
FerrLegal Transendence Theory:**Traces and Efforts to Build Transendent Legal Paradigm**

Achmad Dzaki Prasetyo¹, Dwi Agustina Maharani², Ertina Dewi S³, Strong Ari Febrianto⁴, Nadzirah Nurul Hanan⁵

¹ University of Muhammadiyah Surakarta (c100200366@student.ums.ac.id)

² University of Muhammadiyah Surakarta (c100200372@student.ums.ac.id)

³ University of Muhammadiyah Surakarta (c100200291@student.ums.ac.id)

⁴ University of Muhammadiyah Surakarta (c100182391@student.ums.ac.id)

⁵ University of Muhammadiyah Surakarta (c100200231@student.ums.ac.id)

ABSTRACT

Extradition between Indonesia and Singapore began to be signed on January 25, 2022 in Bintan, Riau Islands. In this extradition agreement, the implementation that has been carried out by the two countries in the arrest of perpetrators of criminal acts allows prisoners who have fled to Singapore or Indonesia to be returned to their respective countries and can be tried in the country where they committed the crime. In this study, the author uses a normative juridical method and through a literature study, the researcher collects literature studies originating from national and international writings, journals or articles that have relevance and are in accordance with what is needed to support research.

Keywords : extradition, implementation, extradition treaty.

PRELIMINARY

Criminal acts are a universal problem that occurs throughout the world, not only in one country, but also for criminals who flee abroad to escape the legal snares that bind them in the country where the perpetrators of these crimes commit crimes. In this case, there are many agreements between countries to handle this case, such as extradition, this is done so that the space for criminal acts is narrower. Extradition has a description of the surrender, based on the idea of the voluntary or reciprocal extradition of a person accused of a crime or convicted of a crime in the country from which he or she fled. Extradition can be used as the basis for international cooperation in the eradication and prevention of crime because it provides a safe haven, a country accuses or punishes it as a state, and clear jurisdiction to carry out a crime.¹⁸

Extradition is defined as extradition within the authority of the seeking State outside the territory of the sending State to the State requesting the extradition of a person accused or convicted of a criminal offense by the State, this is based on Article 1 of Law Number 1 of 1979. Because they have the authority to punish whoever tries to submit or not. Extradition, in essence, is the process of extraditing a suspect or convict imprisoned in another country to the suspect's

¹⁸ <https://business-law.binus.ac.id/2016/10/14/antara-ekstradisi-dan-deportasi/>

country of origin, where he or she will be tried according to the laws of the suspect's country of origin.

On January 25, 2022, to be precise in Bintang Riau Islands, the extradition agreement between Indonesia and Singapore was officially signed by Yasonna H. Laoly as Minister of Law and Human Rights and K. Shanmugan as Minister of Home Affairs and Minister of Law of Singapore, witnessed directly by the President RI namely, Joko Widodo and the Prime Minister of Singapore, namely, Lee Hsien Loong. This extradition agreement has actually been initiated by Indonesia since 1998, but the discussion of this agreement only started in 2002 at the Bogor State Palace by the Indonesian president, Megawati and the Singaporean prime minister, Goh Chok Thong, who discussed the development of cooperation between the two countries in everything says fields like bilaterals and extradition. In discussing the draft extradition agreement, it was quite difficult both at home and at bilateral meetings, the two countries finally signed an extradition agreement in 2007 at the Tampaksiring palace, Bali which was signed by the Indonesian foreign minister and the Singaporean foreign minister.¹⁹

In addition to extradition, there is also a defense cooperation agreement, namely the Defense Cooperation Agreement (DCA), but this agreement is blocked because it has not yet received approval from the Indonesian House of Representatives. In the extradition treaty, there are other facts that must be agreed upon, which has created a debate between the two countries, in that agreement Singapore asked for the territorial waters of Sumatra and the Riau Islands to be used for military training. Because of the debate, the process of ratification of the extradition treaty and DCA has not been approved by the DPR RI.

