



NATIONAL CHAPTER  
INDONESIA

2<sup>nd</sup> Period

# **ALSA INDONESIA**

# **LEGAL MEMORANDUM**

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The Implementation of the Treaty for  
Extradition of Fugitives between  
Indonesia and Singapore

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# **LEGAL MEMORANDUM ALSA LOCAL CHAPTER UNIVERSITAS SRIWIJAYA**

## **The Treaty for Extradition of Fugitives Between Indonesia and Singapore to Ensure World Order**

Farhanna Nur Awanis, Josua Orlando Manurung, and M. Teuku Ridzwan  
ALSA Local Chapter Universitas Sriwijaya

### **A. Heading**

To : ALSA National Chapter Indonesia

From : Farhanna Nur Awanis, Josua Orlando Manurung, and M. Teuku Ridzwan

Subject : The Treaty for Extradition of Fugitives Between Indonesia and Singapore to Ensure World Order

Date : February 8th, 2023

### **B. Statement of Assignment**

Extradition is a formal process by which a criminal is turned over to a state where the crime was committed for trial or punishment. There are so many Indonesians fugitives who hide in another country on purpose to avoid legal snares. Consequently, the treaty for extradition of fugitives was built between Indonesia and Singapore as it is essential to enforce the law against fugitives.

In light of the fact, we are willing to write a legal memorandum to contribute in the ALSA Indonesia Legal Memorandum #2 Competition organized by the ALSA National Chapter Indonesia 2022/2023 with the theme “The Implementation of the Treaty for Extradition of Fugitives between Indonesia and Singapore”.

### C. Issues

The treaty for extradition of fugitives between Indonesia and Singapore is a bilateral between those countries with aims to run the coordination on how to turn over fugitives to “home-country” in order to be judged. Because it borders directly with Indonesia, Singapore is the closest destination for fugitives to escape. With the exception of, it also provides mutual benefits such as free pass visa and maintaining good government connections. Along these lines, the legal proceedings would be hampered and make the case unclear.

### D. Brief Answer

Through this treaty, the criminal problem that is associated with Singapore, would be easy to handle and make a matter clear. Besides, it will negatively impact if the commitment of those countries would fade. It is feared that there will be a decline in enthusiasm for eradicating cross- border crime because of the frequent confrontations between Indonesia and Singapore. The role of the treaty is to be a connector for both countries to contribute together in world stability as part of ASEAN and openly cooperate in other fields.

### E. Statement of Facts

According to the treaty for extradition of fugitives between Indonesia and Singapore, we can state that:

1. It regulates specific crimes that could be covered such as corruption, narcotics, terrorism and so on. Also, those who are excluded such as military law that is non general criminal law and crimes that have a political character.
2. Based on collective desire to continue the effective bilateral that began from the previous discussion of cooperation between Indonesia and Singapore regarding actualization of an action plan to handle fugitives issue.



3. As a means of expanding the scope of bilateral cooperation between Indonesia and other countries regarding the seriousness in dealing with extradition cases such as cooperation with the UAE, China, Iran and so on.

## F. Analysis

### 1. Implications of Ratification of RCEP Through Law Number 24 of 2022 Concerning the Ratification of RCEP

The extradition agreement between Indonesia and Singapore is seen as essential for both sides to successfully address numerous situations of transnational crime. The signing of the extradition agreement is anticipated to allow Indonesia to repatriate corrupt individuals who reside freely in Singapore and retrieve corruptly obtained assets.<sup>1</sup> Basically, the extradition treaty between Indonesia and Singapore was initiated by Indonesia since 1972, but discussions began only in 2004. Indonesia's main interest behind this extradition agreement is the arrest of corruptors, most of whom have fled to Singapore and the return of state assets corrupted by these corruptors, specially the corruptors in the BLBI (Bank Indonesia Liquidity Assistance) case in 1998, and several other corruption cases, where until now the perpetrators are in Singapore.<sup>2</sup>

For Indonesia, the signing of the extradition agreement is expected to repatriate corruptors from Indonesia who roam freely in Singapore and recover assets from corruption. In particular, the implementation of the Extradition Agreement can effectively reach perpetrators of crimes in the past. Singapore is one of the destinations for Indonesian fugitives, especially in corruption cases. In addition to geographical factors, Singapore is also a visa-free country for Indonesia, causing Singapore to often become a transit destination for criminals.

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<sup>1</sup> Jamin Ginting, "Roles of the Mutual Legal Assistances and Extradition Agreements in the Assets Recovery in Indonesia," (Indonesian Journal of International Law 9 2012)[565].

<sup>2</sup> Ahmad Naufal Dzulfaroh, Editor : Sari Hardiyanto, "Daftar 23 Buronan Korupsi yang Pernah Melarikan Diri ke Singapura"(Kompas 2021) <https://www.kompas.com/tren/read/2020/01/16/132644665/daftar-23-buronan-korupsi-yang-pernah-melarikan-diri-ke-singapura?page=all>, accessed 8 February 2023.

Of the 10 ASEAN members, the new government has extradition cooperation with three countries, Malaysia, the Philippines and Thailand. Thus, an extradition agreement with all ASEAN members is absolutely necessary for Indonesia. Indonesia is also a potential area for transnational crimes. The reason is that corruptors who fled to the country cannot be touched by law enforcement officials. That is why until now there has been no extradition agreement between Indonesia and Singapore.<sup>3</sup>

Extradition aims to ensure that those who commit serious crimes cannot evade prosecution and punishment. This is because often when a criminal seeks refuge in another country, that country's legal system prevents it from prosecuting or sentencing the criminal due to technical legal issues or lack of jurisdiction. The nation housing the criminal must convict him, or the criminal must be transferred to a nation that can and will convict him (*aut punier aut dedere*). In addition, the nation whose territory the crime was committed is the one that can prosecute offenders because it is there that evidence can be obtained more quickly and because the nation has the most significant interest in convicting the offender and the best resources to obtain the truth.

Many fugitives, including suspects or perpetrators, prefer Singapore as a place of escape. Indonesian law of course cannot be applied in Singapore as a sovereign country. Therefore, Indonesia needs to enter into an extradition agreement with Singapore to facilitate the elimination and arrest of those who have committed crimes in Indonesia.

## **2. Implementation of the Extradition Agreement Between Indonesia and Singapore and the Consequences in the International Community**

The Extradition Agreement between Indonesia and Singapore has had a retroactive period (retroactive including the date of promulgation) for the past 18 years. This is in accordance with the maximum expiration provisions as stipulated in Article 78 of the

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<sup>3</sup> S. Hendrik, "Ekstradisi Terhadap Pelaku Tindak Pidana Korupsi (Extradition of Corruption Actors)" (Lex et Societatis 2016) [18].



Indonesian Criminal Code.<sup>4</sup> This Extradition Agreement agreed, in addition to the retroactive period, that the nationality of the perpetrators of a crime was determined when the crime was committed. This is to prevent criminal perpetrators from gaining privileges due to changing citizenship to avoid legal proceedings.

