

The Urgency of Indonesia-Singapore's Extradition Agreement in the Corruption Law Enforcement

Dian Ekawaty Ismail¹, Novendri M. Nggilu²
^{1,2} Universitas Negeri Gorontalo, Gorontalo - Indonesia
 dian.ekawaty23@gmail.com

Abstract-*The purpose of this paper is to see the urgency of the extradition treaty between Indonesia and Singapore in terms of law enforcement of criminal acts of corruption. As is well known, there are quite a number of corruptors who fled to Singapore so that they were not ensnared by Indonesian law. Indonesian law enforcers have difficulty in arresting perpetrators of corruption due to the absence of an extradition treaty between Indonesia and Singapore. Meanwhile, on the other hand, Indonesia has ratified Law No. 1 of 1979 concerning Extradition. The research method used is a normative juridical method, with a library approach. The results of the extradition agreement between Indonesia and Singapore are very necessary to be followed up. Considering that there are quite a number of corruption actors who fled to Singapore and facilitated law enforcement in eradicating corruption. Suggestions offered to realize the extradition agreement are carried out in collaboration with the Indonesian police force with the Singapore Police (police to police).*

Keywords: *Extradition Agreement, Law Enforcement, Corruption*

I. INTRODUCTION

Every country in the world has a positive legal or legal system to maintain security, order and peace for every people in their territory. Violations of a country legal system are subject to sanctions as an attempt to force the law. The offender must account for his actions for the crimes he has committed. The criminal offender should be brought at the court before and if found guilty he will be sentenced according to his mistake, but not everyone will be willing to take responsibility for his actions. Actors will try to avoid demands and threats of punishment [1].

The perpetrator will go through all kinds of ways, both legal and illegal, to avoid prosecution and threats of punishment. One way that is considered effective enough to save themselves is to escape into the territory of another country. The perpetrator who fled into the territory of another country with the intention of avoiding the demands of punishment in his original country, this has involved the interests of both countries.

Lately the problem of extradition has surfaced again and is widely discussed among the general public, especially since more and more criminals have fled from one country to another, or crimes that have caused more

than one country. In other words, the crime committed by the perpetrator is a matter of two or more countries. Such crimes are called international-dimensional crimes, or transnational crimes, some even call international crimes[2].

Extradition can be interpreted as a formal submission, either based on a pre-existing extradition agreement, or based on the principle of reciprocity or good relations, or someone accused of a crime (suspect, defendant, accused) or someone who has been sentenced to a criminal sentence already has a definite binding force (convicted), by the country in which it is located (the requested country) to a country that has jurisdiction to try or punish it (the requesting country) at the request of the requesting country, with the aim of adjudicating and/ or executing the sentence [3].

The term extradition refers to a process whereby based on a treaty on the basis of reciprocity, a country submits to another country at the request of someone accused or punished for committing a crime committed against the law of the country that filed the request. Typically, alleged crimes are carried out within the territory or on a ship that raises the flag of the claimant country and usually the perpetrator is in the territory of the surrendering country to seek protection. Extradition requests are usually published and answered through diplomatic channels [4].

In implementing extradition cooperation, countries that have jurisdiction over the perpetrator of the crime cannot capture directly in the territory of the country where the perpetrator of the crime is located, these countries can take legal ways to try and punish the perpetrator of the crime, the country the country that has the jurisdiction can ask the country where the perpetrator is located, in order to arrest and surrender the person. According to the Appendix of Law Number 1 of 1979 concerning Extradition, one of the lists of crimes whose perpetrators can be extradited is corruption, thus according to the legal procedures that apply through extradition agreements between Indonesia and other countries that have been formed and agreed upon, then extradition can commit crimes such as corruption [5].

Addressing the types of international crimes such as criminal acts of corruption that can cause suffering and misery for the people in all countries of the world, the countries cooperate in the form of multilateral agreements

and bilateral agreements. The extradition treaty is a means to hand over the perpetrators of corruption in a country and then flee to another country. According to Indonesian Corruption Watch (ICW) as reported in the Kompas daily, the perpetrators of corruption who escaped abroad and became the target of law enforcement officials, it was recorded that since 2001 there have been 43 people who fled abroad. One of the closest destinations is Singapore [6].

Singapore is the safest escape for Indonesian corruptors. Singapore is a favorite destination because Indonesia does not have an extradition treaty with the country. From Singapore, some of them then went to other countries, registered 43 people who were trapped in Indonesian law and fled abroad and some of them were arrested and jailed or terminated [7]. It is deemed necessary to ratify an extradition treaty between the Country of Indonesia and Singapore, in terms of handling corruption. The background described several problems can be determined including about what is the level of urgency of the extradition agreement in handling corruption between Indonesia and Singapore and the second, what are the obstacles and efforts in realizing the extradition agreement between Indonesia and Singapore in relation to handling corruption.

II. RESEARCH METHOD

The research method used is a normative juridical method, with a library approach which is data obtained from literatures materials used include convention or the related international agreements and literatures in the form of books, journals, as well as other supporting materials.