Indonesia and Singapore have a retroactive period under this extradition treaty, which is valid for 18 years from the date of promulgation. This is in accordance with the provisions of Article 78 of the Criminal Code regarding the expiration period. This extradition agreement stipulates that there are 31 criminal acts in which the perpetrators can be extradited, including criminal acts of corruption, money laundering, bribery, banking, narcotics, terrorism, and financing of activities related to terrorism.²⁰ Based on the description above, the authors are interested in discussing the following matters:

1. How is the implementation of the extradition treaty between Indonesia and Singapore?
2. What are the obstacles that hinder the implementation of the extradition treaty between Indonesia and Singapore?

Meanwhile, the aim is to find out how the implementation of the extradition treaty between Indonesia and Singapore and also to know what obstacles hinder its implementation. Then, the benefits of the extradition treaty between Indonesia and Singapore can further be used to reduce criminals who fled to Singapore, as well as make it easier to hand over perpetrators to their respective embassies without having to go through international procedures such as the

¹⁹ <https://m.bisnis.com/amp/read/20220125/15/1493039/sejarah-panjang-perjanjian-ekstradisi-ri-singapura-hingga-akhirnya-diteken-hari-ini>

²⁰ <https://www.kemenkumham.go.id/berita/ekstradisi-ri-singapura-bikin-gentar-koruptor-dan-teroris-ini-lini-masa-hingga-perjanjian-ditandatangani-yasonna>

International Court of Justice or Interpol, and improve future relations between the two countries in various sectors

RESEARCH METHODS

In writing this article, the research that will be used is normative juridical research in the field of studying extradition treaties, namely by finding and reviewing extradition treaties and national journals. Data collection techniques are literature studies, where researchers collect literature studies originating from national and international writings, journals or articles that have relevance and are in accordance with what is needed to support research. The sources of data for this study were collected in the form of information or empirical data from books, journals, research reports, and other literature that support the theme of this research. This data source is bibliographic or comes from various literatures including books, journals, newspapers, personal documents, and other sources.

RESULTS AND DISCUSSION

1. Implementation of the Extradition Treaty Between Indonesia and Singapore

Starting from corruption cases that have occurred in Indonesia for a long time. The New Order continued until the Reformation era before or after independence in the Old Order era. Which is where corruption cases in Indonesia are increasingly rampant. However, all of that cannot be separated from the supervision of the Indonesian government which is a program of the State Revenue and Expenditure Budget. The revelation of the embezzlement problem in Indonesia is not all of the many corruption scandals in this country, a number of people have fled the country. The country that became the destination of these criminals is Singapore. Singapore is indeed a paradise for fugitives. Many Indonesian fugitives fled to Singapore.

Relations between Indonesia and Singapore are currently focusing on transnational security issues. by escaping to Singapore. This problem forced them to cooperate extradition in 2007 in April. The establishment of this agreement on April 28, 2007 at the Tampak Siring Palace, Bali, became a new stage to build cooperation between Indonesia and Singapore after a long method of many dynamics over the last 3 decades. The journey of this agreement is quite difficult because each side wants to get an agreement that does not harm both sides and is in line with the national legal framework.

The extradition treaty of Indonesia and Singapore is basically an agreement that requires each party to agree to extradite with the other party, where everyone is in the territory of a particular organization and is contacted by the organization for the purpose of completing tasks such as demanding or completing sentences for crimes that can be committed in the territory of the Republic of Indonesia. the law of the organization. In 2007, the extradition

treaty could not be validated by both countries. Before extradition was discussed, the two countries had tried within the framework of Bilateral Cooperation which had been initiated since 1974, dealing with security and crime issues through bilateral cooperation. Before the emergence of the esoteric rivalry between Indonesia and Singapore also used the international police to deal with crimes. In 2007 there was an update in which Singapore agreed to the extradition treaty but after that Singapore did not carry out the validation. In fact, Singapore had made this problem a place for Indonesian blackmailers regarding DCA. With the Defense Cooperation Agreement, Singapore is blackmailing Indonesia so that it can use Indonesian territory as a training ground for Singaporean soldiers, in return Singapore will validate the extradition agreement. Of course Indonesia denies the plan and now the extradition issue has not been resolved. Singapore is blackmailing Indonesia into using Indonesian territory as a training ground for Singaporean soldiers, in exchange Singapore will validate the extradition treaty. Of course Indonesia denies the plan and now the extradition issue has not been resolved. Singapore is blackmailing Indonesia into using Indonesian territory as a training ground for Singaporean soldiers, in exchange Singapore will validate the extradition treaty. Of course Indonesia denies the plan and now the extradition issue has not been resolved.

