EFFECTIVE INTERNATIONAL COOPERATION IN COMBATING CORRUPTION: INDONESIA'S EXPERIENCE

Mahayu Dian Suryandari [*]

I. BACKGROUND: NATIONAL POLICY ON COMBATING CORRUPTION: ALL HANDS-ON DECK APPROACH

Indonesia's positive law has regulated the eradication of corruption since 1957. The provisions in the Criminal Code, which are a legacy of the Dutch East Indies colonial era, forbid embezzlement and fraud committed by state officials. However, in particular, the criminalization of corruption began with the Regulation of the Military Authority of the Army and Navy Number Prt/PM/06/1957 on 9 April 1957 during the reign of President Soekarno. This regulation was intended to overcome corruption that was rampant at that time. Through this regulation, for the first time the term of "corruption" was recognized in national legal regulations because the Criminal Code was not able to tackle the spread of corruption.

Political policies in eradicating corruption from time to time can be divided into two categories, namely the New Order era and the Reform era. During the New Order era, several regulations were issued in the context of eradicating corruption, namely:

1. Presidential Decree No. 228 of 1967 on Establishment of Corruption Eradication Team on 2 December 1967.

2. Presidential Decree No. 12 of 1970 on Establishment of Commission Four on 31 January 1970.

3. Presidential Decree No. 13/1970 on the Appointment of Dr. Mohammad Hatta as Presidential Advisor in Corruption Eradication Sector on 31 January 1970.

4. Law No. 3 of 1971 on Eradication of Corruption on 29 March 1971.

In the New Order era, prior to the enactment of Law No. 8 of 1981 on the Criminal Procedure Code, the Attorney General's Office of the Republic of Indonesia was the only State institution which had power to conduct pre-investigation, investigation and prosecution of corruption. After the enactment of Law No. 8 of 1981 on the Criminal Procedure Code, the State also gave Indonesian National Police the authority to conduct pre-investigation and investigation of corruption cases apart from the Attorney General's Office of the Republic of Indonesia.

In the Reform era, learning from the experience during the New Order, this era responded more quickly to the demands for eradicating corruption, collusion and nepotism by issuing more laws and regulations related to eradicating corruption. These regulations include:

[*] Prosecutor and Head of Legal Cooperation and Foreign Relations, Attorney General's Office, Indonesia.

1. Law No. 28 of 1999 on Implementation of a State that is Clean and Free from Corruption, Collusion and Nepotism, ratified and promulgated on 19 May 1999.

2. Law No. 31 of 1999 on Eradication of Corruption, ratified and promulgated on 16 August 1999.

3. Law No. 20 of 2001 on Amendment to Law No. 31 of 1999 on Eradication of Corruption, ratified and promulgated on 21 November 2001.

4. Law No. 30 of 2002 on Corruption Eradication Commission, ratified and promulgated on 27 December 2002.

5. Law No. 15 of 2002 on Combating Money Laundering and its amendment with Law No. 8 of 2010 on the Amendment of the Law on Combating Money Laundering.

6. Law No. 7 of 2006 on Ratification of the United Nations Convention Against Corruption, 2003, ratified and promulgated on 18 April 2006.

7. Law No. 46 of 2009 on Court of Corruption, ratified and promulgated on 29 October 2009.

Indonesia classifies corruption as a serious crime. The commitment to eradicate this crime is so serious that the country applies many extraordinary approaches towards this crime, such as by handling it in a multi-agency manner. Through Law Number 30 of 2002 on the Corruption Eradication Commission (KPK), the KPK was born and tasked with carrying out pre-investigation, investigation and prosecution of corruption in Indonesia. Thus, since 2002, there have been *three authorities to conduct pre-investigation and investigation of corruption in Indonesia*, i.e., the Indonesian National Police (the INP), the Attorney General's Office of Indonesia (AGO of Indonesia), and the Corruption Eradication Commission (KPK). On the other hand, the state authority to prosecute corruption is only given to the Attorney General, which is exercised by the prosecutors working at the AGO of Indonesia or the prosecutors assigned to the KPK. The establishment of the KPK adds strength to the chain of integrated criminal justice systems in handling corruption.

