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The Urgency of Combating Transnational Bribery in Indonesia by Ratifying the OECD Anti-Bribery Convention

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Abstract

The practice of bribery to government officials is usually carried out by companies to obtain convenience and/or privileges in international business transactions. This illegal of practice often occurs in developing countries which on the one hand need investors for the benefit of the country's development and on the other hand still have weak law enforcement. Transnational bribery that occurs in Indonesia is due to weak law enforcement and low human resources. For this reason, using a normative legal methodology, this study discusses the urgency and advantages for Indonesia to ratify the OECD Anti-Bribery Convention in International Business Transactions. These two legal issues are examined using statutory, conceptual, and case approaches. This study concludes that Indonesia needs to ratify the Convention to provide legal certainty in carrying out the eradication of the cross-border crime of bribery. The ratification effort to the Convention will provide economic and legal advantages to Indonesia that include in strengthening its domestic law. Participation in the Convention will also increase international cooperation in terms of eradicating bribery in cross-border business transactions.

Keywords: transnational bribery; Indonesia; international business transaction; OECD; Ratification

Introduction

Globalization catalyzed the availability of a social environment that is completely connected to one another (Pooch, 2016). In the context of economic globalization, this relationship is manifested in international business transactions. One of the legal problems related to the practice of international business transactions is corruption in transnational activities. This form of transnational

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corruption includes the practice of bribery by foreign investors to public officials. Based on a report on the analysis of criminal acts of bribery to foreign public officials compiled by the Organization for Economic Cooperation and Development (OECD), from 1999 to 2014 the majority of bribery crimes occurred in the extractive sector (natural resource extraction) (by 19%), followed by construction (15%), transportation (15%), and communications (10%) (The rest in manufacturing (8%), health (8%), gas and electricity (6%), defense and public administration (5 %), agriculture, forestry and fisheries (4%), wholesale sales (4%), water supply (3%), finance (1%), and others (2%) (OECD, 2014a).

Anti-Bribery Convention has entered into force in 1999. Convention participants have reported to the OECD that as many as 651 individuals and 230 legal entities found guilty and convicted under the country's domestic criminal law. Meanwhile, of the 28 member countries participating in the Convention, there are still 492 cases of bribery of foreign officials which are still under investigation (*2019 Enforcement of the OECD Anti-Bribery Convention*, 2020). Some cases of bribery of foreign public officials have been resolved through a settlement procedure, while the rest have been resolved using criminal sanctions in accordance with each country's domestic laws (OECD, 2014b). Although the settlement mechanism is carried out by prioritizing the principles of a fair and proper (due process of law), transparent and consistent legal process (Søreide et al., 2018), but in practice it is still weak and ineffective (*Austria's Enforcement of Foreign Bribery Laws Far Too Weak, but Could Pick up Soon Says OECD*, n.d.; Simone, Francesco De; Zagaris, 2014).

Unfortunately, most countries in Asia including Indonesia have not yet ratified the OECD Anti-Bribery Convention) (OECD, n.d.). Thus, law enforcement related on bribery of public officials related to international business transactions is still very weak due to the low commitment of the state in eradicating corruption. The Corruption Eradication Committee of Indonesia (KPK) did not move quickly to arrest officials who accepted bribes in the case of winning the tender for the procurement of aircraft by Rolls Royce (*Business as Usual for Garuda Indonesia Despite Transnational Bribery Scandal*, n.d.). Even though the Rolls Royce company has received a sentence from a British Court for bribing a foreign public official in the form of a fine to pay 497 Pounds Sterling (*Serious Fraud Office v. Rolls-Royce*, 2017). In another case, Indonesian officials also asked PT. Freeport Indonesia thanks to its assistance in smoothing out the extension of the contract of work for companies operating in Papua Province (*Pakar Nilai Skandal "Papa Minta Saham" Untungkan Freeport | Republika Online*, n.d.).

