

THE IMPACT OF GLOBALIZATION ON THE PREVENTION AND THE SUPPRESSION OF AIRCRAFT HIJACKING IN INDONESIA

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ABSTRACT

The 3T Revolution resulted in a very rapid and fundamental change in the order of human life since the beginning of the 21st century known as globalization. One of the consequences is the rapid development of transportation technology that requires fast, safe and convenient transportation, which is by aircraft. But aircrafts are vulnerable from terrorist attack known as aircraft hijacking. ICAO has laid down several international conventions on the prevention and suppression of aircraft hijacking, and the latest was Beijing Convention 2010.

As a member of the international community and especially as a member of ICAO, Indonesia can not be separated from the influence of the globalization particularly in the prevention and the suppression of aircraft hijacking. Therefore this paper will discuss more on the impact of globalization on the prevention and the suppression of aircraft hijacking in Indonesia.

The impact of globalization on the prevention and the suppression of aircraft hijacking in Indonesia appears in the form of ratification and implementation of international conventions on this matter. This is done in order to fulfill Indonesia's obligations as a member of the ICAO, and to realize the Aims of the Republic of Indonesia. The international conventions on the prevention and the suppression of aircraft hijacking have been ratified and implemented in accordance to the national interest and must always determined, applied, sourced, based on and should not be contrary to Pancasila as the Fundamental Norms of the State, and the 1945 Constitution as the Basic Rule of the Republic of Indonesia.

Keywords: impact, globalization, aircraft hijacking, Indonesia.

INTRODUCTION

The 3T Revolution (Transportation, Telecommunications and Tourism)⁴ resulted in a very rapid and fundamental change in the order of human life since the beginning of the 21st century known as globalization. Since then globalization has occupied a central point in various discussions in various fields, not limited to economics, transportation and telecommunications.

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⁴ Dorodjatun Kuntjoro Jakti, as cited in Riant Nugroho Dwidjowijoto dan Marco P. Sumampouw, "Globalisasi, Ancaman Atau Peluang", *Manajemen Dalam Era Globalisasi*, Riant Nugroho Dwidjowijoto and Marco P. Sumampouw (Editor), Jakarta: PT Elex Media Komputindo, 1997, p. 153.

One of the consequences of the 3T Revolution is the rapid development of transportation technology which in this era of globalization has spawned an era of the end of geography, because it causes the world to become borderless.⁵ This is proven by the faster and easier movement of people, capital, and goods, both between countries and between regions in various parts of the world.

The flow of human traffic between countries and regions across the globe requires fast, safe and convenient transportation. The mode of transportation in accordance with the three criteria is by air transportation mode by aircraft.

Air transportation must be recognized has undergone rapid development. From a mere human dream to be able to cross the sky, it was realized in the form of a simple aircraft by the Wright Brothers flown on December 17, 1903.⁶ The Wright Brothers Flight later became an early milestone of civil aviation. And to date civil aviation has covered various types of aircraft with advanced technology that flies all over the world.

But on the other hand, the rapid development of aviation technology is also inevitable from the threat of terrorism. It is related to the function of the aircraft as a transnational mode of transportation to which it attaches global and universal character. Furthermore, Andrew Heywood said that “there is nothing new about the idea that terrorism has an international, transnational, or even global dimension”.⁷ Infact sometimes modern terrorism is “portrayed as a child of globalization” for the following reasons:⁸

- “ 1. Increased border flows of people, goods, money, technology and ideas have generally benefited non-state actors at the expense of states, and terrorist groups have proved to be particularly adept at exploiting this hyper mobility,
2. Increased international migration flows have often helped to sustain terrorist campaigns, as diaspora communities can become an important source of funding, ...
3. Globalization has generated pressures that have contributed to a growth in political militancy generally.”

