LEGAL READINESS IN TIMOR-LESTE TO FACE TRANSNATIONAL CRIME IN THE ASEAN ECONOMIC COMMUNITY (AEC)

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ABSTRACT

Purpose: The ASEAN and the global community have significantly impacted the attitudes and behaviors of people in the ASEAN region, including Timor-Leste, towards global economic integration. Timor-Leste's entry into the ASEAN economic community is expected to increase human trafficking crimes, highlighting the need for a human trafficking law. This study aims to know the importance of legal readiness in Timor-Leste to face transnational crime in the ASEAN Economic Community (AEC).

Methodology: This study used a normative approach as the methodology. The subject of discussion is legal norms regarding transnational crime in Timor-Leste in facing the ASEAN economic community.

Results: The results showed the positive and negative impacts of globalization and the ASEAN community on Timor-Leste, emphasizing the opportunity and challenge. The government must prepare three essential points in facing transnational crime, such as taking anticipatory steps, preparing adequate legal products, and carrying out international cooperation for law harmonization.

Conclusion: Thus, it concludes international cooperation among ASEAN member states is necessary to strengthen the rules of international law and combat transnational crime effectively.

Keywords: transnational crime, Timor-Leste, international cooperation, asean community, economic, harmonization.

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DISPONIBILIDADE JURÍDICA EM TIMOR-LESTE PARA ENFRENTAR A CRIMINALIDADE TRANSNACIONAL NA COMUNIDADE ECONÔMICA DA ASEAN (AEC)

RESUMO

Objetivo: A ASEAN e a comunidade global tiveram um impacto significativo nas atitudes e comportamentos das pessoas na região da ASEAN, incluindo Timor-Leste, no sentido da integração econômica global. Espera-se que a entrada de Timor-Leste na comunidade econômica da ASEAN aumente os crimes de tráfico de pessoas, destacando a necessidade de uma lei sobre o tráfico de pessoas. Este estudo visa conhecer a importância da prontidão jurídica em Timor-Leste para enfrentar a criminalidade transnacional na Comunidade Econômica da ASEAN (AEC).

Metodologia: Este estudo utilizou uma abordagem normativa como metodologia. O tema em discussão são as normas legais relativas ao crime transnacional em Timor-Leste no confronto com a comunidade econômica da ASEAN.

Resultados: Os resultados mostraram os impactos positivos e negativos da globalização e da comunidade da ASEAN em Timor-Leste, enfatizando a oportunidade e o desafio. O governo deve preparar três pontos essenciais para enfrentar o crime transnacional, tais como tomar medidas antecipatórias, preparar produtos legais adequados e realizar a cooperação internacional para a harmonização da lei.

Conclusão: Conclui-se assim que a cooperação internacional entre os Estados membros da ASEAN é necessária para reforçar as regras do direito internacional e combater eficazmente a criminalidade transnacional.


1 INTRODUCTION

Economic cooperation between ASEAN member countries has begun since the passing of the Bangkok Declaration in 1967. This cooperation aims to accelerate its members' economic growth, social progress, and cultural development and promote peace at the regional level, which is still at the cooperative stage and not yet integrative (Kim, 2011; Puspita, 2020). ASEAN economic cooperation is directed at establishing the ASEAN Economic Community (AEC). The implementation is faster than cooperation in the economic, political-security, and socio-cultural sectors. The existence of the ASEAN community and the global community has played a fairly active role in developments in various fields of life. Its development has brought various influences in both positive and negative ways. ASEAN has changed people's attitudes, behaviors, and mindsets to be ready to welcome the free market and free trade that occurred in parts of the world. With its development, the mobility of people, goods and services, capital, and investment from
one country to another has increased rapidly, as it is removing boundaries between countries towards global economic integration (Arief, 2011).

