10 locations, which provide opportunities for traffickers to smuggle narcotics into Indonesian territory. Indonesia, a country of thousands of islands, stretches far and wide with abundant land border access, seaports, waterways and airports. The presence of these myriad entry points has become a gateway for smugglers and the illicit movement of narcotics across the country, forming an increasingly complex crime landscape. The weak legal system in this country has become an oasis for criminals, allowing them to easily access narcotics. In particular, this gap is felt in remote areas with minimal supervision, such as sea and land routes in the Kalimantan region. Nevertheless, Indonesia has raised the level of narcotics crime as a major threat, requiring extraordinary efforts to overcome this. With awareness of its unique geographic and demographic conditions, Indonesia encourages global collaboration in efforts to eradicate the narcotics problem. According to the National Narcotics Agency (BNN), the sea route is the corridor most frequently used by international syndicates to smuggle prohibited goods into Indonesia. In fact, 80 percent of narcotics smuggling is known to use this sea route. One of the recent narcotics smuggling cases was that FA, an Indonesian citizen from South Kalimantan, was suspected of being involved in drug trafficking from Thailand to Indonesia. He has left Indonesia since 2014, and is known to be related to the family of his in-laws who are drug cartel bosses in Thailand. International collaboration between the National Police, Royal Malaysia Police, Royal Malaysian Customs Department, Royal Thai Police, and US-Dea has succeeded in arresting 884 suspects and confiscating assets worth IDR 10.5 trillion from the international drug network led by the FA during the 2020-2023 period. The FA is suspected of taking drug products from the Golden Triangle area in Southeast Asia, which is the center of narcotics trafficking at the world level. The National Police, in the operation 'Operation Code Escobar', has succeeded in uncovering the FA's international drug network by arresting several members of the network.

This case was chosen in this study because it is the most recent incident that occurred at the beginning of 2023-2024. In addition, this research is interested in this case because it has elements of transnational crime. The presence of aspects of transnational crime in this case can be seen from the distribution of narcotics that were smuggled into Indonesia, originating from Thailand and supplied by an Indonesian citizen who lived there. Furthermore, the process of narcotics transactions before entering Indonesia occurred in the Malacca Strait area which borders Thailand, Malaysia and Indonesia, illustrating the real dimension of transnational crime because it involves more than one country. This approach is based on the concept of transnational crime described by Neil Boster, which states that such crimes involve behavior with cross-border impacts of national and international concern. In addition, based on Article 3 paragraph (2) of the United Nations Convention Against Transnational Organized Crime (UNTOC) which has been ratified by Indonesia through Law Number 5 of 2009, criminal acts are considered transnational if they meet several criteria, one of which is involving more than one country. According to the author, this case fulfills the elements listed in Article 3 paragraph (2) of UNTOC. Apart from that, this case is interesting to analyze in the context of law enforcement, considering that the narcotics transaction process took place in the Malacca Strait which is the maritime border between Thailand, Indonesia and Malaysia. This raises questions about law enforcement jurisdiction, especially in terms of the prosecution process for perpetrators in Thailand, both those with status as Indonesian citizens and those with foreign national status, who are involved in the case. By considering this complexity, the author formulates this research problem as follows: What is the law enforcement mechanism for perpetrators of narcotics supplies to Indonesia who have the status of Indonesian citizens and foreigners residing in Thailand in this case?

2. METHODOLOGY

This research adopts doctrinal (normative) research methods as the main approach. This approach involves an in-depth study of various applicable legal regulations and their application to the context of a particular case. Also known as doctrinal legal research, this method focuses on the analysis of legal texts and related literature, so it is often referred to as library study. In this paper, there are three main approaches used: the statutory

approach, the case approach, and the conceptual approach. The use of prescriptive analysis techniques is the main basis for formulating conclusions and recommendations.

3. RESULTS AND DISCUSSION

Narcotics as Part of Transnational Crime

Transnational crime is a serious threat to global stability and prosperity because it crosses national borders. For cope matter that, was created multilateral mechanisms through agreement international such as the United Nations Convention on Transnational Organized Crime (UNTOC). One significant form of transnational crime is the illegal trafficking of narcotics, psychotropic substances and illegal drugs between countries. This is part of the complexity of modern security challenges. Sovereign states have primary responsibility for law enforcement against such crimes, and an effective response requires close, coordinated international cooperation.

