

THE GLOBAL CRIMINAL LAW ENFORCEMENT POLICY ON FALSE INFORMATION BOMB HOAX

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ABSTRACT

Ever since the Wright Brothers having invented the airplane, the transportation of “Low Cost Carrier (LCC)” is presently proved to be effective in supporting the economy and relations among countries and upon the Tokyo Convention 1963, it has been detected the acts of unlawful interference by making use of the increasing service user of “LCC” as a target of terror of false information on Bomb Hoax, so that the United States of America and Indonesia have ratified it and then made a Prevention Policy forcefully and adequately in their laws.

Later it has a discourse on how the implementation of its enforcement policy in both countries where the philosophical basis of its global law enforcement is found. First, it has a disparity in its law enforcement policy. The US sentences a criminal actor more explicit with criminal and civil sanctions and it implies that a frequency of crime can be suppressed. Meanwhile, Indonesia has a paradox on its enforcement policy because it only gives a minor sentence for the criminal actor and it is even resolved only by making a statement letter and an apology where the implication is that such crime presently occurs repetitively every year. Second, at the philosophical level, the criminal acts of false information on Bomb Hoax shall be “poisonous words that distort its actual facts (“Glossa viverina est quae corrodit viscera textus) and it emerge from an evil spirit which is feeling happy for disaster being created. Therefore, it needs to have a global policy in order a sanction can be implemented expressly at all levels of jurisdictions so that the aviation industry that has given an economic impact and makes closer relations among countries by consistently having guaranty for safety and security.

Keywords: Policy, Flight, Penal Sanction, False Information.

INTRODUCTION

Ever since the Wright Brothers (Orville Wright and Wilbur Wright) have found the airplane in 1903 in the United States of America, nowadays the air transportation has become one of primary modes of the people’s preferred choice. It is supported by low rate of accident and the cost is more affordable because everybody can fly wherever they want to go traveling due to the emerging model of Low-Cost Carrier (LCC) which is very useful in supporting the economic growth and maintaining closer relations among and inter-countries globally.

Number of passengers increase because everybody can fly now with low cost where it has a presumption that a business actor of transportation sector possibly has cut off the budget for safety and security in the flight so that it causes a discourse on kinds of efforts that can be conducted to keep the safety and security of passengers and air crews as well as its facility and infrastructure of the fight against any terror of actors who possibly may use the momentum of so

many passengers of Low Cost Carrier (LCC) as an opportunity and target to conduct a criminal act of false information on Bom Hoax in many state jurisdictions.

Therefore, other than a matter of technology, it is necessary to initiate the efforts of legal prevention toward terrorism act because for terrorism criminal actors themselves, the terror of flight sector, its facility and infrastructure is a favorite and strategic target where only by submitting a false information on Bom Hoax which is low-cost, the boom and impact carried herein shall be heard virally to all of the world through a social media.

A criminal act of false information on Bom Hoax is a very scary specter in the aviation industry because it should be deemed as a serious threat and it shall certainly happen to be handled. If the threat truly happens, it can continue and mutate as the crimes of airplane hostage and hijacking and even the threat of airplane detonation while being at the airport or flying on the air.

Therefore, in order to anticipate such terror of false information on Bom Hoax not spreading widely over all of the world and to keep the stability and continuity of the air transportation's role of low cost carrier to be better in the future, it should not only meet the administration of safety and security of the flight according to the development of science and technology, but also should be supported by substantive legislation and the policy of law prevention and enforcement in Criminal Justice System in line with the most updating sociological conditions and interests of each country both nationally and internationally.

It is as has been conducted in the jurisdiction of criminal law of the United States of America that anticipates a technology-based prevention where *"...Due to the technology at airport has not basically changed yet since 1980, the Department of Homeland Security of the United States of America has conducted a tryout of face recognition and biometric scanning technologies that can detect the arrival of suspicious tourist arriving at the United States of America (Ossola, 2017), and such prevention by criminal law as Title 18 U.S. Code § 1038 regarding False Information and Hoaxes"* and Code 1427 Imparting or Concealing False Information (Bom Hoax)-18 U.S.C. 35. Meanwhile, Indonesia may not only prevent by means of technology, but also perform the effort of prevention and management of the actor for the terror of false information on Bom Hoax by applying coordination strategy and law enforcement through Law Number 1 of 2009 on Aviation, Law Number 19 of 2016 on the Amendment to Law Number 11 of 2008 on Electronic Information and Transaction and Law on the Eradication of Terrorism.