The extraterritoriality factor is the main cause of the unresponsiveness of law enforcement regarding bribery committed against foreign public officials. In

the Rolls Royce case, the bribe recipient is the former President Director of Garuda Indonesia, Emirsyah Satar is an Indonesian citizen while the briber in this case Rolls Royce is a foreign legal entity established under British law. This case will not be handled by the Corruption Eradication Commission if the British Anti-Corruption Agency (Serious Fraud Office/SFO) does not submit its findings. Serious Fraud Office v. Rolls-Royce, vol. Case No: U, p. 23. Hence, it is necessary to have good cooperation between law enforcement officers between countries considering the lack of bilateral agreements made by Indonesia with other countries related to mutual legal assistance (Heriyanto, 2021).

The present study is aimed at examining the urgency for Indonesia to ratify the convention when considering the variety of corruption that is still developing and occurring massively. This study also analyzes the advantages for Indonesia in ratifying the Convention on the Combating of Bribery of Government Officials in International Business Transactions. It is argued that along with the increasing complexity of the crime of bribery, which is currently starting to expand to transnational areas, it is necessary to increase Indonesia's cooperation. The challenges of international cooperation that are often faced are the weakness of diplomacy and negotiation skills and the imbalance between the rights and obligations of the parties in international agreements.

Research Method

The research method employed doctrinal legal research because the objects studied are international legal instruments, particularly the United Nations Convention against Corruption and the OECD Convention on Combating Bribery to Foreign Public Officials in International Business Transactions. The approaches to be used are statutory approaches, case approaches, and conceptual approaches.

The International Legal Framework in Combating Bribery

1. The United Nation Convention against Corruption

Since coming into force at the end of 2005, the United Nation Convention against Corruption (UNCAC)has been ratified by 188 countries (United Nations Office on Drugs and Crime, n.d.-a). As of 2021, UN member states that have not ratified this Convention include: Andorra, Barbados, Eritrea, Monaco, North Korea, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Suriname, and Syria (United Nations Office on Drugs and Crime, n.d.-b). Corruption has become a global issue whose eradication requires commitment from all countries in the world. UNCAC is a form of enthusiasm from countries in the world to end corruption. The opening part of this convention describes how corruption is a serious problem that must be faced globally. Indeed, corruption is no longer a

domestic problem in the country. It has become a cross-border problem that has an impact on the international community either directly or indirectly. The countries agreed to establish UNCAC as a networking platform under international law to prevent and eradicate corruption.

The Convention regulates the obligations of member states to take preventive measures and implement effective law enforcement in their national laws, international cooperation mechanisms, asset recovery, and technical assistance and information exchange. In the General Provisions section, UNCAC does not provide a definition of Corruption (United Nations Convention Against Corruption, 2003 Pasal 2) but only provides a list or detailed definition of the forms of corruption that must be criminalized and regulated in the domestic laws of each member state. The forms of corruption in the UNCAC include: bribery of national and foreign public officials and in the private sector; (United Nations Convention Against Corruption, 2003 Art.21) embezzlement and misappropriation of public funds; (United Nations Convention Against Corruption, 2003 Art. 17) and money laundering of the proceed of corruption) (United Nations Convention Against Corruption, 2003 Art. 23). Meanwhile, the member states are requested to consider criminalizing certain practices into their domestic law, such as: trading influence (United Nations Convention Against Corruption, 2003 Art. 18); abuse of office and misuse of administrative purposes (United Nations Convention Against Corruption, 2003 Art. 19); illicit enrichment (United Nations Convention Against Corruption, 2003 Art. 20); private sector bribery (United Nations Convention Against Corruption, 2003 Art. 21); and embezzlement (United Nations Convention Against Corruption, 2003 Art. 22).

Several criminal acts regulated in this convention are new types of criminal acts that respond to the growing modus operandi of corruption such as trading influence. It occurred in the beef import quota case involving Luthfi Hasan Ishaaq as the Chair of the Prosperous Justice Political Party (PKS) and Member of the House of Representatives of the Republic of Indonesia (DPR RI), Commission 1 for Intelligence, Defense, and Foreign Affairs. On the decision of the Central Jakarta District Court, (*Putusan Nomor 38/PID.SUS/TPK/2013/ PN.JKT.PST.*, 2013) Lutfi Hasan Ishaaq has been proven to have committed a crime of bribery (Undang-Undang Nomor 31 Tahun 1999 Sebagaimana Diubah Melalui Undang-Undang Nomor 20 Tahun 2001 Tentang Tindak Pidana Korupsi, n.d.) of one billion rupiah from PT. Indoguna Utama. The money from the biggest cattle importing company in Indonesia was given to Luthfi Hasan Ishaaq as the chairman of a political party to influence the policies made by the Minister of Agriculture, Suswono, who is one of the PKS member to be able to increase the beef import quota. The addition of this quota will benefit PT. Indoguna Utama and basically can be categorized as a

