

The Influence of International Law on the Formation of National Law in Developing Countries

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Abstract: Globalization has led to an increasingly close legal interconnection between countries, so that the boundaries between national and international laws have become blurred. Developing countries such as Indonesia face major challenges in adapting the domestic legal apparatus to global norms driven by international organizations and multilateral agreements. This study aims to describe how international law influences the formation of national laws in Indonesia, using a descriptive approach through a literature study of ratified regulations and conventions. The findings show that while ratifications of international law such as CEDAW and UNCLOS have encouraged legislative reform, their implementation has often been hampered by legal pluralism, local values, and domestic political interests. In addition, the legal harmonization process often occurs top-down and with minimal public participation, posing a risk of non-adaptive legal transplantation. In this context, international law can be a means of normative domination that ignores local needs if not critically addressed. Therefore, developing countries need to develop a selective and contextual approach to accepting the influence of international law, so that the formation of laws remains based on the principles of sovereignty, social justice, and the sustainability of national law.

Keywords: Harmonization-Law; International Law; National-Sovereignty

INTRODUCTION

Globalization has led to intensive legal interconnection between countries, making the boundaries between national and international law increasingly blurred. Developing countries, which previously had a more closed and domestic-interest-oriented legal system, are now facing pressure to adapt their legal apparatus to match global norms and principles. In this context, international law is no longer merely an external guideline, but has become a source that influences the substance of national law formation. Global



interdependence requires countries to engage in "transjudicial communication," i.e. the exchange of legal principles across borders in order to collectively respond to global challenges.¹

However, the adoption of the principles of international law by developing countries has not always been ideal. Many of these countries face a dilemma between meeting international demands and maintaining national legal autonomy. Reliance on global legal instruments can distort the local context, especially when these international norms are born from developed countries' frameworks that are not fully compatible with the social, political, and cultural realities of developing countries. Within this framework, critics such as the existence of *hegemonic universalism*, i.e. the tendency of international law to reflect Western values without considering the diversity of the local legal system.² Therefore, it is important for developing countries to adopt a critical approach to accepting the influence of international law, so that the national legislation process remains based on contextual and equitable rule of law.

The push to harmonize national law with international standards is often motivated by economic and political needs. Developing countries, in an effort to attract foreign direct investment (FDI), are often forced to revise or even replace domestic regulations deemed un"market-friendly" to conform to international legal frameworks such as WTO provisions or bilateral investment agreements (BITs). This harmonization does not always arise from internal needs, but is often a form of compliance with external requirements proposed by donor institutions or international trading partners. As explained in *The Riddle of All Constitutions*, international law can be a subtle means of domination by which developing countries are encouraged to adapt their legal systems for the sake of global market integration, even if it is not necessarily in line with the interests of their people.³

Furthermore, this harmonization process is often carried out in a hurry and with minimal public participation, so it risks creating a *legal transplant* that is not adaptive to the local socio-cultural context. This raises the problem of legal effectiveness, because the regulations formed tend to be formalistic and elitist, and fail to take root in the practice of people's lives. Legal transplantation without a mature sociological adaptation process will create a gap between normative law and law in practice.⁴ Developing

¹ Riry, W. A. (2021). Ratifikasi perjanjian internasional sebagai salah satu bentuk politik hukum nasional. *Jurnal Syntax Transformation*, 2(02), 244-250.

² Sukmana, S., Susilawati, T., Chairijah, C., Heriyanto, B., & Wuisang, A. (2024). ESSENSI PLURALISME HUKUM INTERNASIONAL DALAM PERSPEKTIF SISTEM HUKUM DUNIA. *PALAR (Pakuan Law review)*, 10(3), 40-55.

³ Futuhiyah, N. A., & Mahmud, R. A. (2024). Dinamika Integrasi Teori Hukum Global dalam Evolusi Sistem Hukum Indonesia. *At-Tafakur: Jurnal Ilmu Syari'ah dan Hukum*, 1(1), 25-48.

