

*Research Article*

# Legal Politics Dynamics of Law Number 5 of 2023 Ratification of the Indonesia-Singapore Extradition Treaty

Amelia Haryanti \* 

*Universitas Pamulang, Indonesia*

**ABSTRACT:** The extradition agreement between the Republic of Indonesia and the Republic of Singapore, signed in Bintan, Riau Islands, on January 25, 2022, was ratified through Law Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Extradition of Fugitives. This ratification represents a continuation of earlier bilateral commitments and aims to strengthen legal cooperation by ensuring that individuals who commit criminal offenses and subsequently flee to Singapore can be prosecuted in accordance with the laws of both countries. The enactment of this law reflects a complex legal-political process shaped by national interests, evolving bilateral relations, and increasing public pressure to enhance the effectiveness of law enforcement, particularly in addressing transnational crime. This study examines the philosophical, sociological, and juridical underlying the enactment of the Extradition Treaty Law. Employing a normative legal research approach, the study is descriptive in nature and is based on library research. It relies on secondary data, primary legal materials in the form of legislation and regulations, and tertiary legal materials such as legal dictionaries. The data are analyzed qualitatively using an analytical and systematic perspective.

**KEYWORDS:** Legal politics, Agreement, Extradition.

\*Corresponding author, email: [dosen00811@unpam.ac.id](mailto:dosen00811@unpam.ac.id)

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## I. INTRODUCTION

Corruption has become a threat to the democratic principles of a country. Corruption can disrupt accountability and integrity as well as the security and stability of a country. The issue of corruption in Indonesia is currently one of the most complicated domestic issues, including collusion and nepotism, which are still present in Indonesian society, especially in the Indonesian government system. Corruptors who become fugitives in Indonesia often outsmart Indonesian law enforcement by escaping abroad, one of which is Singapore. Singapore is known as one of the escape havens for corrupt fugitives. In the last few years, the number of corruptors who have fled to Singapore has exceeded 20 people.<sup>1</sup> As a result, a number of individuals who have been formally designated as suspects or convicts have remained beyond the reach of Indonesian law enforcement and have been unable to be repatriated to face legal proceedings in Indonesia. This situation has generated sustained public criticism and reinforced perceptions of unequal access to justice, as perpetrators appear to benefit from de facto protection through cross-border flight within a state governed by the rule of law (*Rechtstaat*). Such circumstances stand in clear contradiction to the principle of equality before the law, a foundational element in the development of modern legal state theory.<sup>2</sup>

The arrest of several fugitives and the renewed discourse surrounding the repatriation of Indonesian nationals who had fled to Singapore marked a significant political and legal turning point. In response, the Government of Indonesia concluded an Extradition Agreement, which was ratified through Law Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on Extradition. This ratification should not be viewed merely as the outcome of a normative legal process. Rather, it represents the culmination of a

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<sup>1</sup> Dandy Achmad Ridho & Uni W Sagena, "Indonesia-Singapore Cooperation in Ratification of Extradition Treaty for Corruption Fugitives" (2023) 3:6 Research Horizon at 638.

<sup>2</sup> Jimly Asshiddiqie, *Pokok-pokok Hukum Tata Negara Indonesia Pasca Reformasi* (Jakarta: PT Bhuana Ilmu Populer, 2007) at 56.

complex legal, political dynamic shaped by national interests, and sustained public pressure to enhance the effectiveness of law enforcement.<sup>3</sup>

The ratification of the Extradition Treaty between the Republic of Indonesia and the Republic of Singapore constitutes a significant normative step toward strengthening cross-border law enforcement cooperation. The agreement was signed at the Leaders' Retreat in Bintan, Riau Islands, on 25 January 2022 and subsequently ratified as Law of the Republic of Indonesia Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Extradition of Fugitives. Through this ratification, clear legal mechanisms are established for the request and surrendered of fugitives, thereby providing a formal framework that enables law enforcement authorities in both countries to more effectively address transnational criminal cases.<sup>4</sup>

In the context of law enforcement and the suppression of transnational crimes, extradition cooperation has emerged as an increasingly vital legal instrument. A significant milestone in Indonesia's legal development was marked by the enactment of Law Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Extradition of Fugitives. Promulgated on 13 January 2023, this law formally ratified the extradition treaty that had previously been concluded through bilateral negotiations.

