

THE INFLUENCE OF GLOBALIZATION ON INTERNATIONAL LAW BETWEEN TWO COUNTRIES

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Abstract

Globalization has brought significant changes in international relations, particularly through increased interaction in the fields of economics, politics, society, and law. One of the most evident impacts of globalization is the growing influence of international law on national legal systems. Indonesia, as part of the global community, has begun adopting various international legal principles, especially in the areas of trade and communication, making its national law more open and transnational in nature. This development also demands that law be more responsive to social dynamics and public policy. Law is no longer static, but must be able to interact with societal interests and the international community. However, globalization also presents challenges, particularly concerning differences in legal systems between countries, such as common law and civil law. To address this, legal harmonization is necessary, aligning principles and procedures through bilateral negotiations, international conventions, or the adoption of model laws from institutions such as UNCITRAL. Fields such as trade, arbitration, and human rights demonstrate the importance of legal harmonization, provided it still respects the legal sovereignty of each country.

Keywords: Globalization, International Law, Two Countries

A. INTRODUCTION

Law, as a collection of rules or principles, has content that is general and non-native; it is general because it applies to everyone, and normative because it determines what should be done or how to comply with the rules (Marsiyem, 2011). Law can be approached from a sociological perspective, as it is closely related to the society where the law is applicable (Marsiyem, 2011).

Law is a social order of human actions. "Order" is a system of rules. Law is not, as it is sometimes said, a regulation (Arliman, 2016). Law is a set of rules that contains a kind of unity that we understand through a system (Hans K, 2006). The statement that law is a social order of human actions does not mean that the legal order is only concerned with human actions; that there are no other matters besides human actions that are included in the content of legal regulations (Hans K, 2006).

The law, as formulated in the form of norms, is created to be obeyed, so that if a norm is violated, sanctions will be imposed (Setiadi W, 2009). The consequence of the enforcement of these sanctions is a guarantee from the government or the relevant authorities to provide a sense of security for citizens, so that if there are citizens who feel they are in an unsafe situation, the government or the relevant authorities must provide fair legal protection for those citizens (Adnani et al., 2023). John Rawls states that the law becomes just if its application truly aligns with the spirit of positive legal order. The aim to be achieved by the law is justice (Abdussalam, 2006).

Globalization is a comprehensive process where the world can be seen transparently because there are no barriers (Subhan, 2022). Globalization arises when there is trade between nations, the spread of civilization and European laws to the entire world (Wijayanto W, 2022). The wave of globalization today encompasses all aspects of human life and countries (Ratri & Najicha, 2022). Individuals of a country carry out their relations with individuals of other countries without barriers (Sigit & Novianti, 2020). Due to advanced communication technology. Globalization is characterized by features: 'Borderless, cross-border interests, widespread impacts.

The globalization of law will cause the regulations of developing countries regarding investment, trade, services, and other economic fields to converge with those of developed countries (Suparna, 2025). However, there is no guarantee that these regulations will yield the same results everywhere. This is due to differences in political, economic, and cultural systems. What is referred to as law depends on the perceptions of its society. Friedman states that the establishment of legal regulations depends on the legal culture of the society. The legal culture of the society is influenced by the legal culture of its members, which is affected by their educational background, environment, culture, position or status, and even interests.

Globalization has driven and changed the complex legal configuration. As global interconnections increase, cross-border transactions and communications also expand, creating a need to establish transnational rules. Globalization has also led to the increased expansion of international legal regimes in the areas of public and private law. Various references also note that private legal regimes in the global arena are increasingly producing substantive laws without state intervention and without the need for legal legitimacy from the state or international agreements.

B. LITERATURE REVIEW

Basic Concepts and Characteristics of Law

Law is defined as a set of rules that are general and normative in nature. The general nature means that the law applies to everyone, while the normative nature means that the law determines what must or must not be done (Nurhayati Y, 2020). The connection between law and society is very close, as law can only be applicable and relevant in its social context (Arifudin et al., 2024). Law is not only a single regulation, but rather as a "system of human actions," which is a system of rules that has unity (Firmanto et al., 2024). This concept emphasizes that law is an integrated whole, where each rule is interconnected and works together.

The main purpose of this legal system is to achieve justice. John Rawls (in Abdussalam, 2006) asserts that the law is considered just if its application aligns with the spirit of the prevailing positive legal system. Therefore, the law not only contains commands or prohibitions but also provides sanction consequences for violators. These sanctions serve as a guarantee from the government to create a sense of security and provide fair legal protection for every citizen.