trading in influence offense as stated by the public prosecutor (*Putusan Mahkamah Agung Nomor 1195 K/Pid.Sus/2014.*, 2014).

This convention also links between corruption and money laundering. The relationship between corruption and money laundering has been the subject of a long discussion among legal experts. There are several cases that show how the relationship between corruption and money laundering is related and why it is important to regulate it. For example, in the case of One Malaysia Development Berhad. This scandal involved former Prime Minister Nadjib Razak who initiated the program to establish Satu Malaysia Development Berhad, as a government company that is expected to handle all strategic development projects in Malaysia. Due to the strong influence of Nadjib Razak as Prime Minister at that time, the misuse of company assets (total assets of 700 million US dollars) was not easy to be investigated. Some of its assets are misused for personal interests including money laundering (Jones, 2020) such as for transferring a sum of money to an offshore company in Luxembourg and several other countries (Australia, Hong Kong, Indonesia, Switzerland, United Kingdom, United States of America). At the same time, the financial company Goldman Sachs was found guilty by a court in the United States, for having committed a crime of bribing public officials in Malaysia and Abu Dhabi. This bribe was made to benefit from three bond deals totaling US$6.5 billion for Satu Malaysia Development Berhad (Department of Justice, 2020).

In the Riggs Bank scandal, in 2003, US law enforcement officials found that Riggs Bank managed approximately 30 accounts totaling US$700 billion in the names of several officials from the Republic of Equatorial Guinea and their family members. The financial source of this account comes from hundreds of transactions carried out by the former President of Chile, Augusto Pinochet, for the purpose of hiding his wealth during the investigation process carried out by the International Criminal Court (Dash, 2005). This is because most banks other than Riggs Bank have frozen account assets owned by Pinochet. Riggs Bank has also been proven to assist Pinochet in conducting transactions and transferring assets in the Bahamas (Leigh & Franklin, 2005).The Pinochet case was also investigated by several countries, including the United States. In the United States, Riggs Bank was charged with failing to double-check information regarding Pinochet's financial sources. Thus, the United States Government considers Riggs Bank to have violated the provisions of due diligence investigation to avoid money laundering (Hutman et al., 2004).

2. The OECD Anti-Bribery Convention

The crime of bribery is a phenomenon that often occurs in international business transactions. This action has direct consequences for both the payer and the recipient. In addition, latent actions also have an impact on the economy: creating unfair business competition and poor public services. The OECD Anti-Bribery Convention was established with the aim of creating a business climate free from corruption, particularly the crime of bribery. (Preambule OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997) This convention has been drafted since 1989, to increase global commitment to eradicate corruption in international business transactions. In 1994, the Council of OECD recommended that each member state adopt effective provisions to detect, prevent and combat the crime of bribery of foreign public officials to international business. The OECD hopes that, by the end of 1998, all member countries have adopted the provisions of this convention through national law and begin to enhance international cooperation (Policy Development and Review Department, 2001).

Bribery in this Convention is defined as an act in the form of an offer, promise, gift of something, with the aim of influencing a public official related to the implementation of his duties and authorities (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 1 (1)). Such influence may be aimed at policy changes or decisions that could benefit the person or company giving the bribe. The crime of bribery can be carried out in the form of money and non-pecuniary advantages (Sanyal, 2005). In practice, bribery transactions can be carried out between foreign companies which are directly given to government officials. However, in general, these bribes are carried out through third party intermediaries. Meanwhile, Foreign Public Official is a person who has a position, both in the legislative, administrative, judicial sectors, in a country, either through appointment or election mechanisms (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 1 (4) a).The scope of this definition includes a person who performs a public function for a country, be it an official in a public business entity or an official in a body established by his government or a representative of an international public organization (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 1 (4) a). Each member state of this convention must establish laws and regulations that provide effective and proportionate criminal sanctions for acts of bribery committed by citizens or business entities in other countries (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 3 (1)) If the country's legal system

has not provided a criminal liability scheme for every person or business entity, then, the countries participating in this convention are asked to provide effective and proportional non-criminal sanctions (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 3 (2)).