Consequently, in order to govern the repressive action against corruption by optimizing the target numbers of investigation, which is conducted by the three authorities effectively and without overlapping, the Law provides a mandate for the KPK to handle corruption cases with the following qualifications:

a. involving law enforcement officers, state administrators, and other people who are related to corruption cases committed by law enforcement officers or state administrators;

b. receive attention that is troubling to the public; and/or

c. concerning state losses of at least Rp. 1.000.000.000,00 (one billion rupiah, or approximately USD 69,500).

The INP and the AGO may handle other corruption cases.

As a result of this multi-agency approach to combating corruption crime, the number of cases has increased. This suggests that there has been a significant rise in the awareness of the community concerning corruption crimes. Until the end of 2020, the Annual Report of the KPK 2020 described that the Indonesian National Police has investigated 286 corruption cases, the KPK has 114 investigations and the AGO has 444 investigations.[1] The number of investigations by the AGO itself increased significantly in the period from January 2020 to November 2021 with a total 2,416 corruption cases investigated all over the offices of the AGO Indonesia.[2]

This achievement of repressive action also came with achievement in view of recovering the state loss from corruption. In the period from January 2020 to November 2021, the AGO has succeeded in recovering state losses amounting to USD$ 1.3 billion. In the same period of time, the KPK achieved the recovery of assets amounting to USD$ 5.9 million.

Apart from the roles of law enforcement institutions, the multi-agency approach in eradicating corruption also involves a financial intelligence unit, namely the Financial Transaction Reports and Analysis Centre (PPATK), which was established in 2002. The institution plays its role in financial intelligence and investigation with the special mission to prevent money-laundering through detection and analysis of suspicious transactions in the financial system.

II. INTERNATIONAL COOPERATION: FORMAL VS. INFORMAL

Indonesia is committed – and has actively contributed – to the efforts of the international community to prevent and eradicate corruption, becoming party to the United Nations Convention Against Corruption (UNCAC) on 18 December 2003 and passing the Convention through Law No. 7 of 2006 on Ratification of UNCAC. This international legal instrument is very much needed to bridge different legal systems and at the same time promote effective methods of eradication of corruption.

In line with the spirit of eradicating corruption completely, which must be interpreted not only as success in capturing and entangling the perpetrators with crimes according to their actions, but also success in recovering state losses due to the corruption they committed, cooperation either done formally or informally is one of the vital tools to ensure this goal is achieved. It has become a universal concern that corruption crimes, particularly the high-profile corruption, involves multiple jurisdictions. And thus, understanding how we could perform as a team in the international fora has become a necessary strategy.

And again, as a part of our commitment to support international efforts in combating corruption and to avoid impunity, Indonesia would gladly cooperate both formally or informally. Each method can be complementary to the other. However, when we encounter a question of what is the most effective platform for international cooperation to be applied

[1] Laporan Tahunan KPK, 2020 (https://www.kpk.go.id/images/pdf/Laporan_Tahunan_KPK_2020.pdf).
[2] Booklet Capaian Kinerja 2 Tahun Jaksa Agung Republik Indonesia.

in handling a case involving a foreign jurisdiction, there are at least two main considerations:

1. The principle of fast, simple and low-cost justice; and

2. The admissibility of evidence obtained as a result of cross-jurisdictional cooperation.

As for the first consideration, i.e., to maintain fast, simple and low-cost justice, the principle is clearly stated in Article 2, paragraph (4), of Law No. 48 of 2009 on Judicial Power. *Fast,* which is universal in nature, relates to a completion time that is not protracted. This principle is known as the "justice delayed, justice denied" doctrine, meaning that a slow judicial process will not provide justice to the parties. *Simple* means that the examination and settlement of cases are carried out in an efficient and effective manner. *Low cost* means that the cost of the litigation process must be efficient and affordable for the community.

