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Indonesia-Singapore Cooperation in Ratification of Extradition Treaty for Corruption Fugitives

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Abstract

The extradition treaty between Indonesia and Singapore plays a vital role in fostering bilateral cooperation in combating transnational crimes and ensuring the effective administration of justice in both nations. This study aims to assess and analyze the treaty's key provisions, legal frameworks, mechanisms, and implications for extradition arrangements between these neighboring Southeast Asian countries. By examining the historical context and evolution of the treaty, this research sheds light on the challenges, successes, and potential areas for improvement in the extradition process. Drawing on comparative legal analysis and case studies, this study contributes to understanding the impact of the treaty on extradition practices, bilateral relations, and how it aligns with international standards. In doing so, it highlights the importance of efficient extradition mechanisms in addressing contemporary criminal challenges, promoting regional security cooperation, and upholding human rights values within the context of Indonesia and Singapore.

Keywords

Extradition, Indonesia, Singapore, Corruption

1. Introduction

Corruption has become a threat to the democratic principles of a country. Corruption can disrupt accountability and integrity as well as the security and stability of a country. The issue of corruption in Indonesia is currently one of the most complicated domestic issues, including collusion and nepotism, which are still present in Indonesian society, especially in the Indonesian government system. Corruptors who become fugitives in Indonesia often outsmart Indonesian law enforcement by escaping abroad, one of which is Singapore. Singapore is known as one of

the escape havens for corrupt fugitives. In the last few years, the number of corruptors who have fled to Singapore has exceeded 20 people.

Table 1. List of Corruptors Who Fled to Singapore

Name	Case	State loss
Sjamsul Nursalim	BLBI	IDR 4.58 trillion
Bambang Sutrisno	BLBI	IDR 1.5 trillion
Andrian Kiki	BLBI	IDR 1.5 trillion
Eko Adi Putranto	BLBI	IDR 1.95 trillion
Sherry Konjongian	KLBI	IDR 1.95 trillion
David Nusa Wijaya	BLBI	IDR 1.9 trillion
Samadikun Hartono	BLBI	IDR 169.4 billion
Afus Anwar	BLBI	IDR 1.9 trillion
Sujiono Timan	BLBI	\$126 million
Maria Pauline	BNI break-in	IDR 1.7 trillion
Djoko S Tjandra	Bank Bali Cessie	IDR 546 billion
Gayus Tambunan	Tax Bribery	IDR 24 billion
Nunun Nurbaiti	House bribery 94-04	Not mentioned
Nader Thaher	Credit Misappropriation	IDR 24.8 billion
Lesmana Basuki	Selling commercial paper	IDR 209 billion
Hartawan Aluwii	Century Bank	IDR 3.11trillion
Hendro Wiyanto	Century Bank	IDR 3.11 trillion
Antont Tantular	Century Bank	IDR 3.11 trillion
Hesham Al-Waraq	Century Bank	IDR 3.11 trillion
Rasat Ali Rizfi	Century Bank	IDR 3.11 trillion
Hari Matalata	Textile exports	IDR 1.6 billion
Muhammad Nazaruddin	Hambalang Athlete House Gratification	Not Mentioned
Lidya Muchtar	BLBI	IDR 189 Billion

Source: *Kompas.com*

One of the reasons why Singapore is the most common destination for corruptors to flee is because of Singapore's geographical borders with Indonesia. Relatively easy, affordable access and good travel time by air and sea result in efficient movement of goods and services. On the other hand, easy access opens up opportunities for transnational crimes such as the smuggling of people and goods, money laundering in neighboring countries and most importantly the escape of criminals in the country of origin. The way to stop corruptors from fleeing to Indonesia's neighboring countries is to make an extradition treaty. The term extradition is now well known among Indonesians, although not many are aware of its content and scope. Extradition is the formal submission of a criminal or suspect by a country to the requesting country for trial or execution of punishment. For Indonesia, the extradition treaty aims to arrest suspects or perpetrators who have committed economic crimes and return the state money they have brought and embezzled.

Indonesia signed extradition treaties with several neighboring countries, including Malaysia in 1974, the Philippines in 1976, and Thailand in 1978. In addition, Indonesia is in the process of signing extradition treaties with four other countries. However, the extradition treaty with Singapore was only initiated in 2007 and was ratified on January 25, 2022. This extradition treaty can help both countries enforce the law against corruptors who try to flee to neighbouring countries to escape. This study aims to assess and analyze the treaty's key provisions, legal frameworks, mechanisms, and implications for extradition arrangements between these

neighboring Southeast Asian countries, especially within context of Indonesia and Singapore cooperation in extradition treaty for corruption fugitives.

2. Literature Review

In the international community, international treaties have a very important role in regulating life and relationships between countries (Mauna, 2001). Because of the existence of international treaties, each country outlines the basis for cooperation, regulates various activities and resolves problems through agreed agreements. Therefore, Mauna (2001) says that the characteristics of an international treaty are that the subject makes it of international law, its making is regulated by international law, and the consequences are binding on the subjects who are parties. Cooperation in the form of an agreement certainly begins with the existence of a need for each other. As explained by Kusumaatmadja (2003), the existence of mutual needs between countries in various fields of life can lead to a permanent and continuous relationship between countries, resulting in the emergence of interests to maintain and regulate the cooperative relationship. Because the needs between nations are reciprocal in nature, it is very important to maintain and regulate these relationships within the framework of a common interest. Therefore, to order, regulate and maintain these international relations, the law is needed to guarantee the element of certainty needed in any orderly relationship.