The regulatory issues raised in this paper are as follows, How is the implementation of legal enforcement policy toward the actor of criminal act of false information on Bom Hoax in the United States of America and Indonesia? And How should the basis of philosophy of law enforcement on such criminal act on false information of Bom Hoax be implemented globally ?

Criminal Law Enforcement Policy on False Information Bomb Hoax in Indonesia

The Indonesian legal system is a combination of some legal systems, among others, the legal system of Civil Law, Religion Law and Customary Law. Therefore, certain criminal acts sometimes have been definitely against the Criminal Code, but its resolution can be made by a

restorative justice through the principles of Religion Law and Customary Law resolved amicably by forgiving the criminal actors.

Law enforcement in restorative justice model under such religious and customary principles is actually an ancient regime of law enforcement and then it is used to be applied as one of the patterns of modern out of court settlement. In the Indonesian law of which one of its sources come from religious or customary law, the value of "*Belief in the one and only God*" is a ground norm and the first base of philosophy of the five (5) ground norms in the Indonesian Constitution called as "*Pancasila*", where the derivation of such norm of "*Belief in the one and only God*" is defined philosophically of which God is the all merciful. Because of that base of philosophy, the Indonesian law jurisdiction having the forgiving reason in a criminal law is highly considered in passing a decision of a criminal case.

But then, for a criminal act of the false information on Bomb Hoax, though such act may not (yet) cause any victims or damage aircraft related facilities, the actors should be continuously administered justice and processed as well as sentenced up to the court. Whereas the reason of not having victims or damage (not yet) and its philosophic argument that God is the all merciful toward His people and moreover among human beings, is not proper to be applied in such criminal act. This basic forgiving philosophy is less accurate to be applied in a criminal act of the false information on Bomb Hoax. In this case, some kinds of criminal acts are improper if it is applied by the enforcement of restorative justice model. It is just like in any forms of a terror case, the enforcement should be made in a penal way repressively so that it creates a deterrent effect. Such deterrent effect is not merely designated to the criminal actor in order not to repeat his/her act, but also to influence good people, namely the citizens who comply with norms in order to keep believing in the power of law.

Barda Nawawi Arief (2002), has opinion that the effort of handling through this penal way can be also called as an effort made by the way of a criminal law. It is a kind of handling effort that focuses more on its repressive nature, namely an action is made after a crime occurs with a law enforcement and penalization toward a crime that has been made. In addition, under this penal effort, the action is made in overcoming a crime up to the level of coaching and rehabilitation.

Roeslan Saleh also states three (3) reasons for the necessity of penal and penal law of which basically as follows: a) Whether necessary or not the penal law is not laid on the matters of purposes to be achieved, but on a matter of how far to achieve those purposes that may use forced power; the problem is not on the result to be achieved, but in a consideration between the value of those results and the value of its own personal limits of freedom. b) There are repair or maintenance efforts that do not mean anything at all for the sentenced person; and other than that it should have a reaction toward violation of norms that have been committed and it cannot be let it be. c) The impact of penal or penal law is not merely designated to the criminals, but also it is used to influence a good person, namely the citizens who comply with norms of the society (Muladi & Arief, 2010).

Prevention Policy in the Indonesian Aviation Law

Legislative policy preventively regulates that criminal acts of the false information on Bomb Hoax are criminal acts in form of the offences and acts of unlawful interference on the aircraft. This preventive policy has been enforced for a long time in Indonesia upon having been ratified the Convention on Offences and Certain Other Acts Committed on Board Aircraft in 1963 through Law Number 2 of 1976 on the Ratification of Law Number 2 of 1976 on the Ratification on the Tokyo Convention in 1963, the Den Haag Convention in 1970 and the Montreal Convention in 1971.

Having been encouraged by the Tokyo Convention in 1963, Indonesia confirms such offenses and acts of unlawful interferences through Law Number 1 of 2009 on the Aviation where Article 344 letter (e) states that giving false information that endangers the safety of flight is declared as an act against criminal law. The acts of unlawful interference mentioned here are the acts or trials that endanger the safety of flight and air transportation, among others in form of giving false information that endangers the safety of the aircraft in flight or on land, the passengers, aircraft crews land personnel or common people at the airport or other flight facilities as said in the implementing regulation of the Aviation Law, namely Article 1 paragraph (5) letter (g) of Regulation of the Minister Number 140 of 2015 on National Aircraft Contingency Plan.