The second consideration, admissibility, in general, meaning that the evidence must be relevant or have probative value and must not be outweighed by counteracting considerations.[3] Some countries require that the three "R's" should be considered when analysing the introduction of evidence. Is the evidence Relevant? Is it Reliable? And is it Right to admit the evidence? Only relevant evidence is admissible, but not all relevant evidence is admissible. Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action.[4] Competent and reliable evidence generally consists of tests, analyses, research, studies, or other evidence that: (a) is based on the experience of professionals in the relevant area; (b) has been conducted and evaluated in an objective manner by persons qualified to do so; and (c) uses procedures generally accepted in the profession to produce accurate and reliable results.[5] Accordingly, in some countries the court would not accept a defendant who surrendered by so called "informal" mechanism of surrender (or non-extradition mechanism), such as deportation, hand-over or repatriation, to be presented at the trial proceeding.

However, that has not been the case in Indonesia. The rules of evidence applied in Indonesia is the *Negatief wettelijk bewijs theory* (Article 183 Procedural Code) or a proof system, which is a combination of Positive *wettelijk bewijs theory* (legislation based); and conviction rationale (legal reasoning). Based on the legislation, namely Article 184 of the Procedural Code, the evidence shall consist of 4 (four) legal instruments of proof, namely: witness' testimony, expert's opinion, letters/written document/s, and/or defendant/s' statement. Furthermore, the Procedural Code requires not merely a fulfilment of at least 2 (two) instruments of proof as evidence, but also the judges being convinced by their legal reasoning. However, the Procedural Code does not explicitly prescribe how to present the said evidence. It is the duty of the prosecutors to convince the judges that the evidence presented before the court has been obtained by lawful means and consistent with the various provisions of the applicable laws and regulations.

[3] https://www.law.cornell.edu/wex/admissible_evidence
[4] Federal Rule of Evidence, Article IV, Rule 401 Test for Relevant Evidence (https://www.law.cornell.edu/rules/fre/rule_401)
[5] https://www.lawinsider.com/dictionary/competent-and-reliable-evidence

Having said that, the *crime control model* and *due process* must both be considered. In view of avoiding impunity and ensuring that all criminals are brought to justice, the crime control model tends to prevail. Therefore, a defendant who had become a fugitive of Interpol and later surrendered to Indonesia by any means other than extradition as a formal mechanism shall be admissible to the Indonesian court. This principle, to the extent of fulfilling positive laws, has also been similarly put into MLA practices. As long as no provisions of the Procedural Code or the MLA Law have been breached, and the evidence could be admissible in both the requesting and requested countries, Indonesia would be able to render assistance informally, or without going through the formal mechanism of MLA or extradition. Such assistance could be rendered by using the equivalent *agency-to-agency* platform. There have been many practices in regard to the mechanism, and some of them will be discussed in the section on informal cooperation.

A. Formal Cooperation

The formal cooperation mechanism in the field of law enforcement includes mutual assistance in criminal matters (MLA) and extradition. Indonesia is a *non-treaty-based* country, meaning that Indonesian law accommodates requests for extradition and MLA, both for countries that have treaties with Indonesia and those that do not. Therefore, Indonesia has a strong record of international cooperation and tends to follow up on requests for extradition and MLA from abroad rather than making requests to foreign jurisdiction for the purpose prosecution or execution of criminal cases.

1. Mutual Legal Assistance in Criminal Matters

Mutual legal assistance in criminal matters as a tool of conducting trans-border cooperation in Indonesia is based on: 1) The United Nations Convention Against Corruption (UNCAC); 2) the United Nations Convention on Transnational Organized Crime (UNTOC); and 3) Law Number 1 of 2006 on Mutual Assistance in Criminal Matters (MLA Law). Since 2006, Indonesia has signed bilateral MLA treaties with nine jurisdictions, i.e., Australia, China, Korea, Hong Kong, India, Switzerland, UEA, Iran and Viet Nam, and a multilateral treaty called the ASEAN MLAT (ASEAN MLA Treaty). However, since Indonesia can also entertain non-treaty partners, it has assisted more countries than those. Since the stipulation of the MLA Law in 2006, Indonesia has received 300 incoming requests and sent 80 outgoing requests.