There were many advantages for Indonesia in implementing the Extradition Agreement Between Indonesia and Singapore, Indonesia got fugitives who fled to Singapore and got state assets that were taken away by them. This is very advantageous because not only can the suspect or convict be tried, but the assets taken away can also be returned to Indonesia. Then the Defense Cooperation Agreement (DCA) is included in the extradition agreement between Indonesia and Singapore as well have a positive impact on Indonesia. Indonesia can use Singapore's military equipment and technology, which is currently 30 years more sophisticated than the Indonesian state. This can provide new knowledge and experience for the Indonesian National Armed Forces (TNI).<sup>5</sup>

In this case, besides being a legal protection for the state to take action against fugitives, this agreement can also strengthen bilateral relations between Indonesia and Singapore. The extradition agreement marks the commitment of the two countries to be more connected and can open up opportunities for cooperation in other aspects.

There are several potential obstacles to the implementation of this extradition agreement. The first is the commitment of the government in power; if one of the parties is not firmly committed to combating transnational crime, implementation will be hampered. Then, to avoid delays in the implementation of the agreement, coordination and bilateral relations between the two countries that could deteriorate due to friction or confrontation between the two countries must be considered. The non-

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<sup>4</sup> Admin Pendayagunaan Aparatur Negara dan Reformasi Birokrasi “Resmi Ditandatangani Inilah Lini Masa Perjanjian Ekstradisi Indonesia Singapura” [“https://menpan.go.id/site/berita-terkini/berita-daerah/resmi-ditandatangani-inilah-lini-masa-perjanjian-ekstradisi-indonesia-singapura”](https://menpan.go.id/site/berita-terkini/berita-daerah/resmi-ditandatangani-inilah-lini-masa-perjanjian-ekstradisi-indonesia-singapura), accessed 8 February 2023.

<sup>5</sup> Andi Rachmad, Zaki Ulya, Yusi Amdan, “Urgency of Extradition Agreement in Eradicating Corruption Crime in Indonesia” (Nationally Accredited Journal IUS Kajian Hukum dan Keadilan) 2022,[496].

intervention of fellow ASEAN members can also hinder the implementation of extradition agreements.

## G. Conclusion

For Indonesia and Singapore, countries that directly border each other, transnational crimes cannot be avoided anymore. For this reason, an extradition agreement between Indonesia and Singapore is important. The impact of the extradition agreement between Indonesia and Singapore on criminals is that it can narrow the space for fugitives in Indonesia to escape because Indonesia already has agreements with partner countries in the region, including Malaysia, Thailand, the Philippines, Vietnam, Australia, the Republic of Korea, the People's Republic of China, and the Hong Kong SAR, and also those who have fled to Singapore can be extradited to Indonesia by the government. The existence of this extradition can be an effort to support the world order because every fugitive cannot leave and seems to operate away and forget what actions he has done in his country.

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# **LEGAL MEMORANDUM ALSA LOCAL CHAPTER UNIVERSITAS UDAYANA**

## **Juridical Analysis on Political Character Offense Phrase in Indonesia Law Number 5 Year 2023**

Delvino Ahmad Hidayat Lolianto, Ni Made Ayu Gita Lestari Astawa, and Valentino Juan  
Sundah Simatupang  
ALSA Local Chapter Universitas Udayana

### **A. Heading**

To : ALSA National Chapter Indonesia

From : Delvino Ahmad Hidayat Lolianto, Ni Made Ayu Gita Lestari  
Astawa, and Valentino Juan Sundah Simatupang

Subject : Juridical Analysis on Political Character Offense Phrase in  
Indonesia Law Number 5 Year 2023

Date : January 31st, 2023

### **B. Statement of Assignment**

This legal memorandum provides answer and our perspective regarding the meaning of Political Character Offence Phrase on Treaty Between Indonesia-Singapore for the Extradition of Fugitives Article 4 paragraph 1(a).

### **C. Issues**

The Law of the Republic of Indonesia Number 5 Year 2023 (“**Law 5/2023**”) concerning the Treaty Between The Government of the Republic of Indonesia and the Government of the Republic of Singapore for the Extradition of Fugitives was finally enacted by Commission III of The House of Representative of the Republic of Indonesia

on the 13<sup>th</sup> Plenary Meeting on December 15th, 2022.<sup>1</sup> This law officially enacted the implementation of procedural and mechanisms of fugitives extradition which were agreed upon by the Parties. This treaty regulated 31 crimes which extradition can be carried out against it.<sup>2</sup> However, there is a blurred legal norm in Article 4 paragraph 1(a) on Mandatory Exception to Extradition, which regulated that Requested Party shall refuse to grant the extradition request of a crime that indicates political character crimes.<sup>3</sup> Based on that issue, it is questioned, what is the parameter of “political character crimes” and how this law be implemented?

#### D. Brief Answer

1. Based on the writer’s juridical analysis, the “political character offense” phrase can be defined as an intent of criminal acts involving the public interest with the aim and function of institutions and constitutional relations. The crimes committed are based on the political desire of the perpetrator to achieve certain wishes correlated with the government and the state. The crime committed by the offender aimed to change the law in a certain state.
2. The implementation of this phrase needs a judicial review by both Parties to not cause formal losses when fugitives are discharged as a result of their crimes indicating political character. A comprehensive discussion is needed to avoid abuse of authority and to maintain the political stability between the Parties.

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<sup>1</sup> DPR RI, ‘DPR dan Pemerintah Sahkan RUU Perjanjian Indonesia-Singapura tentang Ekstradisi Buronan Jadi UU’ (2022)

<https://www.dpr.go.id/berita/detail/id/42422/t/DPR+dan+Pemerintah+Sahkan+RUU+Perjanjian+Indonesia+Singapura+tentang+Ekstradisi+Buronan+Jadi+UU> (accessed on 5 February 2023).

<sup>2</sup> Law Number 5 of 2023 Concerning Treaty Between The Government of The Republic of Indonesia and The Government of The Republic of Singapore for The Extradition of Fugitives (State Gazette of the Republic of Indonesia Year 2023 Number 5).

<sup>3</sup> *Ibid.*



## E. Statement of Facts

The ratification of the Treaty Between Indonesia-Singapore for Extradition of Fugitives shows facts as follows:

1. That in forming the treaty for extradition of fugitives, the Indonesian Government has been overwhelmed with many run-away fugitives to Singapore. One of which is Harun Masiku, the suspect of bribery case of The House of Representatives Member Election against former Commissioner of General Election Commission, Wahyu Setiawan. Harun Masiku flee Singapore on January 6th, 2020.<sup>4</sup>
2. On the other hand, in 2004, Nunun Nurbaeti done bribery on Bank Indonesia Senior Deputy Governor election. She was named as the suspect, left Indonesia, and immediately listed in DPO (Daftar Pencarian Orang) since February 2011. She was then arrested in Thailand.<sup>5</sup>
3. That with existence of many run-aways suspect to Singapore with the purpose of either hiding or transiting, makes it more difficult for the Indonesia Government to convict the fugitives due to jurisdiction. Thus, both Parties agreed to initiate the forming of Treaty between Indonesia-Singapore for Extradition of Fugitives, ratified through Law 5/2023.<sup>6</sup>
4. That Law 5/2023 was one of the preventive efforts of both parties to restrain the movement of fugitives after the District Court of Requesting Party named them as the suspect.

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<sup>4</sup> CNN Indonesia, 'Daftar Koruptor yang Sempat Kabur ke Singapura' (2022) <https://www.cnnindonesia.com/nasional/20220126103706-12-751365/daftar-koruptor-yang-sempat-kabur-ke-singapura> (accessed on 5 February 2023).