One form of modern terrorism that has an international dimension is terrorism using aircrafts known as aircraft hijacking. Aircraft hijacking can even be referred as one form of modern terrorism that becomes a nightmare for all states around the world. Aircraft hijacking's history can be traced to the 1930s since the beginning of commercial civil aviation.⁹ The first recorded incident was on 21 February 1931 in Arequipa, Peru.¹⁰ And since then, aircraft hijacking has taken place in various states around the world, causing harm, both material and casualties. The latest incident was the hijacking of Afriqiyah Airways Flight 8U209 on 23 December 2016 at Libya.¹¹

⁵ See: Tundjung Herning Sitabuana, “*Technical Assistance Agreement (Perjanjian Bantuan Teknis) Sebagai Sarana Alih Teknologi di Indonesia*”, Thesis at the Magister of Law Program at Diponegoro University, 2001, p. 1.

⁶ Michael Milde, *International Air Law and ICAO, Second Edition*, Netherland: Eleven International Publishing, 2012, p. 7.

⁷ Andrew Heywood, *Global Politics*, London: Palgrave MacMillan, 2011, p. 289.

⁸ *Ibid.*

⁹ Poushali NA Nandi, “International Terrorism by Way of Aircraft Hijacking”, 20 February 2016, as cited in Muhammad Hassan Idrees, “Critically Analyse: The Laws Relating to Hijacking”, 11 March 2016, p. 2 – 3, downloaded from <http://ssrn.com/abstract-2746397> on Thursday, 2 September 2016.

¹⁰ Philip Baum, *Violence in the Skies, A History of Aircraft Hijacking and Bombing*, West Sussex, UK: Summersdale Publishers, Ltd., p. 192 – 209. See also: Hardeep Singh, “Constitutionality of India's Anti Hijack Policy” in Ranbir Singh, Sanat Kaul and SriKrishna Deva Rao, (2012), *Current Developments in Air and Space Law*, New Delhi: National Law University Delhi Press, p. 69.

¹¹ Angela Dewan, Ian Lee, and Eugenie Lambert, “Malta Hijackers Surrender after Releasing Libyan Passengers”, CNN, Saturday, 24 December 2016, downloaded from <http://edition.cnn.com/2016/12/23/europe/malta-libya-plane-hijack/> on Tuesday, 7 February 2017. See also:

The international organization of civil aviation, the ICAO, has laid down the basic rules of international civil aviation, including international conventions on aircraft hijacking, i.e. (1) Convention on Offences and Certain Other Acts Committed on Board Aircraft (Tokyo, 1963); (2) Convention for the Suppression of Unlawful Seizure of Aircraft (Den Haag, 1970); (3) Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (Montreal, 1971); and (4) Convention on the Marking of Plastic Explosive for the Purpose of Detection (Montreal, 1991).

But the attacks towards some vital objects in the US occurred on 11 September 2001 has shocked and alerted the whole world that aircraft hijacking has now changed. It no longer makes airplanes the main target of terrorism. But has made the aircraft as a Mass Destruction Weapon used by terrorists to spread threats and terror around the world. The 9/11 Attack have a huge impact, because not only cause thousands of lives, but the target were symbols of global financial power, global military power, and global political power. And as the reaction to this attack and also as a response to the changes and current developments, especially related to acts of terrorism in the form of aircraft hijacking,¹² the ICAO then established the Convention for the Suppression of Unlawful Acts Relating to International Civil Aviation¹³ and the Protocol Supplementary to the Convention for the Suppression of Unlawful Seizure of Aircraft¹⁴, both done in Beijing on 10 September 2010. These two international instruments then followed by the Protocol to Amend the Convention on Offences and Certain Other Acts Committed on Board Aircraft, done in Montreal on 4 April 2014.¹⁵

In relation to globalization, one of the markers of the globalization era is the intensification of the interaction between the rules of customary international law and national law,¹⁶ which is called the globalization of law. This globalization of law is manifested in the establishment of various international agreements, including the establishment of international conventions on the prevention and the suppression of aircraft hijacking as described above. And as a member of the international community and especially as a member of ICAO since 27 April 1950, Indonesia can not be separated from the influence of the globalization of law, particularly in the prevention and the suppression of aircraft hijacking. Therefore this paper will discuss more on the impact of globalization on the prevention and the suppression of aircraft hijacking in Indonesia.

