

Outline of submissions

- Universal jurisdiction is a firmly established ground of jurisdiction in international law. ASEAN states accept the validity and importance of universal jurisdiction.
- Sovereignty concerns do not prevent the exercise of universal jurisdiction.
- Indonesia should participate in the development of international law. Indonesia has positioned itself as a human rights leader and should exercise universal jurisdiction over core international crimes.
- Indonesia's new penal code provides for universal jurisdiction for crimes under international law.

ASEAN states

ASEAN states accept the validity and importance of universal jurisdiction.

- Many ASEAN states, including Indonesia, have affirmed the legitimacy and value of universal jurisdiction in discussions before the U.N. Sixth Committee.
- **Indonesia** (2022): the principle of universal jurisdiction is “a crucial tool for putting an end to impunity for grave breaches of International Humanitarian Law and other international crimes”.
- **Vietnam** (2014): universal jurisdiction as “an important instrument to combat international crimes and fight against impunity”.

ASEAN states

ASEAN states accept the validity and importance of universal jurisdiction.

- **Thailand** (2014): This principle of jurisdiction has been described as a “valuable means to end impunity” when perpetrators are able to “slip through fragmented national jurisdictions”.
- **Malaysia** (2013): By giving an “opportunity to all states to possess jurisdiction” over “serious crimes of international concern”, universal jurisdiction ensures that “at least some perpetrators” are prosecuted.
- **Indonesia** (2017): The principle of universal jurisdiction serves to “protect the rights of victims” and “uphold justice”.

Sovereignty and international relations?

Sovereignty concerns do not prevent the exercise of universal jurisdiction. Universal jurisdiction under customary international law only applies to a narrow category of very serious crimes.

- **Indonesia** (2022): “only be applied to the most serious crimes affecting the international community as a whole”
- **Philippines** (2020): limited to “*jus cogens* crimes” that are “committed against all members of the international community”
- The serious nature of core international crimes such as genocide, torture, and mass extermination is generally accepted. These crimes undermine fundamental values shared across societies. Exercising universal jurisdiction over such core international crimes will not be controversial.

Sovereignty and international relations?

International law regulates universal jurisdiction and prevents its abuse. ASEAN states are aware of the need to observe international law and support this.

- **Indonesia** (2022): must be exercised “in line with “principles of international law, such as immunity of state officials from foreign criminal jurisdiction, state sovereignty, and territorial integrity”
- **Singapore** (2019): “cannot be exercised in insolation from, or to the exclusion of, other principles of international law, including the principle of immunity of State officials from foreign criminal jurisdiction, State sovereignty, and territorial integrity”.

Sovereignty and international relations?

International law regulates universal jurisdiction and prevents its abuse. ASEAN states are aware of the need to observe international law.

- **Vietnam** (2022): must “fully respect other rules and principles of international law, including with regard to the immunity of state officials from foreign criminal jurisdiction”.
- ASEAN states should contribute to the formation of international laws regulating universal jurisdiction.
- Other domestic courts are issuing important decisions on universal jurisdiction. Courts of ASEAN countries should also do so, contributing to state practice and international law.

Sovereignty and international relations?

State practice shows that states exercise universal jurisdiction in a measured manner. ASEAN states are aware of the need to proceed carefully and coordinate action when exercising universal jurisdiction.

- **Indonesia (2020), Vietnam (2020), Singapore (2020).**
- Domestic legislation in ASEAN.
- ASEAN arrangements, e.g. ASEAN Treaty on Mutual Legal Assistance.
- International bodies active in the region which can enable cooperation: UN Myanmar Mechanism (IIMM), INTERPOL.

Indonesia and international law

Indonesia should contribute to the development of international law. Indonesia is also an active human rights leader at the regional and global level.

- From 2020 to 2022, Indonesia was a member of the UN Human Rights Council. Indonesia has announced its candidacy for the UN Human Right Council for the period of 2024 to 2026.
- At the regional level, Indonesia takes a proactive role in the work of the ASEAN Intergovernmental Commission on Human Rights (AICHR). Indonesia assumed the ASEAN Chair in 2023 and has committed to putting forward “the promotion of human rights”.
- The state’s duty to protect and not just promote human rights.

Indonesia's new penal code

6 December 2022: the Dewan Perwakilan Rakyat unanimously passed a bill creating a new penal code. This code reflects the Indonesian legislature's intention that Indonesia exercise universal jurisdiction over certain crimes, including core international crimes.

- Article 6: “Criminal provisions in the Law shall be applicable to Any Person who is located outside of the territory of the Unitary State of the Republic of Indonesia who committed a Crime pursuant to international laws that has been stipulated as a Crime in the Law.”
- Articles 529 and 530 criminalize torture. Article 598 criminalizes genocide and Article 599 criminalizes crimes against humanity.