This Convention provides recognition of criminal liability for business entities that commit the crime of bribery or benefit from the crime of bribery committed (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 2). This convention also ensures that money laundering acts on the proceeds of corruption or bribery committed for foreign public officials are at least treated the same as money laundering crimes committed against public officials in its territory (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 7).

Each member states in the convention is also expected to have jurisdiction over acts of bribery committed by foreign companies and carried out within their jurisdictions (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 4 (1)). If a crime of bribery is involved in more than one legal jurisdiction of a country, these countries can cooperate to determine the appropriate jurisdiction to avoid conditions of *ne bis in idem* (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 4 (3)). In addition, by ratifying this convention, signatory parties can also carry out extradition processes and mutual legal assistance for the crime of bribery of foreign officials (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 10).

Economic and Legal Advantages for Indonesia in Ratifying the OECD Anti-Bribery Convention

Indonesia as a country that has investment attractiveness to manage its natural resources requires the involvement of investors from other countries to meet its domestic need. To attract investors to Indonesia, the government has enacted various laws and regulations, particularly related to corruption enforcement. These laws and regulations include Law on the Eradication of Criminal Acts of Corruption, Law on Corruption Eradication Committee, Law on Investment, Law on Mining, and Law on Job Creation.

Indonesia has Law Number 31 of 1999 concerning the Eradication of Criminal Acts of Corruption, which was amended in 2001, through Law Number 20 of 2001. The establishment of the Law is motivated by efforts to protect social rights (The Government's statement before the Plenary Session of the House of

Representatives of the Republic of Indonesia regarding the Bill of Amendment to the Law on Eradication of Criminal Acts of Corruption, on May 21, 2001, is contained in *Minutes of Plennary Meeting on Bill of Amandemend to Eradication of Criminal Acts of Corruption Law*, 2000). This legislation shows that Indonesia has a high commitment to eradicate corruption to create a healthy investment climate. In the preamble, Law Number 31 of 1999 mentions one of the reasons for its formation as follows: (Consideran of Law No. 31 of 1999 Amended with Law No. 20 of 2001 on Eradication of Criminal Acts of Corruption, n.d.)

> "As a result of criminal acts of corruption that have occurred so far, apart from harming state finances or the state economy, it also hampers the growth and continuity of national development which demands high efficiency."

Indonesia is considered an 'investment paradise' by foreign investors. However, on the other hand, Indonesia is also considered a country that has challenges for investment. Although Indonesia has a domestic law on anti-corruption, there are still legal loopholes for personal gain. A few international cooperation has been carried out by Indonesia, particularly in relation to mutual legal assistance and extradition related to corruption. With this situation, corruptors are very easy to hide their assets abroad especially in the neighboring country as Singapore. Indonesia is still experiencing limited human resources and technology to be able to swiftly detect and investigate criminal acts of corruption that are cross-border in nature (Heriyanto, 2021).

In 2017, the business community in Indonesia was shocked by the scandal in the bribery case committed by the Rolls Royce company to the Board of Directors of Garuda Indonesia. Based on the results of an investigation from the UK Serious Fraud Office, it was found that Rolls Royce had bribed the President Director of Garuda Indonesia, Emirsyah Satar (Post, 2019). Rolls Royce has bribed Indonesia with a total loss of 20 billion rupiah. The bribe was carried out to influence the policy of purchasing 50 Airbus SAS Aircraft engines from 2005 to 2014. Rolls Royce has also admitted before the UK Serious Fraud Office that they had bribed (News, 2017) in several countries, namely Indonesia, Thailand, Malaysia, the People's Republic of China, Nigeria, and Russia (Watt et al., 2017). This action is of course inconsistent with Indonesia's domestic policy regarding the prohibition of acts of corruption.

