

INDONESIA'S STRATEGIC ROLE IN THE DEVELOPMENT OF INTERNATIONAL LAW IN THE ASEAN COMMUNITY

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ABSTRACT:

The purpose of this study is explicitly to analyze Indonesia's strategic role in the development of International Law in the ASEAN Community and to understand Indonesia's contribution since the beginning of the formation and development of ASEAN, Indonesia when analyzed its role is significant because during the ASEAN leadership in certain years (1976, 2003, 2011 and 2023) this is very fundamental, where Indonesia's strategic efforts to continue to strengthen ASEAN as a unity in the Southeast Asian region that is growing rapidly, inclusive and sustainable, that the ASEAN Community has the capacity to resolve problems between member countries through the mechanism of International Law. Normative research methods are used to analyze the various strategies used in Indonesia's interactions as a country and part of the ASEAN community. Indonesia sees the opportunities in the ASEAN region as a space that can support Indonesian cooperation. Indonesia's success in including maritime issues in the ASEAN agenda is also an initial step that will help pave the way for Indonesia to realize its vision of the World Maritime Axis. Indonesia's significant role certainly promotes stability and security in the ASEAN Southeast Asia Region and it is important to remember Indonesia's commitment to the principles of International Law and peaceful resolution of disputes.

Keywords; Role of Indonesia, ASEAN, International Law.

A. Introduction

For 57 (fifty seven years), the Association of Southeast Asian Nations (ASEAN) is a regional organization of the Southeast Asian region established on August 8, 1967 and its cooperation covers the political and economic fields between countries in the Southeast Asian region itself. When ASEAN was first established, there were only five member countries: Indonesia, the Philippines, Malaysia, Singapore, and Thailand. Ten countries have become members and recognize the importance of cooperation to overcome these challenges in various fields. The ASEAN Charter adopted in 2008 includes several aspects of broad regional cooperation, including accelerating economic growth, social progress and cultural development, promoting regional peace and stability, enhancing cooperation and mutual assistance, enhancing cooperation to address common challenges, improving the lives of the ASEAN people, maintaining common interests at the regional and international levels,

maintaining the principles of the UN, increasing trade and investment and strengthening ASEAN identity.

Before the formation of ASEAN, various initiatives were carried out in Southeast Asia to establish regional cooperation. One of them was the Association of Southeast Asia (ASA), which in 1961 only had three member countries: the Philippines, Malaysia, and Thailand. So ASA was called the basis for the formation of ASEAN which was continued in 1963 by the establishment of Malaysia, the Philippines, Indonesia (MAPHILINDO). However, due to the conflict between Malaysia and the Philippines, MAPHILINDO then replaced ASEAN, although it must be admitted that MAPHILINDO did not last long at that time. This second effort then ended with Sukarno's confrontational policies. ASEAN has introduced various policies and mechanisms to address a number of phenomena such as migration and preventing cross-border crime.¹

Indonesia has been viewed as the natural leader of perceived organizations such as the Association of Southeast Asian Nations (ASEAN), a construct that is justified by its geographic dimensions, large population, strategic location, and natural resources. This has led to Indonesia feeling entitled to a leadership position and being generally recognized by other ASEAN members as first among equals. Indonesia's de facto leadership has traditionally been accepted as conventional wisdom, but little attention has been paid to the extent to which Indonesia's Jakarta-based executives have actually succeeded in exercising leadership in ASEAN and how their efforts to do so have been perceived by other Southeast Asian states. This paper explores these questions by focusing on Indonesia's ability to provide international public goods in the areas of security and economics, engage in conflict management, and promote institution-building.

Since its inception, the ASEAN community has been a means to further strengthen ASEAN integration. The ASEAN community was built through 3 (three) pillars, namely the ASEAN Political-Security Community Pillar which aims to enhance cooperation in the political and security fields in order to maintain peace in Southeast Asia, as well as uphold human rights (HAM) and democracy in Southeast Asia. Until now, ASEAN has held many meetings that have resulted in agreements on efforts to cooperate in the fields of economics,

¹ Karunia *et al.*, "Kebijakan Asean Dalam Merespon Fenomena Migrasi Dan Pencegahan Kejahatan Transnasional Melalui Lembaga Sektoral Asean." *Journal of Law and Border Protection*, Depok, 2023, p. 72.

education and security stability in the Southeast Asia region, although it is recognized that there are various principles that in their implementation are still obstacles such as the principle of non-intervention. The increasingly complex problems in the ASEAN region, if no immediate steps are taken to resolve them, it is feared that various interventions will emerge from countries outside ASEAN which endanger the sovereignty of the ASEAN countries themselves. The idea of ASEAN regional cooperation to maintain peace or peacekeeping was first raised in 1994 after the 1991 Abuja Treaty which was the initiation of the formation of regional security cooperation for the African Union (African Union). Therefore, in 2003 the Indonesian Government submitted a suggestion to ASEAN to form a peacekeeping force. Unfortunately, this has not become a special concern among ASEAN member countries themselves. This is due to the perception of the principle of non-intervention among fellow ASEAN member countries.²

However, over time, the perception of the principle of non-intervention has changed due to the following factors: First, the increasing role of ASEAN countries in maintaining international peace has made them more aware of the benefits of multilateral action in addressing cross-border challenges; Second, the regional challenges currently facing Southeast Asia have also changed, leading to a reconsideration of the benefits of regional power. Therefore, to address these issues, ASEAN is expected to further strengthen cooperation between member countries in the field of regional security. Serious threats to ASEAN regional security can come from transnational crimes, such as human trafficking, narcotics and drug trafficking, money laundering, terrorism and other crimes that cross national borders in the ASEAN region. These crimes often involve complex cross-border networks and are difficult for one country to overcome alone.³

This association will always carry out transparency and participation of all countries in the Southeast Asian region in accordance with the goals and principles of life. It proclaims ASEAN as a representative of "the collective will of the countries of Southeast Asia to bind themselves in friendship and cooperation and, through common efforts and sacrifices, ensure their peoples and children through peace, freedom and prosperity" It has been mentioned previously that ASEAN has made various efforts to strengthen cooperation between its

² Saptono *et al.*, "Kerjasama Indonesia Dan Amerika Serikat Mendukung Peran Indonesia Sebagai Leading Sector Dalam Pembentukan Asean Counter Terrorism And Peacekeeping Task Force." *Op. Cit.* p. 568.

³ Karunia *et al.*, "Kebijakan Asean Dalam Merespon Fenomena Migrasi Dan Pencegahan Kejahatan Transnasional Melalui Lembaga Sektoral Asean.", *Loc. Cit.*, p. 72.

members in the field of law enforcement and security, such as one example is the establishment of the ASEAN Convention Against Trafficking in Persons, Especially Women and Children or ACTIP in 2015, which aims to combat human trafficking in the ASEAN region or the establishment of the ASEAN Peacekeeping Force because it is realized that at the regional level, Southeast Asia is a region that faces quite serious challenges in the field of security. *Pilar Kedua* adalah Komunitas Ekonomi ASEAN atau ASEAN Economic Community atau di Indonesia disebut Masyarakat Ekonomi Asia (MEA). MEA memiliki tujuan untuk menjadikan kawasan Asia Tenggara menjadi sebuah pasar bersama/pasar tunggal (*single market*) dan basis produksi⁴ yang implementasi dari MEA ini diharapkan kawasan Asia Tenggara akan menjadi kawasan yang berdaya saing dan dinamis, memiliki pembangunan yang merata dan setara serta mempercepat keterpaduan ekonomi di kawasan Asia Tenggara dan dengan kawasan di luar Asia Tenggara (ASEAN). Pilar ketiga adalah Komunitas Sosial-Budaya ASEAN. Pembentukan komunitas ini diharapkan akan meningkatkan kesadaran, kesetiakawanan, kemitraan, dan rasa memiliki masyarakat Asia Tenggara terhadap ASEAN.⁵

Political and security cooperation in ASEAN, especially the ASEAN Political and Security Community (APSC), was established with the aim of accelerating political and security cooperation in the Southeast Asia (ASEAN) region and peace among Southeast Asian countries. To realize the region. The APSC pillar is an important element as a tool for building peace in the region. APSC operates in the context of political and security cooperation. The existence of the pillars of the ASEAN Political-Security Community is an important part, because this community is a vehicle for creating regional peace. APSC is expected to build better coordination between ASEAN member countries to respond to global challenges and threats that arise in the region. However, the implementation of APSC in ASEAN is not easy. APSC continues to face internal obstacles regarding the commitment of Member States to comply with the standards that this Pillar (APSC) wants to create. Once formed, APSC is expected to be able to overcome political and security problems that arise inside and outside the Southeast Asia region. This description shows that along with the

⁴ Sari, "Peran Indonesia Dalam Implementasi Asean Political Security Community.", *Jurnal Dinamika Global*, Cimahi, 2019, p. 20.

⁵ Sari., *Ibid*, p. 21.

continued development of ASEAN through its member countries, it is expected to be able to form a strong and independent Southeast Asia region that will become the next global axis.