<sup>5</sup> *Ibid.*

<sup>6</sup> Sekretariat Kabinet Republik Indonesia, 'RUU Perjanjian Indonesia-Singapura tentang Ekstradisi Buronan Disahkan Jadi UU' (Humas, 2022) <https://setkab.go.id/ruu-perjanjian-indonesia-singapura-tentang-ekstradisi-buronan-disahkan-jadi-uu/> (accessed on 5 February 2023).

## F. Analysis

The current development for advanced living, make human seems to have easy access to achieve what they desire, one of which, is Indonesia's fugitives to avoid the legal process by fleeing overseas, precisely Singapore.<sup>7</sup> The geographic and social factors of Singapore, which are strategic and correlated to Indonesia, bolster the fugitive's choices. Singapore as the "heaven" for Indonesian's fugitives, is often used as a place to stay, hide, or even changed nationality.<sup>8</sup> It restricts Indonesia Law Enforcement in carrying out the legal process of fugitives due to legal jurisdiction. This phenomenon initiates Indonesia Government and Singapore Government to collaborate by initiating the Treaty for Extradition of Fugitives which contains the fugitives' extradition execution as well as the prohibition and responsibility of each party.

("Law 5/2023") regulates the responsibility of each parties to extradite the other party's criminal offender accordingly if they were found in Requested Party's territory. ("Law 5/2023") officially regulated 31 crimes which extradition can be carried out against it according to both parties' law.

Quoting the statement of the Ministry of Law and Human Rights, Yasonna Lauly, ("Law 5/2023") has a retroactive characteristic and extending in scope to prior 18 years before it was legislated. On the other hand, this agreement also regulates the offender's nationality determined based on the nationality when they committed the crime.<sup>9</sup> Therefore, this agreement became such a "fresh air" for Indonesia Government in carrying out the legal process of suspect who changes their nationality. Furthermore, it also regulates an article regarding a mandatory exception for extradition, to be precise in Article 4. However, if we take a closer look, there is one phrase with multiple

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<sup>7</sup> CNN Indonesia, 'Daftar Koruptor yang Sempat Kabur ke Singapura' (2022) <https://www.cnnindonesia.com/nasional/20220126103706-12-751365/daftar-koruptor-yang-semptakabur-ke-singapura> (accessed on 5 February 2023).

<sup>8</sup> Kemenkumham, 'Ekstradisi RI dan Singapura Sah jadi UU, Buronan Tidak Bisa Sembunyi di Singapura Lagi' (Biro Humas, Hukum dan Kerjasama, 2022) <https://www.kemenkumham.go.id/berita-utama/ekstradisi-ri-dan-singapura-sah-jadi-uu-buronan-tidak-bisa-semunyi-di-singapura-lagi> (accessed on 5 February 2023)

<sup>9</sup> *Ibid.*

interpretations which concerned the writer(s), especially in Article 4 paragraph 1(a) which reads as follows:

*“where the Requested Party determines that the offense which extradition is requested is **an offense of a political character.**”*

The paragraph mentioned that Requested Party may refuse the extradition if the committed crimes indicate political character. Whereas the last paragraph of the article mentioned if there any question arises regarding whether a certain crime indicates political character, it will determine based on the Requested Party's interpretation. This phrase certainly raise a polemic amidst the treaty, because there is no single piece of literature, neither on criminal code, criminal-law procedure code, or other law, ever mention this “political characteristic offense” phrase.<sup>10</sup> Additionally, this treaty for extradition of fugitives not regulates general provision(s), which makes this phrase even more ambiguous, and the legal norm becomes blurry if we try to define and implement it.

The phrase “political character offense” can be divided into 3 (three) variable, such political, character, and offense, which can be interpreted separately through Indonesian Dictionary. Offense means a criminal act (crime). Character means psychological characteristics, morals, or manners that distinguish one person to other. Meanwhile, political means knowledge of constitutional or state affairs.<sup>11</sup> Thus, if we incorporate them into the phrase “political character offense” means a criminal act with a close relation and intention act to constitutional or state affairs.

The phrase also can be interpreted as an action or deed committed in connection with the functioning of the state or state institutions, which is based on political motivation to be able to change the law in accordance with the wishes of the subject. This phrase also contains terms regarding political offenses in criminal law, which contain

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<sup>10</sup> Hotman Siahaan, ‘Tindak Pidana Terhadap Keamanan Negara Dalam Perspektif Delik Politik di Indonesia’ (2019) [6].

<sup>11</sup> KBBI, ‘Kamus Besar Bahasa Indonesia’ (accessed on 8 February 2023).

sub-elements as its characteristic, among them:<sup>12</sup>

1. Crimes committed by the perpetrator aimed at the state and the state's institutional functioning;
2. Crimes committed aimed to change the law of a certain state;
3. The subject of offense based its deed on altruistic motive; and
4. Crimes committed by the subject based on political motives.

On the other side, criminal law politics can be interpreted as an integrated legal political movement in criminal policy hence implemented in criminal laws, either criminal code, criminal-law procedure code, or other laws. The background of the offense is important in determining whether a crime is a political crime or not.<sup>13</sup> However, political character offenses are often found in a bribery cases. The deed was done to fulfil the need of the subject to have a certain position in the government.<sup>14</sup> In addition, no codification in criminal laws regarding the definition of politics can raise 2 (two) perspectives in society: first, the state is considered to have no political ideological background; second, those crimes have no political background. Thus, the political character offense needs a clear definition.<sup>15</sup> Hence, there are no multi interpretations that will lead to ward off their offenses.

## **G. Conclusion**

The definition of “political character offense” led to assumptions on the boundaries of this phrase enforcement. No codification of this phrase raises a multi interpretations which can be used to avoid the legal process. Crimes closely related to a political

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<sup>12</sup> David Hardiango, ‘Delik Politik Dalam Hukum Pidana Indonesia’ (2020) 50 Hukum & Pembangunan. [18].

<sup>13</sup> Rena Yulia, ‘Politik Hukum Pidana Dalam Perlindungan Terhadap Korban Kejahatan di Indonesia’ (2012) Hukum dan Peradilan [21].

<sup>14</sup> Endri, ‘Penanggulangan Kejahatan Pidana Politik Dalam Undang-Undang Pemilihan Umum’ (2014) 1 Selat [10].

<sup>15</sup> *Ibid.*

character need a more intense study to determine their qualification and not jeopardize the public interest.

However, if we try to define this phrase, can be concluded that political crimes offense is a series of criminal acts involving the public interest with the aim and function of institutions and constitutional relations. It should be the focus of both governments in redefining this phrase and not burden it on one party. The Requested Party's acquittal determination of this phrase could be used as a "protection tool" for fugitives to not serve their sentence in Requesting Party's territory. A rigid distinction of political character offense is very much needed to protect and create a national stabilization for both parties.