According to Article 437 paragraph (1) of such Aviation Law, an act of each person giving false information and endangering the safety of flight is declared as a criminal act and its sanction can be in form of imprisonment at longest 1 (one) year. The aggravation of criminal sanction made in subsequent paragraph (2) in term of a criminal act of such false information on Bomb Hoax causes an accident or property damage and shall be sentenced imprisonment at the longest 8 (eight) years. In the event of such criminal act causes a death of people, its criminal sanction is aggravated with imprisonment of the longest 15 (fifteen) years.

At a time such threat of criminal act of the false information on Bomb Hoax occurs, the safety condition is stated yellow-sign by the authorized institution and all relevant institutions for emergency condition management are standby and they prepare all resources, workforces and cost for such management. It is as in the implementing regulation of the Aviation Law, namely Regulation of the Minister of Transportation Number 140 of 2015 on the National Aircraft Contingency Plan where Chapter III, Article 4 states that: The yellow-sign condition is a safety condition of the flight where it needs the improvement of safety, alertness or readiness when it has an unlawful information of threat or the occurrence of security interference or unlawful acts that potentially disturb the flight safety.

As at a time the threat from such criminal actor on the false information of Bomb Hoax has occurred, the authorized institutions and relevant parties have expensed the operational costs of such emergency condition management, among others the costs of the officers, equipment, coordination and others which are quite huge. Therefore, it does not make sense if the criminal is forgiven just like that because the criminal argues that he/she commits it just for fun or jokes and/or the criminal argues that he/she does not know that the laws prohibit such act.

Prevention Policy in the Indonesian Law of Electronic Information and Transaction

Other than the Aviation Law above, it also has a preventive policy through Law Number 19 of 2016 on the Amendment to Law Number 11 of 2008 on the Electronic Information and Transaction which also explicitly states that sending the electronic information that contains a threat is a criminal act. It is regulated in Article 45B stating that every person intentionally and without any right sends electronic information and/or document that contains a threat of violence or frightening devoted in person shall be sentenced imprisonment at the longest 4 (four) years and/or a fine at maximum of Rp.750 million.

Electronic Information and/or Electronic Documents containing a threat of violence or frightening mentioned here have a wide coverage, namely in form of one or a collection of electronic data, including but not limited on the writing, voices, pictures, maps, drafts, photos, electronic data interchange (EDI), electronic mail, telegram, telex, telecopy or the similar, letters, signs, numbers, access code, symbols or perforations that have been processed that have meanings or understandable by the person who are able to understand them.

Upon such preventive policy in Law on such Electronic Information and Transaction, the object of means used to deliver such criminal act is increasingly covered so that in any form whatsoever, such frightening act being committed can still be entrapped legally.

Prevention Policy in the Indonesian Law of the Eradication of Terrorism

Head of The National Counter Terrorism Agency in Indonesia says that the terrorism network in Indonesia still exists and continuously grows with a changing pattern of members recruitment following the development of technology (Pinardi, 2016), so that upon such change of pattern of the recruitment of members and followers of terrorism, every person may be exposed any time and declares to become followers to the group of terrorism sporadically only by taking an oath electronically in the jurisdiction of any country where he/she lives in all over the world.

Terrorism is an act using violence or a threat of violence that triggers out a condition of terror or a sense of fear widely that can cause mass victims and/or damages or destruction on strategic vital objects, life environment, public or international facilities under ideology, politic or safety disorder motives (Article 1 point 2 of Law Number 5 of 2018 on the Eradication of Terrorism Crime), meanwhile the Black Laws Dictionary defines a terrorism as "*The use or threat of violence to intimidate or cause panic*" (Garner, 1999). The coverage of terrorism criminal act is all actions that meet the elements of criminal acts in accordance with the provisions in Law on the Eradication of Criminal Acts of Terrorism and thus, the giving of false information on the existence of Bomb Hoax in the flight also meets the qualification and the elements of criminal acts are in accordance with the provisions of Law Number 5 of 2018 on the Eradication of Terrorism. As the giving of false information on Bomb Hoax in the flight meets qualification as serious and dangerous terrorism crime, then its law policy should state that the criminal actor should be explicitly processed without in conflict with human rights problems.

Upon a possibility of the emerging of terrorist both electronically and sporadically in many countries, the law enforcers shall be difficult to detect a bad motive (Mens Rea) of the

sender of false information on Bomb Hoax and it is also difficult to monitor those assumed as the followers or members that have been exposed to terrorism amid the societies. Therefore, in order to make easy of law enforcement and its criminal accountability, the crime should be deemed have been completely committed and met its criminal element though as a result of such act of giving such false information on Bomb Hoax may not actually cause any damage or victims.