Indonesia's extradition treaty with Singapore seems vague in terms of the certainty of the rules and implementation of this treaty. Until now, many individuals listed in the contents of the agreement have fled to Singapore, but Singapore has not provided any person to Indonesia as stated in the agreement. Singapore is used as a stopover for people to escape because it is easy for people to escape legal sanctions and there are no legal rules that can arrest them in Singapore. If it is connected using realism theory, Indonesia is adamant about the results by delaying the validation of the extradition treaty because Indonesia prioritizes the relevance of its citizens. Indonesia decided to postpone the agreement rather than have to give the area to be used for upgrading troops, due to Indonesia's distrust of its national security. Indonesia feels anticipatory if Singapore understands the territorial area. Apart from in terms of the military, Indonesia's equipment is not as advanced as Singapore's, so that makes Indonesia even more anxious and suspicious of Singapore.

The postponement of extradition has had a very influential effect on the prosecution of corruption in Indonesia. This effect can be seen from the difficulty of the corruption eradication system between Indonesia and Singapore, and the achievement of a broad agenda of national interests. Indonesia and Singapore are not in line when taking action against corruption which then leads to difficulty in finding results for consultation between the two countries, especially Indonesia.

On January 25, 2022, Indonesia and Singapore signed the extradition treaty in Bintan, Riau Islands. The agreement was ratified by Mr. Yasonna H. Laoly, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Home Affairs, and K. Shanmugam as the Minister of Law of Singapore. Accompanied by the President of the Republic of Indonesia, namely Joko and Lee Hsien Loong as Prime Minister of Singapore. Indonesia's agreement with Singapore is valid for the next 18 years. This is in accordance with the

provisions on the maximum expiration as stipulated in Article 78 of the Criminal Code. (Quoted from setkab.go.id). So at this time it is possible for perpetrators who are hiding in Singapore to be repatriated and prosecuted using the laws in force in Indonesia.

2. Obstacles Barring Implementation of the Extradition Treaty Between Indonesia and Singapore

Indonesia has entered into extradition treaties with a number of countries, including Malaysia in 1974, the Philippines in 1976, and Thailand in 1978. Likewise, the extradition treaty with Singapore which began in 2007 and is currently only in the signing and ratification stages.²¹ Then, on January 18, 1979, Indonesia issued Law No. 1/1979 which dealt with extradition. Because the arrangements are contained in international law, especially in the form of international agreements, extradition is a form of cooperation between countries. In addition, extradition is a matter in the region, and therefore also included in national law, especially in the form of legislation on extradition.²²

Between Indonesia and Singapore, the extradition agenda generally relates to politicization and become a guide to achieve certain goals of a country. It can also be used to track/prosecute individuals who are on the outside borders of their country. The extradition discussion together with the Defense Cooperation Agreement in Bali on 27 April 2007 became a new chapter to open Indonesia-Singapore relations after going through a long and dynamic process since 1972.

This agreement is quite difficult because there are parties who want to get an agreement that is detrimental to both parties. This Extradition Agreement is one of the UNCAC implementations related to the prevention and eradication of corruption, which was signed and ratified by Indonesia with Law no. 7 of 2006.²³ To date, the extradition treaty which has been signed by both parties has not yet been ratified. Commission 1 of the Indonesian House of Representatives from the Indonesian Government stated that it did not agree to ratify the agreement and demanded that the agreement be renegotiated with Singapore.²⁴

Indonesia and Singapore, as parties to the extradition treaty, face various obstacles and constraints in the process of making and ratifying the extradition treaty. These obstacles and constraints, namely extradition itself provides greater protection to individual perpetrators of criminal acts from the protection of the public interest. Then, the existence of complicated

²¹ Jonatan Ginting, "Perjanjian Internasional Dalam Pengembalian Aset Hasil Korupsi Di Indonesia", dalam *Jurnal Dinamika Hukum*, No. 3, September 2011, hlm. 455.

