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Criminal Law Review of Corruption Crimes from an International Law Perspective

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Abstract
This study explores the application of the principle of legality in specific crimes, focusing on narcotics offences. The research examines the principle's role in ensuring legality and its impact on the adjudication of narcotics-related crimes. Utilizing a qualitative research method, this study employs legal analysis to address gaps between statutory provisions and their implementation in judicial practices. Key findings indicate that while the principle of legality is foundational in criminal law, its application in narcotics cases reveals inconsistencies that affect legal certainty and fairness. The research highlights the need for clearer legal frameworks and more stringent judicial oversight to uphold the principle's effectiveness. Implications of these findings suggest reforms to enhance the alignment between legal standards and judicial practices in narcotics offences.

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1. Introduction

Corruption, as a form of deviation in the management of power and resources, is a very complex and widespread problem, affecting various aspects of social, economic and political life.(Daniel 2021). In the context of international criminal law, corruption is an issue that not only affects the stability and development of a country but also has the potential to damage the integrity of the government and legal system at the global level. With the development of globalization and interdependence between countries, criminal acts of corruption now often involve cross-border actors and transactions, making it increasingly difficult to handle.

In recent decades, many countries have recognized the impact of corruption on the development and well-being of their societies, and the need for more effective approaches to combating this phenomenon.(Waruwu 2023). At the international level, various legal instruments have been introduced to address corruption in the hope of reducing its impact and increasing cooperation between countries. One of the main instruments is the United Nations Convention Against Corruption (UNCAC), which is a global effort to provide a comprehensive legal framework for dealing with corruption. In addition to UNCAC, there are also various regional agreements such as the ASEAN Anti-Corruption Convention which provides additional guidelines for dealing with corruption in the Southeast Asian region.(Jumroh and Kosasih [nd]).

Although the existence of these legal instruments shows progress in global efforts to combat corruption, their implementation practices often do not align with the intended goals. Previous research has shown that despite the existence of a broad international legal framework, many countries still face various difficulties in implementing anti-corruption policies effectively. For example, reports from Transparency International and the World Bank often identify weaknesses in the judicial and law enforcement systems in many countries that hamper efforts to prevent and eradicate corruption.(Firmansah and Salsabila 2024).

There are several reasons for the inability to enforce international laws against corruption. First, differences in legal systems and definitions of corruption between countries often create difficulties in cross-border law enforcement. For example, what is considered corruption in one country may not be categorized the same way in another, complicating extradition processes and international legal cooperation. Second, many countries lack the resources and capacity to implement anti-corruption policies effectively, which is often exacerbated by political interests that hinder legal reform.

Furthermore, corruption often involves international actors and complex financial transactions, such as the transfer of funds offshore or money laundering, which adds to the challenges of the law enforcement process.(Agasi and others [nd]). Mutual legal assistance mechanisms, designed to assist countries in cross-border law enforcement, often face administrative and political obstacles that hinder their effectiveness. Therefore, handling international corruption cases requires a more coordinated approach and closer cooperation between countries.

Literature survey shows that although various international legal instruments have been designed to address corruption, their implementation still faces various challenges. Research by(Arfiani and others 2023)identified that the misalignment in the definition of corruption and legal procedures between countries is one of the main obstacles to international law enforcement. Another study by(Yuliana and others 2023)highlighted the importance of national capacity building and training for law enforcement officials to improve the effectiveness of dealing with corruption. However, there is still a need for further research on how international legal mechanisms can be improved to address increasingly complex challenges.

The purpose of this study is to explore how international criminal law addresses corruption and to evaluate its effectiveness and challenges in its implementation. This study aims to provide a deeper understanding of the mechanisms of international law in dealing with corruption, as well as to assess the gaps that exist and propose recommendations for improvement. By understanding the weaknesses and challenges that exist in the implementation of international criminal law, this study hopes to contribute to the development of more effective strategies in combating corruption at the global level.