B. Research Method

This study aims to analyze Indonesia's strategic role in the development of International Law towards the ASEAN Community and understand Indonesia's contribution since the beginning of the formation and development of ASEAN international law. Various studies have been written in national and international literature, politically, economically and legally, the perspective on Indonesia's role that is different from this study is Indonesia's strategic role in discourse, explicitly using International Law by looking at the practice of the ASEAN community, this is important to develop the role of Indonesia and ASEAN more comprehensively and sustainably.

C. Discussion

1. Indonesia's Strategic Role in the Development of International Law in the ASEAN Community

ASEAN as an international organization is the holder of rights and implementer of obligations according to International Law, ASEAN was formed by an international agreement by more than two countries, in this organization there are various functions, objectives, authorities, principles and organizational structures, as a regional organization ASEAN is closed because ASEAN membership is only countries included in the Southeast Asia Region, this regional organization is very competitive and is taken into account globally, this is influenced by geopolitical and geoeconomic shifts in Southeast Asia due to increasing competition between countries such as America and the People's Republic of China (PRC). To examine these interrelated capacities, it is necessary to provide several illustrations that will be explained in the ASEAN Charter and other important international rules.

a. ASEAN Charter

The existence of ASEAN as an international organization when viewed from several perspectives is less than satisfactory, this can be seen at the internal (regional) and external (international) levels. Its international level and integrity are very low compared to other regional organizations, especially the European Union. ASEAN has a High Council that resolves international disputes between member countries. However, this facility has never been used. For example, in resolving the Sipadan-Ligitan dispute, Indonesia and Malaysia preferred to resolve it through the International Court rather than the High Council. The issue

of human rights violations in Myanmar has also never received serious attention in ASEAN. This is partly due to the implementation of the very strict principle of non-intervention and the absence of a regional human rights court like other regional organizations. The issue of trade liberalization at the regional level also raises a number of problems. Considering all of the above problems, the 10 member countries are trying to strengthen ASEAN by drafting the ASEAN Charter. Some parties argue that ASEAN will receive greater consideration based on the Charter. However, a number of other parties are pessimistic that the Charter will not bring much change. ASEAN will continue to exist as before, without the authority to take action against member countries that violate international law. By the end of the year, all 10 member states had ratified the Charter as a prerequisite for its entry into force.⁶

The ASEAN Charter as an international agreement emerged from a series of long negotiation processes. The subsequent harmonization and agreement of the interests of the ten ASEAN countries in a legally binding Joint Forum is only one of the many diplomatic efforts that must be made for the birth of the ASEAN Charter. Most importantly, peace, stability, progress and shared prosperity in the region are fundamental interests that can ultimately unite Southeast Asian countries into the ASEAN Forum. A series of long-term negotiation processes can be seen, among others, in the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter on 12 December 2005, the emergence of the Group of Eminent Persons or EPG3 and the High-Level Task on the ASEAN Charter. ASEAN Charter. The Mandatory Reading Draft of the ASEAN Charter or HLTF 4 process on 12 December 2005 resulted in the Travaux Préparatoires or Preparatory Documents for the ASEAN Charter. This includes, but is not limited to, the EPG, HLTF, the final notes or Bali summary notes. Kuala Lumpur Declaration on the Establishment of the ASEAN Charter II and the Cebu Declaration on the Draft ASEAN Charter.⁷

The length of the negotiation process can be said to be such as, from the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter on December 12, 2005, the Eminent Persons Group on the ASEAN Charter or EPG, namely a series of long negotiation processes, among others, seen in the formation of the Kuala Lumpur Declaration of the Terms of Reference or TOR EPG which was agreed upon at the 11th ASEAN Summit in

⁶ Pratomo, "Prospek Dan Tantangan Hukum Internasional di Asean Dan Indonesia Pasca Piagam Asean Dari Sisi Perjanjian Internasional.", *Jurnal Hukum Ius Quia Iustum* No. 1, Yogyakarta, 2009, p. 61

⁷ Pratomo.Pratomo., *ibid*, p. 62

Kuala Lumpur, Malaysia in December 2005. Based on the TOR, the EPG, which consists of “highly respected and honored citizens” from each ASEAN country, is tasked with carrying out the following: (“...*examine and provide practical recommendations on the directions and nature of the ASEAN Charter relevant to the ASEAN Community as envisaged in the Bali Concord II and beyond, taking into account, but not limited to, the principles, values and objectives contained in this Declaration*”): Furthermore, “...*examine ASEAN in all areas of its cooperation activities, codify and build upon all ASEAN norms, principles, values and goals as contained in ASEAN's milestone agreements, treaties and declarations, as well as undertake a thorough review of the existing ASEAN institutional frame work and propose appropriate improvements if so required. It will put forth bold and visionary recommendations on the drafting of an ASEAN Charter, which will serve as the legal and institutional framework for ASEAN, aimed at enabling the building of a strong, prosperous, and caring and sharing ASEAN Community that is cohesive, successful and progressing in the 21st century*”

Besides that *High Level Task Force on the Drafting of ASEAN Charter* or HLTF is *Terms of Reference* or TOR HLTF agreed at the 11th ASEAN Heads of State Meeting or ASEAN Summit in Kuala Lumpur, Malaysia, December 2005; In the TOR, the HLTF, which consists of senior officials from each ASEAN country, was given the mandate to “...*draft the ASEAN Charter based on the directions given by the Leaders as reflected in the Kuala Lumpur Declaration on the Establishment of the ASEAN Charter and the Cebu Declaration on the Blueprint of the ASEAN Charter and in consideration of the recommendations made by the EPG and other relevant ASEAN documents*”. The long negotiation process also resulted in the *Travaux Preparatoires* in the form of various documents for the Establishment of the ASEAN Charter including the EPG, HLTF, Bali II Agreement, Kuala Lumpur Declaration on the Implementation of the ASEAN Charter, and the Draft ASEAN Charter.⁸

Going through the negotiation process at the regional level resulted in the signing of the ASEAN Charter followed by ratification by each ASEAN member country as stipulated in Article 47 Paragraph 2 of the ASEAN Charter. (“*This Charter shall be subject to ratification by all ASEAN Member States in accordance with their respective internal procedures*”). The process of ratification was not easy because it was found that there were

⁸ Pratomo, “Prospek Dan Tantangan Hukum Internasional di Asean Dan Indonesia Pasca Piagam Asean Dari Sisi Perjanjian Internasional.” Pratomo. *Loc. cit.* p. 62

3 (three) ASEAN member countries, namely the Philippines (November 12, 2008), Indonesia (November 13, 2008) and Thailand (November 14, 2008) who submitted the ratification instruments at such a close time to the deadline for the initial plan of the effective date of the ASEAN Charter, namely December 14, 2008 at the 14th Meeting of ASEAN Heads of State in Thailand. Indonesia ratified the charter through a process in Commission I of the DPR with a deep meaning.

Several themes of the ASEAN Charter highlighted by Commission I of the DPR include decision-making mechanisms, sanctions, human rights institutions, and community participation, but these have received little attention. The active and important role of members of Commission I of the DPR in analyzing the ASEAN Charter has provided input to the Government for further preparation of follow-up to the ASEAN Charter. 8 Finally, after a long discussion, on November 6, 2008, the ASEAN Charter became part of Indonesia's domestic law through Law Number 38 of 2008 concerning the Ratification of the Charter of the Association of Southeast Asian Nations.

The ASEAN Charter which came into force on 14 December 2008, signed on 20 November 2007 and ratified by all ASEAN member states has de jure transformed ASEAN from a loose regional organization into a rules-based organization. The existence of the ASEAN Charter provides a legal and institutional framework for ASEAN to develop towards a common community that prioritizes, among others, peace, security, stability, sustainable economic growth, prosperity and social progress in accordance with the Terms of Reference or TOR HLEG agreed at the ASEAN Foreign Ministers' Retreat Meeting in Singapore, 20 February 2008; In the TOR, HLEG is asked to "...address the implementation of legal matters in the ASEAN Charter...".⁹

For Indonesia, the formation of the ASEAN Community, whose constitution is the ASEAN Charter, is also in line with the unity of national interests. Indonesia is actually a new regional order that is part of the world order as regulated in the Preamble to the 1945 Constitution of the Republic of Indonesia. In other words, "participation in maintaining world order based on freedom and eternal peace and social justice." As a follow-up to the signing of the ASEAN Charter, the Foreign Ministers of each ASEAN member country

⁹ Pratomo, "Prospek Dan Tantangan Hukum Internasional Asean Dan Indonesia Pasca Piagam Asean Dari Sisi Perjanjian Internasional." *Op.cit*, p. 63

agreed to form a working group whose duties include discussing legal issues that may arise in the implementation of the ASEAN Charter. The Working Group is a group of high-level legal experts for the Follow-up to the ASEAN Charter (HLEG) and consists of legal experts representing ASEAN member countries.¹⁰

When comparing the ASEAN Charter with the charters of other regional organizations that are non-supra-national in character such as the Organisation of African Union 1963 (OAU) Organisation of American States 1948 (OAS) and Organisation of Islamic Conference 1974 (OIC), it can be said that based on the issues regulated, the ASEAN Charter tends to be more comprehensive. For example, of the three other regional organizations, only the ASEAN Charter regulates in detail the provisions on how to resolve disputes even though in terms of the number of member countries it is the least, around 32 member countries for the OAU, 146 member countries for the OAS and 14 member countries for the OIC which are added to by a number of other interesting aspects such as the number of objectives and principles contained in the ASEAN Charter which can be said to tend to be general, for example the ASEAN Charter 15 Objectives and 14 Principles, the OAU Charter 5 Objectives and 7 Principles, the OAS Charter 8 Objectives and 14 Principles and the OIC Charter 7 Objectives and Principles.¹¹

The enactment of the ASEAN Charter has an impact on the development of international law at the ASEAN level, including Indonesia. The form of the ASEAN Charter, which is an agreement, makes the ASEAN Charter one of the sources of international law for all ASEAN member countries as per Article 38 of the Statute of the International Court of Justice and this is for the ASEAN region. Realizing the substantial aspects of the things agreed upon, the ASEAN Charter is not only an international agreement in its usual form, but an international agreement that has a special character to be used as a basis for international agreements or other instruments. The character of the ASEAN Charter is as a law maker for other ASEAN agreements or instruments, whether derivatives with a position as a subordinate or parallel coordination.