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### **Regulation**

Law Number 5 of 2023 Concerning Treaty Between The Government of The Republic of Indonesia and The Government of The Republic of Singapore for The Extradition of Fugitives (State Gazette of the Republic of Indonesia Year 2023 Number 5)

**LEGAL MEMORANDUM  
ALSA LOCAL CHAPTER  
UNIVERSITAS GADJAH MADA**

## **The Enactment of Indonesia-Singapore Extradition Treaty: State Asset Recovery, State Defense, and State Corruptors Deterrence Effects**

Adinda Salma Zaina, Gracella Chafrina, and Vernanda Jessica Hendri

ALSA Local Chapter Universitas Gadjah Mada

### **A. Heading**

To : ALSA National Chapter Indonesia

From : Adinda Salma Zaina, Gracella Chafrina, and Vernanda Jessica Hendri

Subject : The Enactment of Indonesia-Singapore Extradition Treaty: State Asset Recovery, State Defense, and State Corruptors Deterrence Effects

Date : February 10th, 2023

### **B. Statement of Assignment**

We are writing this legal memorandum to participate in ALSA Indonesia Legal Memorandum #2 Competition. This legal memorandum is also hoped to be a reference in the implementation process of Law No.5 of 2023 and Law No.3 of 2023.

### **C. Issues**

The absence of Mutual Legal Assistance (“MLA”) and extradition treaties between Indonesia and Singapore, enable criminals to escape ensnarement. In the hopes of causing a deterrence effect for criminals, efforts to promulgate the Indonesia-Singapore Extradition Treaty (“ISET”) have been made since 1998. However, the signing of this agreement received criticisms from a number of parties especially concerning the

“package deal” that involves the Defense Cooperation Agreement (“DCA”). Thus, we will analyze the implementation of the ISET and how it would impact the state asset recovery, state defense and the deterrence effect on fugitives.

#### **D. Brief Answer**

Three loopholes in the implementation of ISET: recovery of state assets, state defense, and deterrence effects. It is feared that the treaty failed to bring forth the cruciality of retrieving Indonesia’s state assets while merely focusing on the subject. ISET comes simultaneously with risks pertaining to sovereignty that require significant recognition from the state to overcome this issue. Lastly, approaches for deterrence effects for the fugitive are indirect however have robust effectiveness since Singapore circumstances of being fugitive’s number one option of destination.

#### **E. Statement of Facts**

Following the ratification of ISET, several facts can be derived from its implication:

1. The criminal enforcement of fugitives is hampered in their pursuit due to ISET’s lack of legal authority.
2. DCA enables Indonesia the chance to bolster its defense by participating in a joint exercise and acquiring the base camp, which is 90% funded by Singapore, after 25 years.
3. By restricting corruptor's mobility ISET create an indirect deterrent impact for corruptors.

## F. Analysis

The Implementation of ISET on:

### 1. State Asset Recovery

Based on ISET, it can be deduced that ISET is not designed for state asset recovery.<sup>1</sup> Instead, it is simply intended for fugitives' extradition in the sense of the return of an individual, and not the object of the crime or a state asset.<sup>2</sup> Such recovery is simpler to be conducted using the MLA treaty, namely the Law on MLA between ASEAN members, which focuses on the investigation, prosecution, and court examination.<sup>3</sup>

According to the double criminality principle, a fugitive cannot be extradited if the crime they committed is not considered illegal under the laws of both states.<sup>4</sup> Indonesia's Corruption Law defines corruption as causing state financial loss to profit oneself.<sup>5</sup> Singapore classifies corruption as soliciting or giving rewards to entice someone to perform a favor with corrupt motives.<sup>6</sup> Although ISET stipulated that the disparity between the crime's elements wouldn't give rise to a question of double criminality, the distinction between the crime's components will lead to a different conclusion about whether an act qualifies as a crime.<sup>7</sup> Rudi Rubiandini was the first-ever case of recovering a state asset according to KPK, and was only able to be carried out because the accepting reward aspect was satisfied, making it illegal under

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<sup>1</sup> Law 5 of 2023 on the Fugitives Extradition (State Gazette Year 2023 Number 5, Supplement to the State Gazette of the Republic of Indonesia Number 6846).

<sup>2</sup> Nurely Darwis, 'Efektifitas Penerapan Undang-Undang Ekstradisi Terhadap Pelaku Kejahatan Transnasional Crime' (2014) 8 Jurnal Ilmiah Hukum Dirgantara.

<sup>3</sup> Law Number 1 of 2006 on the Mutual Legal Assistance in Criminal Matters (State Gazette Year 2006 Number, Supplement to the State Gazette of the Republic of Indonesia Number 4607).

<sup>4</sup> Genoveva Puspitasari, 'Comparison of Law in Indonesia and Singapore Concerning the Eradication of Criminal Acts of Corruption' (2021) 25 International Journal of Business, Economics and Law.

<sup>5</sup> Tri Wahyu, 'Korupsi Dan Upaya Pemberantasannya' (2009) 8 Wacana Hukum <<https://media.neliti.com/media/publications/23536-ID-korupsi-dan-upaya-pemberantasannya.pdf>> accessed 5 February 2023.

<sup>6</sup> Boon Gin Tan and Singapore Academy Of Law, *The Law on Corruption in Singapore: Cases and Materials* (Academy Pub 2007).

<sup>7</sup> Lusya Indrastuti, Doris Rahmat and Doris Rahmat, 'Scope and Standards of the Double Criminality Principle in Extradition Agreements' (2022) 3 International Journal of Educational Research & Social Sciences 217.

the laws of both states to do so.<sup>8</sup>

Under the KUHP evidentiary system, the necessity to retrieve state assets for the evidentiary process may also become problematic if the fugitive committed multiple extraditable transnational crimes, only some of which met the criteria for extradition and were recognized as such by the Singaporean authorities. It is highly possible that the evidence needed to show the untested extraditable offenses would be found outside of Indonesia, as in cases of corruption where the corruptors frequently hide their funds from the KPK by saving them in foreign banks.<sup>9</sup> Hence, the evidence of the unproven crimes cannot be retrieved because it has not fulfilled the evidentiary requirements under Indonesia's criminal law.

## 2. State Defense

State defense would often be interpreted as protecting the state from external physical threat.<sup>10</sup> Cooperative security as an interlinkage between states has been deemed as a solution to improve defense security framework.<sup>11</sup> Singapore, having only 1% of Indonesia's territory<sup>12</sup>, realizes the importance of forging a relationship with Indonesia to overcome its deficiencies.<sup>13</sup> In 1974, a Military Training Area agreement ("MTA") was formed but it was then suspended in 2003 due to violations conducted by Singapore.<sup>14</sup>

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<sup>8</sup> Ibnu Hariyanto, 'KPK Catatkan Sejarah Pemulihan Aset Hasil Korupsi Dari Luar Negeri' (Detik July 2020) <<https://news.detik.com/berita/d-5109376/kpk-catatkan-sejarah-pemulihan-aset-hasil-korupsi-dari-luar-negeri>> accessed 10 February 2023.

<sup>9</sup> Arfin Bin Ibrahim Fasini, 'Kendala Pengembalian Aset Hasil Tindak Pidana Korupsi Transnasional' (2018) 11 Jurnal BPPK: Badan Pendidikan dan Pelatihan Keuangan 28.

<sup>10</sup> Jana Milia, Yandry Kurniawan and Wibisono Poespithadi, 'Analysis on Defense Cooperation Agreement between Indonesia and Singapore in 2007 through Defense Diplomacy Goal Variable' (2018) 4 Jurnal Pertahanan [104].