From a political perspective, the ratification of extradition treaties extends beyond the mere harmonization of international legal norms with domestic law. It also reflects the complex interaction between diplomatic interests, law enforcement priorities, and domestic political dynamics. In Indonesia, the perceived urgency of concluding such an agreement has been closely linked to the significant number of individuals suspected of economic and corruption related offenses who were reported to have fled to Singapore, thereby complicating law enforcement in the absence of an effective extradition

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<sup>3</sup> Deni Nuryadi, "Teori Hukum Progresif Dan Penerapannya Di Indonesia" (2016) 1:2 De Jure: Kajian Ilmiah Hukum at 398.

<sup>4</sup> Laily Rachev, "Resmi Ditandatangani, Inilah Lini Masa Perjanjian Ekstradisi Indonesia-Singapura", Sekretarian Kabinet Republik Indonesia (26 January 2022), online: <<https://setkab.go.id/resmi-ditandatangani-inilah-lini-masa-perjanjian-ekstradisi-indonesia-singapura/>> at 1.

mechanism. Consequently, the formulation and ratification of the treaty involved a range of substantive considerations, including the protection of suspects' human rights, concerns over state sovereignty, and the overall effectiveness of bilateral cooperation.<sup>5</sup>

The enactment of this law not only expands Indonesia's national legal framework for addressing cross-border crime but also serves as a key instrument in combating serious offenses such as corruption, economic crimes, and other acts that fall within the scope of extradition. It further enhances the legitimacy of law enforcement and strengthens Indonesia's standing within the international legal community. More than a mere legal formality, of the ratification reflects a systemic effort to address longstanding weaknesses in national law enforcement, particularly in dealing with offenders who evade accountability by fleeing abroad. In an era marked by globalization and increased cross-border mobility, national boundaries have become less effective in constraining criminal activity. Consequently, an extradition treaty between Indonesia and Singapore is essential to extend legal jurisdiction through formal mechanisms, enabling the state to lawfully request and secure the surrender of fugitives.

Previous studies have examined aspects of the extradition treaty between Indonesia and Singapore. Magdariza, Najmi, and Zahara in their article *Legal Aspects of the Extradition Treaty Between Indonesia and Singapore in International Law*,<sup>6</sup> published in *Unes Journal Of Swara Justisia* (Vol. 6, No. 4, of 2023), argue that the implementation of the Indonesia-Singapore extradition treaty offers significant prospects for the repatriation of suspects or perpetrators of economic crimes to face legal proceedings in Indonesia, and vice versa for Singapore. Another relevant study by Nanci Yosepin Simbolon, entitled *Legal Politics of Handling Corruption by the Corruption Eradication Commission After the Enactment of Law No. 19 of 2019*, published in *Mercatoria* (Vol. 13, No. 2, of 2020), analyzes the legal-political dynamics of corruption eradication following the enactment of Law No. 19 of 2019. Simbolon highlights the filing of a constitutional review before the Constitutional Court as a form of public

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<sup>5</sup> Amelia Haryanti, Neni Ruhaeni, & Oksidelfa Yanto, "Corruption eradication after the ratification of the Indonesia-Singapore Extradition treaty 2022" (2024) 10:3 *International Journal of Law* at 42.

<sup>6</sup> Magdariza, Najmi & Zahara, "Aspek Hukum Terhadap Perjanjian Ekstradisi Antara Indonesia-Singapura Dalam Hukum Internasional" (2023) 6:4 *Unes Journal Of Swara Justisia* at 582.

resistance to legislation perceived as weakening the authority of the Corruption Eradication Commission or KPK.

While both studies engage with issues of legal politics and extradition, they do not specifically address the legal–political process underlying the enactment of Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Extradition of Fugitives. This study seeks to fill that gap by examining the background of the law’s enactment, as well as its juridical, sociological and philosophical foundation.

Based on the foregoing discussion, this article examines the legal-political dimensions underlying the enactment of Law Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Extradition of Fugitives. It further analyzes the juridical, sociological, and philosophical foundation that inform the adoption of this law.