¹⁰ Pratomo. "Prospek Dan Tantangan Hukum Internasional Asean Dan Indonesia Pasca Piagam Asean Dari Sisi Perjanjian Internasional." *loc.cit*, p. 63

¹¹ "Prospek Dan Tantangan Hukum Internasional Di Asean Dan Indonesia Pasca Piagam Asean Dari Sisi Perjanjian Internasional." *loc.cit*, p. 63.

The ASEAN Charter is the most important legislative document in the ASEAN region because, among other things; 1) it provides general rules, 2) it was developed multilaterally in the context of the ASEAN regional structure, and 3) the Object (traitslois) is considered to have personality. This fulfills the obligations of other agreements and does not eliminate them. For example, in category a) the ASEAN Charter establishes basic principles for ASEAN member states to interact within ASEAN. Category b) the ASEAN Charter is the result of regional negotiations that bring together the interests of all ASEAN member states into a legally binding agreement. On the other hand, in category c) the ASEAN Charter does not eliminate other agreements and instead recognizes and states that previous agreements before the ASEAN Charter came into effect are valid unless they conflict with the agreement.

In contemporary times, ASEAN countries have agreed to more than 300 types of agreements since 1967. These types of documents come in various formats, ranging from declarations and joint declarations to memoranda of understanding and international agreements in various fields, with economics being the most widely regulated field. Regarding the existence of documents such as those mentioned above, the ASEAN Charter recognizes their legislative nature and states that the status of documents made before the ASEAN Charter comes into force will remain valid unless they are in conflict with the document. At first glance, the application of this principle is valid as long as it does not conflict with previous documents. Although the ASEAN Charter does not have an impact on ASEAN, if examined carefully, it has the potential to cause problems in the future. For example, of the more than 300 legal instruments that exist, the eligibility of legal instruments that can give rise to rights and obligations has not been determined.

The issue of the adequacy of legal documents is closely related to the dispute resolution mechanism, because disputes are generally based on similar documents. If a deed does not clearly regulate its legal rights and obligations and one of the parties to the deed fails to fulfill its obligations, can this be a basis for initiating a dispute? Another example: Is there a hierarchy among the more than 300 financial institutions? financial instruments, or do all financial instruments have the same status? ASEAN must address these issues to avoid potential conflicts in the future. This requires immediate attention.

The ratification of the ASEAN Charter by Indonesia officially becomes part of the domestic law of Indonesia. Some legal implications of the ASEAN Charter for Indonesia.

The main purpose is to recognize ASEAN as an international organization that has legal capacity based on the rules of domestic law of Indonesia. Such legal capacity includes, among others, the right to 1) enter into contracts, 2) buy and sell real estate, and 3) sue and be sued in court. The extent to which international organizations can be sued in Indonesian courts, or whether international organizations can own land in Indonesia, are some fundamental questions that currently cannot be answered by Indonesian law.

ASEAN instruments based on the ASEAN Charter must follow a system consistent with the ASEAN Charter. Qualifications must be agreed upon, especially those covering the hierarchy and status of each legal and political instrument. In addition to a good qualification system, there are several derivatives of the ASEAN Charter that are challenges for ASEAN, namely, the Agreement on Immunities and Privileges under Chapter VI of the Charter and the Agreement on ASEAN Human Rights Institutions under Article VI. The Agreement on Dispute Settlement Mechanisms under Article 14 of the Charter and Article 25 of the Charter, among others. In addition, the role of the ASEAN Secretariat as the center of ASEAN activities, including the ASEAN Instruments Center which was later established, will also be very important. The ASEAN Charter has provided greater legal certainty to international law, especially in the ASEAN region, than before. It is interesting to observe the implementation of the ASEAN Charter in the future in the form of agreements or derivative documents of subordination or parallel coordination. The biggest prospects and challenges of international law in the ASEAN context are the classic problems that have become the scourge of international law: the political will of ASEAN member states to implement the provisions of the ASEAN Charter. There are further legal implications regarding ASEAN immunities and privileges in Indonesia.

Indonesian laws on the immunities and privileges of international organizations have been in line with more general regulations such as Law Number 24 of 2000 on International Agreements, Law Number 37 of 1999 on International Relations and Host Agreements, or agreements related to host countries scattered throughout. Something that at one time conflicts with other regulations, such as taxation or immigration regulations. Given that Indonesia in the ASEAN context is recognized as the host country of ASEAN, the urgency of laws governing international organizations becomes very important. Like the United States, Switzerland, and Austria which host the UN. The intensity of the ASEAN meeting in Jakarta will be very high. Therefore, the conflict with Indonesian legal regulations is not

unreasonable, especially if Indonesian law does not regulate international organizations clearly and specifically.

Furthermore, each ASEAN member state will place an additional mission that includes an Ambassador-level official like the permanent representative of a United Nations member state in New York, United States and this does not include non-ASEAN countries that have certain relations with ASEAN such as ASEAN dialogue partners. For example, Australia has sent a special ASEAN Ambassador to Jakarta. For Indonesia, the implication of being a host is the prospect and challenge itself both for Indonesian law and the relationship between Indonesian law and international law considering the character of the international agreement of the ASEAN Charter. For Indonesia, the prospects and challenges of international law after the ASEAN Charter can be viewed from two aspects, namely the internal and external aspects. For the internal aspect, Indonesian law will be influenced by international law, especially the law of international organizations. Indonesian law must be able to bridge the interests of international law and the interests of international law. In addition, ASEAN countries will appoint additional missions, including ambassador-level officials, such as the permanent representatives of UN member states in New York and the United States. This does not apply to non-ASEAN countries that have certain relations with ASEAN as ASEAN dialogue partners. For example, Australia sends a special ambassador from ASEAN to Jakarta.

For Indonesia, given the nature of the international agreement in the ASEAN Charter, the implications for the host are the prospects and challenges faced by Indonesia itself, both in terms of Indonesian law and the relationship between Indonesian law and international law. Indonesia specifically examines the prospects and challenges of international law based on the ASEAN Charter from two aspects: internal and external. From an internal perspective, there is a tendency for Indonesian law to be influenced by international law, especially the law of international organizations. Indonesian law in its existence must be able to combine the interests of international and domestic law. On the external side, Indonesia's practice as the host of ASEAN will attract the attention of the international world, especially the ASEAN community, and it is possible that it will achieve international equality, and ultimately will lead to the birth of international conventions that will follow. The ASEAN community is recognized and imitated by the international community. In this case, it can be said that Indonesia is directly involved in the formation of international law through

international law customs or customary international law. The main legal issues discussed include ASEAN's legal capacity, ASEAN's dispute resolution mechanism, and ASEAN's immunities and privileges. The follow-up to the ASEAN Charter, especially the implementation of all provisions of the ASEAN Charter, is both a prospect and a challenge for ASEAN and Indonesia itself. The ASEAN Charter may be reviewed in 2013, as stipulated in Article 50 of the ASEAN Charter. *“This Charter may be reviewed five years after its entry into force or as otherwise determined by the ASEAN Summit”* This is in line with the implementation of the ASEAN Charter which has also been confirmed to be able to color the development of international law, both in ASEAN and Indonesia.

1. Mutual Legal Assistance (MLA)

The 56th anniversary of ASEAN cooperation is a sign that the problems that arise between ASEAN member countries will become increasingly dynamic. This problem is escalating, not only in the socio-cultural field, but also in the legal field. As the largest country in ASEAN, Indonesia is ready to become a barometer for international law enforcement for other ASEAN countries. Indonesia must set a good example for ASEAN countries. Indonesia's actions in ASEAN will have a major international impact. In addition, legal issues are often discussed among ASEAN member countries. Therefore, legal cooperation must be a sustainable step for other ASEAN member countries.