Timor-Leste has just been accepted as the 11th ASEAN member, although it is still not officially a permanent ASEAN member (Putra et al., 2022). This cooperation aims to create a free flow of goods and skilled labor and a more unrestricted investment within the ASEAN community. The people of Timor-Leste will experience the impact of globalization, an opportunity and a challenge facing the competition that occurs from the global community. The integration of ASEAN member states in the AEC provides opportunities for all members to progress and develop together. However, such progress will trigger new problems that will disrupt the economic growth of each member. The freedom possessed by each ASEAN member in the concept of economic unification is feared to give rise to crimes integrated into transnational crimes (Arief, 2011). The government and parliament in Timor-Leste must anticipate and simultaneously create adequate legal instruments, especially in the field of transnational crime law.

The ASEAN Economic Community, ratified in 2015, has provided opportunities for member countries to advance their economy together. On the other hand, it will attract the interest of business people from outside the region; this is undoubtedly a promising dream for business people in each member country. Given the resilience and sustainability of development in the region, it is a priority to achieve the expected goals, that is, focusing on economic cooperation and improving the quality of each main commodity of each member country. Every commodity transacted in the AEC will bring up criminals, such as young people entering other countries, which will open opportunities for transnational criminals to access and control crime in ASEAN. This is important as transnational crime increases.

All ASEAN member states are committed to realizing trade between ASEAN member states. This provides an opportunity for Timor-Leste to improve its national economy and encourage the investment climate, accelerate trade volume, to create economic organization in the developed South East ASEAN Region (Irdayanti, 2013).

However, the emergence of transnational crime in Timor-Leste may lead to the vulnerability of crimes. It happens because the mobility from one country to another increases the distribution of goods, services, and investments of countries that gather in the ASEAN economic community. Thus, a new, sophisticated, modern modus operandi of transnational crime will automatically emerge. Barrier-free policies on various goods,
services, and capital investment for the movement of skilled labor among ASEAN countries provide opportunities and chances for mafias (Mai, 2023) and networks of criminal groups and organized crime to commit various transnational crimes.

A study by Livey (2017) found that the fight against transnational organized crime (TOC) is characterized by definitional opaqueness and the complexity of law enforcement and judicial cooperation. To address these challenges, new practices and legal innovations, such as establishing joint investigation teams and integrating other fields of law, need to be considered. Jinaratana et al. (2023) also stated that transnational crime is a threat that significantly impacts a country’s security. She found that Mutual Legal Assistance (MLA) agreements have an essential role in eradicating transnational crime because they increase the effectiveness of cooperation between countries in investigating and examining transnational crimes and implementing court decisions. According to Dilshodovich (2022), transnational crime can occur because the lack of proper legal cooperation between states leads to dangerous practices where criminals cross borders to avoid justice and criminal prosecution. Transnational crimes require cooperation at regional and international levels, with the Ministry of Foreign Affairs playing a central role in implementing international cooperation (Indrayani & Zulkarnain, 2022).

Since there is still little research on analyzing the legal readiness for transnational crime in ASEAN, especially Timor Leste, this study aims to examine the legal readiness of Timor-Leste to face transnational crime in the ASEAN Economic Community (AEC) and propose anticipatory steps to combat these crimes. It also emphasizes the importance of the government and parliament preparing adequate legal products and conducting international cooperation to harmonize laws with ASEAN member states.

2 METHODOLOGY

The type of research used is normative research with legal, conceptual, comparative, and case approaches. Normative research generally examines the philosophy of norms related to the subject under study. In this research, the subject of discussion is legal norms regarding transnational crime in Timor-Leste in facing the ASEAN economic community. The data sources were taken from both primary and secondary legal materials. The primary legal materials consisted of legislation or official records or minutes in the making of legislation found in legislation related to transnational crime issues such as human trafficking crimes, money laundering crimes, and drug
crimes. The secondary legal materials were all law publications, such as books, textbooks, legal dictionaries, legal journals, and comments on court decisions on the issues raised.