2. Grounds for Refusal

A request for assistance shall be refused if it 1) relates to investigation, prosecution or examination before the court, or punishment of a person that is alleged to have committed a crime of a political nature, except a crime or attempted crime against the life of the Head of State, terrorism or have committed a crime under military law; 2) is deemed *ne Bis in Idem* (double jeopardy); 3) is a *non-prosecutable crime*; 4) is made for prosecuting or bringing a person to justice based on discrimination (*race, gender, religion, citizenship, political views).* These refusal grounds should be considered as mandatory. On the other hand, dual criminality is not considered as a mandatory condition for a request. Instead, this would fall under a discretionary consideration, which at least depends on the reciprocity principle.

3. Types of Assistance

Based on the MLA Law, Indonesia is able to provide mutual assistance for the following purposes: identifying and/or locating a person; obtaining statements or other forms thereof; providing documents or other forms thereof; making arrangements for

person to provide a statement or to assist in the investigation; delivering letters; executing search warrants and seizures; recovery of fines or other penalties in respect of the crime; restraining, freezing and confiscating property; as well as locating property that may be recovered or may be needed to satisfy the fines or penalties imposed.

4. MLA Request Procedure: Central Authority, Competent Authorities and the Content of the Request

According to the MLA Law, any foreign country may convey its request for assistance to the Government of the Republic of Indonesia. The request may be addressed directly to the central authority or via the diplomatic channel. The central authority for transmitting and transferring an MLA request is the Ministry of Law and Human Rights, while the executing or competent authorities are the Indonesian National Police and the Attorney General Office – both institutions are the mandated authorities to execute any incoming requests from foreign jurisdictions. Article 29 of the MLA Law provides that any incoming request from foreign jurisdictions shall be conveyed by the Minister (read: Ministry of Law and Human Rights) to the Head of INP or to the Attorney General for execution.

The execution of requests works due to each institution's duties and functions. For general crimes, for example, any request conveyed for prosecution or court examination purposes must be transmitted by the central authority to the Attorney General's Office, since it is the only institution authorized to prosecute. As for requests related to corruption crimes, because the AGO is authorized to conduct pre-investigation, investigation and prosecution of corruption crimes, MLA requests on corruption should be transmitted to the AGO for execution.

The request must include the purpose and description of the assistance needed, the name of the agency and official conducting the investigation, prosecution or court examination related to the request, a description of the crime, case settlement phase, relevant statutory provisions, a description of any sanctions imposed, the time limit for carrying out the request, the details of specific procedures or requirements desired to be complied with, and, if any, confidentiality requirements and the reasons therefor. Or if the request is to execute a judgment, it shall include the relevant judgment and information establishing that such judgment is final and binding.

In order to optimize the process, working groups are often conducted to bridge communication and to build adequate understanding of the case upon request.

5. Best Practices for Formal Cooperation

(a) Outgoing request to Australia – assistance provided in a timely manner

An example of an outgoing request from Indonesia is an MLA request to the government of Australia. The request was to have witnesses and an expert come before the court hearing of a "famous" murder case – the cyanide case (defendant's name: Jessica Kumolo Wongso) to give testimony and an expert opinion. The murder took place in Jakarta, Indonesia, but testimony from the witnesses was needed because the defendant spent some years living in Australia and there were some events related to the crime that occurred in Australia during her stay there.

The cooperation started with a series of informal communications and coordination between the AGO of Indonesia and the AGD of Australia via its resident legal advisor in Jakarta. Then the formal request was submitted through the central authority. The

summoned witnesses and expert appeared at the trial proceeding on the scheduled date, and this was a success story of MLA in supporting prosecution in a timely manner.