Such criminal act of giving false information on Bomb Hoax as a derivation of terrorism should be made as Formal Offense meaning that such act of giving false information is prohibited and not its consequences. According to Sudarto (1990), such Formal Offense is an offense of which its formulation is focused on the prohibited acts. Such offense has been completed by conducting an act as set out in the formulation of offense, meanwhile such material offense is an offense of which its formulation is focused on the unwanted consequence (it is prohibited). This offense just completes if the unwanted consequences have occurred.

Therefore, the intention of such formal offense on the act of false information on bomb hoax is that though such act of the criminal may not cause any consequences, but due to it is not allowed to give false information on bomb hoax which has been completely done, then it has been deemed completely committed as a crime though it is without any consequences at all.

The preventive policy in Law Number 5 of 2018 on the Eradication of the Criminal Act of Terrorism shall be the efforts made to prevent a person intentionally uses violence or a threat of violence that causes a terror condition or sense of fear toward people widely, causes mass victims by taking freedom by force or the loss of life and properties of other people or may damage or destruct its strategic vital objects, life environment or public or international facilities. The criminal sanction for this act shall be sentenced imprisonment at least 5 (five) years and at longest 20 (twenty) years, life sentence or death penalty.

Table 1 THE CRIMINAL SANCTION OF FALSE INFORMATION IN INDONESIA			
Criminal acts	Law number 1 of 2009 on the aviation	Law number 19 of 2016 on electronic information and transaction	Law number 5 of 2018 on the eradication of the crime of terrorism
Endangers the safety of flight.	Imprisonment at longest 1 year.	Imprisonment at longest 4 years and/or a fine at maximum of Rp.750 million.	Imprisonment at least 5 years and at most 20 years, life sentence or death penalty.
It causes accident or property damage.	Imprisonment at the longest 8 years.		
It causes the death of people.	Imprisonment at the longest 15 years.		

Therefore, it is difficult to explore the criminal's motives if it does not have any consequences. But due to this crime is conducted by a threat of violence and very seriously impacted because it is possible that the criminal is affiliated with certain groups of terrorists, so that it is necessary to be continuously investigated the extent of the involvement of person or groups of persons in the organization domestically and/or internationally that has purpose to

conduct a conspiracy in sending false information on bomb hoax which directs to such terrorism act. A threat of violence as meant in Article 1 point 4 in Law on the Eradication of Terrorism shall be in form of each of unlawful acts in forms of sayings, writings, symbols or body movements, both with or without using electronic or non-electronic means that can cause a sense of fear toward people or societies widely or restrict a real freedom of a person or community. Therefore, the giving of false information on Bomb Hoax is a serious crime and due to its serious crime, every criminal should be continuously processed legally and sentenced accordingly (Table 1).

Paradox of the Law Enforcement Policy in Indonesia

Though the preventive policies in the Indonesian substantive legislation have been layered in regulating whether false information on bomb hoax is a criminal act with a very severe punishment or not, but the law enforcement at repressive order runs paradoxically. It is because the criminals are often forgiven or a very minor sanction that has caused such criminal act often occurs repetitively in Indonesia. *“...Irresponsible hoax about bringing a bomb on-board and aircraft has become rather widespread among Indonesia airline passengers recently. There were fifteen cases related to hoaxes of a bomb threat between 2015-2016”* (Nugraha & Kovudhikulrungsri, 2017) and it seems that it never stops as in 2018, eight (8) passengers of the aircraft were injured because of bomb hoax (Dewi, 2018) and in 2019, the case of false information on bomb hoax occurred in the Flight of Lion Air JT-323 up to a delay for about 45 minutes because of a passenger saying false information on hoax bomb on his/her baggage on board (Ramdhani, 2019). The impact arising out of such jokes is that the flight of Lion Air JT-323 has delayed for 45 minutes.

The purpose of this threat of bomb, in this case, the criminal actor is that a verbal or written threat from a person which is unknown or on the contrary that suggests or states whether it is true or not that the safety of an aircraft in the flight or at land or at the airport or flight facility or a person is possibly in danger because of explosives.

Although a criminal act committed by an actor giving false information on hoax bomb occurred from 2015 to 2019 as in the Lion Air JT-323 and the Lion Air JT-323, in layers had met the element of offense according to the Aviation Law, Law on Electronic Information and Transaction, and Law on the Eradication of Terrorism, but paradoxically the passenger spreading such false information on hoax bomb is not asked for his/her criminal accountability by being processed and administered justice up to the court. In this case, the criminal actor is only not taken into the flight and then handed him/her over to the authority of local security. This case enforcement is discontinued by reason of the actor is assumed to have committed it only as a bomb joke and when such criminal actor has made and stated his/her apology in writing and duly signed over a stamp duty of Rp 6.000, then such criminal act of false information on hoax bomb is not proceeded to the court.