DISCUSSION

Globalization is a complex concept. The literature, which mentioned the term “globalization”, can be traced backward to mid 1940s. And due to the complexity of the

Herman Grech and Rosanne Zammit, “Plane Hijack Drama in Malta Ends; All Hostages Released”, [timesofmalta.com](http://www.timesofmalta.com), Friday, 23 December 2016, downloaded from <http://www.timesofmalta.com/article/view/20161223/local/hijacked-libyan-plane-lands-in-malta.634664> on Tuesday, 7 February 2017.

¹² CN. Ghosh, “Analysis of the Hijackings on 11 Sept 2001, Suggested Measures for Prevention”, downloaded from [http://www.satp.org/satporgrp/publication/idr/vo:17\(2\)/CN_ghosh.htm](http://www.satp.org/satporgrp/publication/idr/vo:17(2)/CN_ghosh.htm) on Monday, 5 September 2016.

¹³ This convention supersedes The Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation (The Montreal Convention 1971).

¹⁴ This protocol is the supplement of the Convention for the Suppression of Unlawful Seizure of Aircraft (The Den Haag Convention 1970).

¹⁵ This protocol is amending the Convention on Offences and Certain Other Acts Committed on Board Aircraft (The Tokyo Convention 1963).

¹⁶ Damos Dumoli Agusman, *Hukum Perjanjian Internasional: Kajian Teori dan Praktik Indonesia*, Cetakan Ketiga, Bandung: PT. Refika Aditama, 2017, p. 138.

concept, literature, research projects and articles that discuss this theme have remained mostly focused on one aspect of globalization.¹⁷

Some experts try to define the term “globalization”. Roland Robertson defines globalization as “the understanding of the world and the increased perception of the world as a whole”.¹⁸ Meanwhile Anthony Giddens defines globalization as “the intensification of social relations throughout the world, linking distant localities in such a way that local happenings are formed as a result of events that occur many miles away and vice versa”.¹⁹ And Larry Cata’ Baker once said that “Fifty years ago globalization could have been understood to mean the emerging Marxist-Leninist world order”,²⁰ but now it is “commonly conceived of as the emerging system of private interactions structured, for the most part, through economic relationships”.²¹ Therefore, globalization refers to a borderless era in which the phenomena occurring in a region of the world affect the other regions in the rest of the world, thus eliminating existing physical and non-physical boundaries. Even within the context of international law, it can be said that the walls of sovereignty can no longer inhibit the movement of capital flows, labor, information, and ideas.²²

Globalization has the ability to force all parties to conform to the new rules that are born out of the global community interaction process.²³ These rules are known as international law. The intensification of the interaction between the rules of customary international law and national law known as the globalization of law, then is manifested in the establishment of various international agreements in various areas of law. The ability of states to absorb the universal norms existing in international law serve as a tool for the state to be able to determine the actions and national strategies that will be done in order to achieve the national goals.

With the active involvement of Indonesia as part of the international community, and also in order to realize the Aims of the Republic of Indonesia, which has clearly stated in the Fourth Paragraph of the Preamble of the 1945 Constitution, that “to form a Government of the State of Indonesia which shall protect the whole Indonesian nation and the entire native land of Indonesia, and ..., and to participate in the execution of world order which is by virtue of freedom, perpetual peace and social justice, ...”, Indonesia must obey and incorporate international law into its national law.