## II. METHODOLOGY

This study employs a normative juridical research approach, focusing on an analysis of the legal politics underlying the enactment of Law Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Extradition of Fugitives. The approach emphasizes the identification and examination of legal norms contained in statutory provisions and relevant legal theories, complemented by a conceptual approach grounded in doctrines and perspectives developed within legal scholarship.<sup>7</sup> The legal materials used in this research consist of: (1) primary legal materials, including the 1945 Constitution of the Republic of Indonesia and relevant legislation; (2) secondary legal materials, such as legal textbooks, scholarly works, and research methodology literature; and (3) tertiary legal materials, including news reports, academic articles

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<sup>7</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2010) at 3.

and, records of legislative deliberations.<sup>8</sup> Data processing is conducted through several stages, namely the examination, classification, evaluation, and analysis of legal materials. These materials are analyzed normatively and formally, with comparative reasoning applied to synthesize findings and draw well-grounded conclusion.

### **III. THE LEGAL-POLITICAL DYNAMICS UNDERLYING THE ENACTMENT OF LAW NUMBER 5 OF 2023 ON THE RATIFICATION OF THE EXTRADITION AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDONESIA AND THE GOVERNMENT OF THE REPUBLIC OF SINGAPORE**

Legal politics fundamentally refers to state policy in determining the direction, form, and substance of law to be developed and implemented in pursuit of national objectives. According to Mahfud MD, legal politics reflects the will of those in power regarding the type of law considered most appropriate and necessary for society at a particular point in time. In the context of the enactment of Law Number 5 of 2023, Indonesia's legal-political orientation is directed toward strengthening cross-border law enforcement cooperation in response to the growing prevalence of transnational crime and the increasing number of fugitives fleeing abroad, particularly to Singapore.<sup>9</sup>

For an extended period, the absence of an effective extradition treaty between Indonesia and Singapore posed significant challenges to Indonesia's criminal justice system. Fugitives involved in corruption and economic crimes were able to exploit this legal gap to evade prosecution, thereby undermining the effectiveness of law enforcement. This situation demonstrates the limitations of relying solely on domestic legal mechanisms to address crimes with transnational dimensions and underscores the necessity of complementary international legal

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<sup>8</sup> HS Salim, *Penerapan Teori Hukum Pada Penelitian Disertasi Dan Tesis* (Raja Grafindo Persada, Jakarta, 2013) at 19.

<sup>9</sup> Mahfud MD, *Politik Hukum di Indonesia* (Jakarta: Rajawali Pers., 2010) at 39.

instruments.<sup>10</sup> In this context, the ratification of the extradition treaty emerges a strategic legal and political response aimed at closing avenues of impunity and reinforcing the accountability of transnational offenders.

The ratification of Law Number 5 of 2023 is closely linked to the broader dynamics of Indonesia-Singapore bilateral relations. In the context, Indonesia's legal-political approach can be described pragmatic and adaptive, aligning domestic law priorities with the realities of international diplomacy. International agreements are rarely the product of purely legal considerations; instead, they typically emerge from political compromise between national and diplomatic interests. According, the ratification of the extradition treaty reflects the government's political commitment to strengthen legal cooperation while maintaining the stability of bilateral relations.<sup>11</sup>

From a legal-political perspective, the enactment of this law signals shift in Indonesia's policy orientation from a rigid conception of absolute sovereignty toward a more cooperative approach grounded in international engagement. Sovereignty is no longer viewed as an inflexible constraint but as a strategic means of safeguarding national interests through international legal mechanisms.<sup>12</sup> Within this framework, extradition is understood as a legitimate legal instrument to uphold justice without undermining the fundamental principle of state sovereignty.

Public pressure also played a significant role in shaping the legal-political process behind this legislation. Widespread public criticism of the state's inability to apprehend fugitives who had fled to Singapore generated strong political momentum for both the government and the House of Representatives to expedite the ratification of the extradition treaty. As noted by Rahardjo, an effective law responds to social needs. From this perspective, Law Number 5 of

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<sup>10</sup> Nahdia Nazmi & Fauziyah Hayati, "The Urgency of Extradition Agreements as an Effort to Enforce Criminal Law" (2023) Vol 7 No 1 Journal of Islamic And Law Studies at 8.

<sup>11</sup> Dhiana Puspitawati & Adi Kusumaningrum, "Reposisi Politik Hukum Perjanjian Internasional Dalam Rangka Mewujudkan Tertib Hukum Di Indonesia" 22:2 Jurnal Media Hukum at 267.

<sup>12</sup> Sefriani Sefriani, *Hukum Internasional Suatu Pengantar* (Depok, Rajawali Pers, 2018) at 82.