Globalization and Its Implications for Law

Globalization is defined as a comprehensive process in which the boundaries between countries become blurred, driven by advances in communication technology and trade (Sahban, 2018). This phenomenon affects various aspects of life, including law. As a result of globalization, legal regulations in developing countries tend to converge with those in developed countries, especially in the fields of investment and trade (Mahfuzah et al., 2024). However, Friedman in (Nasihuddin, 2024) reminds us that the success of law enforcement heavily depends on the legal culture of the society, which is influenced by educational background, environment, culture, and interests.

Globalization has also encouraged the formation of transnational rules due to the increasing interactions and cross-border transactions (Mardiyati S, 2024). This has also led to the expansion of international legal regimes, both in the realm of public and private law. Interestingly, in the global arena, many new substantive laws have emerged without intervention or legitimacy from states or international agreements.

Challenges and Harmonization of Law

Although globalization enriches national law with international rules, it also presents significant challenges, particularly related to the differences in legal systems between countries, such as common law and civil law. To address these differences, legal harmonization becomes very important. The process of harmonization aims to unify legal principles and procedures through various means, such as bilateral negotiations, international conventions, or adopting legal models from global institutions like UNCITRAL. Fields such as trade, arbitration, and human rights are real examples where legal harmonization is needed to create certainty and efficiency. However, this harmonization must be carried out while respecting the legal sovereignty of each country. Thus, the influence of globalization demands that the law becomes more responsive to social dynamics and public policy, no longer static, but able to interact with the interests of the global community.

C. RESEARCH METHOD

The type of research taken is empirical legal research, which is a method of legal research that uses empirical facts obtained from human behavior, both verbal behavior gathered from interviews and actual behavior carried out through direct observation. Empirical legal research is not only focused on the community but also on law enforcers and facilities that are expected to support the implementation of these regulations. In this empirical legal research, the required data are primary data as the main data source in addition to secondary data in the form of legal materials as data sources and tertiary data as support. The data analysis method

used is descriptive qualitative data analysis by collecting the obtained data, which is then linked to the existing literature.

D. RESEARCH RESULTS AND DISCUSSION

The Impact of Globalization on International Law Between Two Countries

Globalization is not something new; the spirit of European Enlightenment in the Middle Ages that drove the search for new worlds can be categorized as a wave of globalization. The industrial and transportation revolutions in the 18th century were also driving forces of globalization, distinguishing it from the waves of globalization that have occurred in the last decade by their speed and reach. Furthermore, interactions and transactions between individuals and different countries will also produce political, social, and cultural consequences at varying levels and intensities.

As a result of globalization and the increase in international interactions and trade, quite a lot of foreign or international legal regulations will also be incorporated into national legislation, especially transnational legal principles that will be accepted more quickly as national law, because these transnational legal principles serve as permanent rules in international and global communication and economy. Consequently, as it increasingly follows global developments, Indonesian national law will increasingly exhibit a more transnational nature, resulting in a reduction of differences with other legal systems.

The legal relationship and public policy can be seen in the discussion of three fields of study, namely the formulation, implementation, and evaluation of policy and law. In a new paradigm, law is no longer seen as a standalone entity, but must be able to interact with other entities with the main objective of adopting the interests that exist in society. Therefore, it is not surprising that law can interact with politics. Such law will be better able to understand or interpret disobedience and disorder that occur in society. Thus, in responsive law, there is ample room for dialogue to provide discourse and the existence of pluralistic ideas as a reality.

In every country, there is legal politics that serves as a basic policy for state organizers to determine the direction, form, and content of the laws to be established. As defined by Padmo Wahjono, legal politics is the policy of state organizers regarding what is used as criteria for judging something, which includes the formation, application, and enforcement of the law (Padmo W, 2006).

International law is the first term introduced by Jeremy Bentham. International law is understood as public international law or *de droit international public*, which has a different meaning from private international law (also known as the conflict of laws). According to Sudargo Gautama, private international law is formulated as '...the entirety of rules and decisions that indicate which legal system applies or what the law is when relationships and events between citizens at a certain time show a connection with the legal systems and legal norms of two or more countries, which are different from the environments of jurisdiction (personal), and issues.' (Setyo et al., 2019).

Essentially, what is meant by international law is the law of nations, international law, or inter-state law. The law of nations is used to refer to the customs and legal rules that apply in

the relationships between kings in ancient times. International law or inter-state law refers to the complex of norms and principles that govern the relationships between members of the society of nations or states (Hasannudin, 2019).