As a sovereign country, Indonesia has full sovereignty and freedom to determine its stand in the implementation of the rules of the various international conventions into its national law. Even in the name of sovereignty, Indonesia can reject the entry into force of a norm of international law against itself.²⁴ However, the magnitude of the pressure of

¹⁷ Nayef R.F. Al-Rodhan and Gerard Studmann, “Definitions of Globalization: A Comprehensive Overview and a Proposed Definition”, Paper for the Program on the Geopolitical Implications of Globalization and Transnational Security, Geneva Centre for Security Policy, 19 Juni 2006, p. 9. See also: Sandu Cuterela, “Globalization: Definition, Process and Concepts”, *Revista Romana de Statistica*, Supliment Trim IV/2012, p. 138, downloaded from http://www.revistadestatistica.ro/suplimente/2012/4/srrs4_2012a22.pdf on Friday, 27 July 2018.

¹⁸ Roland Robertson, *Globalization: Social Theory and Global Culture*, London: Sage, as cited in Sandu Cuterela, “Globalization: Definition ... *ibid.*”

¹⁹ Anthony Giddens, *The Consequences of Modernity*, Cambridge: Polity Press, 1991, p. 64.

²⁰ Larry Cata’ Baker, *Harmonizing Law in an Era of Globalization: Convergence, Divergence, and Resistance*, Durham, North Carolina: Carolina Academic Press, 2007, p. xiii.

²¹ *Ibid.*

²² Hata, *Hukum Internasional: Sejarah dan Perkembangan Hingga Pasca Perang Dingin*, Malang: Setara Press, 2012, p. 57.

²³ Amarulla Octavian, *Militer dan Globalisasi: Studi Sosiologi Militer dalam Konteks Globalisasi dan Kontribusinya bagi Transformasi TNI*, Cetakan Kedua, Jakarta: UI-Press, 2012, p. 37.

²⁴ Eddy Pratomo, *Hukum Perjanjian Internasional: Dinamika dan Tinjauan Kritis terhadap Politik Hukum Indonesia*, 2016, Jakarta: PT Elex Media Komputindo, p. 408.

international interest, especially in the field of law in this era of globalization, is very difficult to reject. Based on Article 3 of Law No. 37 of 1999 on Foreign Relations, that in line with Indonesia's free and active foreign policy, Indonesia must take a stand in implementing the rules of the various international conventions in accordance with the national interest. This is supported by Article 4 Paragraph (2) of Law No. 24 of 2000 on International Treaties.

In term of the globalization of law related to the prevention and the suppression of aircraft hijacking, by joining the ICAO on 27 April 1950, Indonesia has the obligation to ratify and implement the ICAO rules on civil aviation and especially the ICAO' rules on the prevention and the suppression of aircraft hijacking, in the national law. And the most important thing is that in ratifying and implementing those international rules in the national law, it must always be determined, applied, sourced, based on and should not be contrary to Pancasila as the Fundamental Norms of the State, and the 1945 Constitution as the Basic Rule of the Republic of Indonesia.

As a matter of fact, there have been three incidents of aircraft hijacking in Indonesia. The first was the hijacking of Merpati Nusantara Airlines from Surabaya to Jakarta on 4 April 1972, the second was the hijacking of Garuda Indonesia GA-488 from Jakarta to Surabaya on 5 September 1977;²⁵ and the third and the most serious incident was the hijacking of Garuda Indonesia Flight 206 (popularly known as Woyla Incident) on Saturday, 28 March 1981 which then successfully resolved through a military operation carried out by Kopassandha forces of Indonesian Army, with the approval of the Thai Government.²⁶

So as the impact of globalization to Indonesia especially in the prevention and the suppression of aircraft hijacking, and in order to fulfill the obligation as a member of the ICAO and to realize the Aims of the Republic of Indonesia that is to "... protect the whole Indonesian nation and the entire native land of Indonesia, and ..., and to participate in the execution of world order which is by virtue of freedom, perpetual peace and social justice, ...", Indonesia has ratified some international conventions in the form of national acts i.e.:

1. Law No. 2 of 1976 on the Ratification of Tokyo Convention 1963, Den Haag Convention 1970, and Montreal Convention 1971.
2. Law No. 5 of 2006 on the Ratification of the International Convention for the Suppression of Terrorist Bombings, 1997.

