

ABSTRACT

MUTUAL LEGAL ASSISTANCE (MLA) MECHANISM TOWARD CRIME RESOLUTION REGULATED ON UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME (UNTOC) AND THE IMPLEMENTATIONS IN INDONESIA

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Transnational crime is a crime which transcends national jurisdictions. At present time transnational crime is being seen as one of the utmost serious threat against global security. International society has established cooperation to handle transnational crime issues that called as Mutual Legal Assistance (MLA). MLA is treaties which focus on demanding assistance which concerned on crime treatment process from requested country with demander country. In line with that, on November 15th 2000 the United Nations Convention against Transnational Organized Crime (UNTOC) was adopted by United Nations General Assembly. This research will show how exactly is MLA mechanism toward crime resolution regulated by UNTOC and its implication in Indonesia.

This research is a normative legal research which using a normative law as its main data, and the data were gained by doing literature study. The contemplation of literature study is to disclose the pattern of problem solving in regards to the research frameworks. The majority of normative legal research is how profound and sharp the researcher arranges and formulates its research problem.

The study show that MLA is an insight with reference to cooperation between country in order to fight transnational crimes which frequently muddled on the occasion of being faced by the diverse national law which time consuming on crime investigation. The crimes listed on MLA included illicit drugs trafficking, money laundry and a crime which transcend internationally besides succeed double criminality basis. Indonesia as international law subject has joined the fight against transnational crimes with the ratification of UNTOC and also being implemented with reference to Law No.1 2006 concerning MLA and the Law No.5 2009 concerning the ratification of UNTOC. According to the convention and national regulation, the MLA implementation procedure has to be relies on law enforcement roles upon each country members. In Indonesia, several law enforcement were given extensive authority for instance, Indonesian National Police, Attorney General, Corruption Eradication Commission (KPK), Foreign Ministry, Ministry of Justice and Human Right, also Special Force Investigator on Convicted Corruptions Suspect. Formal and non-formal methods were being used upon the eradication of transnational organized crimes.

Key Words: Transnational, MLA, UNTOC

ABSTRAK

MEKANISME *MUTUAL LEGAL ASSISTANCE* (MLA) TERHADAP PENYELESAIAN KEJAHATAN YANG DIATUR DALAM *UNITED NATIONS CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME* (UNTOC) DAN IMPLEMENTASINYA DI INDONESIA

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Kejahatan transnasional dipandang sebagai salah satu ancaman serius terhadap keamanan global. Masyarakat internasional telah mewujudkan suatu kerjasama untuk membantu proses penegakan hukum transnasional yang kompleks melalui *Mutual Legal Assistance* (MLA). MLA merupakan perjanjian yang bertumpu pada permintaan bantuan terkait dengan proses penanganan kejahatan dari negara diminta kepada negara peminta dan atau sebaliknya. Berkaitan dengan itu Majelis Umum PBB membuat suatu kesepakatan oleh PBB yaitu *United Nations Convention Against Transnational Organized Crime* (UNTOC) yang disahkan pada tanggal 15 November 2000. Permasalahan dalam penelitian ini adalah bagaimanakah mekanisme MLA terhadap penyelesaian kejahatan yang diatur dalam UNTOC dan implementasi MLA di Indonesia.

Jenis penelitian yang digunakan dalam penelitian ini adalah hukum normatif yang bersumber pada bahan hukum primer, sekunder, tersier yang pengumpulan datanya dilakukan melalui studi pustaka. Tujuan dan kegunaan studi pustaka pada dasarnya untuk menunjukkan jalan pemecahan permasalahan penelitian. Hal yang paling mendasar dalam penelitian normatif adalah bagaimana peneliti dalam menyusun dan merumuskan permasalahan penelitiannya secara tepat dan tajam.

Hasil dari penelitian ini mengungkapkan bahwa MLA merupakan suatu perwujudan kerjasama antar negara dalam memerangi kejahatan-kejahatan transnasional yang sering terkendala oleh adanya perbedaan hukum nasional negara yang menimbulkan kelambanan dalam pemeriksaan kejahatan. Kejahatan yang diatur MLA antara lain kejahatan narkoba dan psikotropika, kejahatan pencucian uang dan yang berdimensi internasional serta kejahatan yang memenuhi asas kejahatan ganda (*double criminality*), Indonesia telah memiliki UU No.1 Tahun 2006 Tentang MLA dan telah meratifikasi ke dalam UU No. 5 Tahun 2009 Tentang Pengesahan UNTOC. Prosedur pelaksanaan MLA seperti yang tercantum dalam konvensi maupun undang-undang harus diikuti dengan peran para penegak hukum terkait di masing-masing negara peserta. Para penegak hukum di Indonesia yaitu Kepolisian, Kejaksaan, KPK, Kemlu, Kemenkumham, dan Tim Terpadu. Jalur formal maupun non-formal digunakan dalam memberantas para pelaku kejahatan dan penuntasan penanganan kejahatan transnasional.

Kata Kunci: Transnasional, MLA, UNTOC