One form of cooperation is Mutual Legal Assistance (MLA) which was signed by ASEAN countries. In fact, Indonesia is one of the pioneers of reciprocal criminal cooperation in ASEAN. Intra-ASEAN cooperation does not only focus on security and other social cooperation, because ASEAN countries realize the importance of increasing solidarity, cohesion and the effectiveness of cooperation. Cooperation in the field of international law such as MLA is one part of the work of the Indonesian International Legal and Legal Headquarters (OPHI), as well as Indonesia's main function through the Deputy Directorate General of the Indonesian Criminal Division and the Directorate General of Legal Support. Ministry of Law and Human Rights (Ditjen AHU) and Ministry of Law and Human Rights (Kemenkumham).

Currently cooperation in the field of international law such as MLA is the main task and function of the OPHI Directorate which aims to strengthen MLA and realize cooperation with similar institutions in ASEAN countries to ensure the continuity of its functions. Likewise, according to international relations expert Raden Maisa Yudno, international

relations between ASEAN countries can be seen based on the current status and history of regional integration efforts. In building cooperation in the legal field, it is also necessary to combine different approaches from ASEAN countries. The ASEAN MLA Agreement was signed by six ASEAN member countries (Brunei, Cambodia, Laos, Malaysia, Indonesia, the Philippines, and Vietnam) and recognizes that each country has a different story. Indonesia itself is a supporter of the ASEAN MLA Treaty.

The current development of international law, especially international criminal law, is marked by the development of violations of the law, transnational crimes, and international crimes. The development of crime not only has a broad and fundamental impact on human life, but also on the principles, norms, and legal institutions related to the application of criminal law to eradicate these crimes. The authority to make international agreements is stated in the UN Charter, and there are no provisions governing it. Judging from the development and origin of international crimes, international crimes can be divided into three groups:

1. International crimes arising from the development of customs in the practice of international law.
2. International crimes based on international agreements.
3. International crimes arising from the development of the history of human rights agreements.

Contemporary era, state borders have become very virtual in the sense that international relations have become very dynamic and state borders seem easy to cross in a very short time. In today's international society which is in the era of globalization, the occurrence of international-dimensional crimes is expected to increase both quantitatively and qualitatively, supported by technological advances in the fields of information technology, telecommunications, transportation and others. To overcome this, cooperation between countries alone will not be enough. Integrated cooperation is needed at the bilateral and multilateral levels. One of the legal mechanisms that is believed to be able to eliminate international crimes is extradition. Therefore, at first glance, the extradition authority seems to be an effective legal institution to resolve this issue. Law enforcement provisions have an international dimension.

The perpetrators of criminal acts who are processed, tried, or executed must be in the territory of another country and not in the territory of the country where the trial is taking place. Therefore, there are several models of international law that can eliminate obstacles

in combating transnational crime, such as extradition. The difference between the two forms of law enforcement cooperation agreements is that the extradition agreement aims to extradite a person (criminal), while the MLA agreement aims to carry out criminal justice such as investigation, prosecution, search, and confiscation, the purpose is support. Return of criminal assets. This kind of cooperation is possible because of several international agreements ratified by the Indonesian government.

The efforts of the international community to enforce the law to eradicate international crime are not enough to implement the extradition agreement. It is also important to review the tendency of countries to prioritize other agreements that are equally important and closely related to cases in combating international crime. Indonesia always has the potential for problems in handling criminal cases between countries. Differences in national legal systems and lack of understanding of substantive law create obstacles that are difficult to overcome. If seen from the ASEAN region alone, Indonesia seems powerless to face the interests of other countries despite being its chairman.

2. Counter Terrorism and Peacekeeping Task Force

At the regional level, Southeast Asia is a region that faces major challenges in the field of security. Terrorist incidents are incidents that many Southeast Asian countries face. The number of terrorist attacks in Southeast Asia reinforces the need for ASEAN to play a greater role in resolving this problem. Indonesia has experienced many bombings and other terrorist attacks, starting on May 14, 1962 with an attempt to assassinate President Sukarno by blowing up Cikini University in Central Jakarta. After that, the Bali bombing on October 12, 2002, the JW Marriott Hotel bombing in Jakarta on August 5, 2004, and the Australian Embassy bombing in Jakarta on September 9, 2004 and similar attacks continue to this day, namely the suicide bombing of himself in front of the Astana Anyar Police Station in Bandung which occurred on December 12, 2022, namely the suicide bombing in front of the Astana Anyar Police Station in Bandung. There are three types of terrorist groups in Southeast Asia on a global, regional, and national scale. These terrorist groups in Southeast Asia are interconnected and often have the same leaders, members, tactics, and goals. Global terrorist organizations such as Al-Qaeda recruit and train agents throughout the region and have maintained ties with Southeast Asian terrorist organizations since the anti-Soviet jihad in Afghanistan. Regional terrorist organizations such as Jemaah Islamiyah (JI) based in Indonesia aim to establish an Islamic state in Southeast Asia. In addition, nationalist groups

such as the Abu Sayyaf Group (ASG) in the Philippines seek to establish an Islamic separatist state in southern Mindanao.

Al-Qaeda's continued presence in Southeast Asia and its continued contacts with regional and nationalist terrorist groups in Indonesia and the Philippines have led the United States to actively support Indonesian and Philippine counterterrorism efforts in recent years. The extent of the United States' influence throughout the world is evident in the cooperation of several countries, particularly in the Southeast Asian region, to address global security challenges disrupted by acts of terrorism. This is evidenced by the example of US military operations in Afghanistan and Iraq following the terrorist attacks on the World Trade Center on September 11, 2001 (the War on Terror), which demonstrates that the use of US force is an example of a system that has had a major impact in addressing these Terrorist attacks are terrorist attacks. Legally, this operation was based on a decision by Congress authorizing the use of US military force to combat terrorists (Authorization for the Use of Military Force Against Terrorism).

As is known later, the US-led coalition military operation succeeded in overthrowing the Taliban regime in Afghanistan in 2011 and cornering al-Qaeda in a relatively short time. The leader of the Al-Qaeda group, Osama bin Laden, was successfully eliminated in 2011 in a special operation involving US Special Forces (Saptono et al., 2023). The problem that has emerged so far is that the ASEAN Peacekeeping Force which was expected to be formed, turned out not to have been formed in 2011, and is often forgotten, even the Indonesian government has not followed up. This is not the case. Therefore, 20 years ago (2003), researchers wanted to study the phenomenon further. Previous research on regional security cooperation has been conducted by researchers from the Faculty of International Relations, FISIP, Padjadjaran University, namely Arifin Sudirman and Daisy Silvija Salih, in "Overcoming the Threat of Terrorism". The results of the study are presented under the title "Building regional security in ASEAN." Regional Security Cooperation is needed to address terrorism and regional security issues. On the other hand, this shows the strength of the bilateral relations between Indonesia and the US which have been harmonious for a long time, most recently with the holding of a large-scale joint military exercise between Indonesia and the US in August 2022.

The Indonesian Army and the Indonesian Army were named Perkasa Super Garuda Shield by the TNI Commander General TNI (ret.) Andika. This shows that Indonesian diplomacy with the United States can provide positive value for national resilience both internally and externally and of course provide a deterrent effect that influences Indonesia's presence in the eyes of the international world. Actively contributing to security in the ASEAN region. Researchers examine opportunities and initiatives regarding strategies for strengthening security stability in the ASEAN region, as well as ideas to further develop and strengthen cooperation in the field of regional security, especially in addressing the threat of terrorism in the region, this is what I want to convey. Active support and great influence from the United States to the Southeast Asia region.

c. Asean Outlook on The Indo-Pacific (AOIP)

Regarding Indonesia's cooperation with other ASEAN countries, in June 2019 ASEAN leaders adopted the "ASEAN Perspective on the Indo-Pacific (AOIP)". This aims to express a collective voice in the Indo-Pacific debate. This was previously actively promoted by countries in the United States, India, Japan, and Australia, and was also called the Quadrilateral Security Dialogue. The United States will certainly welcome the AOIP. To build a safer region, the United States is not only trying to strengthen maritime cooperation and comply with international law and standards to resolve geopolitical challenges, including in the South China Sea. Indonesia is one of the ASEAN member countries that has witnessed the US-China conflict in the Indo-Pacific region and is uncomfortable with the US approach that isolates China. Jakarta views the Quad as a potential strategic alliance of external powers without ASEAN participation. Jakarta (Indonesia in this context) has developed an Indo-Pacific strategy that focuses on ASEAN and prioritizes the principle of ASEAN inclusiveness, including towards China. Unlike Indonesia, the United States does not use the word "inclusive" but rather "freedom". Given the increasing diversity and number of actors interacting in the international world, Indonesia seeks to reconcile the growing challenges of international development with the Indo-Pacific vision. Based on the statements of Indonesian President Joko Widodo and Foreign Minister Retno Marsudi, the Indo-Pacific Initiative in question focuses on developing a comprehensive regional or regional dialogue system that is more efficient than creating components. To realize a peaceful and free region. The entry of major countries such as China, the United States and India into the Indo-Pacific region has turned out to bring benefits to the region, namely increasing the level of the regional economy. However, in addition, the emergence of these