International Relations refers to the relationships between nations in all aspects carried out by a country. These international relations can be seen as both a social phenomenon and as a disciplinary relationship between fields of study and as a social phenomenon. International relations can encompass a wide range of aspects, specifically the nature of social life among humans that is international and complex. According to John Houston (1972), the phenomenon of international relations can involve international conferences, which regulate the arrival and departure of diplomats, the signing of agreements, the development of military power, and as a trade flow on an international scale. In the system of international law, there is a legal system known as the autonomous system, which is also independent of international politics. The main function of international law is to serve the needs of the international community that is part of an authentic state system. Specifically, the function of international law is to assert that the duty of international law is as a relatively autonomous formal technique, as well as an instrument to enhance specific demands and agendas through political struggles. International law and its institutions also have intentions, goals, and functions in maintaining the realization of the idea of balancing interests among states.

The process of legal harmonization between two countries in facing differences in legal systems due to globalization.

Globalization has become a major force driving interactions between countries in various aspects of life, including the legal field. When two countries establish international cooperation, they often face differences in their legal systems. For example, one country adheres to a common law system, while the other applies civil law. These differences can create obstacles in the implementation of agreements, dispute resolution, and legal certainty for the parties involved. Therefore, the process of legal harmonization becomes an important step in uniting the legal interests of both countries amidst the dynamics of globalization.

Harmonization of law can be understood as the process of aligning or standardizing legal principles, rules, or procedures between countries so that they can be mutually accepted and implemented together. This process often occurs through bilateral negotiations, international forums, or ratifications of global conventions. A concrete example of efforts towards legal harmonization between countries can be seen in free trade agreements that require agreements on tariffs, intellectual property rights protection, and product standards. Without harmonization, each country will continue to adhere to its national laws, which may conflict with each other and hinder cross-border cooperation.

One of the main challenges in legal harmonization is the difference in philosophy and legal structure between countries. Countries with a common law system, such as the United States or England, tend to rely on precedent (case law), while civil law countries, such as Indonesia or Germany, prioritize legal codification in the form of statutes. To bridge these differences, parties usually agree on the use of common legal principles, such as the

principles of good faith, non-discrimination, or due process, as a basis for legal cooperation that can be universally accepted (Yahwa H, 2020).

International institutions such as the United Nations Commission on International Trade Law (UNCITRAL) also play a significant role in facilitating the harmonization of laws. UNCITRAL, for example, has developed various model laws that countries can adopt in the fields of arbitration, international trade contracts, and e-commerce. Through these model laws, two countries with different legal systems can have a uniform legal framework, thus facilitating cooperation and reducing legal risks in cross-border transactions.

In addition, legal harmonization also occurs in the field of human rights enforcement, where two countries can ratify international conventions such as the International Covenant on Civil and Political Rights (ICCPR). By ratifying, both countries are bound by the same principles even though they are applied with different approaches. In this case, harmonization does not mean standardizing all legal aspects, but emphasizes the adjustment of fundamental principles so that they can be accepted by both parties while still respecting each country's national legal sovereignty (Jimly A, 2005).

However, legal harmonization does not always proceed smoothly. There are concerns that harmonization can become a form of domination of certain legal systems over others, especially if countries with stronger economic legal systems impose their standards on partner countries. Therefore, an inclusive and dialogic approach is needed in the harmonization process, taking into account the social, cultural, and political conditions of each country. In addition, the involvement of legal experts, academics, and civil society is also necessary to ensure that legal harmonization brings real benefits and does not compromise the principles of justice.

Overall, the harmonization of laws between countries in the context of globalization is a complex yet very important process. In facing differences in legal systems, countries need to build a collective commitment based on the principles of equality, mutual respect, and common interests. Thus, globalization will not erase national legal identities, but will instead enrich international legal cooperation through mutually beneficial adjustments.

E. CONCLUSION

Globalization has brought fundamental changes in the patterns of relationships between countries, characterized by increased interaction in the economic, political, social, and cultural fields. The flow of modern globalization is not only marked by the speed and reach of information but also by the strengthening influence of international law on national legal systems. Indonesia, as part of the global community, is not exempt from this impact. Many international and transnational legal norms are beginning to be adopted into national law, especially in the context of global trade and communication. This has led to the character of Indonesian law becoming more open, responsive, and transnational. In this development, the relationship between law and public policy becomes very important. Law is no longer closed and static but must be able to respond to social and political dynamics. Responsive laws open up a space for dialogue and a plurality of ideas, allowing them to adapt to the changing needs of society due to globalization.

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Globalization has strengthened interactions between countries and promoted cross-border cooperation in various fields, including law. However, differences in legal systems, such as between common law and civil law, often pose challenges in establishing international legal relations. In this context, legal harmonization becomes an important key to uniting the legal interests of two countries with different systems. Legal harmonization allows for the alignment of legal principles and procedures through negotiation, ratification of international conventions, or the adoption of legal models from institutions like UNCITRAL. Additionally, fields such as trade, arbitration, and human rights demonstrate how harmonization can foster effective cooperation, as long as it respects the legal sovereignty of each party.

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