(b) Incoming request from Hong Kong – double track cooperation

Another example was the assistance to the government of Hong Kong SAR to provide witness attendance and testimony in the embezzlement case of Mathias Hubert Marie Echene. This is an example of double track assistance from Indonesia to Hong Kong. Mr. Echene, a citizen of France, was alleged to have committed embezzlement in Hong Kong and fled to Indonesia. There were many victims who resided in Hong Kong as well as three victims from Indonesia. The Hong Kong authority sent an extradition request to Indonesia to have Mr. Echene prosecuted in Hong Kong. Although, Indonesia could prosecute the case because some victims and a few events also had been committed in Indonesia, it decided to surrender him for prosecution in Hong Kong because more evidence found in Hong Kong.

After the prosecutor initiated the extradition proceeding, the court granted his extradition. This decision was approved by the President of the Republic of Indonesia by issuing a Presidential Decree to extradite Mr. Echene to Hong Kong.

Mr. Echene was extradited to Hong Kong in 2020. Afterwards, the Hong Kong authority sent an MLA request to Indonesia asking to have witnesses appear and testify at the trial in Hong Kong. Yet, because the MLA request was received during the pandemic (January 2021), Indonesia rendered the assistance by providing online witness testimony via video conference.

(c) Request from the Royal Thai authority

Another example of an incoming request was from the Royal Thai authority to provide documents on customs duties. This was preceded by informal cooperation between the AGO of Thailand and the AGO of Indonesia. Good communication has been maintained under a 2013 Memorandum of Understanding between the two offices (Prosecutor to Prosecutor). After successfully rendering information informally to the AGO of Thailand on the subject matter and using the documents for pre-investigation purposes, Thailand sent an MLA request to obtain the documents formally to be presented as evidence before the court.

6. <u>Extradition</u>

The practice of extradition in Indonesia is based on:

1. The United Nations Convention Against Corruption (UNCAC);
2. The United Nations Convention on Transnational Organized Crime (UNTOC);
3. Law Number 1/1979 on Extradition;
4. Treaties.

(a) Treaties on extradition between Indonesia and other jurisdictions

To date, Indonesia has six treaties on extradition – with Malaysia, the Philippines, Thailand, Australia, Hong Kong and South Korea. Since Indonesia is a non-treaty-based country, Indonesia would follow up on extradition requests from countries whether or not

they have a treaty with Indonesia. Statistically, Indonesia has followed up on more requests from non-treaty countries than those which have a treaty with us.

(b) Extradition proceedings

Any country is welcome to request extradition of a fugitive to Indonesia, regardless of having a treaty with Indonesia. This rule is provided by the Extradition Law Number 1 of 1979 (the Extradition Law). According to the Law, the extradition process in Indonesia consists of judicial and executive proceedings, because it involves judicial examination of certain conditions such as dual criminality, the rule of specialty, double jeopardy as well as prosecution guarantees from the requesting country. This compliance is pre-examined by the AGO. Upon completion, the prosecutor shall make a legal Note upon the request file and present it before the court together with all the supplementary documents of the extradition request to be cross examined.

For a non-treaty partner, the process shall begin with clearance from the Head of the Government (the President). This preliminary test considers opinions from the Attorney General, the Ministry Foreign Affairs and the Head of the Indonesian National Police on aspects relevant to duties and function of the three institutions. For treaty partner, this test would not be applied.

Requests may be addressed directly to the central authority or may go through diplomatic channels.

The Extradition Law provides that incoming and outgoing requests shall be received by the Ministry of Justice (MoJ). However, Indonesia no longer has a Ministry of Justice. Judicial authority is held by the Supreme Court of the Republic of Indonesia. There is also the Attorney General's Office as the standing judiciary. However, in the absence of the MoJ, the Ministry of Law and Human Rights plays the role of transmitting and transferring extradition requests to the competent authorities and to the President of the Republic of Indonesia.

The final decision on extradition is granted by a Presidential Decree.