⁴ Mańko, R. (2024). Legal Transplants, Legal Survivals and Legal Revivals: Towards a Reconceptualisation of the Circulation of Legal Forms in Time and Space. *Acta Universitatis Lodziensis. Folia Iuridica*.

countries therefore need to develop a selective and contextual harmonized approach, which not only aims to meet international expectations, but also strengthens the legitimacy and acceptability of national law

Membership of developing countries in international organizations such as the United Nations (UN), World Trade Organization (WTO), as well as regional associations such as ASEAN, carries significant legal consequences. These countries are not only bound by political commitments, but also by legal obligations outlined in various multilateral conventions, treaties, and protocols. For example, ratification of the UN Convention on the Law of the Sea (UNCLOS) requires member states to amend their maritime laws to bring them into line with international maritime regimes. However, in practice, developing countries are often in a weak bargaining position in the process of formulating such agreements, so their national interests are often reduced in the final text. This shows how multilateral agreements can be instruments that, subtly, standardize global norms based on the interests of dominant countries.⁵

Moreover, international organizations are not only normative actors, but also ideological agents that carry certain narratives regarding "development," "democracy," or "legal security." In many cases, developing countries feel compelled to adjust their legal systems not because of intrinsic need, but for the sake of gaining recognition, technical assistance, or access to international funding. For example, institutions such as the IMF and the World Bank actively push for legal reform through *conditionalities* in their financial aid packages, which often include privatization, market liberalization, and deregulation. Such as criticism that the role of international organizations in shaping national law is not politically neutral, but rather reflects a global power configuration that seeks to embed certain legal patterns as "international standards," without considering the diversity of local legal structures and needs.⁶

The main challenge in adopting international legal norms in developing countries is to maintain the sovereignty of national law without ignoring global commitments. Indonesia, for example, as a developing country active in various international forums, has ratified many international treaties such as the Convention against Torture (CAT) and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). However, the reality of its implementation shows that there is a tension between international norms and the national legal system. For example, although Indonesia has ratified CEDAW through Law No. 7 of 1984, various legal products and social practices at the local level, such as the Sharia Regional Regulation that discriminates against women, actually show resistance to the spirit of the convention. This indicates that formal ratification does not necessarily guarantee substantive influence of

⁵ Rosyidin, M. (2023). Pragmatisme Multilateral dalam Momen Keketuaan Indonesia di G20 dan ASEAN, 2022-2023 [Multilateral Pragmatism in The Moment of Indonesia's G20 and ASEAN Presidency, 2022-2023]. *Jurnal Politica Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional*, 14(2), 131-152.

⁶ Saunders, A. (2023). Constitution-Making as a Technique of International Law: Reconsidering the Post-war Inheritance. *American Journal of International Law*, 117(2), 251-308.



international law in national legislation, especially when it collides with local values or domestic political pressures.

Furthermore, the complexity of the legal system in developing countries such as Indonesia, which adheres to legal pluralism (state, customs, and religion) makes the integration of international law a challenge in itself. In this context, the implementation of universal human rights principles often clashes with the doctrine of sovereignty and local cultural identity. Law No. 12 of 2011 concerning the Establishment of Laws and Regulations does recognize that international agreements can be one of the sources of law, but its implementation still depends on the political process of legislation in the House of Representatives and social sensitivity. Postcolonial countries face an epistemological dilemma: how to position themselves as members of the international legal community without being the object of a "civilizing mission" project that dwarfs their own legal autonomy.⁷ Therefore, developing countries need to build mechanisms for the selection and adaptation of international law that are not only legal-formal, but also sociocultural and political-participatory.

METHOD

This study uses a descriptive method to describe the influence of international law on the formation of national laws in developing countries, especially in Indonesia. This method was chosen because the research aims to provide a clear and systematic picture of how international law affects national regulations, without examining the cause-and-effect relationship in depth. This research focuses on describing international regulations that have been ratified by Indonesia, as well as how these regulations are reflected in the applicable national laws.