great powers also poses a threat to the stability and security of the Indo-Pacific region. Basically, threats in the Indo-Pacific region include the seizure, attack, or demarcation of territory from the dispute and maritime security. The security stability that is currently a security problem is expected to increase. The struggle for power over the region between existing and involved actors will "disturb" regional peace. After going through several diplomatic and negotiation processes regarding the dynamics of the organization, Indonesia's Indo-Pacific initiative was approved by ASEAN. ASEAN adopted this concept and named it the ASEAN Perspective on the Indo-Pacific (hereinafter referred to as AOIP). The AOIP was agreed upon at the ASEAN Summit held in Bangkok on June 22, 2019. The agreement on the AOIP shows that Indonesia's diplomatic strategy has succeeded in providing a view of the Journal of Global Transformation. This is an important issue for Indonesia because it plays an important role in maintaining regional stability, peace and cohesion. As the initiator of the ASEAN AOIP, Indonesia realizes the importance of the Indo-Pacific approach to ASEAN from a defense perspective, especially defense cooperation with ASEAN dialogue partners. The Deputy Minister of Defense stated that the AOIP serves as a guide for ASEAN in the field of defense cooperation from a defense perspective. "Countries in the Indo-Pacific region maintain security, peace and prosperity with the centrality and strategic role of ASEAN. AOIP is an idea of the Indonesian government based on the potential of the region. Former Indonesian Foreign Minister Marty Natalegawa was the first to create AOIP in 2013. This concept was further developed in 2017. At the 2018 ASEAN-India Summit, Joko Widodo directly conveyed more or less the general idea of AOIP. In the presentation of the concept proposed by Indonesia, ASEAN is a central organization in the Asia-Pacific and Indian Ocean regions. AOIP explicitly speaks about Indonesia's defense diplomacy, especially in the field of maritime defense. AOIP will be a forum or platform to enable comprehensive cooperation and will become a Maritime Defense Strategy.

The proposal of several concepts to support Indonesia's diplomacy strategy is enough to highlight the value of ASEAN's centrality and create a significant domino effect in the Indo-Pacific region. Indonesia implements a national defense strategy through diplomacy and international cooperation, and the strategy continues to develop further. This is supported by a liberal and active foreign policy, with regional security management that is managed more tightly. Of course, the implementation of foreign defense policy is a challenge

in itself, given the complexity of the issue of defense threats in the Indo-Pacific region. By creating a strategic environment with all points.¹²

The AOIP initiative initiated by Indonesia is a general theme on how security cooperation can be implemented. The implementation of defense diplomacy includes defense strategies in the field of cooperation, military and non-military defense strategies, and maritime defense strategies. Defense diplomacy for confidence-building measures (CBM), defense diplomacy for defense capabilities, and defense diplomacy for the defense industry are separate elements in the implementation of defense diplomacy. Indonesia is one of the countries in the Indo-Pacific region and provides guidance for developing diplomacy around the concept of the "Indo-Pacific Framework for Mutually Beneficial Cooperation." The emphasis on this concept is one of the ways used by Indonesia in developing its defense diplomacy. This idea was born with the aim of building (trust building) and promoting (dialogue habits) a regional system of mutual trust among countries in the region. As explained in the concept above, the realization of Defense Diplomacy involves several factors, including the formation of the Indo-Pacific Framework for Mutually Beneficial Cooperation which is included in the Defense Diplomacy for Confidence Building Measures (CBM) element. This will minimize potential tensions between countries in the region, eliminate mistrust by providing transparency regarding each country's military developments, and allow each country to reduce security dilemmas.

Furthermore, as part of defense diplomacy of defense capabilities, Indonesia has made progress in improving its military capability items by strengthening its defense posture, including strengthening its military capabilities in land, sea and air dimensions. In addition, the Consensus began as a general model concept and became a separate implementation for Indonesia in , thereby increasing military capabilities. Military development is also carried out through cooperation between countries, and one of the methods used is the purchase of defense equipment. Security cooperation in the military field has a positive impact on efforts to overcome non-traditional threats such as piracy and maritime terrorism in the region. As regional problems become increasingly complex with the emergence of non-traditional

¹² Setyorini et al., "Diplomasi Pertahanan Indonesia Dalam Asean Outlook On The Indo-Pacific (AOIP).", *Transformasi Global*, Vol. 9 No. 2, 2022, p. 105.

issues such as maritime, human and drug smuggling, Indonesia needs to focus its defense diplomacy on strengthening its military capabilities.

And the defense diplomacy of the defense industry carried out by Indonesia in to strengthen its defense diplomacy is abstracted by strengthening the defense of the industrial sector. Sales of products from equipment exported by Indonesia reached a record of USD 284.1 million or IDR 4.5 trillion in the 2015-2018 period. PT had sales of \$ 161 million. Dirgantara Indonesia. In addition, PT. Pindad provides Anoa tank products, combat vehicles, weapons and ammunition, serving the needs of many countries in Southeast Asia, Africa, the United Arab Emirates, South Korea, Nigeria and Timor-Leste. Various industrial improvements carried out by Indonesian companies in the defense sector continue to contribute to improving defense within the framework of national interest strategies. Indonesia's defense diplomacy in the Indo-Pacific region is seen in Indonesia's cooperation with South Korea in the KFX / IFX fighter jet development program. The broad scope of Indonesia's diplomacy process can be identified as several categories such as the initiation phase of cooperation until it is agreed upon for the CSA and WAA size of 80; 20 and the license to use intellectual data. After approximately two years, Indonesia has successfully overseen the implementation of the Framework by AOIP which was finally approved and launched in 2019. The AOIP created by Indonesia has strong characteristics in describing the region. Indonesia initiated this view so that ASEAN in general and Indonesia in particular can utilize this view without eliminating ASEAN's centrality. This is related to ASEAN's position in Indonesia. Indonesia, with its free and active foreign policy, makes ASEAN an important basis in foreign policy, thus enabling Indonesia to advance its national interests through ASEAN. Indonesia sees the opportunities in the ASEAN region as a space that can support Indonesian cooperation. Indonesia's success in including maritime issues in the ASEAN agenda is also an initial step that will help pave the way for Indonesia to realize its vision of the World Maritime Axis. Indonesia's current maritime problems include important issues related to problems that threaten Indonesia's economy, defense, and security, such as border problems, piracy and illegal fishing problems, and geopolitical changes that threaten the centrality of the region.

Through this AOIP, one of Indonesia's Nawacita related to the World Maritime Axis is the realization of a maritime economy that can lead to increased shipping capacity and increased effectiveness of the economic process. This is expected to make Indonesia a center

for global trade routes. In addition to improving domestic infrastructure, Indonesia also needs to improve safety in Indonesian waters to ensure that shipping is not threatened. Although the AOIP agreement will help Indonesia meet development investments within its own country, the AOIP can address security and stability issues outside its borders. Therefore, the issue of maritime infrastructure used as a tool for economic development by Indonesia is expected to continue to develop in addition to Indonesia also establishing relations with other ASEAN member countries with the aim of facilitating the expansion of investment in Indonesia. Furthermore, the AOIP is used as Indonesia's defense strategy to protect the security architecture of the Southeast Asian region. Given concerns about the stability and peace of Southeast Asia, especially the future of ASEAN and East Asia as a whole, it is clear that the world's geoeconomic and geopolitical center of gravity is shifting from West to East. China is increasingly emerging as a new power along with the United States' efforts to assert its dominance in the world. China threatens Indonesia's security situation through the Belt and Road Initiative (BRI) and the dynamics of border disputes in the South China Sea. Through the AOIP, we are committed to ensuring that ASEAN maintains its central role in managing the changing regional structure of Southeast Asia and beyond. From this perspective, ASEAN (the leading role) will be the determinant of the strategic scope and interests involved. The AOIP is a response to the increasing challenges from external pressures that may threaten ASEAN unity. The ASEAN Indo-Pacific Outlook is expected to be a foundation for major countries.

“ASEAN Perspective on the Indo-Pacific from a Defense Perspective” will guide ASEAN in the field of defense cooperation with dialogue partners. In addition, the AOIP aims to connect the interests of Indo-Pacific countries with ASEAN's central and strategic role in maintaining peace, security, and prosperity. This is a response to the current geopolitical dynamics to ensure stability, peace, and prosperity in the Region. With the AOIP, ASEAN countries prioritize dialogue, mutual trust, and win-win solutions. Meanwhile, the objectives and principles of the AOIP encourage ASEAN's external partners to carry out practical cooperation in the areas identified in the areas covered by the AOIP, Asia-Pacific and India for ASEAN's involvement in the Pacific region as important.

AOIP seems to be preparing to face the increasingly developing geopolitical dynamics. In terms of defense, AOIP also plays a role in maintaining regional stability and maintaining a peaceful and prosperous region. AOIP allows ASEAN countries and the Indo-Pacific

region to emphasize mutual trust, dialogue, and mutually beneficial solutions. Collaboration involving AOIP encourages external partners in the region to collaborate on four main areas of cooperation or areas owned by AOIP. Since its establishment, AOIP has had four priority areas of cooperation that serve Indonesia's national interests. The four areas of cooperation included are Maritime Cooperation, Connectivity, Sustainable Development Goals (SDGs), Economic and Other Areas of Cooperation (ASEAN Outlook). For Indo-Pacific maritime cooperation or maritime cooperation includes prevention efforts, and development of problems in a more targeted, peaceful and comprehensive manner related to related issues such as geopolitical challenges and emerging maritime disputes that are being faced by countries in the Region by managing and ultimately resolving them, unsustainable exploitation of marine resources, strengthening maritime security and so on. Then the second workspace is as much as connections. Connectivity includes exploring priority areas of cooperation to strengthen the existing MPAC 2025 and promote prosperity and development in the Indo-Pacific region and regional public-private partnerships (PPPs). The Development Agenda includes Building resources for connectivity projects, especially including infrastructure projects in the Indo-Pacific region.