Although the UK Serious Fraud Office has found and investigated the bribery act committed by Rolls Royce, at the same time Indonesian law enforcement officials including the KPK did not directly use the results of the investigation from the UK Serious Fraud Office as initial evidence to ensnare the crime of bribery involving Emirsyah Satar. This happens due to two possibilities. First, Indonesia's

lack of international cooperation related to law enforcement to eradicate the crime of bribery in international business. Second, the limited human resources and technology owned by Indonesia to deal with bribery crimes involving public officials in international business. Thus, Indonesia urgently needs to ratify the OECD Convention on the Eradication of Bribery of Government Officials in International Business Transactions. This convention will provide many benefits, both in the legal and economic dimensions, for Indonesia. The ratification has also to make sure by adopting the Convention into the domestic statutory law for a binding enforcement (Huda et al., 2021, 2019).

1. Economic Advantages for Indonesia

The implementation of the provisions of the OECD Convention on the Eradication of Bribery of Government Officials in International Business Transactions will support a healthy business competition climate between domestic companies and foreign companies investing in Indonesia. As we know, acts of corruption will have an impact on deteriorating public services, increasing production costs, and creating disparities in business opportunities (Schefer, 2021). By ratifying this convention, healthy investment activities will be created, thereby supporting the country's economic growth (Akindeire, 2021). To implement *Nawacita* policies (Wuryandani et al., 2015) promoted by President Joko Widodo, it requires a strong commitment to avoid corrupt behavior towards infrastructure projects launched by the government. Moreover, the government also has plans to move the capital city of Indonesia soon. Thus, massive infrastructure projects with external funding will be required. The involvement of foreign investors in this infrastructure project, apart from being able to help finance, is very vulnerable to being a field for corrupt actions. The OECD Anti-Bribery Convention will encourage Indonesia to have a strategy related to the involvement of foreign investors in infrastructure development, so that it can run in a transparent, accountable, and free of corruption.

The government of Indonesia also encourages public-private partnerships to finance infrastructure development. This pattern of cooperation becomes a field for unscrupulous government officials to reap personal benefits through acts of corruption. On the other hand, foreign investors will be burdened with very high economic costs because they must allocate investment costs to bribe public officials to smooth out the cooperation they want to offer. Investors also need a fair economic situation and guarantee equal opportunity (Ariely, 2017). This economic situation can only occur if the state can ensure protection from acts of corruption. If Indonesia ratifies the OECD Anti-Bribery Convention, the level of investor confidence to invest in Indonesia will increase.

2. Legal Advantages for Indonesia

Article 9 of the OECD Anti-Bribery Convention regulates the obligations of the parties to provide legal assistance quickly and effectively to other convention party countries in investigations and criminal proceedings related to bribery of public officials in accordance with the scope stipulated in convention. Countries requesting mutual legal assistance must obtain assistance from the requested country without delay. This includes providing additional documents and information required by law enforcement officials from that country to uncover the criminal act of bribery of public officials that is currently happening.

In this Convention, the principle of bank secrecy cannot be used by countries participating in the convention to refuse to provide legal assistance. However, in practice, the principle of bank secrecy has actually become a barrier for law enforcement officers to uncover crimes of bribery of public officials by foreign officials (Carr & Jago, 2014). This is because, on the one hand, banks have a legal obligation to have their customers' financial information. Legally, this principle can be violated if there is a request from a court or law enforcement officer to request bank information to uncover a crime. Hence, this principle is not absolute. However, there are several state laws that apply the principle of absolute bank secrecy. In Switzerland, which applies the principle of absolute bank secrecy. It becomes one of the locations for criminals, including corruption, to hide money obtained from crimes (Carlin & Lokanan, 2018).

The principle of bank secrecy is applied to ensure the confidentiality of customer data, which includes customer personal data, total deposits, and transaction recapitulation. This principle does not work alone, because it must be continuous with the know your customer principle (Canton, 1976, pp. 83–84) and legal enforcement principle. In certain cases, the principle of customer confidentiality can be violated. One of them is if there is a court order or a request from law enforcement officials to request information related to deposits and banking transactions held by customers suspected of committing criminal acts (Wessling, 1962, p. 788).