In this case, it has occurred a paradox between the preventive policy versus law enforcement policy (repressive) where due to such criminal act of false information on Bomb Hoax is deemed causing a terror condition or sense of fear toward people widely and facility and infrastructure of the flight, then the Prevention Policy in form of substantive legislation has been

regulated forcefully and adequately with more severe sanction imposition on every act of giving false information on Bomb Hoax. The policy states that the law enforcement should be performed repressively, but its empirical fact indicates that it is performed weakly. In this case, the actor just makes and states his/her apology in writing and duly signed over a stamp-duty of Rp 6.000.

Law enforcement policy in a criminal case of false information on bomb hoax in the above model of flight shall potentially make the impression of the Indonesian flight in specific and the international world in general to a big fall as a result of such weak law enforcement. In this case, the authorized institution fails to enforce its national law as expected in the Tokyo Convention in 1963; this model of policy shall not create a deterrent effect to the criminal actor and shall potentially occur repetitively by other persons. Law enforcers should sentence such actor's act proportionally assuming that *"all of those acts should have certainly been decided first by the criminal actor (omne actum ab intentione agentis est judicantum)"*.

In this case, Satjipto Raharjo (2010) says that the law enforcers in this country should always been worried if the law may not be able to make people happy. It is also called as progressive law enforcement. Let us passionately awake from a worsening condition of law nowadays. We build again the Indonesian law with a new philosophy confirmation that the law should give happiness to the people. Indeed, in order to be able to get along in international community, we need to use modern law generally used in the world. But whatever the choice is made by the Indonesian people, it is not to prohibit this nation into becoming happy. And even it is much more important.

This problem has made the authority of the Directorate General of the Indonesian Air Transportation as flight world controller being worried. Based on the enforcement policy on criminal events of false information on bomb hoax above, such criminal act of false information on Bomb Hoax should be discontinued with a criminal law policy that creates a deterrent effect. The Civil Servants Investigator at the Ministry of Transportation in collaboration with the Police for the creation of law certainty should follow up each of the criminal act occurred and it should be ensured that the criminal actor is administered justice up to the court. If necessary, it adopts the American national law and suggests that the law enforcer entraps the criminal actor by criminal and civil sanction imposition through a court in order to reimburse the loss of passengers and the airlines.

In this case, Jan Remmelink (2003) has opinion that criminal sanction (sanctions) may not have separate purpose that should be found in it. Such sanctions should be deemed have correlated and tied in legal norms. Such sanctions are aimed at giving protection toward norms. As long as law norms are not broken yet, such criminal sanction only has function and becomes preventive as well. Soon as a breach happens, the working power changes directly and becomes repressive (Remmelink, 2003), which is followed up by Lawrence M. Friedman (2018) by saying that *"...It has been often said that the important thing related to a sanction is its certainty as it makes the supervision factor so strong"*.

Therefore, when legal norms which are preventive in legislation have been broken, the progressive law enforcement policy with repressive sanction imposition is necessarily performed. Such policy is necessary because the terrorism conduct of false information on bomb hoax should be deemed as serious crime that threatens the safety and security of global flight. In

this case, the criminal actor possibly has certain purposes and wide networks as well as being organized so that such law enforcement policy is conducted specifically, planned, directed, integrated and globally sustainable. If the omission is conducted, then a crime getting used to happen shall become worse.

The Criminal Law Prevention Policy on False Information Bomb Hoax in America

Other than land transportation means and others, air flight transportation is one of the strategic transportations and the important matter of the economy of America. According to Lasten et al., the number of general flight passengers in the United States of America is not less than 166 million persons every year served by about 4.000 airports of general aviation. It is not only that; general aviation industry gives significant economic impact for the country which is opening job opportunity for 1.265.000 people with total of economic income of \$150 billion (Kusumawati, 2017). Such economic impact of aviation industry is also supported by low-cost carrier (LCC) flight that can be seen from the success of Southwest Airlines in the United States of America as an airline that achieves a huge profit every year.