2023 may be understood as a form of responsive legislation, emerging from the public demand for justice and greater legal certainty.<sup>13</sup>

During the legislative process, both the House of Representatives and the government demonstrated convergent political interests in reinforcing the credibility of national law enforcement. The legal-political strategy pursued was directed not only at addressing normative legal shortcomings but also at strengthening public trust in the state's commitment to combating crime, particularly corruption. This approach aligns with Asshiddiqie's view that the legitimacy of law is closely tied to public confidence in the institutions responsible for its formulation and enforcement.<sup>14</sup>

The ratification of Law Number 5 of 2023 also illustrates the use of law as an instrument of social engineering. Through the extradition agreement, the state seeks to alter behavioral patterns among offenders who have previously viewed flight abroad as a viable means of evading justice.<sup>15</sup> By reducing the availability of safe havens for fugitives, the extradition mechanism generates a preventive effect, reinforcing deterrence and narrowing opportunities for transnational offenders to escape accountability.

The legal-political considerations underlying the enactment of Law Number 5 of 2023 reflect the strategic efforts of the Government of the Republic of Indonesia to strengthen international cooperation in law enforcement. This legislation represents a crucial step in ensuring that fugitives who flee abroad, particularly to Singapore, can be returned to Indonesia to face legal proceedings, consistent with the principles of justice and the rule of law that the government seeks to uphold. Moreover, the enactment of this law signals Indonesia's commitment to aligning its legal framework with international standards for addressing cross-border crime. The extradition treaty between Indonesia and Singapore thus forms part of a broader regional effort to enhance cooperation in Southeast Asia in combating transnational crime, enabling both countries to support one another

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<sup>13</sup> M Zulfa Aulia, "Hukum Progresif dari Satjipto Rahardjo: Riwayat, Urgensi, dan Relevansi" (2018) 1:1 Undang: Jurnal Hukum at 170.

<sup>14</sup> Jimly Asshiddiqie, *Konstitusi & Konstitusionalisme Indonesia* (Jakarta: Penerbit Sinar Grafika, Cet kedua, 2011) at 64.

<sup>15</sup> Fauzin Fauzin, "Efektifitas Ekstradisi Dalam Penegakan Hukum Tindak Pidana Korupsi Di Indonesia" (2021) 16:1 Jurnal Rechtide Fakultas Hukum Universitas Trunojoyo Madura at 139.

in locating, apprehending, and returning individuals who attempt to evade accountability by crossing national borders.

Legal-political considerations played a key role in elevating the extradition treaty to a national priority. This urgency was driven by the increase in transnational crimes, particularly corruption and economic offenses, involving perpetrators who fled to Singapore. As noted by Nazmi, "extradition agreements are an important instrument in closing the jurisdictional gap that is often used by transnational criminals".<sup>16</sup> This observation underscores that the enactment of Law Number 5 of 2023 was motivated not only by legal imperatives but also by political and social pressures to enhance the overall effectiveness of law enforcement.

Throughout the formulation and ratification process, legal-political considerations are evident in the dynamics between the executive and legislative branches. The government, as the primary actor in international diplomacy, initiates and negotiates international agreements, while the House of Representatives performs its constitutional authority by approving the legislative process.<sup>17</sup> In Indonesia, the interaction between international law and domestic politics often produces normative compromises that reflect political interests as well as sensitivities surrounding state sovereignty. This is illustrated by the caution exercised by lawmakers in drafting extradition provisions, particularly to ensure consistency with sovereignty principles and the protection of human rights.

Legal-political considerations also shape the normative substance embodied in Law Number 5 of 2023. Decisions regarding the categories of extraditable offenses, exceptions for certain political crimes, and guarantees of due process are the product of intertwined legal and political deliberations. The substance of the Indonesia-Singapore extradition agreement reflects a careful effort to balance effective law enforcement with the protection of human rights.<sup>18</sup> In this sense,

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<sup>16</sup> Nazmi & Hayati, *supra* note 10.

<sup>17</sup> Vina Rohmatul Ummah, "Politik Hukum Pembentukan Undang-Undang Nomor 13 Tahun 2022 tentang Perubahan Kedua Atas Undang-Undang Nomor 12 Tahun 2011 Tentang Pembentukan Peraturan Perundang-Undangan" (2022) 2:2 *Staatsrecht Jurnal Hukum Kenegaraan dan Politik Islam* at 171.