Mutual Legal Assistance (MLA)

Although it is widely acknowledged that it is impossible to completely eradicate illegal drugs or reduce their production and consumption levels, law enforcement against cross-border narcotics crimes remains imperative and involves complex legal procedures. One of the main obstacles is when the crime involves foreign elements, which requires international cooperation. International agreements such as the Convention on Transnational Organized Crime (TOC) and the G20 countries have provided a legal basis for combating transnational crime through mutual legal assistance. The establishment of the ASEAN Mutual Legal Assistance Treaty (AMLAT) in 2004 in Kuala Lumpur, Malaysia, marked the first step in cooperation in the field of mutual legal assistance among countries in the Association of South East Asian Nations (ASEAN) region. AMLAT was then strengthened by an agreement at the 5th ASEAN Ministerial Meeting on Transnational Crime (AMMTC) in Hanoi, Vietnam. The signing of AMLAT by the ten ASEAN member countries in 2006 marked the seriousness of their commitment. Within the AMLAT framework, the Senior Official Meeting on Mutual Legal Assistance Treaty (SOMLAT) is held every five years to discuss the implementation of AMLAT in ASEAN member countries and raise issues related to upgrading AMLAT to become an ASEAN Instrument.

Law Enforcement Mechanism for Suppliers of Narcotics to Indonesia who have the status of Indonesian citizens and foreigners residing in Thailand

The Indonesian government is currently prioritizing efforts to fight cross-border (transnational) crime. This is a serious concern because of its detrimental impact on Indonesia as a country that adheres to democratic values. These cross-border crimes include narcotics trafficking, which requires mutual legal assistance in law enforcement. Mutual legal assistance is a request for assistance related to investigations, prosecutions and trials in court in accordance with the laws in force in the requesting country. This is a form of international cooperation in fighting crime that originates from international legal mechanisms. In Indonesia, legal politics related to mutual legal assistance are formulated in Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters. This law is considered a complement to the extradition law in dealing with transnational crimes. The importance of mutual legal assistance is also recognized in the international legal framework, as stated in UNTOC and the Treaty on Mutual Legal Assistance in Criminal Matters in ASEAN. In tackling narcotics crimes that cross national borders, an approach is needed that involves legal principles and developing theories, in addition to international cooperation such as MLA and extradition. The case of narcotics trafficking between Thailand and Indonesia is an example that shows the complexity of cross-border law enforcement. In such cases, cooperation between countries such as MLA between Indonesia and Thailand is needed to pursue perpetrators operating in different countries' sovereign territories. The following is the flow of narcotics cases so that they can be classified as *transnational crime* :

1. 2014: FA, an Indonesian citizen from South Kalimantan, left Indonesia. Start from year this , he allegedly involved in distribution drugs from Thailand to Indonesia.
2. 2016: FA is still managing his financial assets to be sent abroad using the accounts of his family and those closest to him.
3. May 2023: The National Police begins investigating the FA case. The National Police operation to dismantle the FA drug syndicate begins, which is named 'Operation Code Escobar'.
4. 2020-2023: During this period, FA led an international drug network that trafficked drugs from the Golden Triangle region in Southeast Asia to Malaysia and Indonesia. International collaboration between the National Police, Royal Malaysia Police, Royal Malaysian Customs Department, Royal Thai Police, and US-Dea succeeded in arresting 884 suspects and confiscating assets worth IDR 10.5 trillion from the FA drug network.

5. June 2023: After nine years as a fugitive, the National Police just issued a red notice against FA.
6. 2023-2024: Arrests of the FA and members of its network continue. The police operation succeeded in uncovering several members of the FA international drug network, including several members in Indonesia and Malaysia.
7. Involvement in Transnational Crime: FA is involved in transnational drug trafficking, which is a form of transnational crime. Cooperation between various law enforcement agencies from various countries is key in uncovering and prosecuting these crimes. In the FA case, collaboration with law enforcement agencies from Thailand, Malaysia and the United States has assisted the National Police in uncovering the international drug network led by the FA.

4. CONCLUSION

The law enforcement process for narcotics cases involving Indonesian citizens and foreigners residing in Thailand is a challenge in the context of transnational crime. Law enforcement can be carried out both in Indonesia and in Thailand by utilizing various mechanisms, including cooperation in the form of Mutual Legal Assistance (MLA), extradition agreements, as well as approaches based on relevant principles, theories and regulations, both at the national and international levels such as UNTOC and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988. For foreigners residing in Thailand, the court process in Indonesia may be difficult because it is hampered by the principle of *dignité nationale*. However, for the Indonesian citizens involved, the opportunity to be tried in Indonesia is quite large with the support of the MLA and the existing bilateral cooperation between Indonesia and Thailand, as well as based on Law Number 2 of 1978 concerning Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Kingdom of Thailand concerning Extradition.