Due to its very strategic industry of the aircraft as the important matter of economy and creating many job opportunities, the preventive law policy is made to prevent the occurrence of criminal act in America's flight. Therefore, the law of America is very serious in regulating material criminal law and criminal procedure law (formal) against a criminal act of false information on bomb hoax. The criminal law and the criminal procedure law of America confirm that false information on Bomb Hoax in a flight is an appropriate criminal act according to the provision of 1427. Imparting or Concealing False Information (Bomb Hoax) 18 U.S.C. 35, which basically states that Section 35 of Title 18 provides civil and criminal felony provisions for the conveyance of false information regarding attempts or alleged attempts to destroy, damage, or disable aircraft, aircraft related facilities or motor vehicles and their related facilities. The statute is frequently referred to as the bomb hoax statute. The statute contains a civil penalty provision, 18 U.S.C. § 35(a), for non-malicious false reports, and a felony provision, 18 U.S.C. § 35(b), which prescribes maximum penalties of \$5,000 or five years imprisonment or both for conveying or imparting false information willfully and maliciously or with reckless disregard for the safety of human life. Statements which impart or convey false information regarding attempts to place or the placing of explosives aboard aircraft (but not in aircraft facilities such as airports) may also be punishable under 49 U.S.C. 46507(1) (formerly 49 U.S.C.App. § 1472(m)(1)), which provides for a felony penalty, and under 49 U.S.C. 46302 (formerly 49 U.S.C.App. § 1472(c)), which provides for a civil penalty for furnishing false information about alleged attempts to commit certain Title 49 offenses (U.S. Department of Justice, 2020)

The Effectiveness of Law Enforcement in American Criminal Justice System

It is different with a legal system in Indonesia that is referred to a legal system of "*Civil Law*" where the frameworks of thinking of the judges are various in passing a decision on a case. Meanwhile the American Legal System follows the British legal system of "*Common Law*".

Common law is usually identified with a case-based system, but though a case plays a dominant role, the main sources in the British law may not only cover case law as the compilation of principles taken from court decisions regulated by precedent doctrines (*stare decisis*), but also the law that contains legal regulations by means of the enforcement by legislative body (Cruz, 2014). Due to law enforcement of case-based and precedent doctrines saying that previous court decision for the same case should be decided the same as the court decision in the past. In the event of the judge shall distort from such previous judge decision with the same case, then it can be done by stating the clear reason and it is legally logical.

Under such precedent doctrines-based of legal system, it makes the policy of law enforcement on false information of Bomb Hoax in the America's criminal justice system more effective with adversary system model. The highest aspiration of adversary model is to protect a person who is (really) innocent as said by Romli Atmasmita (1996) that evidence system based on adversary model is actually designed to reduce a possibility of having been sued a person who is actually innocent, though it has a possible risk that a person who is really innocent may be avoided from penalization.

Therefore, in the process of the America's criminal justice system, after the criminal is caught, then he/she is investigated, sued and administered justice up to the court, for example in a criminal act case of the false information on Bomb Hoax. Kenneth W. Smith, Jr., 26, of Philadelphia, Pennsylvania, was sentenced in federal court to 15 months in prison for calling in a hoax regarding explosives on a commercial aircraft on September 6, 2012. Smith was targeting a male passenger on a flight from Philadelphia to Dallas, Texas, when called police to falsely report that the individual had carried liquid explosives on to the plane. Smith's motive, according to his statement to authorities after his arrest, was to "avenge" a female that both men knew. As a result of Smith's actions, the airplane was turned around mid-air, and law enforcement agents stormed the plane (Federal Bureau of Infestation, 2013).

Table 2
THE CRIMINAL SANCTION OF FALSE INFORMATION IN INDONESIA

Title 18 U.S. Code § 1038 regarding false information and hoaxes	Code 1427 imparting or concealing false information (bom hoax)—18 U.S.C. 35
(A) Be fined under this title or imprisoned not more than 5 years, or both	maximum penalties of \$5,000 or five years imprisonment or both
(B) If serious bodily injury results, be fined under this title or imprisoned not more than 20 years, or both; and	
(C) If death results, be fined under this title or imprisoned for any number of years up to life, or both.	

In the America's criminal law enforcement, a criminal sanction toward a criminal act of false information on Bomb Hoax is subject to aggravation. The criminal actor for false information on Bomb Hoax shall be sued and sentenced with a fine sanction and/or imprisonment not more than 5 (five) years. Meanwhile if such criminal act causes the victim has

serious body injury, the criminal actor shall be sued with attempted murder and sentenced to pay a fine sanction and/or imprisonment not more than 20 (twenty) years. Subsequently as a result of the criminal act of false information on Bomb Hoax in such flight, it causes a death of a person; the criminal actor is sued in a murder crime with a threat of criminal sanction of fines and/or imprisonment from several years to life sentence or both as shown in this following Table 2.