B. Informal Cooperation

Formal cooperation mechanisms that include MLA or extradition require a fairly time-consuming process because the mechanisms involve a judiciary process at every stage in which the officers will ensure that the documents provided or processes are valid and will not be doubted as evidence in court in the country applying for assistance. Therefore, early communication with an equivalent stakeholder at the requesting country would be essential. Cooperation is carried out through informal networking or by *agency-to-agency* channels such as Police to Police or Prosecutor to Prosecutor.

The mutual understanding between equivalent offices could be built by signing an MoU. To strengthen its duties and function in law enforcement and the judiciary, the AGO of Indonesia has signed MoUs with several prosecution offices abroad, such as: the AGC of Malaysia, the AGO of Thailand, the AGC of Singapore, the SPP of Russia, the DoJ of the United States of America, the AGD of Australia, the SPP of Korea, Hong Kong and the SPP of People's Republic of China. In addition to mutual understanding that has been built through MoUs, the assignment of a representative of the AGO at the Embassy of the

requesting or requested countries also plays a very important role not only for diplomatic channels but also as a partner in the early discussion of legal matters.

Such informal cooperation has succeeded for years in Indonesia's experience, partly because Indonesia still has very few treaties on extradition or MLA with other countries. Moreover, informal cooperation mechanisms are acceptable in Indonesian courts. One of the advantages considered in its application is that this method is simpler and faster, and the most important thing is that this method upholds due process of law.

Informal cooperation mechanisms that apply in Indonesia may include cooperation in obtaining information, supplementary evidence or in seeking to arrest fugitives for the purpose of investigation, prosecution or execution of court decisions. This not only applies for corruption cases but also for other general crimes.

1. Best Practices for Informal Cooperation

(a) Non-extradition surrender to serve the Court sentence

(i) Corruption case of defendant Adelin Lis

- ✓ Hendro Leonardi a.k.a Adelin Lis (AL) was convicted for corruption and illegal logging in 2018 that caused ±IDR 119.8 billion in state losses. He was sentenced to 10 years' imprisonment, a fine of IDR 1 billion, to pay restitution in the amount of IDR 119.8 billion as compensation for state losses, as well as to pay the forest recovery fund in the amount of US$ 2,938,556.24 (Supreme court decision no. 68 K/PID.SUS/2008, 31 July 2018).

- ✓ AL had been a fugitive of the AGO (wanted person for execution) for over 13 years. He was once apprehended in Beijing in 2006 but managed to escape.

- ✓ AL has been subject to an Interpol Red Notice since 2008. In 2009, he was also confirmed to have stayed in Australia, but the effort to extradite him failed due to a communication issue. In May 2018, he was caught red handed using a false ID as his passport by the ICA of Singapore. The Singapore court fined him for SGD 14,000 (9 June 2021) and decided to deport him to Indonesia. Unable to proceed with the surrender using the extradition platform, since the extradition treaty between Indonesia and Singapore has not yet been ratified by the Indonesian government, AL was surrendered through the repatriation process. The AGO via legal attaché (of the AGO) and the immigration attaché at the Indonesian Embassy in Singapore coordinated with the ICA. AL was surrendered on 19 June 2021 to the Indonesian government and sent to jail to serve his sentence. He has paid the IDR 1 billion fine and is now in the process of paying restitution to the State**.**

This is an example of a multi-agency collaboration: the AGO, the immigration authority of Indonesia and Singapore, and the involvement of diplomatic channels in the avenue of the cooperation to combat corruption

(ii) Corruption Case – embezzlement: defendant Samadikun Hartono

- ✓ Samadikun was found guilty of having embezzled Rp 2.5 trillion ($190 million) in bailout money received by the now-defunct Bank Modern from the notorious Bank

Indonesia Liquidity Assistance (BLBI) fund during the Asian financial crisis of 1998.

- ✓ In 2003, the Central Jakarta District Court sentenced Samadikun to five years in prison, an IDR 20 million fine and IDR 169 billion as restitution for state losses. On appeal, the Supreme Court sentenced him to four years' imprisonment and the same amount of fines.