REFERENCES

- Arthani, Ni Luh Gede Yogi and Made Emy Andayani Citra, "*Mutual Legal Assistance in Narcotics Crimes*", VYAVAHARA DUTA, Volume, XVI, Number 1, March 2021. Boster, Neil, "Transnational Criminal Law?" EJIL, Volume, 14 Number 5, 2003.
- BBC, 2023, "*Drug kingpin Fredy Pratama is being hunted by the National Police: Where is he hiding and why is it difficult to catch him?*", <https://www.bbc.com/indonesia/articles/clwx53ll72yo> accessed on 13 April 2024.
- BNN Public Relations, 2021, "*BNN RI Proposes Three Collaborations at the 11th AAITF Meeting*" <https://bnn.go.id/bnn-ri-urkan-tiga-kerja-sama-dalam-percepat/> accessed on April 13 2024.
- Butarbutar, Elisabeth Nurhaini, 2018, *Legal Research Methods*, Bandung, PT Refika Aditama.
- Devitasari, Indira, "*Power Tie ASEAN Mutual Legal Assistance Treaty (AMLAT) for ASEAN Member Countries Frame Enforcement Law Cruelty Transnational*", Belli ac Pacis, Volume 1, Number 1, June 2015.
- Khausar, Miftahul, et al., "*Effort Government Türkiye In Finish Problem Crime Transnational Organized "Trade Narcotics Psychotropics And Drugs Prohibited (Drugs)"*", Indonesian Journal of Social Science, Volume 2, Number 6, June 2021.
- Law Number 1 of 1979 concerning Extradition (State Gazette of the Republic of Indonesia of 1982 Number 2, Supplement to the State Gazette of the Republic of Indonesia Number 3130).
- Law Number 1 of 2006 concerning Mutual Assistance in Criminal Matters (State Gazette of the Republic of Indonesia of 2006 Number 18, Supplement to State Gazette of the Republic of Indonesia Number 4607).
- Law Number 15 of 2008 concerning Ratification of the Treaty on Mutual Legal Assistance in Criminal Matters (Agreement on Mutual Assistance in Criminal Matters) (State Gazette of the Republic of Indonesia of 2008 Number 62, Supplement to the State Gazette of the Republic of Indonesia Number 4847).
- Law Number 2 of 1978 concerning Ratification of the Agreement Between the Government of the Republic of Indonesia and the Government of the Kingdom of Thailand concerning Extradition (State Gazette of the Republic of Indonesia of 1978 Number 12, Supplement to the State Gazette of the Republic of Indonesia Number 311).
- Law Number 5 of 2009 concerning Ratification of the United Nations Convention Against Transnational Organized Crime (United Nations Convention Against Organized Transnational Crime).
- Law Number 7 of 1997 concerning Ratification of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (United Nations Convention Concerning the Eradication of Illicit Traffic in Narcotics and Psychotropic Substances, 1988 (State Gazette of the Republic of Indonesia of 1997 Number 17, Additional Gazette Republic of Indonesia Number 3673).

- Lucas, Amparo Salom and Maria Isabel Llambés Sánchez, “ *Mutual Legal Assistance on Criminal Matters: When Theory Meets Practice - A Real Story*”, ERA Forum (2021).
- Medcom.id, 2022, “*Police and Customs Uncover International Network Narcotics Cases*”, <https://www.medcom.id/nasional/region/VNxogz1K-polisi-dan-bea-cukaibesar-case-narkotika-jaringan-internasional> accessed on 13 April 2024.
- Nurliani, Andi Eva and Dahlan Pasaribu, 2020, *Mutual Legal Assistance in Criminal Matters (MLA): Transnational Law Enforcement Cooperation Mechanism*, Legal and Human Rights Human Resources Development Agency Ministry of Law and Rights Republic of Indonesia Human Rights, Jakarta.
- Osantinutsakul , Asron , 2015, “ *Act Criminal Narcotics in Indonesia and Thailand (Analysis Comparative Regarding Law Number 35 of 2009 concerning Narcotics And Prarachbanyat Kodmay Yaseiptit Poso 2522 (1979) (Thai Narcotics Act BE 2522))*”, Thesis , Faculty Sharia and Law at the State Islamic University Sunan Kalijaga , Yogyakarta
- Soejono and H. Abdurrahman, 2003, *Legal Research Methods*, Jakarta, Rineka Cipta.