The collection of legal materials is an effort to search and find legal materials that have relevance to the legal issues at hand following the approach used to answer legal issues in the field of transnational crimes, money laundering crimes, human trafficking crimes, and drug crimes in the era of the ASEAN economic community. Primary and secondary legal materials that have been collected were then grouped and studied to obtain basic knowledge as perspectives and applied sciences. As a perceptive science, legal materials study the legal objectives of justice values, validation of legal rules, legal concepts, and legal norms. As an applied science, legal materials establish standard procedures in implementing perceptive legal rules. Legal science analysis is conducted to find the truth of pragmatism or coherence.

3 RESULTS AND DISCUSSION

3.1 TRANSNATIONAL CRIMES IN ASEAN AND TIMOR-LESTE

On an international scale, transnational crime has been viewed as an unstoppable issue. Terrorism, human trafficking, and cybercrime are among the activities that are negative to society (Kadek Novi Darmayanti et al., 2022; Putri et al., 2022). Its modus operandi is becoming more complex, making it challenging to identify and stop. Multi-state operations are carried out by transnational organized crime groups, who plan and arrange their operations in various nations (Ilchyshyn et al., 2023). Transnational crimes involving networks in several nations necessitate collaboration at the regional and international levels (Indrayani & Zulkarnain, 2022). However, the development of transnational crimes in Southeast Asia is facilitated by the weakness of government institutions in various countries, the opening of national boundaries, and the increase of ethnic and racial conflicts in every Southeast Asian country (Broadhurst & Le, 2012). Drug and human trafficking, maritime piracy, and terrorism are identified as significant criminal crimes in ASEAN.

Despite ASEAN’s ongoing attempts to tackle the issue since 1972, drug trafficking, as well as the manufacturing and consumption of illicit narcotics, continue to plague the region (Mok, 2020). The Golden Triangle, notoriously renowned as one of the world’s top places for narcotics production, is located where the borders of eastern Myanmar, northwestern Lao PDR, and northern Thailand intersect along the Mekong
River and is part of ASEAN (UNODC, 2013). The golden triangle is one of the main hubs for the trafficking of opium and methamphetamine in the world. Myanmar is the world's second-largest producer of heroin and accounts for 92% of the Golden Triangle's production (Harper & Tempra, 2020). The country is also heavily involved in the production and trafficking of methamphetamine. Economically speaking, it is also no coincidence that Myanmar is the least developed country in Southeast Asia, with impoverished farmers relying on illicit drug crops for a living due to the ease of growing poppies and transporting their resin as well as the financial benefits of such a high-value, low-weight crop (Mok, 2020).

Human trafficking is the most attractive industry after drug trafficking (Capcha Carrillo et al., 2022). Since it has increased over the past 20 years, human trafficking has become a prominent kind of transnational organized crime in Malaysia (Devi, 2016). Malaysia is not only a place of origin for victims of human trafficking but also a profitable destination and transit location for traffickers.

Not only in Malaysia, human trafficking also happens in Timor Leste. Timor Leste has become a country that human trafficking uses as a source, transit point, and destination. It serves as the place of origin in the vast majority of transnational incidents of human trafficking. Children under 18 are the main targets of domestic trafficking in Timor-Leste. Sometimes, wealthy families like to adopt children from rural families to help them pay their debts, but it frequently leads to domestic abuse. Moreover, the report said that some national policies are helping the local sex trade; thus, exploited people passed the border entrance with no recorded track (Global Organized Crime Index, 2021). Timor-Leste has many irregular migrations (McWilliam & Monteiro, 2019). Remittances from migrant workers who are employed overseas have increased the flow of financial aid to the nation (Dentinho et al., 2020). Most of the employment and growth in the nation are attracted to the capital, Dili, which leads to a concentration of basic jobs and governmental spending there (Purwatiningsih et al., 2020). However, inequality exists between urban and rural areas, with rural areas experiencing high levels of poverty, restricted access to services, and low literacy rates (McWilliam, 2014). The complex security situation in the border areas has also led to various illegal activities, including illegal trading, mining, migration, and logging. Moreover, many people coming to work on the nation's major construction projects or human smuggling. Similar to human trafficking, police and immigration officials help facilitate the movement of people, and
no precise records of those who have been transported are preserved. According to reports, most of those transported are Chinese, with Bangladeshis, Filipinos, and Indonesians coming in second and third. Besides human trafficking and smuggling, illegal arms markets, illegal logging, and flora crimes are found in Timor-Leste.