<sup>18</sup> Oktaviona Angelita, Elisa Malini Tan, & Elsa Aprina, "Implikasi Pemberlakuan Efektif Perjanjian Tentang Ekstradisi Buronan Antara Republik Indonesia dan Republik Singapura" (2025) 17:1 *Jurnal De Jure* at 81.

legal politics functions as a filtering mechanism that defines the scope and limits of state authority in extradition matters.

Moreover, legal politics does not end at the stage of ratification but continues through the implementation and enforcement of the law. The effectiveness of the extradition treaty largely depends on sustained political commitment and strong coordination among law enforcement agencies. Without consistent political support, an extradition treaty risks remaining a purely normative instrument with limited practical impact.<sup>19</sup> This underscores the central role of legal politics in determining whether legal frameworks can achieve their intended objectives.

#### IV. PHILOSOPHICAL, SOCIOLOGICAL, AND JURIDICAL FOUNDATIONS OF LAW NUMBER 5 OF 2023 ON THE RATIFICATION OF THE INDONESIA-SINGAPORE EXTRADITION AGREEMENT

##### *A. Philosophical Foundations*

The philosophical foundation of legislation refers to the underlying consideration that ensures legal norms are rooted in a society's worldview, legal consciousness, and foundational ideals. In the Indonesian context, these ideals derive from Pancasila and the Preamble to the 1945 Constitution, which together reflect the moral orientation and philosophical identity of the nation. As the fundamental philosophy of the state, Pancasila serves as the principal benchmark for the formation of laws and regulations; consequently, any legislation that contradicts its values lacks philosophical legitimacy.<sup>20</sup> As a state governed by the rule of law (*Rechtstaat*), Indonesia relies on laws and regulations as essential instruments for organizing state authority and guiding governmental action toward the realization of constitutional objectives. These legal instruments function not only to regulate social relations but also to limit the exercise of power in accordance with

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<sup>19</sup> *Ibid* at 82.

<sup>20</sup> Sri Wahyuni Laia & Sodialman Daliwu, "Urgensi Landasan Filosofis, Sosiologis, dan Yuridis dalam Pembentukan Undang-undang yang Bersifat Demokratis di Indonesia" (2022) 10:1 Jurnal Education and development Institut Pendidikan Tapanuli Selatan at 548.

constitutional mandates.<sup>21</sup> From a philosophical perspective, therefore, law must consistently align with the prevailing legal ideals (*Rechtsdee*) of society, ensuring coherence between normative regulation, moral values, and the broader aspirations of justice.<sup>22</sup>

The enactment of Law Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on Extradition is grounded in the pursuit of justice, legal certainty, and utility within the framework of the rule of law. Transnational crimes pose significant challenges to the effectiveness of national legal systems, particularly when offenders exploit jurisdictional differences between states to evade criminal responsibility. In this context, extradition functions as a legal instrument that, at a philosophical level, seeks to uphold substantive justice by ensuring that perpetrators are subject to legal proceedings in accordance with applicable law. The Indonesia-Singapore extradition agreement thus represents a concrete effort by the state to close legal loopholes that have previously enabled fugitives to escape the Indonesian criminal justice process.<sup>23</sup>

The philosophical foundation of legislation embodies the legal norms that a society idealizes as guiding principles for social and state life.<sup>24</sup> As a core element in the drafting of laws and regulations, the philosophical foundation provides the underlying rationale for legal norms, ensuring that enacted rules are grounded in the collective worldview, legal consciousness, and foundational ideals of a nation.<sup>25</sup>

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<sup>21</sup> Fahmi Ramadhan Firdaus, "Pencegahan Korupsi Legislasi Melalui Penguatan Partisipasi Publik Dalam Proses Pembentukan Undang-Undang" (2020) 17:3 Jurnal Legislasi Indonesia at 287.

<sup>22</sup> Akhmad Farroh Hasan, "Landasan Filosofis, Sosiologis dan Yuridis terhadap Positivisasi Perceraian di Pengadilan Agama" 10:2 Journal of Law, Society, an Islamic Civilization at 96.

<sup>23</sup> Oktaviona Angelita, Elisa Malini Tan, & Elsa Aprina, *supra* note 18 at 82.