²² Syarifuddin, *Relevansi Undang-Undang Nomor 1 Tahun 1979 Tentang Ekstradisi Dengan Perkembangan Ekstradisi Internasional (Studi Kasus : Perjanjian Ekstradisi Indonesia-Singapura)*, dalam *Jurnal Komunikasi Hukum*, No. 2, Februari 2016, hlm. 98.

²³ Budi Setiyono, dan Ross McLeod, "Civil Society Organisation Contribution To The Anti-Corruption Movement In Indonesia". Dalam *Bulletin Of Indonesian Economic Studies*, Nomor. 46, 2010, hlm. 360.

²⁴ Amitav Achary, *Indonesia Matters : Asia's Emerging Democratic Power*. Singapura : World Scientific. 2015, hlm. 14.

procedures that must be carried out by both countries because it requires the involvement of international organizations, such as Interpol in this case, means that only asking one person takes a lot of time and money is also one of the obstacles and obstacles that exist. Furthermore, extradition has a limited scope as a means of eradicating corruption, particularly in Singapore, which only returns assets, not people, in cases of corruption.

Then it can be understood that if the most significant obstacle in the ratification process of the agreement was when discussing the meaning of the ratification of the agreement, this was also reinforced by the opinion of one of the International Relations lecturers from the Satya Wacana Christian University (SWCU), namely Novriest Umbu Walangara Nau, S. Hub.Int, MA Self-ratification process. has an implementation meaning so that it takes a long time to consider and decide on the concrete implementation of the extradition treaty of Singapore and Indonesia. It is also known that in 2007 the two countries actually agreed on an extradition treaty, but it has not been implemented because the DPR as the representative of the Indonesian government has concerns that Singapore has hidden interests behind its desire to carry out extradition relations with Indonesia. Until the agreement was canceled due to the absence of approval in the operational realm.

The point is that the problem in this agreement is not actually the extradition treaty, but rather the participation of other agreements as part of the extradition treaty that has been agreed, namely the Agreement on Adjustment of the Indonesia-Singapore Aviation Information Area Boundary (FIR) and the Security Cooperation Agreement. However, with the growing importance of the two-state partnership, the deal that had been in the works for years was finally agreed on January 22, 2022. The long-standing effort to build an extradition treaty has finally come to an end. Thus making the leaders of each country realize that ultimately the re-realization of the agreements that have been initiated previously

CONCLUSION

The Extradition Agreement between Indonesia and Singapore did not go so smoothly, there were many obstacles both from the Indonesian side and the Singaporean side because neither of them wanted to get a detrimental agreement. On 28 April 2007 the formation of the extradition treaty between Indonesia and Singapore has not been validated by the two countries because Singapore will validate the extradition if one of Indonesia's territories is used as a military training base for Singaporean soldiers which of course is rejected by Indonesia. namely anticipating that its territorial area will be studied by Singapore, which makes Indonesia delay the validation of the extradition treaty.

This has an impact on the number of criminal suspects in Indonesia who fled to Singapore and also the difficulty of coordination between Indonesia and Singapore, especially in the case of corruption suspects who fled to Singapore. The core of the problem is not the agreement itself but the existence of other agreements that are part of the extradition treaty that has been agreed. However, with the increasing importance of the needs of each country itself, finally the effort to

build an extradition treaty between Indonesia and Singapore was agreed and signed. On January 25, 2022, precisely in Bintang Riau Islands, the extradition agreement between Indonesia and Singapore was officially signed by Yasonna H. Laoly as Minister of Law and Human Rights and K. Shanmugan as Minister of Home Affairs and Minister of Law of Singapore, witnessed directly by the President RI namely, Joko Widodo and the Prime Minister of Singapore, namely, Lee Hsien Loong

SUGGESTION

The author hopes and suggests that the Indonesian government can review or evaluate the extradition treaty with Singapore and ensure that Indonesia is not harmed and does not interfere with Indonesia's sovereignty.

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