III. FINDINGS AND DISCUSSION

1. *The Urgency of an Extradition Agreements in Handling Corruption*

The high index of corruption in the country coupled with the lack of extradition agreements with ASEAN countries will make it difficult for the government in the future if they have to pursue "corruptors" who have fled abroad. 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. So far, Singapore is a safe country for Indonesian corruptors. 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. [8]

The Republic of Indonesia - Singapore extradition agreement is essentially an agreement whereby each party agrees to extradite another party, where each person found is in the party's territory requested and sought by the

requesting party for the purpose of prosecution (including investigation) or the application of punishment for a crime that can authenticated in the jurisdiction of the requesting party [9]. The extradition agreement between Indonesia and Singapore is considered very necessary for both parties to resolve various cases of transnational crime. 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 [10].

Not only corruption cases but also other types of crimes are expected to be snared by the rules resulting from the extradition treaty that was signed in 2007. For Singaporeans to benefit, Singapore will get permission to carry out military exercises in Indonesia, because the extradition agreement between Indonesia and Singapore agreed with DCA (Defense Cooperation Agreement). But until now, the implementation of the extradition agreement between the two countries has not been implemented as evidenced by the many perpetrators of crime cases from Indonesia who chose Singapore as a place to escape from the snares of the law.

Given the increasing extraordinary category of crimes that have occurred in Indonesia and limit the perpetrators of these crimes to flee abroad, especially in Singapore, making the implementation of extradition can be re-oriented to be done. This is because the value of the urgency of extradition in minimizing crime in Indonesia is really needed by the Indonesian country, especially in terms of returning the assets of the country that is harmed and imposing criminal sanctions on the perpetrators in accordance with national provisions.

2. *Constrain and Efforts in Realizing the Extradition Agreement Between Indonesia and Singapore In the Handling of Corruption*

It has been explained that the purpose of law enforcement is in line with the objectives of the law itself, is to achieve certain results that are desired and the purpose of the law is an effort to realize the achievement of order and justice [11]. And when traced the problem discussed in this paper is core on law enforcement in handling corruption through extradition agreements.

Extradition agreements are the most important means to make it easier for a country to return criminals who have fled to other countries. The countries tend to choose the form of extradition treaty as a suggestion of international cooperation to prevent and combat criminals. In addition, the extradition agreement is a form of law enforcement carried out in a country. If there is no extradition treaty between countries, it will make it difficult for the process of returning the perpetrators to the requesting country and can harm both countries, both the surrendering country and the country requesting the perpetrator of the crime.

The search and arrest of perpetrators who fled abroad, so far has been carried out by the national police and the

prosecutor's office through the collaboration of Interpol. If the fugitive is caught in another country, the return to Indonesia must be taken through an extradition process. Eradicating corruption is a government priority program. Therefore, Indonesia was so enthusiastic when Singapore signed an extradition treaty. The extradition treaty concerns 31 types of crimes including terrorism, corruption, bribery, forgery, money for banking crimes, violations of company law and bankruptcy. However, there is still a possibility that in the future other crimes will be added, especially new types of crime. Through the extradition treaty, the government hopes that law enforcers, both Indonesia and Singapore, will be broader in tracking and pursuing suspects, especially suspects in corruption cases and repatriating corrupt assets totaling 1300 trillion rupiah [12].

The bilateral extradition treaty is an agreement that has been agreed or signed by the two countries to eradicate the crime that escaped the punishment that should have been carried out, so that it could harm the country. Not only do agreements that are carried out by the country, there are forms of cooperative relations that are more important in making agreements, both bilaterally and multilaterally. The purpose of the agreement is to benefit from the two disadvantaged countries. The obstacle faced by Indonesia in handling corruption is related to the extradition treaty with Singapore, namely the diplomatic relations between the two countries are still tenuous. The consequences of Singapore's wishes in the previous extradition treaty are not fulfilled by Indonesia. Indonesia's objection in fulfilling Singapore's wishes by considering the political value of the previous extradition agreement. It is known that Singapore wants land use in Indonesia as part of the agreement to be used as a venue for military training.

In addition, another obstacle faced by Indonesia in realizing the implementation of the extradition treaty with Singapore was that Singapore felt that there was no loss or advantage in signing the agreement to repatriate corruption offenders who had fled to Singapore. The reason is that these perpetrators have never committed any crime in the jurisdiction of Singapore. Referring to the two constraints mentioned above, it is known that Indonesia is still trying to orient the extradition treaty through political and diplomatic channels. The slow pace of the diplomatic process actually caused corrupt criminals in Indonesia who fled to Singapore as if they were free of legal entrapment.

The government's desire to realize the extradition treaty both with a diplomatic approach and even familial is also hampered by the consideration of the Indonesia legislative assembly which tends to make the "arena" of the agreement a political policy that harms Indonesia itself. The effort that can be offered to deal with the above constraints is to change the form of a diplomatic approach that tends to be political, becoming an institutional approach between Indonesian law enforcement and Singapore. The term this approach is also called the police

to police. This approach can be made between the Indonesian Police and the Singapore Police.