<sup>11</sup> Ralf Emmers, 'Cooperative Security and the Balance of Power in ASEAN and the ARF' (Routledge 2012).

<sup>12</sup> Kementerian Luar Negeri RI, 'Kedutaan Besar Republik Indonesia Di Singapura .' (Kementerian Luar Negeri Republik Indonesia 2021) <<https://www.kemlu.go.id/singapore/id>> accessed 10 February 2023.

<sup>13</sup> Matthew Sparke and others, 'Triangulating the Borderless World: Geographies of Power in the Indonesia-Malaysia-Singapore Growth Triangle' (2004) 29 Transactions of the Institute of British Geographers [485].

<sup>14</sup> Aristyo Rizka Darmawan, 'Indonesia-Singapore Defence Cooperation Agreement: A Win Win' (*FULCRUM* 28 January 2022) <<https://fulcrum.sg/indonesia-singapore-defence-cooperation-agreement-a-win-win/>>.



During the MTA, Singapore often exceeded the demarcated area and had involved third-party such as Australia.<sup>15</sup>

Having taken a strong disposition towards DCA,<sup>16</sup> Indonesia banned all exports of sand and granite, putting Singapore in a tough spot due to its dependency on Indonesia's resources.<sup>17</sup> Singapore then counters Indonesia with an extradition treaty proposal.<sup>18</sup> The 1998 uprisings caused Indonesian fugitives to flee and made off-shore accounts in Singapore delaying Indonesia's financial crisis recovery.<sup>19</sup> This is a prominent fact to Singapore, having previously rejected ISET because of differences in their legal systems.<sup>20</sup> Prime Minister Loong used this opportunity to make DCA and ISET as a "package".<sup>21</sup> Meaning that Singapore would not ratify ISET if Indonesia refuses to ratify DCA.

This resulted in further conflicts towards the DCA ratification because the Indonesia's House of Representatives ("DPR") felt like it was precarious to allow Singapore to conduct a military exercise in Indonesia's archipelagic water knowing its past delinquencies.<sup>22</sup> DPR was concerned that the military exercises would have threatened Indonesia's sovereignty since the increasing Singapore military equals augmenting

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<sup>15</sup> Dewabrata, W, 'Kerjasama Pertahanan Repotnya Menukar Uang Untuk Ruang' (Kompas 2007).

<sup>16</sup> Pankaj Kumar Jha, 'Singapore-Indonesia Extradition Treaty and Defence Cooperation' (IPCS 27 May 2007) <<http://www.ipcs.org/focusthemsel.php?articleNo=2298>> accessed 10 February 2023.

<sup>17</sup> *Ibid.*; Vijitra Duangdee, 'Singapore: An Epitome of Small State Power' (2015) <[http://ethesisarchive.library.tu.ac.th/thesis/2014/TU\\_2014\\_5603040329\\_1061\\_1135.pdf](http://ethesisarchive.library.tu.ac.th/thesis/2014/TU_2014_5603040329_1061_1135.pdf)> accessed 16 October 2022.

<sup>18</sup> Kumar Jha (n 16).

<sup>19</sup> *Ibid.*

<sup>20</sup> Baiq Humairatulla, 'Rasionalitas Singapura Mengajukan Dca (Defence Cooperation Agreement) Dan Mta (Military Training Area Sebagai Syarat Perjanjian Ekstradisi Dengan Indonesia' (*Universitas Muhammadiyah Malang* 2014) <<https://eprints.umm.ac.id/25806/1/jiptummpp-gdl-baiqhumair-38110-1-pendahul-n.pdf>>.

<sup>21</sup> Permadi Abdullah, 'Analisis Alasan Penolakan Indonesia Dalam Defence Cooperation Agreement (DCA) Dengan Singapura' (UMM 20222) <<https://eprints.umm.ac.id/86505/>> accessed 10 February 2023.

<sup>22</sup> Jürgen Rüländ, 'Deepening ASEAN Cooperation through Democratization? The Indonesian Legislature and Foreign Policymaking' (2009) 9 *International Relations of the Asia-Pacific* 373.

Indonesia's risk of state defense stability.<sup>23</sup> Furthermore, it would affect the income of people in Riau islands, and cause natural damage around Anambas and Natuna islands.<sup>24</sup>

DPR finally ratified both DCA and ISET in December 2022.<sup>25</sup> This DCA has been modified to be mutually beneficial, ensuring Indonesia's sovereignty.<sup>26</sup> Singapore will provide advanced equipment and funding for the cooperation while Indonesia will provide a space to stimulate Singapore's weaponries.<sup>27</sup> Furthermore, there would be a joint military exercise between the two countries, this will alleviate Indonesia's limited defense budget and after 25 years the base camp which is 90% funded by Singapore will belong to Indonesia.<sup>28</sup> With regard to third party involvement, Singapore will require Indonesia's permission and Indonesia will reserve the right to send an observer on the joint exercise.<sup>29</sup>

### 3. State Corruptors Deterrence Effect

Numerous preventive measures have been executed to eradicate corruption,

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<sup>23</sup> Aristyo (n 14)

<sup>24</sup> Syamsu Rizal and Purbo S Suwondo, 'Defence Cooperation Agreement (DCA) RI-Singapura Ditinjau Dari Perspektif Ketahanan Nasional Defence Cooperation Agreement (DCA) RI-Singapura in National Resilience Perspective' (*Universitas Indonesia Library 2009*) <<https://lib.ui.ac.id/detail?id=20338523&lokasi=lokal>> accessed 10 February 2023.

<sup>25</sup> Singapore Ministry of Foreign Affairs, 'MFA Spokesperson's Comments on Indonesia's Ratification of the Singapore-Indonesia Extradition Treaty and the Singapore-Indonesia Defence Cooperation Agreement' (Singapore Ministry of Foreign Affairs 17 January 2023) <<https://www.mfa.gov.sg/Newsroom/Press-Statements-Transcripts-and-Photos/2023/01/20230117indors>> accessed 10 February 2023.

<sup>26</sup> Kementerian Hukum dan Hak Asasi Manusia RI, 'Ekstradisi RI Dan Singapura Sah Jadi UU, Buronan Tidak Bisa Sembunyi Di Singapura Lagi' (*web.kemenkumham.go.id* 15 December 2022) <<https://www.kemenkumham.go.id/berita-utama/ekstradisi-ri-dan-singapura-sah-jadi-uu-buronan-tidak-bisa-sembunyi-di-singapura-lagi>> accessed 10 February 2023.

<sup>27</sup> Millia (n 10) 110.

<sup>28</sup> Kurniawan Firmuzi Syarifuddin, Lukman Yudho Prakoso and Joni Widjayanto, 'Total War Implemented In Defence Diplomacy: Case Study Of The Re-Negotiation Of The Defence Cooperation Agreement Between The Government Of The Republic Of Indonesia And The Government Of The Republic Of Singapore (DCA Indonesia-Singapore)' (2021) 7 *Jurnal Pertahanan: Media Informasi ttg Kajian & Strategi Pertahanan yang Mengedepankan Identity, Nasionalism & Integrity* 50.