<sup>24</sup> Muhtadi Muhtadi, "Three Foundations of the Enforcement of Regional Regulations (Case Study of the Raperda on Capital Participation of the Bandar Lampung City Government to the Drinking Water Company 'Way Rilau' of Bandar Lampung City)" (2013) 7:2 Fiat Justisia, Journal of Law at 214.

<sup>25</sup> Fitri Wahyuni et al, "Kajian Akademik Dari Sudut Landasan Filosofis, Sosiologis Dan Yuridis Rancangan Peraturan Daerah Tentang Pemberian Insentif Dan Kemudahan Investasi Daerah Di Kabupaten Indragiri Hilir" (2024) 10:1 Selodang Mayang Jurnal Ilmiah Badan Perencanaan Pembangunan Daerah Kabupaten Indragiri Hilir at 15.

The philosophical foundation of Law Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Extradition of Fugitives reflects the shared commitment of both states to ensure that individuals who violate the law and seek refuge abroad can be held accountable through lawful judicial processes. This foundation is grounded in the principles of justice, international cooperation, and respect for the rule of law. These values are explicitly reflected in the treaty's provisions, which emphasize fair and transparent extradition procedures that are consistent with fundamental human rights principles.

The ratification of the extradition treaty reflects the view that the law should function as an instrument for achieving state objectives, including the protection of society and the enforcement of justice at both national and international levels. Within the relationship between national law and international law, the incorporation of international legal norms into the Indonesian legal system is consistently guided by fundamental state values and sensitivities surrounding sovereignty. Accordingly, Law Number 5 of 2023 philosophically embodies a careful balance between Indonesia's commitment to international cooperation and the preservation of state sovereignty in the pursuit of legal justice.<sup>26</sup>

### *B. Sociological Basis*

The sociological foundation of legislation is grounded in realities concerning the evolving problems and needs of society and the state. It reflects on concrete social conditions and public demands that necessitate legal regulation, particularly where certain interests or behaviors require formal governance through law.<sup>27</sup> As emphasized by Vilhelm Aubert, examining the sociological dimensions of legal norms is essential, as law functions not only as a normative system but also as a social instrument. An analysis of the social phenomena regulated by law can assist lawmakers and courts in making informed decisions. More importantly, the critical function of legal sociology lies in enhancing the awareness of legal

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<sup>26</sup> Dina Sunyowati, "Hukum Internasional Sebagai Sumber Hukum Dalam Hukum Nasional (Dalam Perspektif Hubungan Hukum Internasional Dan Hukum Nasional Di Indonesia)" (2013) 2:1 Jurnal Hukum dan Peradilan at 69.

<sup>27</sup> Laia & Daliwu, *supra* note 20 at 549.

professionals of their broader social responsibilities in the formulation and application of law.<sup>28</sup>

From a sociological perspective, the enactment of Law Number 5 of 2023 was driven by evolving social realities, particularly the rise of transnational crimes such as corruption, money laundering, and other economic offenses whose perpetrators escaped Indonesia's jurisdiction. This phenomenon generated public concern and contributed to a decline in trust in the state's capacity to enforce the law effectively. In the absence of a robust extradition mechanism, national criminal law risks losing its coercive force and social legitimacy, as it becomes incapable of reaching offenders involved in transnational crime.<sup>29</sup>

In this context, public demands for legal certainty and justice require the state to strengthen international cooperation in law enforcement. The ratification of the Indonesia-Singapore extradition treaty represents a response to these social expectations, signaling a more proactive state role in pursuing and prosecuting fugitives whose actions harm the public interest.<sup>30</sup> Sociologically, Law Number 5 of 2023 thus functions as a mechanism for restoring public trust in the legal system and reinforcing the role of law as an instrument of social control.

Moreover, extradition cooperation aligns with broader social needs to preserve regional stability and security. The increasing dynamics of cross-border crime in Southeast Asia have prompted states to adapt their national legal systems through mechanisms of international cooperation.<sup>31</sup> Accordingly, the enactment of this law reflects the state's response to evolving social realities and regional security challenges.

### *C. Juridical Basis*

The juridical basis relates to legal problems arising from the substance or material regulated by existing laws, which necessitate the formation of new legislation.

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<sup>28</sup> Saifuddin Saifuddin, Jamaluddin Jamaluddin & Ramziati Ramziati, "Analisa Yuridis Sosiologis Tentang Penerapan Asas Resmi Dan Patut Dalam Perkara Perceraian Ditinjau Dari Perspektif Undang-Undang Nomor 12 Tahun 201 Tentang Pembentukan Perundang Undangan" (2019) 7:1 Suloh: Jurnal Fakultas Hukum Universitas Malikussaleh at 8.