The third area of AOIP cooperation is the Sustainable Development Goals (SDGs). SDGs achieved through AOIP include contributing to the achievement of SDGs through the utilization of the digital economy, and aligning and enhancing regional development agendas such as the ASEAN Vision 2025 and the UN Sustainable Development Agenda 2030 with the SDGs. Promoting cooperation with the Development Research Dialogue Center and other relevant institutions for a sustainable ASEAN. Finally, the fourth area of cooperation is in the economic sector. On the contrary, this sector will contribute to deepening economic integration, financial stability by supporting the implementation of other free trade agreements, including the ASEAN Economic Community Blueprint 2025 and the Regional Comprehensive Economic Partnership Agreement (RCEP), as well as ensuring resilience, strengthening and promoting trade and investment. In addition, this area also includes the development of the private sector, including micro, small and medium enterprises (MSMEs), which will be further explored to enable their participation in regional and global value chains.

d. Customs Enforcement and Compliance Working Group

In addition, cooperation in the field of ASEAN Customs Administration which is incorporated in the Customs Enforcement and Compliance Working Group (CECWG) in the context of law enforcement and Customs compliance. The development of the implementation of activities in the Strategic Plan for 2021-2025 related to customs audits; law enforcement and mutual assistance; as well as public security and community protection are important and prominent agendas of this institution which is under the Directorate of International Customs and Excise Cooperation, Directorate General of Customs and Excise, Ministry of Finance which also serves as the Co-Coordinator of the Strategic Plan. The role of this institution is in the context of Indonesia's Chairmanship of ASEAN in 2023, the Ministry of Finance holds activities in the form of increasing cooperation between customs administration and tax authorities in ASEAN. This activity is carried out through the preparation of the ASEAN Guideline On Cooperation Between Customs Administration And Tax Authority As One of the Expected Outputs Under the Priority Economic Deliverables (PED) "Fostering Recovery And Ensuring Economic And Financial Stability And Resilience". Indonesia as the Country Coordinator for Post Clearance Audit has initiated increased cooperation between customs and tax administrations in ASEAN as one of the activities in the Strategic Plan since 2021 and has drafted a Guideline concept related to this to be used as a guideline or best practices in ASEAN. This initiative was proposed by Indonesia with the aim of encouraging a synergy program that has been initiated by the Ministry of Finance since 2013 through the implementation of a Joint Audit between the Directorate General of Customs and Excise and the Directorate General of Taxes to the international realm in the ASEAN regional scope.

Through the implementation of cooperation between customs administrations and tax authorities in ASEAN, we will optimize government revenues and increase revenue collection by encouraging tax compliance in fulfilling taxpayer tax obligations and strengthening supervision without taking additional actions. Losses and improving services to taxpayers. Costs will increase. This synergy program will implement five pillars of reform, namely laws and regulations, business processes, organizational structures, human resources (HR) including incentives and discipline, information technology and databases, and will be the foundation for building a reliable information system. Tax data processing with technology-based accuracy. Synergy between customs and tax authorities includes data exchange, joint analysis, joint inspections, and even joint investigations if there is sufficient

initial evidence of fraud. This policy is expected to help improve the cooperation mechanism of customs authorities in ASEAN member countries that can be adjusted to certain situations and conditions to cooperate with stronger tax authorities.

Universal jurisdiction is a relatively rare but important form of jurisdiction. This is more about international criminal law than domestic law as well as a state contribution to international law enforcement. In some cases, its implementation is an obligation under international law whether it is part of an international agreement or part of the state's obligation to provide access to justice for every individual. Universal jurisdiction as a permission from the international community to universalize the right to access justice for victim communities related to crimes that have attracted the attention of the international community. It also does not affect the legitimate interests of the prosecuting state. Thus, this is not only about the role played by the prosecuting state in the international community but also related to the rights and interests of the state. This can be done through the implementation of universal jurisdiction. Regarding universal jurisdiction, this is not an absolute right or obligation but can be balanced with international obligations and other interests of a country. So a country can refuse to implement universal jurisdiction if it is not allowed by international law or is limited by other interests. To give an example of the limitation of universal jurisdiction, namely when it concerns the principle that a person cannot be tried for one crime in another place for the same crime. Another principle is the principle of immunity and in implementing universal jurisdiction, the court must respect the immunity in international law which states that high-ranking public officials such as heads of state, heads of government, foreign ministers are immune from the jurisdiction of other countries both in civil and criminal matters and there are no exceptions in international crimes.

The new Criminal Code allows for universal jurisdiction for crimes under international law. ASEAN countries all accept the validity of the importance of universal jurisdiction. ASEAN representatives have repeatedly stated before the UN that they recognize the validity and importance of universal jurisdiction. In 2022, at the Sixth UN Committee, Indonesia stated that the principle of universal jurisdiction is one of the important and crucial tools to end impunity for serious violations of international humanitarian law and other international crimes. Indonesia is not alone because Vietnam has recognized that universal jurisdiction is

one of the important instruments to combat international crimes and immunity. Thailand has also recognized this principle of jurisdiction as one of the useful tools to end impunity.

2. Indonesia's Contribution to the Scope of ASEAN Community Empowerment Based on International Law

Indonesia is developing maritime-based development as one of the goals of the world's maritime axis, which includes 5 (five) pillars of maritime policy, including maritime culture, maritime resources, maritime infrastructure and connectivity, maritime diplomacy and maritime defense. When connected to Indonesia's strategic role in several ASEAN chairmanship initiatives carried out in the context of the country, it should be closely related to three approaches, namely defense, security, economy and socio-culture.

Southeast Asia is located at the crossroads of the Indo-Pacific, this region has some of the most important straits and sea communication routes in the world. The security perspective should be supported by the ASEAN community that minimizes the vulnerability carried out by the Regional Cooperation Agreement, for example in terms of eradicating piracy and armed robbery against ships in Asia and the Malacca Strait Patrol, and using regulatory instruments such as the International Ship and Port Facility Security Code to encourage solid participation from policy makers to be motivated and contribute proactively to maritime security equality.

In the economic approach as a sovereign state, for Indonesia this is not only interpreted and includes a broad pattern of a state that has the right to rule without having to submit to the power of another state, but also the connotative meaning of power. The ideal of sovereignty was achieved through the process of the Proclamation of Independence, therefore the line between colonial and national legal policies becomes clear. The welfare state, as the antithesis of the concept of a night watchman state, certainly has a goal. The state is obliged to fulfill, meet the needs, serve, and protect its citizens. All of that is then reduced and included in the concept of civil, social, and political human rights (HAM) in the form of the right to freedom. This includes, for example, the right to live a decent life, free from fear and threats. Regarding competition with other countries, this can also be traced from the role of the state in protecting its citizens to prevent the occurrence of a disease called Hobbes as "homo homini lupus" so that it is stated that this is the challenge of a welfare state where the state must not fail.

Free trade, countries compete for economic development through trade. The implementation of free trade occurs in certain regional areas, including ASEAN countries. Indonesia needs to prepare itself to participate in the ASEAN Economic Community (AEC) which will be launched at the end of 2015. The context included in the 2015 AEC is the context of a free market, where barriers that can hinder trade are “prohibited”, or a broader context where the economic sector must be free from barriers. The world will be borderless. There is no doubt that Indonesia will take the largest part in the AEC in 2015. This is inevitable because Indonesia is the largest democratic country in ASEAN with a population of 240 million. Moreover, if we look at history, Indonesia is one of the five countries that founded ASEAN in 1967. ASEAN has 10 member countries, including Cambodia which joined in 2009. The purpose of establishing ASEAN is to regulate economic cooperation. This Preferential Tariff Agreement (PTA) began in 1977. One of the agreements that led to the vision of the formation of the ASEAN Economic Community (AEC) 2015 or MEA 2015 is the Common Effective Preferences Agreement - ASEAN Free Trade Agreement, established in the region (CEPT-AFTA) in 1992 with initial implementation in 2008. The role of ASEAN has also become very important, and the world pays great attention to the countries in the ASEAN Region. With the globalization of the world economy, ASEAN countries, including Indonesia, have been brought into the free trade zone. In the field of trade, we need the willingness of each country if we do not want to become prey to developed countries. The author's analysis, this opens up the opportunity for contradictions related to the theory of state sovereignty. Although Indonesia and other countries are sovereign countries, these sovereign countries cannot "violate" the "free trade" agreement.