An international treaty serves as a legal framework to uphold order in international relations, emphasizing the significance of understanding its definition. According to the 1969 Vienna Convention, international treaties are described as agreements reached in written form between states governed by International Law. These agreements can be a single instrument or distributed across two or more related instruments, regardless of their specific designation (Pratomo, 2011). This definition underscores the formalized nature of international treaties and their crucial role in regulating interactions among states within the framework of International Law. According to Mochtar Kusumaatmadja, international treaties are characterized by a broader formulation, wherein agreements are established between members of the community of nations with the objective of bringing about specific legal consequences (Kusumaatmadja, 2003).

The definition of international treaties, initially articulated by Mochtar Kusumaatmadja, saw adjustments upon its adoption by the government through Law No. 24 of 2000 on international treaties. The modified definition stated that any agreement falling within the domain of public law, governed by international law, and formed by governments, states, international organizations, or other subjects of international law was considered an international treaty (Pauwelyn, 2003). From a legal standpoint, this perspective expanded the spectrum of international treaties, encompassing agreements in the realm of public law established by diverse entities, such as governments, states, international organizations, and other subjects governed by international law.

From several definitions of international agreements, Tandungan et al. (2022) added that in Indonesia, there are two types of international agreements that are distinguished based on their stages. Agreements that are made in three stages, namely negotiation, signing and ratification. 2. Agreements that are made in two stages, namely negotiation and signing. In the extradition treaty process, a pivotal stage involves the ratification by the DPR (People's Consultative Assembly). This aligns with the stipulations of Law No. 24 of 2000 concerning International treaties,

particularly articulated in Article 10. According to this provision, the ratification of international agreements is mandated by law, particularly when it pertains to issues such as political, peace, defence, and security matters, alterations in a territory or the delimitation of the Republic of Indonesia's territory, questions of sovereignty or sovereign rights, human rights and environmental concerns, the establishment of new legal regulations, as well as matters related to foreign loans and/or grants. This legal framework underscores the significant role of the DPR in the ratification process, especially in addressing issues of paramount importance and national interest.

This is in contrast to Singapore law, which does not require parliamentary approval for its international agreements. The Indonesia-Singapore extradition treaty also prioritizes the national interests of each country. This means that this extradition treaty must benefit each country, as stated in the contents of the agreement. Meanwhile, all international agreements are temporary and conditional based on each state's willingness to abide by them. All states must be prepared to sacrifice their self-interested international obligations if two states are involved in a conflict. That makes treaties and all other agreements, conventions, customs, rules and laws between states merely expedient arrangements that can and will be set aside if they are contrary to state interests (Steans et al., 2013).

3. Methods

In this study, researchers used a qualitative approach with normative juridical method through document review. Basically, research methods are scientific methods used to collect data for specific purposes and uses. By definition, qualitative research is a research method that often takes the form of informative content categories that are difficult to measure.

4. Results and Discussion

For Indonesia, in addition to having made bilateral agreements with various countries, it also has its own Law No. 1 Year 1979 regarding extradition, which originated from *Koninklijk Besluit Van May 8, 1883 No. 26* (33 Staatsblad 1883 - 188) concerning *Uitvering Van Vreemdelingen*. The Act regulates the extradition of persons suspected of having committed a crime abroad to flee to Indonesia or serve a sentence imposed by a court decision (Suryokusumo, 2010). In addition, the law is also intended to provide a legal basis for making treaties on extradition with other countries as well as for handing over a person without a treaty. On the basis of Law No.1 of 1979, Indonesia has initiated extradition treaties with several countries, such as; Malaysia, Thailand, Philippines, Australia, Hong Kong and South Korea (Missbach, 2014; Panggabean & Leviza, 2022).

Previously, Singapore as a common law adherent stated that it did not have extradition treaties with any country except the United States and the United Kingdom (Lipkowitz, 2019). Singapore adheres to the common law system applied by all British Commonwealth countries (Dworkin, 1994). Meanwhile, Indonesia adheres to the civil law system. The difference in legal systems is very significant. In the common law legal system, the law is allowed to grow through practice and the creation of rules by judges and a King or government can influence the law (Dainow, 1966; Holmes, 2020). Thus, in the extradition process of criminals who flee to Singapore, the

perpetrators must first obtain a Singaporean judge's decision. While the civil law legal system is a structured, systematic and promulgated law in writing (Cappalli, 1998; Merryman & Pérez-Perdomo, 2018; Wardhani et al., 2022). This means that a judge refers to the applicable law. The difference in legal systems is not an obstacle in the extradition treaty process between Indonesia and Singapore, because Indonesia currently has extradition treaties with Malaysia and Australia that also adhere to the common law system.