In addition, Indonesia has also established some new acts which have formulated the provisions of international conventions relating to the prevention and the suppression of aircraft hijacking i.e.:

1. Law No. 4 of 1976 on the Changes and Addition of Some Articles in the Penal Code related to the Extention of the Criminal Legislation, Crimes against Aviation and Crimes against Aviation Facilities/Infrastructure, that added a new chapter to the Penal Code namely Chapter XXIX A on crimes against aviation and crimes against aviation facilities/infrastructure. The provisions on aircraft hijacking is specifically regulated in Article 479j as mentioned clearly in the Explanatory Section of this Act.
2. Law No. 1 of 1979 on Extradition, that explicitly mentioned about aircraft hijacking, crimes against aviation, and crimes against aviation facilities/infrastructure in the List of Crimes which the Perpetrator May Extradite in the Appendix of Article 4. This law is established in order to comply with the provisions of Article 16 Paragraph (1) of Tokyo Convention 1963 and Article 7 of Den Haag Convention 1970.

²⁵ Both of these hijacking can be overcome without any casualties. See: Sandro Gatra (Editor), "Indonesia Tidak Pernah Kalah Melawan Pembajakan", *Harian Kompas*, Friday, 1 April 2016, accessed on <http://nasional.kompas.com/read/2016/04/01/05350061/Indonesia.Tidak.Pernah.Kalah.Melawan.Pembaja?page=2> on Tuesday, 17 January 2017.

²⁶ Sandro Gatra (Editor), *ibid*. See also: Julius Pour, *Benny Moerdani: Profil Prajurit Negarawan*, Jakarta: Yayasan Kejuangan Panglima Besar Sudirman, 1993.

3. Law No. 15 of 2003 on the Eradication of Acts of Terrorism, that regulates the acts of terrorism committed on aircrafts in Article 4, Article 8i and Article 8j eventhough it is not explicitly mentioned.
4. Law No. 1 of 2009 on Civil Aviation, which specifically regulated the acts of unlawful interference that could harm the safety of aviation in the Article 344.

Moreover, in order to fulfill its obligations as a member of the ICAO, and to realize the Aims of the Republic of Indonesia in protecting the whole Indonesian nation and the entire native land of Indonesia, and also to participate in the execution of world order, Indonesia should continue to make changes and renewal of existing law on civil aviation, particularly on the prevention and the suppression of aircraft hijacking. This can be done by actively participating in every international conference and conventions on the prevention and the suppression of aircraft hijacking. Then ratifying and implementing those international rules in the national law in accordance with the national interest. Not to forget that it must always determined, applied, sourced, based on and should not be contrary to Pancasila as the Fundamental Norms of the State, and the 1945 Constitution as the Basic Rule of the Republic of Indonesia.

CONCLUSION

The impact of globalization on the prevention and the suppression of aircraft hijacking in Indonesia appears in the form of ratification and implementation of international conventions on this matter. This is done in order to fulfill Indonesia's obligations as a member of the ICAO, and to realize the Aims of the Republic of Indonesia. The international conventions on the prevention and the suppression of aircraft hijacking have been ratified and implemented in accordance to the national interest and must always determined, applied, sourced, based on and should not be contrary to Pancasila as the Fundamental Norms of the State, and the 1945 Constitution as the Basic Rule of the Republic of Indonesia.

RECOMMENDATION

Indonesia should continue to comply with the international law on the prevention and the suppression of aircraft hijacking in order to adapt with the changes and current developments. This can be done by ratifying and implementing the Beijing 2010 Convention, Beijing Protocol 2010 and Montreal Protocol 2014 to be able to protect the whole Indonesian nation and the entire native land of Indonesia from the newest kind of aircraft hijacking that uses aircraft as a Mass Destruction Weapon to attack vital objects of the nation.

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Convention on the Marking of Plastic Explosive for the Purpose of Detection, signed at Montreal on 1 March 1991.

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