The data source used in this study is secondary data obtained through library research. The main data sources include relevant national laws and regulations, such as Law No. 7 of 1984 concerning the Ratification of the International Convention on the Elimination of All Forms of Discrimination against Women, Law No. 12 of 2011 concerning the Establishment of Laws and Regulations, and Law No. 5 of 2006 concerning the Ratification of the International Convention for the Suppression of Terrorist Bombing and Law No. 6 of 2006 concerning the Ratification of the International Convention for the Suppression of the Terrorist Bombing Financing of Terrorism, which deals with the application of international law in Indonesia. In addition, international documents containing international treaties and conventions that Indonesia has ratified, such as CEDAW and UNCLOS, are also used as data sources. Reports and articles discussing the implementation of international law in the Indonesian legal system, both published by government agencies and international organizations and NGOs, are also an additional source of data. The data obtained will be analyzed using descriptive analysis, which will systematically explain how international law is implemented in national laws in Indonesia. This analysis will also identify the

⁷ Albrecht, M. (2021). Critical Post-Colonial Studies: Opening Up the Post-Colonial to a Broader Geopolitical View. In *Oxford Research Encyclopedia of Literature*.



challenges and obstacles that Indonesia faces in effectively implementing international law in the domestic legal system.

RESULTS AND DISCUSSION

The Influence of International Law on the Formation of National Law in Indonesia

1. Ratification of International Treaties and Their Impact on Law Formation in Indonesia

The ratification of international treaties is a fundamental mechanism in international law that marks a country's willingness to be legally bound by a treaty. In the Indonesian context, ratification also serves as a means of integrating international norms into the national legal system. As stipulated in Article 11 of the 1945 Constitution and clarified through Law No. 24 of 2000 concerning International Agreements, any treaty that has an impact on sovereignty, territorial change, or has far-reaching consequences in the political, legal, economic, and social fields must be ratified through law. This ratification process shows the principle of dualism in the Indonesian legal system, where new international norms have the power to bind domestically after going through the process of transformation or incorporation into the national legal system.⁸

From the perspective of international law theory, ratification is a form of the principle of *pacta sunt servanda*, namely that the agreed agreement must be complied with by the parties.⁹ In the Indonesian context, the ratification of international agreements does not stop at the legislation stage, but also requires adjustments to national laws so that there is no disharmony between international obligations and domestic regulations. According to Satjipto Rahardjo, legal reform must be responsive to the needs of the community, including the need to adapt to the dynamics of global law. Therefore, ratification is also an important tool in progressive legal reform.

The implementation of this theory can be seen through the various treaties that Indonesia has ratified and their impact on national legislation. For example, the ratification of CEDAW through Law No. 7 of 1984 has triggered a series of policies to protect women's rights. The study stated that the ratification of CEDAW plays an important role in advocating for gender equality and encourages the formation of regulations such as Law No. 23 of 2004 on the Elimination of Domestic Violence.¹⁰ Similarly, UNCLOS, which was ratified

⁸ Ardy, N. (2023). Akibat Hukum Ratifikasi Optional Protocol on the Convention Against Torture (Opcat) Dan Pengaruhnya Pada Perlindungan Hak Atas Rasa Aman Dari Penyiksaan Di Indonesia. *Jurnal Hukum To-Ra: Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 9(1), 10-23.

⁹ Sinaga, N. A. (2020). Perspektif Force Majeure Dan Rebus Sic Stantibus Dalam Sistem Hukum Indonesia. *Jurnal Ilmiah Hukum Dirgantara*, 11(1).

¹⁰ Ngelo, F. M. Z., Albertha, W., Azkia, T. A., Najwa, Y., & Lutter, A. N. W. (2025). ANALISIS EFEKTIVITAS REZIM INTERNASIONAL CEDAW DALAM IMPLEMENTASINYA DI INDONESIA. *Jurnal Humaniora dan Sosial Sains*, 2(1), 87-97.



through Law No. 17 of 1985, has become the basis for regulating Indonesia's strategic maritime territory, as well as strengthening the doctrine of Wawasan Nusantara in the international legal order. According to Prof. Mochtar Kusumaatmadja, the recognition of Indonesia as an archipelagic state in UNCLOS is a major achievement of Indonesia's international legal diplomacy which directly affects the national maritime legislation and policy system.