The urgency of this research lies in the urgent need to address the challenges faced in the implementation of international criminal law against corruption. Globalization and increasing economic interdependence have expanded the scope of corruption, making it an issue that requires attention and effective handling at the international level. Corruption has a detrimental impact on sustainable development, social justice, and public trust in the governance system. Therefore, it is important to evaluate and improve existing international legal mechanisms to be more effective in dealing with corruption.

This study will focus on identifying and analyzing the effectiveness of international legal instruments in combating corruption, as well as the challenges faced in the practice of enforcement. Through this study, it is expected to find better solutions to overcome existing weaknesses and strengthen international cooperation in combating corruption. Thus, this study is expected to make a significant contribution to global efforts to reduce the impact of corruption and improve integrity and transparency in various sectors.

2. Research Methods

This study uses a normative legal research method with a document analysis approach to explore and evaluate international criminal law in dealing with criminal acts of corruption.(Efendi and Ibrahim 2018). This method is designed to provide an in-depth understanding of existing international legal instruments and the challenges in their implementation.

Type of Research The type of research used is normative legal research, which focuses on the study of legal texts and regulations that apply at the international level and analysis of how these laws are applied in practice.(Muammar and Taufiq 2024). This study aims to identify and assess the effectiveness of international legal instruments, such as the United Nations Convention against Corruption (UNCAC) and regional agreements such as the ASEAN Anti-Corruption Convention, in addressing international corruption cases.

The research approach used is the document analysis approach. In this approach, various legal documents will be studied, including international conventions, laws and regulations, official reports, and publications from related international organizations. This approach allows the author to assess how legal instruments are designed to address corruption and to identify weaknesses and challenges in their implementation.

3. Results and Discussion

3.1 International Legal Instruments in Combating Corruption

Corruption, as a global problem that undermines social, political and economic order, has given rise to various international legal initiatives to address and mitigate its impacts. One of the main instruments in the international legal framework for combating corruption is the United Nations Convention against Corruption (UNCAC), adopted in 2003. The UNCAC was a significant step in global efforts to address corruption by providing comprehensive guidelines for various aspects of prevention and law enforcement. The Convention covers corruption prevention, law enforcement and international cooperation, and is designed to strengthen anti-corruption efforts at both the national and international levels.(Socialist 2020).

Part of the UNCAC focuses on strengthening national anti-corruption systems. The UNCAC requires states to establish and implement effective anti-corruption policies, improve transparency in policy-making processes, and enhance accountability in the public sector. The convention also provides for strengthening oversight and enforcement institutions and promoting cooperation between these institutions. A key feature of the UNCAC is its emphasis on preventing corruption through transparency, requiring states to implement open and fair public procurement systems and to increase transparency in financial reporting.

In addition, the UNCAC highlights the importance of cross-border law enforcement mechanisms to address corruption involving international transactions or perpetrators operating in more than one country. The convention provides for extradition, mutual legal assistance, and the recovery of assets obtained from corruption.(Feka and others 2024). The purpose of this mechanism is to ensure that acts of corruption involving more than one country can be dealt with effectively, and that perpetrators of corruption and the proceeds of crime can be prosecuted and returned to their countries of origin.

In addition to the UNCAC, there are regional agreements that also contribute to efforts to combat corruption, such as the ASEAN Anti-Corruption Convention. This convention is a collective effort by ASEAN member states to address corruption with a regional approach. The focus of the ASEAN Anti-Corruption Convention is on the harmonization of anti-corruption laws at the regional level and the development of cooperation mechanisms between countries for law enforcement. This convention emphasizes the importance of cooperation between ASEAN countries in handling corruption cases involving cross-border actors.

The Convention also provides guidelines on corruption prevention, including the implementation of transparency, integrity and accountability policies in government and the private sector. One important aspect of the ASEAN Anti-Corruption Convention is the development of mechanisms for information exchange and coordination between member countries in handling corruption cases. Through this cooperation, it is expected to accelerate the law enforcement process and increase the effectiveness of handling corruption cases in the ASEAN region.