I Wayan Parthiana in his book *Extradition in Modern International Law* explains that extradition is a formal transfer, either based on a pre-existing extradition treaty or based on reciprocal good relations, of a person suspected of having committed a crime (Parthiana, 2009).

Extradition treaties hold significant importance for Indonesia, as clarified by Law No. 1 of 1979 on Extradition. The law defines extradition as the Act of surrendering, by a state, an individual suspected or convicted of committing a crime outside the surrendering state's territory but within the territorial jurisdiction of the requesting state, which is authorized to try and punish the individual (Haryana, 2022; Maringka, 2017; Sitepu, 2021). Notably, Extradition in Indonesia is contingent upon the existence of a "treaty" between states, with ratification executed through law. In the absence of such a treaty, extradition may still proceed based on the foundation of "good relations" and when the interests of the Republic of Indonesia necessitate it, as outlined in Article 2, paragraphs 1 and 2 of Law No. 1/1979 on extradition. This legal framework elucidates Indonesia's approach to extradition matters, emphasizing the significance of diplomatic agreements and bilateral relations in facilitating extradition.

Based on the above understanding, it can be concluded that the extradition process has two important elements. First, the requesting country as the country with an interest in trying or punishing him. Second, the requested country as the country where the perpetrator of the crime is located. Therefore, Indonesia's interest in making an extradition treaty with Singapore is to return a large number of criminals who have fled to Singapore. It was not the first time that Indonesia wanted an extradition treaty with Singapore. The obstruction of the extradition treaty between Indonesia and Singapore was influenced by the dynamics of bilateral relations between the two countries. Finally, after waiting for 35 years, the extradition treaty between Indonesia and Singapore was signed on April 27, 2007, by each country represented by Indonesian Foreign Minister Dr. Hassan Wirajuda and Singapore Foreign Minister George Yeo in Tampak Siring, Bali. The signing was witnessed by Indonesian President Susilo Bambang Yudhoyono and Singapore Prime Minister Lee Hsien Loong (Acharya, 2014).

However, the results at that time could not be enforced because the two countries had not ratified the agreement. Furthermore, on October 8, 2019 at the Leaders' Retreat of Indonesia and Singapore to re-discuss the agreement on the realignment of the Flight Information Region (FIR) boundaries of Indonesia and Singapore, then the Minister of Law and Human Rights (Menkumham) Yasonna H Laoly, proposed that the discussion of the extradition agreement be included and paralleled with the security cooperation agreement (Margaretha et al., 2023). Singapore accepted the proposal on October 22, 2021, and finally signed the extradition treaty between Indonesia and Singapore on January 25, 2022. Then it was ratified by the House of Representatives of the Republic of Indonesia through Law of the Republic of Indonesia No. 5 of 2023 concerning Ratification of the Treaty between the Government of the Republic of Indonesia

and the Government of the Republic of Singapore for the Extradition of Fugitives (Suhayatmi et al., 2022).

The Act covers 31 types of crimes, including corruption, money laundering, bribery and terrorism, which can then be extradited. The law's penalties also apply to crimes that date back 18 years. With the addition of the extradition treaty with Singapore, it is hoped that in the future, there will be no more areas that are free for criminals in Indonesia to escape abroad, especially with cooperation with Malaysia, Thailand, the Philippines, Vietnam, Australia, South Korea, the People's Republic of China, and Hong Kong.

For Singapore, this was not only a moment to help Indonesia capture fugitives who had fled to their country from justice but also to gain an advantage in the defence and security sector. Along with the extradition treaty, the Singaporean government provided conditions to allow the Singaporean military to use a small part of Indonesia as a combat training area, located in an area called Bravo area in the southwest of the Natuna Islands, with permission granted only four times a year (Honniball & Darmawan, 2022). In exchange for permission to use Indonesian territory as a military training area, Singapore agreed to hand over air surveillance zones for commercial flights back to Indonesia in parts of Riau and Kalimantan. Not only does the Singaporean government benefit in terms of defence and security, but it also shows that it is very committed to law enforcement, especially in cases of corruption. The Singaporean government is also clearing their name as a destination for corrupt people fleeing the law in their country.

5. Conclusion

After a long discussion between the two countries, Indonesia's extradition treaty with Singapore finally came to fruition on January 25, 2022. The Indonesian government can now arrest corruption criminals who try to escape to Singapore, which used to be a destination country to escape Indonesian law, which was legalized through Law of the Republic of Indonesia No. 5 of 2023 concerning the Ratification of the Treaty between the Government of the Republic of Indonesia and the Government of the Republic of Singapore for the Extradition of Fugitives (Treaty Between The Government of The Republic of Indonesia and The Government of The Republic of Singapore for The Extradition of Fugitives). On the other hand, Singapore also receives benefits in the defence and security sector by being allowed to carry out military activities in a small part of Indonesian territory in the South Natuna Sea. Not only the extradition agreement, Indonesia also now has back the airspace that Singapore previously controlled, and with the signing of this agreement between Indonesia and Singapore, Singapore again shows that it is committed to upholding the law and justice for criminals who escape their country.

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