In the field of security, the ratification of international conventions such as the International Convention for the Suppression of Terrorist Bombing and the Convention for the Suppression of the Financing of Terrorism ratified through Law No. 5 and 6 of 2006 have become a legal framework for strengthening terrorism eradication instruments, including the establishment of institutions such as BNPT and strengthening the function of PPATK. It shows how ratification encourages structural and regulatory adjustments to meet international standards. However, challenges remain, especially in the implementation of the substance of international law that is often not in line with local practices or norms. According to Hikmahanto Juwana, obstacles in the implementation of international norms often come from limited resources, differences in legal paradigms, and domestic cultural or political resistance.

Overall, the ratification of international treaties not only reflects Indonesia's active involvement in the international legal system, but also serves as a catalyst for the harmonization of national law with global standards. This shows that in the era of legal globalization, the influence of international law on the formation of domestic law is inevitable, and even becomes an integral part of modern and inclusive national legal development.

2. Challenges in Aligning International Values with Local Values in Law Formation

The statement that Indonesia is often faced with tensions between international obligations and local values can be explained through the theory of dualism and monism in the relationship between international law and national law. The dualism theory states that international law and national law are two separate legal systems, so in order to implement international obligations, the state must first adapt or ratify it into its domestic legal system. Meanwhile, monistic theory assumes that international law and national law are one and the same, so that once an international norm is adopted, it automatically becomes part of the domestic legal system. However, in Indonesia, the application of the dualism theory is more dominant, considering that the procedure for ratifying international conventions must go through a legislative process to be legally implemented domestically.¹¹

A number of studies show that one of the biggest challenges in adapting international law to local norms in Indonesia is the difference in interpretation of universal principles set forth in various international

¹¹ Maranay, R. A. R., & Marsal, I. (2024). Pengaruh Sistem Hukum Dunia Terhadap Pembentukan Peraturan Perundang-Undangan di Indonesia. *Birokrasi: JURNAL ILMU HUKUM DAN TATA NEGARA*, 2(4), 245-251.

conventions. Many countries, including Indonesia, often adopt international treaties with different interpretations, according to the cultural, political, and social context that exists in each country.¹² In the Indonesian context, this is particularly evident in the implementation of the Convention on the Rights of the Child and CEDAW, where the implementation of the norms is sometimes hampered by more conservative local understandings of women's and children's rights. The influence of international norms often clashes with long-standing customary traditions, necessitating a more sensitive approach to the prevailing cultures and beliefs at the local level.¹³

Rapid social and political changes can affect public acceptance of international norms. Indonesia, as a culturally and religiously diverse country, often finds it difficult to balance between fulfilling international obligations and maintaining a legal identity that has developed in accordance with its social and cultural conditions. This leads to a compromise approach, in which Indonesia tries to accommodate some international principles but adapts its implementation to local values that are more accepted by the community.

Resistance to international norms that are perceived as contrary to local values is also inseparable from the role of religion and politics in the formation of law. In many cases, legal policies adopted by countries with large Muslim populations, such as Indonesia, are often rejected when they deal with issues deemed to be contrary to Islamic teachings, such as LGBT rights. These debates often create tensions between international obligations that lead to the recognition and protection of individual rights, and religious teachings that prioritize more traditional social norms. On the other hand, the interaction between international law and domestic law also emphasizes the importance of social dialogue and public participation in designing legal policies. This approach not only helps to reduce tensions between international and local norms, but also raises public awareness of the importance of international law in a global context. Indonesia has sought to implement this approach by conducting public consultations, interfaith dialogue, and socialization in the legislation process, although existing political and social challenges remain major obstacles to policy implementation.

