

**THE INFLUENCE OF INTERNATIONAL CRIMINAL LAW ON NATIONAL  
CRIMINAL LAW**

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**Abstract**

*International criminal law is not part of criminal law, but in fact international criminal law is one source of the development of criminal law. As a form of international criminal law, international agreements generally affect legal values, legal principles, and national criminal law norms. This study tries to explain the position of international criminal law in domestic criminal law and to determine the influence of international criminal law on domestic criminal law. The research methodology used in this study is a prescriptive legal research methodology. These results indicate that the relationship between international criminal law and domestic law is complementary.*

**Keyword : Influence; Criminal; Law; National; International**

**Introduction**

There are several cases of international crimes where all the perpetrators and victims are citizens of the country concerned, in the case where the crime was committed. Likewise, victims in the form of property wholly belong to that state or citizens, and therefore have no physical or visual international dimension at all. However, considering that this incident is an example of this nature, the victim does not know the problem and is very irrelevant to the motives, intentions and goals of both the perpetrators, the international community, the state and the international community. Countries and individuals in various countries, regardless of religion, belief, ethnicity, political understanding, language, or other differences, have voluntarily and violently reacted to the incident, condemning it as a barbaric and inhumane act. In essence, all this demonstrates is that the international community cannot condone such actions, whatever their motives, intent or purpose. This is because it violates human rights, universal human values, human justice and a sense of justice.

There are several international criminal law principles derived from international law, as follows:

1. The principle of independence, sovereignty and equality of state, namely that every independent and sovereign country has an equal position with other countries. According to this principle, an independent and sovereign state must protect and respect the sovereignty of other countries.
2. The principle of non-intervention, that is, the state may not interfere in the internal affairs of other countries, unless the state agrees.
3. The principle of peaceful coexistence, namely if there is a state dispute, then it is resolved peacefully through an international treaty.
4. The principle of respect and protection of Human Rights ("HAM"), namely this principle guides the obligation of countries in the international sphere to respect and protect human rights in any situation and condition.

International criminal law is a science that comes from two disciplines of criminal law and international law. Thus, in short, international criminal law is a set of legal principles and principles governing international crimes. HPI itself was born because of the response of the international community to realize international justice through the establishment of the Nuremberg International Military Court, the Tokyo International Military Court, ICTY, ICTR, and ICC. As a scientific discipline which is a combination of criminal law and international law, the principles in HPI also come from these two legal sciences, such as the principles of legality, non-retroactivity, non-intervention, and others. Most of the criminal laws that apply in Indonesia are largely derived from the legacy of the Dutch colonial government, especially the Criminal Code (KUHP), which was written in the early 19th century, which was established by the Indonesian State. write about today's social situations. This of course requires effort. As Indonesian criminal law requires reform efforts, it adapts to social progress, developments in criminal law cannot be ignored. The development of national law must be based on a combination of philosophies and needs of the nation, nation and society with international legal norms that are recognized as applicable in countries in the world. paid for harmony. With regard to the reasons for reforming the domestic criminal law, argued that the reasons underlying the adjustment apart from political, sociological and practical reasons, claims as emotions. Adapt to new developments in the past, especially international developments agreed upon by civilized societies. Law reform cannot be separated from the very broad concept of legal reform, because it is not just law reform. Legal system reform includes reform of the legal system as a whole: legal substance, legal structure, and legal culture. Criminal law renewal is essentially an effort to review and reform (reorganize and reform) criminal law in line with the development of socio-political and socio-cultural values of Indonesian society. Therefore, extracting societal values to reform Indonesian criminal law must be carried out in such a way that Indonesian criminal law in the future responds to the current socio-political and socio-cultural situation of Indonesian society. In adopting international criminal law rules in , national criminal law must take precedence over legal issues that are neutral and insensitive to the values prevailing in Indonesian society. Purpose of law.