In legislation concerning the police, investigation is a series of investigative actions in terms of and according to the manner stipulated in the law to search for and collect evidence with that makes it clear about the crime that occurred and to find the suspect. While the investigation is a series of investigator's actions to find and find an event that is suspected of being a criminal offense to determine whether or not an investigation can be carried out according to the method stipulated in the law [13].

This institutional approach is considered quite effective in returning the perpetrators of corruption. Even though it is considered effective it also raises problems, namely the institution of the Singapore police has a selfish character that tends not to cooperate. Even if the persuasive approach institutionally with the police to police method fails to be realized, then the effort that needs to be strengthened by the government is an interactive approach by empowering all human resources in the country. One of them is to increase the number of security apparatus at each airport so that it can tackle corruption criminals fleeing abroad.

On this basis also facilities and infrastructures within the airport must also be strengthened and modernized in order to address the government's demands in tracing corruption offenders if at any time they want to escape abroad through the airport, arrests can be carried out properly. If these efforts are carried out and are declared effective in overcoming corruption and preventing the perpetrators from fleeing abroad, of course there is a high possibility that the extradition agreement between Indonesia and Singapore will no longer be needed.

IV. CONCLUSION

The level of urgency of implementation the extradition treaty between Indonesia and Singapore is urgently needed to be realized immediately. Considering that there are so many corruption criminals who have fled to Singapore as a safe route to escape from the law in Indonesia. This is certainly very detrimental to Indonesia, considering that all the assets of the country that had been corrupted were also brought to Singapore. The absence of an extradition treaty has made it difficult for Indonesia through its law enforcement apparatus to bring back the perpetrators of corruption cases to trial.

REFERENCES

- [1] I. W. Parthiana, *Hukum Pidana Internasional dan Ekstradisi (International Criminal Law and Extradition)*. Bandung: YramaWidya, 2004.
- [2] I. W. Parthiana, *Ekstradisi dalam Hukum Internasional dan Hukum Nasional (Extradition in International Law and National Law)*. Bandung: Mandar Maju, 1990.
- [3] J.G., Starke, *An Introduction to International Law 10th Edition*. London: Butter words & Co Publisher. Kusumaatmadja, Mochtar (1982). *Pengantar Hukum Internasional. Cet. Keempat (Introduction to International Law, 4th edition)*. Jakarta: Bina Cipta, 1989.

- [4] S. Hendrik. Ekstradisi Terhadap Pelaku Tindak Pidana Korupsi (Extradition of Corruption Actors). *Lex et Societatis*, IV (5), 2016
- [5] *Kompas*. Retrieved February 18, 2019, from <https://nasional.kompas.com/read/2011/07/04/09464965/Daftar.45.Pelarian.Indonesia.ke.Luar.Negeri>
- [6] *Tribun News*. Retrieved April 2, 2019, from <http://bangka.tribunnews.com/2016/04/23/inilah-alasan-mengapa-koruptor-indonesia-aman-di-singapura>
- [7] *Hidayatullah Berita Nasional*. Retrieved March 25, 2019, from <https://www.hidayatullah.com/berita/nasional/read/2015/02/03/38023/pemerintah-ri-didorong-bangun-perjanjian-ekstradisi-dengan-semua-anggota-asean.html>
- [8] A. K. Jaelani, Haeratus and Soeleman Djaiz B, "Pengaturan Kepariwisata Halal di Nusa Tenggara Barat Pasca Putusan Mahkamah Konstitusi Nomor 137/PUU-XIII/2015", *Jurnal Hukum Jatiswara*, Vol.33, No. 3 November 2018.
- [9] U. Basuki and Abdul Kadir Jaelani, "Problematika Pelaksanaan Putusan Mahkamah Konstitusi Nomor 100/PUU-XI/2013 Dalam Mendudukkan Pancasila Sebagai Dasar Negara", *Jurnal Wacana Hukum*, Vol. 24, No.2, Desember 2018.
- [10] A. K. Jaelani, "Pengembangan Destinasi Pariwisata Halal pada Era Otonomi Luas di Provinsi Nusa Tenggara Barat", *Jurnal Pariwisata*, Vol.V, No.1, April Tahun 2018.
- [11] J. Ginting, Perjanjian Internasional dalam Pengembalian Aset Hasil Korupsi di Indonesia (International Agreement in Returning Corruption Results Assets in Indonesia). *Jurnal Dinamika Hukum*, 11(3), 457
- [12] Chaerudin, A. Dinar, Syaiful, & Fadillah, Syarif, *Strategi Pencegahan Dan Penegakan Hukum Tindak Pidana Korupsi (Strategy for Prevention and Enforcement of Corruption Crime Laws)*. Bandung: Refika Editama, 2008.
- [13] <https://filzahazny.wordpress.com/2008/02/16/di-balik-perjanjian-ekstradisi-indonesia-singapura/>
- [14] S. Sadjiono, *Memahami Hukum Kepolisian (Understanding the Police Law)*. Yogyakarta: Laksbang PressIndo, 2008.