Challenges of International Law Implementation in Indonesia's National Legal System

1. Tensions between International Law and National Law in Implementation Practice

The tension between international law and national law in its implementation practice is a major challenge faced by Indonesia, especially in the context of the ratification of various international treaties. Although

¹² Mardiyanto, I. (2024). Perlindungan Hukum Internasional Terhadap Anak Luar Kawin Pekerja Migran Indonesia (Analisis Kritis Penerapan Prinsip Non-Diskriminasi). *PROGRESIF: Jurnal Hukum*, 18(1), 132-166.

¹³ Sari, W. J., Kurniati, Y., & Tejo, E. S. (2024). Eksistensi Perkawinan Adat di Tengah Pengaruh Hukum Nasional: Studi Perbandingan di Beberapa Daerah Indonesia. *Jurnal Ilmu Hukum, Humaniora dan Politik (JIHHP)*, 5(2).

Indonesia has demonstrated a global commitment by ratifying many international legal instruments such as human rights conventions, environmental treaties, and the protection of women, its implementation at the national level often faces serious obstacles. One of the main roots of the problem is the incompatibility between universal and ideal international legal norms and Indonesia's highly diverse social, cultural, and political conditions. Indonesia's national legal system is pluralistic, encompassing state law, customary law, and religious law, which often overlap or even contradict each other, especially in sensitive issues such as women's rights, religious freedom, or environmental protection.¹⁴

In practice, international norms are often unacceptable or directly implemented because they are perceived to be contrary to local values or community beliefs. For example, even though Indonesia has ratified the CEDAW convention, discriminatory practices against women still occur due to the strong influence of patriarchal culture and conservative religious interpretations. In addition, despite having ratified the International Covenant on Civil and Political Rights, Indonesia still faces criticism for restrictions on freedom of expression and alleged human rights violations in regions such as Papua. On the other hand, global environmental commitments, such as the Paris Agreement, often run counter to national economic interests that are still heavily dependent on the exploitation of natural resources, such as deforestation and the construction of coal-fired power plants.

This challenge is further complicated by the asynchronous legal hierarchy in Indonesia, where international treaties do not necessarily take effect immediately after ratification, but instead require ratifying laws and derivative regulations, which in many cases are not immediately created or implemented.¹⁵ Furthermore, social and political resistance to international values is also an obstacle, especially when those norms are perceived to be in conflict with national identity or religious values. Therefore, there needs to be an effort to harmonize international law and national law, both through regulatory adjustments, increasing public legal awareness and law enforcement officials, and strengthening the role of supervisory institutions such as Komnas HAM. In addition, open dialogue between stakeholders from various legal systems living in Indonesia needs to be encouraged, so that the implementation of international law can be more contextual, inclusive, and not cause resistance from the public.

2. Political Obstacles and State Sovereignty in the Application of International Law

The application of international law in Indonesia's national legal system is often hampered by political resistance and state sovereignty issues. Although Indonesia has ratified a number of international treaties, the implementation of international law at the domestic level still faces obstacles, both at the legislative and

¹⁴ Atqiya, A. N., Nasoha, A. M. M., Faradina, A. P., Putri, A. S., & Widianingrum, R. (2025). Pancasila dan Hukum Internasional: Kajian tentang Prinsip Kedaulatan dan Hak Asasi Manusia dalam Perspektif Indonesia. *ALADALAH: Jurnal Politik, Sosial, Hukum dan Humaniora*, 3(1), 160-173.

¹⁵ Suwardi, S. S., S. H., M., & Ida Kurnia, S. H. (2021). *International Treaty Law*. Graphic Rays.



executive levels. One of the main challenges in the application of international law is the incompatibility between international obligations and national interests, which is often rooted in the tension between globalization and state sovereignty.¹⁶ In Indonesia, this resistance arises because of fears that the application of international law could weaken the country's sovereignty, especially in the economic and political spheres.