The Enforcement of Criminal Liability and Civil Penalty Provision

In a tradition of the America's criminal justice system, the process of criminal justice runs tactically and inappropriately. The Judge has a role to control the course of trial in order the parties respect the rules of court session and observe the argumentations and defense of the suspect and public prosecutor and shall have an active role if the suspect or public prosecutor has an objection toward argumentations or ways used in supporting the facts proposed before the court. The rights of crime victims are also highly respected as the matters that should be met by the criminal actor. The judge, in sentencing the accused as stated in paragraph (a) "18 U.S. Code § 1038 regarding *"False Information and Hoaxes"*, may also sentence the criminal actor in form of additional penalty.

Such additional penalty is in form of civil reimbursement submitted at a court session where the Judge instructs all of the suspects to jointly responsible to reimburse the expense from each State or District Government or private non-profit organization if the result of such criminal act causes fire or the services cost of rescue, emergency response and/or the investigation cost for such criminal act.

Philosophical Basis for Criminal Law Enforcement of False Information Repressively

Preventive law policy in the order of ideal law has been expressly stated that the spreading of false information on Bomb Hoax is a criminal act. But in the empirical order, the policy of its enforcement is still not working effectively and globally equal according to the International Convention. Therefore, it needs a radical review on philosophical base on why a criminal actor of false information on Bomb Hoax should be punished and given penal sanction at the court.

If it is reviewed by legal reasoning, the meaning contained in the word (term) of "*information*", the etymology comes from Latin Language of "*informationem*" and the terminologies are outline, concept, idea and data that have been given context. Through information, a person can know the outline of problem so that he/she can take a proper decision in accordance with the concept delivered through such information.

Thus, the intention and spiritual condition (*Mens Rea*) of the criminal actor of "*false information*" on bomb hoax may not be deemed as joking and unimportant acts because behind the acts seem like a fun, the actor has serious purpose which is he/she wants to express an outline, concept, idea and data that has been given context which is not in accordance with its actual fact. The criminal actor intends that the receiver of such information takes a wrong decision on the false information given where the purpose is to create a sense of terror, chaotic situation and seized horror and even it continues to become a disaster as the domino effect of

such false information. This kind of thing becomes advantage and spiritual satisfaction, either directly or indirectly for the criminal actor. The more chaotic of peaceful and happy people as a result of false information on such Bomb Hoax, the higher sense of happiness for such criminal actor.

Besides, due to the intention of a criminal actor of falsity always comes from an evil spirit that has purpose to distort and manipulate the truth, so that by the creation of such false truth, the criminal actor hopes a bad thing that it will occur the effects of seized horror and disaster. This is because the purpose of false information on the targeted Bomb Hoax is the effect of fear and its disaster, where it philosophically becomes poisonous words that distort its original facts. Therefore, such act should be given equitable sanction and it is not allowed to be given a forgiving reason, though it may not have any consequences yet by doing it.

Other philosophical bases on why a criminal act of false information on Bomb Hoaxes should not be deemed unimportant and it should be followed up globally explicit are that it is possible that the unlawful criminal actor shall assault with dangerous or deadly weapons that may endanger or cause a death for other people. It is also possible that it may continue and mutate as hostage and hijacking acts and even a threat of detonation on the aircraft while being at the airport or flying on the air as in the introduction section above. Therefore, it is clear that it has an important reason of the need for global and uniform Law Enforcement Policy toward false information on Bomb Hoax in order to be expressly implemented its sanction at all jurisdictions. In this case, all people agree that there is no benefit of a crime where the impacts of a crime are even chaos or disorders. Crimes have never made order, but they cause poverty.

The reasons of a criminal actor arguing that it seems such act is made just for fun or pleasure or not knowing that the law prohibits the act should not be accepted as a forgiving reasons in a criminal law at all jurisdictions. It is as in terminology of law saying that "*Ignorantia juris quod quiesue tenetur scire, neminem excusat*" which means that due to having not known the law (where it should be known), it shall not be forgiven.

Disparity in Law Enforcement Policies on False Information Crimes

The policy of law enforcement which is not performed expressly toward the criminal actor of false information on Bomb Hoax in a jurisdiction may cause a lack of people's trust on the safety of air transportation, especially "*Low Cost Carrier*" mode in other jurisdictions. It happens because the people as the users of such transportation mode of "*Low Cost Carirer*" are globally coming from all tribes and languages. Therefore, the weakness of this law enforcement shall finally make loss of air transportation business and the interest of people as the users of such air transportation service.