<sup>29</sup> *Ibid.*

including extradition.<sup>30</sup> As a codified proof, Law No.1 of 1979 on Extraditions comes into the discussion as the initial pillar of Indonesia's determination.<sup>31</sup> Crucial to note that this national law should be cooperated by other bilateral or multilateral agreements with other states in order to be effective, most crucially the neighboring states that Indonesia has sought since 1979 – Singapore.

The rejection of agreements back in 2007 opens wide opportunities for corruptors to proceed on living in Singapore, steering clear from their sentences, while still managing to dominate their business in Indonesia.<sup>32</sup> In 2022, both states, at last, signed the extradition treaties which then continue to be ratified as Law No.5 of 2023. As a result, the law will narrow Indonesian corruptors' movement to Singapore as the requested states have the legal obligation to surrender fugitives with an adequate *prima facie* from the requesting states.<sup>33</sup> This law also provides legal certainty to Indonesia and hence empowers the deterrence effects to be efficacious – not only for the prior fugitive cases but also as a sign of precaution for the future.

Gayus Tambunan was captured in Singapore in 2010.<sup>34</sup> Antecedently, putting Tambunan was rigorous since the lack of ISET made police to not have any jurisdiction. This issue is a major problem for Indonesia's goal of proceeding with corruption cases. Nonetheless, with the existence of ISET, similar obstacles that happened in Tambunan's case are cleared out, providing Indonesia with a broader space to suppress corruption.

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<sup>30</sup> Yustitiani L and others, 'Extradition as an Effort to Restore Corruption Perpetrators Who Escape Abroad' (2020) 83 *Test Engineering & Management*. [11908 - 11918].

<sup>31</sup> Rembet Z, 'Ekstradisi Sebagai Suatu Upaya Hukum Dalam Penindakan Terhadap Pelaku Kejahatan Menurut UU No 1 Tahun 1979' (2022), 10 *Lex Administratum*.

<sup>32</sup> Iqbal MP, 'International Efforts to Combat Corruption and States' Concern; a Perspective toward Indonesia-Singapore Extradition Treaty after 4.5 Years of Silence' (2012), 9 *Indonesian Journal of International Law*.

<sup>33</sup> Pasal 3 Undang-Undang Nomor 5 Tahun 2023 tentang Pengesahan Perjanjian antara Pemerintah Republik Indonesia dan Pemerintah Republik Singapura tentang Ekstradisi Buronan.

<sup>34</sup> Indonesia Corruption Watch, 'Pelarian Gayus Berakhir, Menyerah Di Singapura | ICW' (*antikorupsi.org* 31 March 2010) <<https://antikorupsi.org/id/article/pelarian-gayus-berakhir-menyerah-di-singapura>> accessed 10 February 2023.

## G. Conclusion

1. As the recovery of the state asset as the object of the crime is not stipulated in the treaty, the ISET cannot be used as a legal justification to reclaim state assets because it is only designed for extraditing the subject of the crime.
2. DCA should be taken as a lesson to find common ground in national interest and what should be prioritized between material gain and territorial affairs. Notwithstanding the risks that may arise in Indonesia's state defense, DCA should act as a legal umbrella of defense cooperation. The ratification of DCA and ISET is a way for Indonesia to increase its national resilience while keeping its sovereignty intact.
3. The deterrence effect stipulated by this treaty is rather indirect for the corruptors. The treaty works mainly by limiting the corruptors' room to move and therefore to some extent water down corruption cases by eliminating Singapore to be a fugitive safe haven.

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**LEGAL MEMORANDUM  
ALSA LOCAL CHAPTER  
UNIVERSITAS SAM RATULANGI**

## The Urgency of Implementing the Extradition Treaty by Indonesia and Singapore

Eileen Lean Oei, Rachel Patricia Runtu, and Virgie Makarawung  
ALSA Local Chapter Universitas Sam Ratulangi

### A. Heading

To : ALSA National Chapter Indonesia

From : Eileen Lean Oei, Rachel Patricia Runtu, and Virgie Makarawung

Subject : The Urgency of Implementing the Extradition Treaty by Indonesia and Singapore

Date : February 7th, 2023

### B. Statement of Assignment

We, as a Law Students, were appointed to prepare a Legal Memorandum that discusses about the Urgency of Implementation the Extradition Treaty by Indonesia and Singapore and how this Treaty impact the practical law enforcements in Indonesia.

### C. Issues

In recent years, criminals especially corruptors have become more creative in committing acts of corruption in their home countries and fleeing to other countries along with the assets they have taken to be keep in the country where they're going. The outgoing of these criminals to other country is to avoid all the attempts to arresting them. The international community's commitment to tackle this cross-border crimes through international cooperation can be seen from recent international legal instruments, both

bilateral and multilateral agreements. One of them is this extradition treaty. On April 27th, 2007, the Government of the Republic of Indonesia has signed an extradition agreement with the Defense Cooperation Agreement with Singapore. With the existence of this extradition, it is hoped to decrease all the attempts of Indonesians criminals to outcome the law by going to Singapore.

#### **D. Brief Answer**

The Urgency of Implementing the Indonesia – Singapore Extradition Treaty.

It takes a long process in making this treaty, 30 years since the first discourse, the extradition treaty between Indonesia and Singapore was signed on Friday, April 27th 2007. In addition to the extradition treaty, an agreement on Defense Cooperation between the two countries has also been signed. The signing of the agreement was carried out at the Tampaksiring Palace in Bali by the Indonesian Foreign Minister and the Singapore Foreign Minister witnessed by Indonesia's President at that time, Susilo Bambang Yudhoyono as well as the Singapore's President at that time, Lee Hsien Loong. The extradition agreement opens up a new opportunities to Indonesia to be able to repatriate economic criminals such as corruptors, money launderers and so on. This agreement also opens a new chapter between the RI-Singapore relations. The role of this Extradition Agreement is to eradicate transnational criminals, which has an impact on the welfare between these two countries before the crimes are committed more widely.

#### **E. Statement of Facts**

With the ratification of the Extradition Treaty by Indonesia and Singapore, it can be stated several facts related to this theme:

1. Law No. 5 of 2023 is a regulation that ratifies the Extradition Treaty by Indonesia and Singapore.



2. The Extradition Treaty by Indonesia and Singapore is an agreement regarding fugitive that was signed by Indonesia on April 7th 2007 and entered into force on 2023.
3. Law No. 1 of 1979 about Extradition has the relevancy with this Extradition Treaty by Indonesia and Singapore.

## **F. Analysis**

### **1. The significance of the Extradition Treaty in efforts to eradicate crime that happens in Indonesia and Singapore**

- 1) Extradition as a means to eradicate crime, especially between Indonesia and Singapore, because Singapore is one of the closest neighboring countries to Indonesia, the proximity of this region causes Singapore to be the best, fastest and safest alternative as a fugitive for international crimes. As evidence, there are many perpetrators of corruption, terrorism escapes, narcotics crimes, aviation and ship crimes, places of escape for trafficking in persons, and so on. It is this regional proximity that makes Singapore the best potential place of escape for criminals.
- 2) The extradition agreement between Indonesia and Singapore in relation to crime prevention still requires studying a different legal system, as it is known that Indonesia implements the Civil Law Legal System, while Singapore adheres to the Common Law Legal System. Also in terms of the obstacles to drafting it, which so far Indonesia has opened up to Indonesia so that there are no problems from Indonesia itself, it is Singapore itself that seems to be hindering it in its intention and commitment in efforts to draw up and implement an extradition treaty. So that the impression that an extradition treaty has not been drafted let alone implemented will add to the profits for the perpetrators of corruption, terrorism and other crimes, because they are capable and have the widest possible opportunity to remove traces of their crimes by destroying evidence,

whether in the form of objects , assets or people.