## **Methods**

The method used in this study is a normative juridical approach by looking at a comparison of the jurisdictions of the Rome Statute and the Law on Human Rights Courts in Indonesia as rules/norms that provide protection for human rights. Researchers will base on the provisions of international law and national law. As in normative juridical research, the type of data used is secondary data obtained from library data. (Peter Mahmud Marzuki, 2005, p. 25)

## **Result and Discussion**

The principle of national sovereignty or "national sovereignty" is a general principle of international law that is international in nature. This principle has long been debated by international legal scholars, but is explained by monism and dualism. The two theoretical developments each country reacts differently depending on their national interests. Some countries prioritize monism, which is a primacy of domestic law, while others prioritize dualism, which is a primacy of international law. The 1945 Constitution and its opening text state that the Unitary State of the Republic of Indonesia is a unitary state - territorial integrity - by prioritizing the territorial principle as the main reference. The principle of sovereignty in its original form aims to protect the integrity of a sovereign territory and prevent aggression by other countries. On the other hand, the 1933 Montevideo Convention on the Rights and Duties of States emphasizes that states, as subjects of International Law, have four qualifications. (b) has clear boundaries; (c) has a government; (d) has the ability to govern. Related to the ability to carry out international relations, the competence of Indonesian diplomats is required in the process of negotiating draft agreements. The ability itself is not innate, but learned and implemented properly. In order to properly understand the Article on international agreements (conventions) and the scope of the state's role in responding to agreements, several things need to be explained below.

As stated above, the existence of international criminal law is fundamentally very important, especially when it relates to transnational crimes. More precisely, international criminal law actually has four functions. These four features are:

1. Ensure that the national laws of each country receive equal consideration in terms of international criminal law. From this point of view, the countries of this world, big or small, strong or weak, developed or not, are equal to one another. Therefore, the laws of each country are in the same position.
2. There is no legal interference between one country and another. Actually, it was to prevent the big powers from legally intervening against the small powers. The second function of international criminal law is to perfect the principle of non-interference. According to this principle, a state may not interfere in the internal affairs of another country unless the state itself expressly agrees to it, or uses force to assist, this clearly violates the principle of non-intervention.
3. International criminal law also functions as a "bridge" or "loophole" for disputing countries to use the International Court of Justice as a loophole.

Basically, the International Court of Justice is an independent and impartial judicial body that hears and adjudicates cases contested by countries in conflict. Therefore, international criminal law is a 'bridge' or 'exit point' for countries in conflict.

4. International criminal law is also the basis for more effective enforcement of international human rights. In the perspective of international criminal law, this principle is commonly referred to as the principle of "respect and protection of human rights". This principle obliges States, and by extension all people, to respect and protect human rights in all circumstances and in all circumstances. Based on this principle, actions taken by the State against persons of any rank must not violate such actions or conflict with human rights. For example, when a country enacts domestic laws and regulations in the field of criminal law, such as anti-corruption laws, anti-terrorism laws and anti-money laundering laws, they must not contain provisions that conflict with human rights.

The four functions of international criminal law are the basic function and the determining function. Elaborating on these four characteristics, they are closely related and apply to transnational crime, especially corruption, the topic discussed in this paper. Corruption is part of the Special Criminal Code. If described, the criminal act of corruption has certain characteristics that deviate from general criminal law. The UN Convention against Corruption (UNCAC), 2003<sup>6</sup> recognizes the problem of corruption as a serious threat to stability, undermining institutions, democratic values and justice, national and international public security, and sustainable development.

This international criminal law is a combination of international law and criminal law, has formed many rules of national criminal law. International agreements are very important for the development of national law, especially national criminal law, because international agreements as a source of international law can provide developments in national criminal law through the state or through conventions held by the state. International law according to monism, international law that applies and becomes part of national law, especially for agreements which are self-executing treaties. At the same time, dualism argues that international legal rights and obligations established by treaty have no effect on national law without the consent of the state. So the enactment of international law in national law remains under the constitution of a country itself.

## Conclusion

The strong opinion about the position of international criminal law in national criminal law is only complementary, because there is a complementary relationship between international criminal law and national criminal law. Coordination of international law and national criminal law has indeed formed many national criminal law regulations. Therefore, the policy of harmonizing international criminal law with legal values, legal principles and legal norms in the Indonesian criminal law system is an important part of maintaining the existence of the

sovereignty of Indonesian criminal law and being able to follow and adapt to developments in international criminal law.

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