3.2 ANTICIPATING TRANSNATIONAL CRIME IN TIMOR-LESTE

Steps must be taken to anticipate the possibility of transnational crime. The government must make a strategic breakthrough to face these challenges and threats. Since transnational crime is modern and organized, the government must provide legal protection for Business actors involved in cooperation for economic improvement in Timor-Leste, especially foreign and local investors, to feel safe and comfortable running their businesses. The rapid development of science and technology and the increasing flow of globalization cause the territory of countries have no borders, so the movement of people and goods is carried out easily and quickly.

Advances in science and technology, have a positive impact on human life. However, it also brings negative impacts that can harm individuals as well as society and the State, because there are parties who use the opportunity to lead themselves and harm others. This could lead to even greater crimes such as transnational organized crime with increasingly sophisticated modus operandi. Therefore, the actions of the government and law enforcement officials in Timor-Leste must be more anticipatory to improve the professionalism of law enforcement officials such as police and immigration, must be given adequate briefing and also supported by facilities, to detect the movement of crime that will arise.

Data obtained from the UN Convention on Transnational Organized Crime in 2000 crime is transnational in nature (Hagan, 1987). First, more than one State is carried out, second, planning and supervision preparations are carried out in other States. Third, it involves organized criminal groups where crimes are committed more than one country. Fourth, serious impact on other countries. International crimes that need to be anticipated by governments and law enforcement officials, in the era of the ASEAN economic community are illicit trafficking, drugs, human trafficking, arms smuggling, money laundering, terrorism, and international economic crime.
3.3 TIMOR-LESTE’S LEGAL READINESS TO CONFRONT TRANSNATIONAL CRIME

As state institutions competent to make laws, the Government and Parliament of Timor-Leste must be sensitive to crimes that will arise after Timor-Leste enters ASEAN. At the same time, Timor-Leste will be involved in the ASEAN Economic Community (AEC), where narcotics trafficking crimes may occur due to its potential area for transit point. So, it is necessary to create a narcotics law in Timor-Leste so that perpetrators of transnational crimes in the narcotics sector can be prosecuted using Timor-Leste's law.

Human trafficking crimes, particularly trafficking in women and children, involve multiple perpetrators from more than one country, with very modern modus operandi across borders between countries, and many victims from abroad, certainly adding to the complexity of the trafficking problem. Timor-Leste enters the free market by the ASEAN economic community and the number of human traffickers will increase due to the easy traffic between people. Therefore, it is necessary to create a human trafficking law so that the time comes for Timor-Leste to join the ASEAN economic community (AEC) the country has prepared legal aspects against transnational crime (Friedman, 1975).

The crime of weapons smuggling in Timor-Leste is very strategic. However, the surveillance of the entrance to the territory is still very weak, and patrol facilities from the police and army are still limited. This factor encourages arms smuggling into Timor-Leste's territory. Implementing free markets in the ASEAN economic community increasingly provides space for perpetrators of arms smuggling crimes to commit crimes in the territory of the State of Timor-Leste. Therefore, there is a need for the government and parliament with the authority to make legal instruments in the field of arms smuggling to avoid such crimes entangle the laws. Apart from that, there is a need for a parliament to address money laundering crimes, both laundering by East Timorese residents to other countries and money laundering by foreign nationals entering Timor-Leste (Olii, 2005). Money laundering crimes will inevitably occur if there is trade liberalization, ease of investment, and an increasingly long stock exchange that is free of barriers, with these various problems Timor-Leste needs to harmonize money laundering laws with other ASEAN member states.