- ✓ He had been a fugitive for over 13 years until he was located by the State Intelligence Agency in Shanghai in 2016. Soon afterwards, Samadikun was detained by the immigration authority of China for a month. He had five passports with different identities and had also been hiding in Gambia and Dominica.

- ✓ Upon arriving in Indonesia, Samadikun was directly transferred to the Attorney General's Office, before serving his sentence in Salemba Prison. The Central Jakarta District Attorney has also restored all the state's finances by depositing IDR 81 billion, IDR 1 billion and IDR87 billion (total IDR 169 Bi) as restitution from the convict Samadikun Hartono. The money was derived from the sale of Samadikun's assets.

This is an example of multi-agency and cross-border cooperation between the intelligence agency, immigration authority and the Attorney General's Office.

(iii) Joko Sugiarto Tjandra

- ✓ The National Police brought Djoko Soegiarto Tjandra (JST), a fugitive and graft convict who had been on the run for 11 years, back to Indonesia after arresting him in Malaysia. Djoko was first arrested in September 1999 for his involvement in the high-profile Bank Bali corruption case.

- ✓ He was acquitted by the South Jakarta District Court in 2000. After the AGO filed a request for review, the Supreme Court sentenced Djoko to two years of imprisonment in 2009 and ordered him to pay IDR 546 billion (US$54 million) in restitution. However, Djoko fled to Papua New Guinea a day before the court ruling and had remained at large ever since. Djoko recently made headlines as he managed to return to the country undetected and request a case review of his conviction with the South Jakarta District Court in early June.

- ✓ JST had been the AGO fugitive for over 11 years. He was finally located, when he reportedly filed his plea after obtaining a new electronic ID card and passport, in addition to having his Interpol red notice status lifted. The court, however, dropped his case review plea after JST, who was reported to be residing in Malaysia, failed to show up for the hearing four times. JST's legal team said that the fugitive was not able to attend trial due to his poor health.

- ✓ His return process is another example of non-formal cooperation. Though Indonesia and Malaysia have signed an extradition treaty, JST was surrendered on 30 July 2020 using the police-to-police network. JST surrendered to serve his prison sentence in the Bank Bali case of 1999 (Supreme Court verdict 2009), and yet also

to be prosecuted for bribing officials to overturn his "red notice" status. The High Court sentenced him for 3.5 years due to his appeal on the latter case.

This is another good example of agency-to-agency cooperation. The history of this case also provides an example of how important officials' integrity factors into maintaining cross-border cooperation as a tool.

(iv) Non-MLA mechanism for obtaining victims' statement for court trial: Umar Patek

Umar Patek was among those who built the bombs used in the church bombing in 2000 and the Bali bombings 2002. Patek was arrested in Abbottabad, Pakistan, just a few weeks before US special forces killed Osama Bin Laden. In order to build a strong case with victims' testimony not only from those local people, yet also from foreign victims who were paralyzed after the catastrophe, the prosecutors of the Task Force at the AGO managed to cooperate with the Special Detachment 88 of the INP, the AFP and the US FBI to bring four victims from Australia and the USA. They came voluntarily to strengthen the prosecution. Thus, there were no formal enquiries submitted, but the witness summons was sent via the FBI.

This is an example of transnational agency-to-agency cooperation, i.e. the AGO of Indonesia, the Australian Federal Police, the US Federal Bureau of Investigation and the Indonesian National Police.

III. CONCLUSION

Any mechanism of cooperation chosen that requires significant law enforcement activity, particularly in combating corruption, must avoid any delay of justice. Therefore, making the right decision at the very beginning by communicating to the right partner (which, in our opinion, is the law enforcement counterpart, through *agency-to-agency* cooperation) will save time. This will remain a challenge.

To conclude, in Indonesia's experience, effective cross-border cooperation needs: 1) strong commitment, professionalism and integrity of the officials involved; 2) understanding of the legal system and how each authority of the requested country functions; 3) consideration of which mechanism should be employed, considering the amount of time that may be required to fulfil the request and the admissibility in court of any information received.