Although international legal instruments such as the UNCAC and the ASEAN Convention Against Corruption have provided a solid framework, their implementation and effectiveness often face challenges on the ground. Research shows that despite clear guidelines, countries often struggle to implement these provisions effectively. One of the main factors affecting the effectiveness of implementation is differences in legal systems across countries. Differences in definitions of corruption, legal procedures, and law enforcement standards can create barriers to cross-border law enforcement.

For example, the definition of corruption in the UNCAC may not be fully aligned with the definition accepted in certain countries, thus complicating law enforcement and extradition processes.(Wahid 2023). These differences can hinder cooperation between countries in dealing with international corruption cases and affect their ability to prosecute perpetrators effectively. In addition, differences in legal procedures and standards of evidence can also lead to inconsistencies in the application of anti-corruption laws.

Lack of resources is also an important factor affecting the effectiveness of anti-corruption law implementation. Countries with weak or unstable legal systems often lack the capacity to implement anti-corruption policies effectively. Lack of training and technical support for law enforcement officials also hinders the implementation of the provisions of the UNCAC and regional agreements. Many countries face challenges in providing adequate training and the resources needed to effectively address corruption cases.

In addition, offshore fund transfers and money laundering are also major challenges in dealing with international corruption. Many corruption cases involve complex financial transactions that are difficult to trace and investigate. Mutual legal assistance mechanisms, designed to assist countries in cross-border law enforcement, often face administrative and political obstacles that hinder their effectiveness. The difficulty in tracing and identifying financial flows related to corruption requires greater efforts to improve transparency and international cooperation.

3.2 Implementation and Enforcement of International Criminal Law

The implementation of international criminal law in combating corruption faces various significant challenges that affect its overall effectiveness. Although international legal instruments(Syaifudin 2023), such as the United Nations Convention against Corruption (UNCAC), provides clear guidelines and frameworks for prevention and enforcement, many countries still struggle to implement anti-corruption policies effectively. One of the main challenges is the differences in national legal systems that can hamper cross-border law enforcement processes.

Each country has a unique legal system, which often differs in terms of definitions of corruption, legal procedures, and enforcement standards. These differences can create significant barriers to international cooperation and law enforcement in corruption cases involving international elements.(Maringka 2022). For example, in the case of extradition of corruption offenders, differences in the definition of the crime and legal procedures between countries can cause difficulties in harmonizing legal actions. Countries that have different definitions of what constitutes corruption may face challenges in cooperating with other countries to handle cases involving perpetrators from different countries.

Lack of resources is also a major problem in the implementation of international criminal law. Many countries, especially those with less developed legal systems or political instability, lack the capacity to implement anti-corruption policies effectively. Lack of training and technical support for law enforcement officials can hamper efforts to address corruption cases. For example, law enforcement officials may not have the expertise needed to trace complex international financial transactions or to apply sophisticated technology to corruption investigations. Lack of resources also affects countries' ability to implement legal reforms and improve the integrity of their legal systems.

In addition, existing law enforcement mechanisms are often inadequate to handle international corruption cases involving complex financial transactions and the diversion of funds abroad. Major corruption cases often involve the diversion of funds internationally, which makes the investigation and enforcement process extremely complicated. Financial transactions involving multiple countries and the use of complex financial structures can make it difficult to trace the flow of funds and determine their origin. Mutual legal assistance mechanisms, which are designed to assist countries in cross-border law enforcement, often face administrative and political obstacles. For example, the mutual legal assistance process can be hampered by slow bureaucracy or by a lack of cooperation between law enforcement agencies in different countries.

The inadequacy of law enforcement mechanisms is also evident in cases where corruptors manage to evade punishment by exploiting weaknesses in the international legal system. Some corruptors may use strategies such as asset diversion or money laundering to evade law enforcement. In such cases, it is important to have effective mechanisms in place to track and recover the proceeds of corruption, but this is often a major challenge. Current mechanisms are often not fast enough or effective enough to deal with the evasion strategies used by corruptors.