Indonesia already has good legal instruments in investigating criminal acts of corruption. Law enforcement officers can work together with banks to jointly eradicate corruption. In this context, the Financial Transaction Analysis Reporting Center (PPATK) was established by the government of Indonesia as the central institution that coordinates efforts to prevent and eradicate money laundering in Indonesia (Law No. 8 of 2010 on the Prevention and Eradiction of Criminal Acts of Money Laundering, n.d. Pasal 1 (2) dan Pasal 17). On an international scale, PPATK is a financial intelligent unit to receive financial transaction reports, analyze financial transaction reports, and forward the results of the analysis to law

enforcement agencies (Rahayuningsih, 2013). However, it is not easy for law enforcement officers in Indonesia to obtain information on banking transactions abroad, considering that corruptors generally flee their financial deposits in other countries. Therefore, cooperation between countries is needed to make it easier for law enforcement officers to obtain evidence related to the number of deposits and banking transactions indicated to originate from criminal acts. By ratifying this convention, cross-border cooperation to obtain banking information will be easier and more effective.

Article 10 of Convention of the OECD Anti-Bribery Convention stipulates extradition cooperation between countries. Countries that have ratified this convention will automatically use this convention as a legal basis for extradition, especially for perpetrators of the crime of bribing foreign public officials (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 10 (2)). A country that is a party to the convention, which rejects a request for extradition of a person for the crime of bribery of a foreign public official on the grounds that the person is a citizen of its own country, is obliged to carry out criminal proceedings according to its jurisdiction (OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Art. 10 (3)).

Extradition is a legal effort to return the perpetrator of the crime to the country where the crime occurred (*locus delicti*) (Efrat & Newman, 2020, p. 582). In certain cases, based on the legal system adopted, some countries are allowed to execute their citizens who commit crimes with the locus delicti of the crime being in another country (Edmonds-Poli et al., 2018, p. 219). In general, extradition treaties agreed between countries regulate the limits and scope of criminal jurisdiction (territorial and extra-territorial), distribution of financing, extradition process, translation of documents, submission of evidence, as well as the process of handing over the perpetrators of the crime (Iqbal, 2012, pp. 455–459). However, in practice, extradition treaties are not easy to agree on. This is because countries have their respective national interests (Nanda, 1999). Indonesia also has a long way to go in trying to get consent from other countries regarding extradition. The Indonesia-Singapore extradition agreement, which is expected to assist law enforcement officials in investigating corruption cases, has not yet find solution until now (Ismail & Nggilu, 2019, pp. 158–159). By ratifying the OECD Anti-Bribery Convention, the number of countries that will cooperate with Indonesia to facilitate the extradition process will increase to reduce the space for corruptors to move.

Indonesia has been actively involved in cooperation and diplomacy forums organized by the OECD, especially in discussing issues related to the crime of

bribery against foreign public officials. This forum was not only attended by diplomats from the Ministry of Foreign Affairs, but was also attended by relevant ministries, such as the Ministry of Law and Human Rights, and the KPK. In 2019, the KPK received a delegation from the OECD who was currently conducting an investment policy review in Indonesia. At the meeting, the KPK was asked to provide an explanation related to the anti-corruption efforts that have been carried out by the Indonesian government which had a direct impact on the business world (Rachman, 2019).

If Indonesia is a party of the Convention, then, apart from having an impact on the expansion of cooperation related to eradicating corruption, it will also have an impact on strengthening Indonesia's commitment to eradicating corruption. This Convention requires the ratifying parties to cooperate in monitoring and promoting the full implementation of the provisions and obligations of the Convention through an OECD Working Group on Bribery in International Business Transaction. (See also Jongen, 2021; OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, 1997 Article 12). This working group has the duty, at a minimum, to: (Revised Recommendation of the Council on Combating Bribery in International Business Transactions, 1997 Recomendation VIII)

a. Receive notifications or other information, especially related to the crime of bribery against foreign officials in international business transactions that occur in their jurisdictions.
b. Conduct periodic evaluations carried out by convention participants, especially in terms of following up on recommendations made by the working group and including providing assistance to ratifying countries to carry out the obligations specified in the convention.
c. Conduct studies on special issues related to the crime of bribery in international business transactions.
d. Assess the possibility of expanding the scope of the OECD's authority to eradicate the crime of cross-border bribery, which includes bribery in the private sector and bribery of foreign public officials, for reasons other than to gain profits or maintain business activities.
e. Disseminate and disseminate information to the public related to the results of work and work group activities.