At the legislative level, resistance to the application of international norms is often fueled by concerns about the loss of national identity and the dominance of major states. Countries with political systems that highly value national sovereignty tend to experience tension when faced with binding international obligations.¹⁷ In Indonesia, for example, when there are attempts to implement regulations governing human rights or international environmental standards, there is often strong opposition from the legislature, which views such international agreements as a form of foreign intervention that is incompatible with local values and domestic policies.

At the executive level, although the Indonesian government has signed various international conventions, there are discrepancies in policy implementation, mainly due to differences in interests between the central and regional governments.¹⁸ Local governments that prioritize local economic interests often oppose policies that are perceived to be detrimental to them, for example in terms of restrictions on extractive industries that clash with Indonesia's commitments to climate change agreements. This creates difficulties in the harmonization of international law and domestic law, countries are often caught in conflict between fulfilling international obligations and safeguarding domestic political interests.¹⁹

Another significant obstacle is the slow process of legislation caused by the incompatibility between national law and the principles of international law. These inconsistencies often occur in terms of legal terminology and regulations that are technical in nature, which necessitate changes in existing laws.²⁰ This process does not always run smoothly due to resistance to changes that are considered incompatible with

¹⁶ Bakry, K., Apriyanto, A., & Mangaluk, E. (2025). *Hukum Tata Negara: Teori dan Penerapan Hukum Tata Negara di Negara Demokrasi: Teori dan Penerapan Hukum Tata Negara di Negara Demokrasi*. PT. Sonpedia Publishing Indonesia.

¹⁷ Hidayah, F., & Saputra, I. (2023). Komitmen Kebangsaan Majelis Ulama Indonesia Dalam Menguatkan Ketahanan Politik di Indonesia. *Jurnal Pena Islam*, 3(1), 41-49.

¹⁸ Daniah, R., & Apriani, F. (2018). Kebijakan nasional anti-trafficking dalam migrasi internasional. *Jurnal Politika Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional*, 8(2).

¹⁹ Gulo, B. J. S., Sriyanto, M. R., & Rokhim, A. N. (2024). Analisis Wanpretasi Indonesia terhadap Perdagangan Internasional yang disebabkan oleh Peperangan Negara Palestina dan Israel. *Jurnal kewarganegaraan*, 8(1), 734-749.

²⁰ Yamani, A. Z. (2024). The Technical Preparation of Legislation in the Legal System of Indonesia. *Jurnal Hukum Sehasen*, 10(1), 39-46.

the established legal structure. For example, in the implementation of the Convention against Torture (CAT), although Indonesia has ratified, implementation on the ground is often delayed or ineffective because existing regulations have not fully met international standards.

The application of international law that is not fully integrated into Indonesian domestic law, ultimately has an impact on international trust in Indonesia. This is in line with the opinion that the country's inability to effectively implement international obligations can harm the country's image in the international community.²¹ In addition, this imbalance can also affect Indonesia's bargaining position in international negotiations, which can ultimately reduce Indonesia's capacity to influence decision-making at the global level.

CONCLUSIONS

International law has a significant influence on the formation of national laws in Indonesia, especially through the ratification process that allows the integration of global norms into the domestic legal system. Although it has brought positive changes in the fields of women's rights, security, and the ocean, its implementation still faces various challenges, such as differences in cultural values, political resistance, and the issue of state sovereignty. Indonesia's pluralistic legal system complicates this adjustment, as there are frequent discrepancies between international norms and local laws. Therefore, a more contextual and inclusive approach is needed, through strengthening legislation, raising legal awareness, and active dialogue between stakeholders, so that international law can be adopted effectively and support the development of responsive and sustainable national law.

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²¹ Dinata, A. W., & Akbar, M. Y. (2021). Pembatasan hak untuk bergerak (Right To Move) melalui larangan masuk dan pembatasan perjalanan selama penyebaran virus COVID-19 menurut hukum internasional dan hukum indonesia. *Jurnal HAM*, 12(2), 305-324.

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