## **2. Legal Aspects of the Extradition Treaty between Indonesia and Singapore in terms of International Law**

Extradition treaty are international agreements made between countries and the contents relate to the extradition can consist of suspects or perpetrators of any kinds of crimes including economic crimes. As an international agreement, the extradition treaty has binding legal force in accordance with international law. Extradition agreements are generally ratified by the state. If the extradition treaty between Indonesia and Singapore can finally materialize and be ratified by the state, it will have strong legal force and be binding in terms of international law. So that the two countries must carry out and implement the contents of the agreement in good faith. Indonesia-Singapore are currently conducting further negotiations to discuss an extradition agreement in the context of tackling economic crimes. So far, many suspects or perpetrators of economic crimes in Indonesia have fled to Singapore along with large sums of money and capital. Meanwhile, Indonesian law does not extend to the territory of Singapore. If the Indonesia-Singapore extradition agreement can be realized then it brings great prospects including the suspect or perpetrator of the economic crime can be brought back to Indonesia to be sentenced according to the applicable law, and vice versa for Singapore.

## **3. Juridical Analysis of Extradition Agreements on Economic Crimes in terms of Indonesia's National Interest**

In general, requests for extradition are based on national legislation, extradition treaties, extensions of international conventions and customary international law. In the event that a request for extradition occurs outside of the rules mentioned above, extradition can be carried out on the basis of good relations with other countries, both for reciprocal and unilateral interests. This practice is called disguised extradition

(Disguised Extradition), namely the handing over of the perpetrators of crimes is not carried out in full accordance with the extradition processes and procedures as stipulated in the extradition law. Globalization apart from providing the benefits of life, in the sense of the word increases the welfare of mankind. On the other hand, it has a negative impact on the level of security, both at the level between regions within a country and on international security instability, namely the occurrence of transnational crimes. The characteristics of a transnational crime are the existence of foreign elements in the crime, which crosses territorial boundaries or a citizen who commits a crime flees to another country. In order to pick up the convict, extradition measures are needed. Extradition cannot be done haphazardly. For this reason, there must be a bilateral agreement regarding extradition between the two countries involved in crimes committed by their citizens.

## G. Conclusion

1. The Extradition Agreement between Indonesia and Singapore agrees to extradite any person who is found in the territory of the country requested and sought by the requesting country for prosecution or trial or execution of a sentence for a crime that can be extradited.
2. Extradition agreements are international agreements made between countries and their contents relate to the extradition of suspects or perpetrators of crimes including economic crimes. As an international agreement, the extradition treaty has binding legal force in accordance with international law.
3. In general, requests for extradition are based on national legislation, extradition agreements, extensions of international conventions and manners. In the event that a request for extradition occurs outside of the rules mentioned above, extradition can be carried out on the basis of good relations with other countries, both for reciprocal and unilateral interests. This practice is called disguised extradition (Disguised Extradition).

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# **LEGAL MEMORANDUM ALSA LOCAL CHAPTER UNIVERSITAS JEMBER**

## **Comparison of the Effectiveness of the Process of Fugitive Arrangement Before and After the Indonesia-Singapore Extraction Agreement**

Rahmat Fatih Rosyidin, Rendy Tridolok Silaban, and Ronna Mayita Shofiyana

ALSA Local Chapter Universitas Jember

### **A. Heading**

To : ALSA National Chapter Indonesia

From : Rahmat Fatih Rosyidin, Rendy Tridolok Silaban, and Ronna Mayita Shofiyana

Subject : Comparison of the Effectiveness of the Process of Fugitive Arrangement Before and After the Indonesia-Singapore Extraction Agreement

Date : February 9th, 2023

### **B. Statement of Assignment**

One of the efforts of a criminal to escape all prosecution is to flee abroad. Apart from being hidden from the radar of law enforcement in Indonesia, they also take advantage of legal jurisdictional limitations. One country that is often used as a place for fugitives to escape is Singapore, especially for corruption crimes. This is apart from its geographical proximity, Singapore also has a closed economic system, making it a place for money laundering. Following up on these problems, the Government finally agreed on an extradition treaty for Indonesia and Singapore. However, what are the implications for the effectiveness of law enforcement in Indonesia?

Seeing this, we wrote this Legal Memorandum in order to participate in the ALSA Indonesia Legal Memorandum #2 Competition organized by ALSA National Chapter



Indonesia 2022/2023 with the theme "The Implementation of the Treaty for Extradition of Fugitives between Indonesia and Singapore". This Legal Memorandum is also expected to be a reference for the government and related parties to develop strategies to optimize this agreement in the framework of effective law enforcement.

### **C. Issues**

In every region of a country that has positive laws, both native citizens and foreign citizens must comply with applicable positive laws and be held accountable for crimes committed by law enforcement in that country. However, the problem of the lack of legal awareness makes citizens who commit crimes take various ways to escape, both legally and illegally. In Indonesia itself, not a few suspects of a crime do something similar. They usually run to European countries. But there are also hiding in neighboring countries such as Singapore. Several times Indonesia got its fugitives back from Singapore by way of deportation, for example, Hartawan Aluwi, one of the suspects in the Bank Century case. However, after the ratification of the Extradition Agreement between Indonesia and Singapore, this can be the answer to breaking the boundaries of the legal jurisdiction of each country and also facilitating the legal process of a fugitive. Based on this, we will examine two main problem formulations, namely; 1) What was the process for returning a fugitive before the extradition agreement between Indonesia and Singapore? 2) Can the existence of an extradition agreement between Indonesia and Singapore increase the effectiveness of law enforcement in Indonesia?

### **D. Brief Answer**

In fact, before the extradition treaty between Indonesia and Singapore existed, Indonesia could still get its fugitives back. However, it is usually constrained by different bureaucracies and also contested by the legal jurisdiction of Singapore. One of the methods used is by deporting people who are on the wanted list. With the ratification of

this extradition treaty in Law Number 5 of 2023, of course, it will greatly assist Indonesian law enforcers to capture and try a fugitive hiding in Singapore. Because this agreement simplifies the procedures and bureaucracy related to the return of these fugitives. In addition, this agreement will be even more optimal if it is accompanied by the ratification of the Bill on Confiscation of Assets Proceeds of Crime.

### E. Statement of Facts

With the existence of an extradition agreement between Indonesia and Singapore, the following facts can be stated:

- 1) That Singapore is one of the countries where fugitives from Indonesia are hiding, especially corrupt fugitives who launder money there;
- 2) Whereas the existence of an extradition agreement between Indonesia and Singapore can become a legal umbrella for optimizing Indonesian law enforcement in the international sphere; and
- 3) That this extradition agreement can be maximized again if the Draft Law on Confiscation of Assets Proceeds of Crime is also passed. So that apart from the fugitives who have been repatriated, their assets resulting from money laundering can also be immediately secured.