The world has a huge interest in countries in the ASEAN region. An indication of this can be seen from the implementation of the ASEAN Free Trade Agreement (AFTA) agreed in 1992 and started to be implemented in 2002. Since January 2010, ASEAN-6 has removed all tariffs in the "Inclusion List" category. Thus, since 2010, there have been no more trade barriers in ASEAN countries. In 2010, 99.11% of ASEAN-6 tariffs were 0%, and 98.86% of ASEAN-4 tariffs were in the range of 0-5%. The framework for cooperation in trade in goods, services and investment has been running since the 1990s: CEPT-AFTA 1992; ASEAN Framework Agreement on Services (AFAS, 1995) and ASEAN Investment Area (1998). In fact, ASEAN regional centralism was then expanded towards regionalism which also includes increasing ASEAN's competitiveness with the PRC and India. The above

conditions are in line with the ASEAN Vision 2020, namely "A stable, prosperous and competitive region with equitable economic development and reduced poverty and socio-economic disparities". Since then, the achievement of the 2020 goal has been accelerated. Its achievement in 2015 was agreed at the 2007 ASEAN Summit Forum. Many of the agreements leading up to the 2015 AEC are based on the 2003 Bali Agreement II, with the ASEAN Economic Community Edition "Free Flow of Goods, Services, Investment, Skilled Labor and Capital", with the aim of ensuring that Bali is in a favorable condition by 2020 at the latest. Conducted on the island. The themes to be achieved include several main themes of Agriculture and Forestry, trade competition, consumer protection, intellectual property rights, energy, transportation, tourism, small business development and ASEAN connectivity. The implementation of the 2015 AEC requires strategy and preparation, but Indonesia's infrastructure conditions are still inadequate. Data includes 34,000 km of highways, most of which were built during the Dutch era. Toll roads only cover 1.82% of the total highways. PLN's electricity balance is in the red zone at 10.95GW. The ratio between the length of roads and the number of ports is 4,500 km/port and must be taken into account.

The rule of law is a state formula for organizing national government legally. This concept is called so because it is the opposite of a state that governs based on pure power. The purpose of the supremacy of law is for national administration to function with planning and certainty, and not based on the momentary intuition of the ruler. Thus, the rule of law guarantees the rights of its citizens, especially in free competition through the MEA. The existence of cases where the state does not protect its citizens, especially in free trade, is a disaster for society. People who are unable to participate in free trade will only be spectators and are unable to act as actors who benefit from free trade. Government efforts in this sense are a manifestation of the implementation of the functions and roles of government as stipulated in state laws and regulations. The government is understood as an institution that organizes the government of a nation. The role and function of government arise from the power inherent in state institutions as state apparatuses. This power arises because it is in the hands of the law or is delegated authority.

Protection of the people is related to the role of the state in realizing the ideals of Indonesian law which are formulated as follows: a) this country protects the weapons of the Indonesian nation and all Indonesian bloodshed based on the Unit; b) this country wants to

build social justice for all people; c) a country that has people's sovereignty based on citizenship and representative deliberation; c) this nation is based on God Almighty based on the principle of just and civilized humanity. According to Thomas Aquinas, the ideal of protection for all Indonesian people is the principle of cumulative justice, namely providing protection to all citizens. The role of the government is realized through diplomacy, especially in international agreements regarding freedom of trade, free competition and others. One form of government protection is to make regulations that can protect its citizens. However, this is impossible because countries comply with international agreements such as not being allowed to install trade barriers. Regulatory tastes must also be considered when facing the 2015 MEA, and this cannot be separated from the government's ideals to protect the community. Another form of protection is the recognition that Indonesia is one of the countries with the highest level of public consumption. This consumer behavior is assessed by other countries and gives Indonesia a market share for all traded goods and services. For example, regulations on the use of domestically produced products can be used as a political choice to "protect" citizens. This is realized through Presidential Instruction Number 6 of 2009 concerning the Creative Industry Program. For future considerations, efforts are made to improve people's welfare through economic growth. Indonesia can also enforce regulations to better monitor the use of Certificates of Origin (SKA) from AEC 2015 member countries related to controlling imported goods. Another possible initiative is to create healthy trade and a supportive business environment. Reforming investment promotion policies, developing free trade areas and special economic zones, and improving trade licensing services for the business world. In addition, steps can be taken to protect domestic products and monitor the movement of goods and services, as well as implementing an early warning system for possible increases in imports. This is accompanied by an increase in exports which increases trade volume and ultimately benefits the trade balance. The enactment of Law Number 39 of 2009 concerning Special Economic Zones (KEK) can also be understood as a government initiative. With such national will and efforts, the national mission to ensure the welfare of the people will be easily realized.

The AEC concept was first introduced on December 15, 1997, at an informal meeting of the Heads of State and Government of ASEAN Countries in Kuala Lumpur. Furthermore, at the 9th ASEAN Summit held in Bali in 2003, the Bali Concord II was adopted which agreed to establish the ASEAN Community to strengthen ASEAN integration. The ASEAN

Community has three communities: the ASEAN Political-Security Community, the ASEAN Economic Community, and the ASEAN Socio-Cultural Community. The AEC is the ultimate goal of economic integration declared in the ASEAN Vision 2020/DLWX. The goal is to build a prosperous and competitive ASEAN economy with a stable supply of goods, services, investment and labor by 2020, as well as reduce poverty and socio-economic disparities.

The implementation of the AEC began in 2015 and focuses on generally regulating several main subjects such as goods, services, investment, capital, and skilled labor. All of this is needed to ensure unhindered traffic between ASEAN member countries and to ensure unhindered traffic, several international agreements have been agreed upon which basically regulate (related) have been carried out. This is the most important transportation issue). Goods, services, investment, capital and skilled labor in the Southeast Asian region and beyond. (Documentation et al., 2014) Although there are several parties who are suspected of liberalizing through the MEA, but with the Pacta Sunt Servanda Principle. Indonesia must continue to comply with (bind and implement) the contents of international agreements made within the framework of the MEA. These international agreements include the ASEAN Trade in Goods Agreement, the ASEAN Framework Agreement on Services, and the ASEAN Comprehensive Agreement on Investment. Pacta Sunt Servanda generally requires countries that have ratified or acceded to multilateral international agreements or bilateral agreements based on International Law to implement the agreement (1969, *Vienna Convention on the Law of Treaties*) (P. G. S. Sari, 2022).

The ASEAN-China Free Trade Agreement (ACFTA) is a follow-up to the Agreement between ASEAN Member States and the People's Republic of China on the Framework Agreement for Comprehensive Economic Cooperation among the Association of Southeast Asian Nations 1DWLRQV DQG WKH 3HRSOH · V 5HSXEOLc (Framework Agreement) China, signed on November 4, 2004 in Phnom Penh. (Kurniastuti, 2013) This law was also issued based on an executive order. International agreements ratified by Presidential Decree are agreements whose substantive content is not related to the sovereignty of the state of Indonesia, national defense and security, human rights, the environment, or the substance of foreign loans, as in Article 10 of Law Number 24 of 2000 concerning International Agreements. Furthermore, Law Number 12 of 2011 concerning the Formation of Legal Regulations states that international agreements that are the important contents of the

Presidential Decree do not have broad legal consequences and are the basis for the livelihood of the Community. normatively determined that the agreement will occur This becomes a burden on the people and is not directly related to the national financial burden and/or without requiring changes or stipulation of laws approved by the House of Representatives.

ACFTA adheres to the principle of free trade. Free trade is defined as the absence of trade barriers. The existence (and implementation) of the MEA and ACFTA also seems to have an impact on the applicable legal system, both at the domestic level (domestic relations) of each ASEAN member country, and at the level of relations between ASEAN Member States (external). Domestically, especially in the context of Indonesia, the implementation of the MEA and ACFTA has an impact on several areas (aspects) of life, including law. To accommodate the MEA and ACFTA, the Indonesian legal system has made several adjustments. In particular, Law Number 7 of 2014 concerning Trade and Coordination of Law Enforcement. This must increasingly support efforts to eradicate related crimes. Carrying out economic activities, including the eradication of criminal acts of corruption. Because, criminal activity can hinder the rate of economic activity in a country as stated in the Ministry of Trade of the Republic of Indonesia entitled Strategy for Facing the MEA in 2015 in *Warta Ekspor* pp. 9-10.

The points of explanation regarding the need for coordination in the Indonesian legal system are mostly in line with Kusumaatmadja's opinion stated in the background section of this study, the point emphasizes the need for modernization and harmonization of the Indonesian legal system. Related to the field of international relations, if Indonesia wants to participate in the fields of economics and trade, according to Kusumatmadja, it is necessary to harmonize the Indonesian legal system so that Indonesian society can continue to live in an orderly manner in accordance with international instruments as part of the international community. However, this arrangement can also be achieved through the restrictive attitude of the Indonesian nation towards the sovereignty of the Indonesian state.

Externally, the formation of the MEA and ACFTA seems to have given birth to several forms of sources of international law, in a formal sense, especially in the form of international agreements. In international law, international agreements have a strong position as a source of international law. Therefore, the party that created it must comply with it. Furthermore, international law is also a legal system in the coordination channel

between members of the international community. As members of the international community, ASEAN member countries have an obligation to comply with the legal system which is a set of principles and rules that are accepted and binding on international relations. If we review the processes carried out by the MEA and ACFTA, what actually happens is the liberalization of the economic sector (legal), namely by fulfilling the requirements of legislative power, by complying with the form and hierarchy of laws and regulations, and by complying with certain procedures by Hans Kelsen.