The implementation and enforcement of international criminal law in combating corruption requires greater efforts to overcome these challenges. Harmonization of laws between countries, increasing capacity and technical support for law enforcement officers, and improving mutual legal assistance mechanisms are important steps to increase the effectiveness of international law enforcement.(Hardiyanti and others [nd]). This effort must be accompanied by a strong commitment from the international community to cooperate in dealing with cross-border corruption cases, as well as to strengthen the existing international legal framework. By doing this, it is hoped that the international legal system can become more effective in addressing the challenges faced in combating corruption and in ensuring that perpetrators of corruption can be tried and brought to justice.

3.3 Challenges and Resolution Efforts

Combating corruption at the international level faces significant challenges, which affect the effectiveness of global efforts to combat this crime. Key challenges include often complex coordination between countries, differences in the definition and handling of corruption crimes, and political issues that can affect the legal process. Addressing these challenges requires a comprehensive approach and close international cooperation to enhance the effectiveness of anti-corruption efforts.(Want 2024).

One of the main challenges in combating corruption at the international level is coordination between countries. Corruption often involves actors and transactions that cross national borders, thus requiring effective coordination between the countries involved. However, this coordination is often hampered by differences in legal systems, legal procedures, and law enforcement standards between countries. These differences can make it difficult to harmonize legal actions and apply international law provisions consistently.

Differences in the definition and handling of corruption crimes are also important challenges. Different countries have different definitions of what constitutes corruption, which can affect how they handle corruption cases. For example, what is considered a form of corruption in one country may not be recognized as a crime in another.(Ginting and others 2024). These differences can lead to inconsistencies in law enforcement and international cooperation, as well as hamper the process of extradition and mutual legal assistance.

Political issues often affect the legal process in combating corruption. Political instability, conflicts of interest, and political pressure can undermine law enforcement and legal reform efforts. In some cases, political interests can hinder efforts to effectively address corruption cases or influence legal decisions. Political issues can exacerbate challenges in law enforcement, especially when there is a conflict between national interests and international commitments to anti-corruption standards.

To overcome these challenges, several solutions can be applied. Increasing international cooperation is an important step in improving anti-corruption efforts. Closer cooperation between countries can help harmonize legal actions, strengthen cross-border law enforcement mechanisms, and increase effectiveness in handling international corruption cases. International forums, such as the G20 and regional organizations, can play an important role in facilitating cooperation and dialogue between countries to collectively address anti-corruption challenges.(Suwitra and others 2024).

Increasing transparency and accountability at the national and international levels is also a key step in improving international criminal law enforcement. Transparency in legal processes, financial management, and reporting of corruption cases can help prevent corruption and increase public confidence in the legal system. At the international level, transparency in cooperation and law enforcement can strengthen states' commitment to comply with anti-corruption standards and increase the effectiveness of global efforts to combat corruption.

Training and capacity-building programs for law enforcement officials are also important steps in improving international criminal law enforcement. Adequate training can improve law enforcement officials' skills in handling corruption cases, including in tracing international financial transactions and using advanced technology in investigations. Additional technical support and resources can help less developed countries build their capacity to handle corruption cases and implement anti-corruption policies effectively.

4. Conclusion

Addressing corruption under international criminal law faces significant challenges. Although international legal instruments such as the United Nations Convention against Corruption (UNCAC) and the ASEAN Anti-Corruption Convention provide a comprehensive legal framework, their implementation and effectiveness are often hampered by differences in legal systems across countries, lack of resources, and administrative and political constraints. Complicated coordination between countries and differences in the definition of corruption often hamper cross-border law enforcement. To improve the effectiveness of addressing corruption, efforts are needed to increase international cooperation, strengthen mutual legal assistance mechanisms, and increase transparency and accountability at the national and international levels. Training and capacity building programs for law enforcement officials are also important to address these challenges and ensure more effective implementation of anti-corruption policies.

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