<sup>29</sup> Nazmi & Hayati, *supra* note 10.

<sup>30</sup> Oktaviona Angelita, Elisa Malini Tan, & Elsa Aprina, *supra* note 18 at 83.

<sup>31</sup> Evi Rosdiyanti & Abustan, "International Law as a Source of Law in National Law" (2020) 2:2 JIHAD: Journal of Legal and Administrative Sciences at 24.

Such problems may include outdated regulations, overlapping or inconsistent legal provisions, regulatory instruments positioned below the level of statutory law that lack binding force, or legal frameworks that are either insufficient or absent.<sup>32</sup> These juridical shortcomings underscore the need for clearer, more comprehensive legal regulation to ensure certainty, coherence, and effective implementation.<sup>33</sup>

The juridical basis for the enactment of Law Number 5 of 2023 lies in the recognition of extradition as an integral component of the national criminal law system. Normatively, extradition functions as a legal mechanism whose implementation depends on the existence of a binding international treaty between the concerned states.<sup>34</sup> The effective surrender of fugitives can only be ensured when such a treaty is ratified through domestic legislation, thereby granting it binding legal force and providing legal certainty for law enforcement authorities in its application.

Law Number 5 of 2023 concerning the Ratification of the Agreement between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Extradition of Fugitives serves as a juridical foundation for bilateral cooperation in criminal matters, particularly in the context of mutual legal assistance. This law also establishes the authority of the minister responsible for law and human rights to act as the central authority, with a coordinating role in submitting extradition requests to foreign states and in processing extradition requests received from abroad.<sup>35</sup>

Despite the signing of the Indonesia-Singapore Extradition Agreement, the Government of Indonesia did not immediately ratify the agreement. Article 19 paragraph (1) of the Indonesia-Singapore Extradition Agreement stipulates that "The Parties must notify each other in writing after the domestic requirements for the entry into force of this Agreement have been fulfilled by each party. This

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<sup>32</sup> Laia & Daliwu, *supra* note 20 at 549.

<sup>33</sup> Taufik H Simatupang, "Mendudukan Konsep Executive Review dalam Sistem Hukum Ketatanegaraan Indonesia" (2019) 19:2 Jurnal Penelitian Hukum De Jure at 224.

<sup>34</sup> Oktaviona Angelita, Elisa Malini Tan, & Elsa Aprina, *supra* note 18.

<sup>35</sup> Yudha Bhakti Ardhiwisastro, *Hukum internasional: Bunga rampai* (Bandung: Alumni, 2003) at 6.

Agreement enters into force on the date mutually agreed upon by the Parties through the exchange of 'Third Persons'.<sup>36</sup>

This provision obliges each state party to fulfil its respective domestic legal requirements before the agreement can be implemented. Accordingly, compliance with the extradition agreement must be carried out in accordance with national legal procedures, which, in Indonesia's case, requires formal ratification. This obligation is grounded in Article 11 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which mandates that international agreements with significant legal and political implications be approved through a legislative process.<sup>37</sup> Further regulation is provided under Article 9 paragraph (1) of Law Number 24 of 2000 on International agreements (PI Law), which stipulates that the ratification of international agreements by the Government of the Republic of Indonesia shall be conducted insofar as such ratification is required by the agreement itself.<sup>38</sup> Moreover, Article 10 letters (a) and (d) of the PI law require ratification by statute when an international agreement concerns, among others:<sup>39</sup>

- a. Political, peace, defence, and security issues;
- b. Change of territory or determination of territorial boundaries of the Republic of Indonesia;
- c. Sovereignty or sovereign rights of the country;
- d. Human rights and the environment;
- e. Establishment of a new legal rule;
- f. Overseas loans and/or grants.

Article 10 of the International Treaty Law has been expanded with the Constitutional Court Decision Number 13/PUU-XVI/2018, which states that Article 10 of the International Treaty Law is contrary to the 1945 Constitution of the Republic of Indonesia and does not have conditionally binding legal force as long as it is interpreted that only the types of international agreements as mentioned in letters a to f in Article a quo require the approval of the House of

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<sup>36</sup> Republic of Indonesia, *Perjanjian Antara Pemerintah Republik Indonesia Dan Pemerintah Republik Singapura Tentang Ekstradisi Buronan* (2022) at Pasal 19 (1).