The crime of terrorism is a transnational crime that has been frequent occurs, and perpetrators are often arrested by police officers and dismantle terrorism headquarters and early detection of terrorism networks. In the case of terrorism, the extremist groups that
have emerged in Southeast Asia have grown into terrorist organizations that operate on a global scale and span national boundaries. Rebels or armed separatist groups posing a threat to national sovereignty comprise terrorist organizations operating between the Philippines and those entering Indonesia (Fita et al., 2022). It is possible that in the future Timor-Leste will face such a situation. Therefore the law enforcement apparatus, especially the police, should be ready to detect the movements of terrorism perpetrators, and it is also necessary to improve the ability of the police in the field of intelligence that has early detection capabilities, so that terrorism movements have no place in the country.

In addition, the UN Resolution emphasizes the need to strengthen international legal rules to support national interests and intensify joint efforts to combat transnational crime in all its aspects and dimensions. Law enforcement cooperation in international relations has proven successful in fighting transnational crime. Successful law enforcement cooperation will not be possible without bilateral or multilateral agreements regarding the transfer of criminals in cooperation with the prosecution. So, the terms of the agreement are not absolute. Because without an agreement, law enforcement cooperation can be carried out based on the principle of reciprocity. Law enforcers must be actualized by prioritizing honesty and sincerity in law enforcement, having empathy and concern for the suffering experienced by society and the country, and finally, happiness and prosperity must be the primary goal (McLeod, 2007).

International collaboration is a diplomatic duty shared by two or more nations with similar fundamental objectives. International cooperation must be carried out with due regard to the principle of equality based on mutual respect for the sovereignty of each country involved (Sow & Rosa, 2014). Even if there is no established global framework, international cooperation requires an organized and fair allocation of responsibilities among nations (Franzi, 2019). The international cooperation contained in the agreement will apply politically and legally and is binding on the countries that make it. International agreements play a crucial role in regulating international relations and cooperation among subjects of international law (Nešović & Jerotijević, 2018). These agreements create rights and obligations for the parties involved, and their legal consequences can be transferred during mergers and acquisitions (Rafif, 2022). So, regarding law enforcement competition, every change is no longer refer to regulations. However, to make changes to statutory regulations, the creativity of law enforcers who actualize the law in place, space and time, in a correct and progressive way, is needed. It was done to build trust and an
anticipatory step due to globalization, especially in facing the ASEAN Economic Community (AEC). In particular, policymakers and politicians need to address the idea of crime reduction policy to be utilized as a basis for law enforcement to consider the possibility of transnational crime and become prepared. It is necessary to thoroughly understand the many behaviors or activities that constitute transnational forms of crime to describe the concept of crime reduction policy.

The limitation of the study is that the study did not explain the potential role of non-governmental organizations, civil society, and other stakeholders in combating transnational crime in Timor-Leste.

4 CONCLUSION

The study aims to build trust and take anticipatory steps in the face of globalization, particularly in the ASEAN Economic Community (AEC) context. It emphasizes the importance of understanding various behaviors or actions that qualify as transnational forms of crime and addressing them through concrete policies and actions. The integration of ASEAN member states in the AEC offers opportunities for economic development in Timor-Leste. However, it also poses challenges in terms of transnational crimes. Timor-Leste needs to enhance its legal readiness to address these challenges, including preparing adequate legal products and international cooperation with ASEAN member states. Adequate legal products must be prepared by the government and parliament to address transnational crimes, such as drug trafficking, human trafficking, arms smuggling, money laundering, and terrorism crimes. Moreover, strengthening the capacity of law enforcement officials and providing necessary support and training are crucial in combating and anticipating transnational crimes. Further research can be conducted to analyze the specific types of transnational crimes that are likely to arise in Timor-Leste in the context of the ASEAN Economic Community (AEC) integration. This research can provide a deeper understanding of the challenges and risks faced by Timor-Leste and help in formulating targeted strategies to combat these crimes.
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