With the establishment of the OECD Working Group, it will be very easy for the countries participating in the convention to jointly fulfill the obligations of the convention, to reach the goal of this convention to eradicate the crime of bribery

in international business transactions. In fact, this group must also be attended by law enforcement officers from each participating country to exchange expertise in overcoming challenges in the investigation and prosecution process against acts of bribery in international business transactions. By looking at the workings of this OECD Working Group, it can be concluded that this working group has an effective work in dealing with transnational crimes (Jongen, 2021, pp. 350–351).

When Indonesia ratifies the OECD Anti-Bribery Convention, then, it must be prepared to ensure that its national legal system has laws and regulations that prohibit the criminal act of bribery of foreign public officials. In addition, Indonesia must also have an effective legal system that regulates the existence of corporate responsibility for criminal acts committed (Thompson, 2013, pp. 48–50). This law will elaborate on the legal mechanism for Indonesian legal apparatus in dealing with cases of bribery of foreign officials. Such legal mechanisms may also include the ability to handle general crimes based on the evidentiary process in foreign courts or court decisions. In the Rolls Royce case, the results of an investigation from the UK Serious Fraud Office should be sufficient evidence to prosecute in Indonesia. In this case, the strengthening of human resources, especially in the field of handling cross-border cases, is urgently needed.

The empowerment of prosecutors in Indonesia is urgently needed to actively supervise any suspicious activities carried out by companies, including when they are involved in legal issues abroad. Sophisticated technology and information capabilities need to be equipped in addition to increasing the capacity of human resources so that they can easily handle corruption cases that cross national borders. So far, prosecutors in developed countries such as in the United Kingdom, France, Argentina, Canada, and Singapore could postpone or remove charges against a company for corruption offenses in exchange for the company paying a fine, taking steps to avoid repeat offenses, and cooperating with existing investigations (Hock & Dávid-Barrett, 2022). For this reason, carefulness in carrying out supervision of government activities related to the procurement of goods and services from abroad needs to get the main attention related to its legal compliance.

Indonesia is expected to further strengthen its anti-corruption commitment. This is particularly in ensuring that international business transactions are free from corruption (Arrieta, 2016, pp. 588–590). Given, in developed countries, such as the UK (Rose, 2012) and United States (Schroth, 2002) there have been regulations related to corruption in international business transactions to ensure the investment climate in the country can run in a competitive and fair manner. The international commitment can be represented by Indonesia's active participation in fighting anti-bribery actions on a global scale (Hock, 2014).

Conclusion

The OECD Anti-Bribery Convention is a multilateral agreement that can be used as a legal basis for cooperation between countries to ensure that international business transactions are free from corruption. Indonesia, which is an active member of the G20 and a member country of the OECD, has not yet ratified the OECD Anti-Bribery Convention. Whereas the crime of bribery of public officials in international business transactions also occurred in Indonesia. Therefore, it is very important for Indonesia to ratify the OECD Anti-Bribery Convention to complement and strengthen the laws and regulations in Indonesia related to the eradication of corruption. Ratifying the OECD Anti-Bribery Convention will provide distinct advantages for Indonesia. From the economic dimension, the ratification of the Convention will support a competitive and fair investment climate. Whereas in the legal dimension, the ratification of this convention will provide benefits in the form of strengthening cooperation in terms of providing legal assistance and extradition processes, especially in law enforcement against bribery crimes committed in international business transactions. After ratifying the OECD Anti-Bribery Convention, Indonesia must carry out several obligations contained in the convention. The implementation of these obligations will be facilitated because Indonesia will be escorted and assisted by the OECD Working Group. Indonesia also needs to involve NGOs to play a role in evaluating and conveying information related to Indonesia's compliance with the Convention. Active participation in campaigning for and implementing collective anti-bribery actions is very much needed to ensure that all development activities in Indonesia are clean without corruption.

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