Such disparity in the implementation of law enforcement and criminal application for false information on bomb hoaxes in the national laws of Indonesia and America is necessary to be reviewed comprehensively because in a global aviation industry, each forgiving and permissive effort made by the law enforcement officers of a state jurisdiction shall continuously influence the jurisdiction of other countries. Whereas the criminal application initiated since the Tokyo Convention 1963 shall be hopefully effective to prevent and minimize the crimes in aviation industry. Therefore, The international Civil Aviation Organization (ICA) has brought

attention to different rules on passengers' rights in international air transport among countries and adopted a view that in order to avoid any legal uncertainty, the states should minimize the differences in the contents and application of regulations (Abeyratne, 2014 & 2012). In this case, the organization of "*International Civil Aviation*" deems necessary to have a global policy in order it has uniformity of the contents of norms of legislations up to its law enforcement and thus, the passenger's rights are not harmed because of such disparity. In principle, the criminal actor of false information on bomb hoaxes should be followed forcefully in accordance with the contents of provisions and then processed him/her up to the court at any jurisdiction where it occurs. Thus, the law certainty is guaranteed and it emerges a sense of security and trust on a flight mode of "*Low Cost Carrier*" which presently becomes a primary mode of transportation of global society.

According to the protection/interest aspects of the people, a criminal act is effective if such criminal act to the greatest extent can prevent and minimize crimes. Thus, the criteria of effectiveness are seen from how far such frequency of crimes can be repressed. In other words, its criteria are laid on how far such effect of general prevention of imprisonment in preventing people in general not to commit a crime (Arief, 2007 & 2011). Based on the opinion of Barda Nawawi Arief, if it is analyzed, the effectiveness of law enforcement is seen from how far the frequency of criminal acts on Bomb Hoax can be repressed in America and Indonesia, then by explicit imposition of sanction like in America, it is proved that criminal act is less frequently occurred. Meanwhile in Indonesia, its policy of law enforcement is not yet explicitly performed that has caused repetitive criminal acts where from 2015 to 2017, there are 54 cases of criminal acts (Rachmawati, 2017). Only in May 2018, it has 10 cases (Liputan, 2018), and even up to 2020, there still have cases of false information on bomb hoax. Then in a case of false information on Bomb Hoax, Frantinus Nirigi admits bringing a bomb on board of Lion Air JT 687 and causes an accident that brings property damages and many injured victims. For this case, a threat of sentence is 8 (eight) years as regulated in Article 437 paragraph (1) and (2) of Law Number 1 of 2009 regarding the Aviation. Finally, such criminal actor is only sued by the prosecutor for 8 months and then the Judge's verdict is only 5 months and 10 days (Irawan, 2018).

CONCLUSION

Based on descriptions above, it is concluded that First, by thanking to the Tokyo Convention 1963, the preventive policy has been regulated forcefully and adequately by more severe sanction imposition on each criminal act of false information on Bomb Hoax in the legislation of America and Indonesia, but in the level of implementation, there is still disparity in its law enforcement policy. The US sentences the criminal actor more explicit with a severe sanction including being able to sentence a criminal actor in civil law by paying a compensation on the cost of overcoming such crimes and it implies that the frequency of crimes in America can be suppressed. Meanwhile, Indonesia has a paradox between the preventive policy in legislations which is very forceful and adequate and the policy of its law enforcement on a criminal act of which such acts have been proved having caused accidents, property damages and many injured victims and with a threat of sentence of 8 (eight) years, the Court's verdict is only several

months and the more paradox herein is that a criminal act is resolved only by apologizing in a form of a statement letter not to repeat his/her act over the stamp-duty of Rp 6.000,- and it implies that a criminal act of false information on Bomb Hoax in Indonesia occurs repetitively and it has quite high frequency every year. Second, philosophically, the criminal act of false information on Bomb Hoax shall be poisonous words that distort its actual facts and it emerges an evil spirit from the criminal actor who intends to create false truth and hopes negatively that the receivers of information take inaccurate decision and it causes an increasing sense of horror and even disaster. The more damage of such peaceful and happy conditions of people as a result of such criminal act of false information on Bomb Hoax, the happier such terrorist becomes. Therefore, it needs to have a global law enforcement policy in order the sanction is implemented forcefully at all jurisdictions and due to not knowing the laws (where it supposes to know it) shall not be forgiven, the reason saying that criminal actor is only joking or may not understand the laws is unacceptable. In this case, a crime has never made an order, but it may cause poverty where compromising and forgiving acts shall only damage air flight industry that has given job opportunities and high economic impacts as well as it has been proved that it makes closer relations among the tribes and nations in a global world.

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