<sup>37</sup> Republic of Indonesia, *Undang Undang Dasar 1945*, Art. 11(1).

<sup>38</sup> Republic of Indonesia, *Law Number 24 of 2000 concerning International Agreements*, Art. 9(1).

<sup>39</sup> *Ibid*, Art. 10 (a) and (d).

Representatives so that only those types of agreements whose ratification is carried out by law.<sup>40</sup>

The ratification of international agreements through statutory enactment represents a deliberate effort to harmonize international law with the national legal system. Indonesia adopts a legislative approach to internalizing international norms to preserve state sovereignty while ensuring legal certainty within its domestic framework. From the perspective of international law, the enactment of Law Number 5 of 2023 is also consistent with the evolving global commitment to combating transnational crime. Juridically, this law provides a solid legal foundation for strengthening international cooperation while simultaneously reinforcing national legal certainty.<sup>41</sup>

The Indonesia-Singapore Extradition Treaty falls within the category of international agreements relating to defense, national security, state sovereignty or sovereign rights, as well as human rights, thereby requiring ratification in the form of a law. Accordingly, Indonesia's national legal mechanism mandates the prompt ratification of the treaty through statutory enactment to ensure its effective implementation. This step reflects the Government of Indonesia's legal and political commitment to fulfilling its obligations under the agreement and to strengthening cross-border law enforcement cooperation.<sup>42</sup>

## V. CONCLUSION

The enactment of Law Number 5 of 2023 represents the outcome of legal politics that shape Indonesia's orientation toward strengthening international legal cooperation, enhancing the effectiveness of law enforcement, and maintaining a careful balance between state sovereignty and the protection of human rights. Legal politics operates throughout the entire policy cycle, from agenda and norm formulation to ratification and implementation, making this law a product of the

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<sup>40</sup> *Putusan Mahkamah Konstitusi Nomor 13/PUU-XVI/2018*.

<sup>41</sup> Nazmi & Hayati, *supra* note 10.

<sup>42</sup> Republic of Indonesia, *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) at 76–77.

dynamic interaction between legal principles, political considerations, and international relations.

Law Number 5 of 2023 demonstrates the Government of Indonesia's strong commitment to safeguarding national interests, particularly in the fields of law enforcement and justice. The extradition of fugitives constitutes a strategic measure to ensure that perpetrators cannot evade legal accountability merely by crossing national borders. At the same time, the extradition treaty reinforces bilateral relations between Indonesia and Singapore, highlighting the central role of international cooperation in addressing transnational crime.

The philosophical foundation of this law is grounded in the principles of justice and the rule of law. At its core is the belief that justice must be upheld without discrimination and that criminal conduct should be met with fair legal consequences. In this context, the extradition of fugitives serves as a crucial mechanism to ensure that individuals cannot evade accountability simply by crossing national borders. This approach reflects the values of universal justice, which views crime as a threat not only to national order but also to the global community.

From a sociological perspective, the enactment of this law was born in response to increasingly complex social dynamics brought about by globalization. As societies become more interconnected, crime has likewise transcended national boundaries. The previous absence of an effective extradition framework between Indonesia and Singapore created opportunities for offenders to seek refuge abroad, undermining public confidence in the legal system. Accordingly, the formation of this law represents a response to public demands for greater legal certainty, improved security, and a more effective pursuit of justice in cases involving cross-border crimes.

Juridically, the establishment of Law Number 5 of 2023 is based on the constitutional authority of the state to regulate international cooperation through legislation. It is grounded in Articles 10 and 11 of the 1945 Constitution of the Republic of Indonesia, which authorizes the government to enter into international agreements with the approval of the House of Representatives. The law also aligns with relevant international norms and conventions governing

extradition, thereby ensuring Indonesia's compliance with international legal standards in law enforcement.

Taken together, the enactment of Law Number 5 of 2023 reflects a comprehensive legal approach that integrates philosophical, sociological, and juridical considerations. This integrated framework not only facilitates the prosecution of offenders in accordance with applicable law in both Indonesia and Singapore but also strengthens bilateral cooperation and reinforces the capacity of the national and international legal system to address transnational crimes effectively.

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## COMPETING INTEREST

None.

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