However, from a philosophical, ideological, and sociological perspective, this certainly deserves criticism. This is because each country has a different perspective on the need for legal design to build a legal system. For example, the development of the Indonesian legal system requires scientifically grounded research on the application of values in the formation of legal norms of a particular law. To provide peace of mind to sponsors in drafting legal regulations, it is important to be able to scientifically prove that the values contained in the legal norms do not conflict with other legal regulations. Legally binding or similar to the discussion in this research, the liberal values carried by the MEA and ACFTA must also be questioned, in line with other laws and regulations.¹³

Pancasila translates norms related to values into constituent and operational legal norms. Pancasila is considered a pioneer that emphasizes the value of mutual cooperation (unity) over liberalism (leading to individualism). Therefore, the existence of MEA and ACFTA today certainly deserves careful consideration and wisdom. Meksasai Indra explains well his understanding of legal ideals in his study of people's sovereignty in the legal ideals of Pancasila. This study explains that in the structure of A. Hamid S. Atamimi's thinking, it is a "legal ideal" which is a translation of "legal idea", and that ideals are an idea, a feeling, a creativity, a thought, this term is more appropriate considering that it is average. On the other hand, ideals are a desire. A hope that is always in your head or heart. Attamimi then quotes Radbruch to distinguish the meaning of legal ideals from the understanding or concept of law. The ideals of law are in the mind, but the understanding or concept of law is the reality of life in relation to the desired values, with the aim of serving (serving wetly) the values to be achieved.

¹³ *Ibid*, p. 1.

Internally, the context refers to Pancasila which is referred to as the legal ideal. The legal ideals of Pancasila are contained in the Opening of the 1945 Constitution of the Republic of Indonesia, Article (2). An independent, sovereign, just and prosperous nation and advancing Indonesia's path to independence. Based on these legal ideals, it can be understood because the goal is to realize the sovereignty and welfare of the people. Therefore, in the process of enacting the law that currently regulates foreign values entering through the ASEAN door, at least the following things need to be considered: First, the process is the creation of national regulations. Alternatively, the law must continue to reflect the doctrine of Indonesian national sovereignty, which must be assessed based on the values of the Pancasila principles. Second, the method must prioritize deliberation and consensus based on the spirit of family and mutual cooperation. And third, it must be designed to direct the Indonesian state towards national sovereignty and prosperity.

Conflict resolution mechanisms where Indonesia has had a strategic role in the ASEAN community can be clearly perceived as:

- a. ASEAN Way, Indonesia takes a consensus approach, namely every decision is taken through deliberation and consensus to reduce the potential for open conflict and promote informal dialogue, Indonesia's intensity has been active in facilitating informal dialogue between member countries to discuss sensitive issues before being raised to an official forum, including the ASEAN Extradition Treaty Negotiations (2007), ASEAN Intergovernmental on Human Rights (AICHR), Code of Conduct (COC) in the South China Sea, Crisis Management Initiative (CMI) Aceh Peace Process, although the main focus is conflict resolution in Indonesia's domestic territory, the experience of facilitating this informal dialogue at the ASEAN level is useful for the practice of conflict resolution and peace, informal discussions on the Non-Interference Principle, maritime security cooperation, all of these processes, although informal, make Indonesia's contribution to strengthening ASEAN cohesion and promoting peaceful resolution of various complex issues in Southeast Asia;
- b. Treaty of Amity and Cooperation (TAC), Indonesia is one of the countries that promotes and signs the TAC which emphasizes the principle of non-intervention, peaceful settlement of disputes and closer cooperation among ASEAN countries;
- c. ASEAN Regional Forum (ARF), Indonesia actively participates in the dialogue and consultation platform on political and security issues in the Asia-Pacific, the purpose of ARF is to build trust and prevent conflict through dialogue and cooperation;
- d. ASEAN-China Code of Conduct (COC), Indonesia is involved in the COC negotiations between ASEAN and China regarding the South China Sea, the purpose of COC is to manage maritime disputes and avoid open conflict through mutually agreed rules;
- e. ASEAN Institute for Peace and Reconciliation (AIPR), Indonesia plays a role in the establishment of AIPR focusing on research, training and dialogue to promote conflict resolution and reconciliation in the ASEAN Region;

- f. Use of International Law, Indonesia supports the use of International Law, especially the UN Convention on the Law of the Sea 'UNCLOS' in resolving maritime disputes, Indonesia's role in encouraging ASEAN member countries to follow the norms of International Law in claims and dispute resolution.

Indonesia utilizes UNCLOS as the legal basis for establishing and managing its maritime boundaries, as well as ensuring its rights and obligations at sea. These contributions include the establishment of the Exclusive Economic Zone (EEZ) and continental shelf, which support legitimate maritime claims and sustainable management of marine resources. With the Global Maritime Fulcrum policy, Indonesia encourages regional cooperation in terms of navigation safety, marine environmental protection, and sustainable management of marine resources. These efforts aim to improve the welfare of ASEAN communities that depend on the maritime sector. **Strengthening Maritime Security:** Indonesia plays an active role in promoting maritime security in the ASEAN region through various initiatives and cooperation, such as joint maritime patrols, intelligence sharing, and joint exercises to combat piracy, smuggling, and other illegal activities at sea. These initiatives not only improve maritime security but also provide a sense of security to coastal communities and maritime industries in ASEAN, which has a direct impact on economic and social stability in the region. **Empowering Communities through Maritime Resource Management:** Indonesia promotes sustainable management of marine resources, including fisheries and marine biodiversity conservation, by utilizing the provisions of UNCLOS. These efforts support food security and livelihoods of coastal communities in ASEAN. These programs also involve empowering local communities through education and training, ensuring they have the skills and knowledge needed to effectively manage maritime resources.

Contributions to Socio-Cultural Issues are made by Indonesia by utilizing the international legal framework to promote maritime cultural exchange and education in ASEAN. This includes maritime training programs and scholarships offered to ASEAN member states. These initiatives help strengthen ASEAN's shared identity and promote sustainable maritime values among ASEAN communities. Cooperation on Maritime Environmental Issues is carried out by Indonesia, which leads in various regional initiatives to combat marine pollution and climate change affecting marine ecosystems, including cooperation in coral reef and mangrove rehabilitation projects involving local communities. Indonesia's significant role certainly promotes stability and security in the ASEAN Southeast Asia Region and is important to remember.

D. Conclusion

Indonesia plays a strategic role in the development of International Law in the ASEAN community through an inclusive and comprehensive approach, several indicators show Indonesia's success in articulating its role as a mediator and regional leader, Indonesia's ability to act as a leader of organizations in the Southeast Asian Region that are committed to promoting regional cooperation and stability amidst diversity and the many interacting actors, reconciliation efforts make Indonesia focus on several important aspects of developing and implementing various International Law instruments within the ASEAN framework such as the Treaty of Amity and Cooperation (TAC) and the ASEAN Charter, promoting regional security and stability, advocating for Human Rights, on the issue of climate change and natural resource management Indonesia supports regional agreements such as the ASEAN Agreement on Disaster Management and Emergency Response (AADMER) for a commitment to environmental sustainability, Indonesia actively promotes intra-ASEAN trade and investment and supports closer economic integration to improve the economic welfare of the ASEAN people, Indonesia's role in the Indo-Pacific is pursued through the World Maritime Axis policy and active involvement in Indo-Pacific discussions, Indonesia's initiative seeks to ensure that the Region remains a peaceful and stable space, facilitating free trade and rules of International Law that can exist and be more coherent in ASEAN. Indonesia's Contribution to Empowering ASEAN Communities Based on International Law related to the 1982 Law of the Sea Convention, the World Maritime Axis, Security Issues, and Socio-Cultural Issues, Indonesia has a central role in empowering ASEAN communities by utilizing the international legal framework, especially the 1982 Law of the Sea Convention (UNCLOS), to manage maritime, security, and socio-cultural issues.

E. Suggestion

1. Indonesia's idealism in diplomatic capacity and enforcement of International Law must continue to be improved, Indonesia's consistency in advocating for Human Rights is also very important to pay attention to because in several ASEAN countries the issue is still ongoing so it must be a concern in addition to Indonesia's ability to be more proactive in sustainable environmental policies. This is not easy, because in the territory of the Republic of Indonesia there is still a dilemma in handling the issue of environmental exploitation and exploration. Indonesia as a country does not have to

wait but must take the initiative to develop International Law that is in accordance with the culture of Southeast Asian society because there are fundamental differences formed from the polarization and comprehensiveness of ASEAN society.

2. Indonesia has an interest in optimizing maritime patrols in ASEAN waters for threats on trade routes, this requires the development of closer cooperation through military exercises, intelligence cooperation, and increased collective capabilities, to compile and implement a comprehensive maritime security protocol, agreements and responses to potential conflicts are needed.

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