### F. Analysis

#### 1. Singapore and its potential as a place for criminals to escape from Indonesia

Singapore has officially entered into an Extradition Agreement with Indonesia in 2022<sup>1</sup>, which is a form of cooperation in which the two countries agree to arrest and

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#### <sup>1</sup> Laws

Undang-undang Nomor 5 Tahun 2023 tentang Pengesahan Perjanjian antara Pemerintah Republik Indonesia dan Pemerintah Republik Singapura tentang Ekstradisi Buronan (*Treaty between the Government of the Republic of Indonesia and the Government of the Republic of Singapore for the Extradition of Fugitives*) (Lembaran Negara Republik Indonesia Tahun 2023 Nomor 5, Tambahan Lembaran Negara Republik Indonesia Nomor 6846).

hand over criminals who have fled to other countries to avoid criminal punishment or are even still under investigation. Singapore is considered a strategic place for fugitives to nest and plant their assets there because of its strategic location. In addition to Singapore's position directly bordering Indonesia, Singapore is also registered as a visa-free country according to the policy of the Government of Indonesia.<sup>2</sup> This is very beneficial for criminals to hide or make transit before finally leaving for the final destination country.

In this case, Singapore also had an advantage before the extradition agreement was formalized, because the freedom and convenience to travel to Singapore, the higher the potential for Singapore to become a place to hoard wealth fugitives. This is one reason why the ratification process for the extradition treaty was officially signed in 2022 starting in 2007.<sup>3</sup>

The condition given by Singapore to be willing to formalize the extradition agreement is that Indonesia must be willing to lend its territory for Singapore's military exercises. It was with this agreement that Singapore considered it commensurate with the losses suffered as a result of the approval of the extradition agreement which resulted in fugitives, most of whom were corruptors, being returned to Indonesia along with their assets.

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<sup>2</sup> **Website**

Direktorat Jenderal Imigrasi Kementerian Hukum dan HAM RI, 'Bebas Visa Kunjungan', (Direktorat Jenderal Imigrasi Kementerian Hukum dan HAM RI, 2021) <https://www.imigrasi.go.id/id/bebas-visa-kunjungan/> accessed 9 February 2023

<sup>3</sup> **Journal**

Avinasa Suryagilang Wicaksana, 'Penundaan Indonesia dalam Meratifikasi Perjanjian Ekstradisi dengan Singapura Tahun 2007-2014 (Studi Kasus: Korupsi BLBI)' (2016) 2 *Journal of International Relations*. [263].

## 2. Dynamics of the Indonesian government's efforts to arrest criminals who fled to Singapore

Sometimes law enforcers are faced with obstacles when they want to catch a fugitive in a crime who flees abroad. This is of course related to legal jurisdiction and also the legal sovereignty of a country. In practice, law enforcers use several methods to "repatriate" a suspect who has fled to hide in another country by means of expulsion or deportation and *persona non grata*.<sup>4</sup> In addition to these two methods, other methods can and have been used by various countries to repatriate suspects, namely direct surrender, forced retrieval, or cooperation with Interpol.

Direct delivery is a method that is often used. However, in practice, there must be bilateral and multilateral agreements between the countries concerned. Examples include Indonesia and Singapore which were made on January 25 2022 and have been ratified in Law Number 5 of 2023. Before this agreement, if a fugitive fled to Singapore, law enforcement from Indonesia would rely on the deportation process from the other country. concerned. For example, the deportation of the fugitive Aluwi treasurer in the Bank Century case in 2016.<sup>5</sup> The existence of an extradition agreement between Indonesia and Singapore will greatly facilitate Indonesian law enforcement. However, this must be accompanied by the ratification of the Criminal Act of Asset Confiscation Bill. because this strategy can enable Indonesia to find suspects or convicts who have fled to Singapore and get state assets that were taken away by them. This is very

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#### <sup>4</sup> Journal

Alfonso M. Mewekang *et al*, 'UPAYA PEMERINTAH INDONESIA DALAM MENGHUKUM DAN MENGADILI PELAKU TINDAK PIDANA YANG MELARIKAN DIRI KE NEGARA LAIN DITINJAU DARI EKSTRADISI DALAM HUKUM PIDANA INTERNASIONAL' (2005) 10 *Lex Administratum*. [9].

#### <sup>5</sup> Website

Hukum Online, 'Dideportasi dari Singapura, Buronan Bank Century Ditangkap Polisi', (Hukum Online, 2016) <https://www.hukumonline.com/berita/a/dideportasi-dari-singapura--buronan-bank-century-ditangkap-polisi-lt5719cf388b1cab> accessed 9 February 2023

beneficial because not only can the suspect or convict be tried for the assets that were taken away can also be brought back to Indonesia.<sup>6</sup>

### **3. Optimizing the extradition agreement between Indonesia and Singapore in the context of legal effectiveness**

In the process of law enforcement, it is necessary to have cooperation and synergy between countries in preventing and eradicating transnational crimes that have an impact on security stability. The extradition agreement between Indonesia and Singapore will respond to the challenges of the rapidly changing and uncertain strategic environment and enhance the role of law enforcement in the context of legal effectiveness.

In optimizing bilateral relations between the two countries in the extradition treaty between Indonesia and Singapore, it is hoped that it will also encourage strengthening cooperation in other fields that are beneficial to the development and national interests. Simultaneously, this shows Indonesia's commitment as part of the international community in efforts to tackle and eradicate cross-border crime by handing over perpetrators of criminal acts to trial or carrying out their crimes in the requesting country.

Ratification of the extradition agreement between Indonesia and Singapore will expand the reach of national law enforcement in eradicating crime. The existence of an agreement will bind the two countries to respond and take the necessary actions to immediately hand over the perpetrators as long as all the necessary conditions have been met. This agreement also emphasizes that in optimizing the effectiveness of law enforcement, the importance of implications for the implementation of extradition provisions by law enforcement officials.<sup>7</sup>

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<sup>6</sup> **Journal**

Satria Arif Darmawan *et al*, 'Dampak Ratifikasi Perjanjian Ekstradisi Antara Indonesia Dengan Singapura' (2022) 5 Lontar Merah. [505].

<sup>7</sup> **Website**



In optimizing the extradition agreement between Indonesia and Singapore, of course, refers to the government's goals for the interests of the country at the international level, such as maintaining political independence and territorial integrity. The national interest also refers to the aspirations of the state to achieve prosperity both in defense and in the economy. This means that territorial security, economic vitality, and domestic and foreign political independence are interconnected.

## G. Conclusion

Singapore has become a hiding place for fugitives from Indonesia, especially suspects in corruption cases. They take advantage of their close geographical location and closed economic system, making it easier for them to launder money. In addition, before the extradition agreement between Indonesia and Singapore, the Indonesian government used other mechanisms such as deportation. With this agreement, it is hoped that it can increase the effectiveness of Indonesian law enforcement, especially in the international realm.

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Widodo Ekatjahjana, 'Naskah Akademik Rancangan Undang-Undang tentang Pengesahan Perjanjian Antara Pemerintah Republik Indonesia dan Pemerintah Republik Singapura Tentang Ekstradisi Buronan (Treaty Between the Government of The Republic of Indonesia and the Government of The Republic of Singapore For the Extradition of Fugitives)' (2022). Accessed 9<sup>th</sup> February 2023.



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Republic Of Singapore For The Extradition Of Fugitives). Accessed 9<sup>th</sup> February 2023

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