



THE STATUS OF THE STATE IN INTERNATIONAL AGREEMENTS IN THE ERA OF GLOBALIZATION: A PRIVATE INTERNATIONAL LAW PERSPECTIVE

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Abstract

Globalization has driven an increase in cross-border civil law relationships involving various legal subjects from different jurisdictions. This situation gives rise to various legal issues, such as conflicts of laws, the determination of applicable law, court jurisdiction, and the recognition and enforcement of foreign judgments. In this context, international treaties serve as vital legal instruments for harmonizing norms and providing legal certainty for international civil law relationships. As subjects of international law, states hold a strategic position in the formation, ratification, and implementation of international treaties within national legal systems. This study aims to analyze the position of the state regarding international treaties in the era of globalization from the perspective of Private International Law and to examine how states implement these treaties to regulate cross-border civil law relationships. The study employs a normative legal research method, using both the statute approach and the conceptual approach. Legal materials—comprising primary, secondary, and tertiary sources—were analyzed qualitatively using a descriptive-analytical method. The findings indicate that the state holds a fundamental position as a subject of international law, possessing the authority to form, ratify, and implement international treaties as an exercise of state sovereignty. From the perspective of Private International Law, the implementation of international treaties serves to harmonize national law with international norms, provide legal certainty for cross-border civil law relationships, and minimize potential conflicts of laws.

Keywords: State Position, International Treaties, Globalization, Private International Law.

INTRODUCTION

The increasingly rapid flow of globalization has strengthened interactions and cooperation between countries in various fields, so that the existence of international law has an important role. the more important in arrange connection law in level global. Development This requires each country to adapt its national legal system to various international norms and provisions established through international treaties and conventions. In the Indonesian context, the status of international law remains a widely studied issue, particularly regarding the process of implementing international norms into the national legal system through the ratification mechanism. This issue arises because the Indonesian legal system has a unique character. pluralistic, namely combining positive law, customary law, and various provision other Which develop in practice state administration. As a result, The implementation of international agreements does not always proceed without obstacles, considering that they must be aligned with the applicable national legal principles .¹ On the other hand, the ratification process also often gives rise to a dilemma between the state's obligation to fulfill international commitments and its responsibility to safeguard sovereignty and national interests. ² Legal relations between countries are becoming increasingly complex, especially in the context of international civil contracts. Such relationships arise when parties from different countries enter into agreements that give rise to legal consequences that cross multiple jurisdictions. This phenomenon is becoming increasingly common with the growth of free trade, foreign investment, and global digital services, all of which expand the scope of cross-border legal relationships .³ The increase in cross-border legal and contractual relationships as a result of globalization has provided various benefits, particularly in

encouraging the growth of international trade, investment, and cooperation. However, civil relationships involving foreign elements also give rise to various complex legal issues. This complexity is due to by involvement more from One system law, existence difference culture law (*legal culture*), as well as imbalance position bid for party Which originate from jurisdiction Which different. This condition often raises questions regarding applicable law, the authority to judge, and confession And implementation decision Which produced. In context Therefore, relations between countries in modern international society cannot be separated from the role of international law as a set of norms that regulate interactions between subjects of international law. Countries actively cooperate in various sectors, such as politics, economics, trade, investment, security, science, technology, and social and cultural fields. For this cooperation to be carried out in an orderly and consistent manner and to provide legal certainty for the parties, a legal framework is required to serve as a common guideline. Therefore, international law has a strategic function as an instrument that regulates the rights, obligations, and responsibilities of states in conducting international relations. The existence of international law also plays a role in maintaining stability, creating order, and providing legal certainty for various cross-border legal relations, including international civil relations that are increasingly developing in the era of globalization .⁴

International treaties are one of the main sources of international law. Their status confirmed in Article 38 paragraph (1) The Statute of the International Court of Justice, which establishes international treaties as a source The law applied in resolving disputes. This highlights the important role of international treaties in the formation of international legal norms, as they enable states to establish rules that bind the parties involved. Essentially, an international treaty is an agreement between two or more subjects of international law intended to give rise to certain legal consequences. According to the 1969 Vienna Convention, an international treaty is a written agreement between states governed by international law, either in a single instrument or in several interrelated instruments. This Convention serves as the primary basis for regulating international treaty law, from its formation to its termination . To date, Indonesia has not ratified or signed the 1969 Vienna Convention, but its provisions often made into base And guidelines in formation agreement international relations with other countries. In addition, Indonesia has regulated the formation of international agreements in its constitution, specifically in Article 11 of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945)⁶.

The state is an important entity in international relations because: (1) it holds political power (2) it holds sovereignty (3) the government has and issues rules that citizens must obey (4) the state has several attributes that distinguish its personality from other subjects. (5) the state has opportunities, interests and powers that always coincide. In international agreements, the role of the state has a very important role, where the state is the most important legal subject compared to other subjects of international law. In its role as a legal subject international every country must own right – right And obligation - obligation according to law international. Review position country in perspective Law Civil International (HPI) become very important Because dynamics modern has change role country Which formerly purely as a sovereign ruler (*pacta sunt servanda / jure imperii*) to become an active economic actor (*jure gestionis*). In the perspective of modern HPI, understanding the position of the state is very required For determine When A country can release or forced to relinquish rights his immunity when sued by party private foreign in court domestic country other. This study provides legal certainty and protection for private business actors so that their civil rights are not hampered by the shield of their partner country's sovereignty .⁷ On the other hand, for the country itself, the HPI study serves as a strategic guide in drafting international contract clauses to protect its public assets from potential confiscation by foreign courts, while maintaining the country's credibility and investment climate in the eyes of global civil law. Based on this background, the following problems can be formulated:

1. What is the position of a state in international agreements in the era of globalization based on the perspective of International Private Law?
2. How do countries implement international agreements to regulate cross-border civil legal relations in the era of globalization?
- 3.

Research Methodology

This research uses a normative research method with a juridical approach. This research is expected to collect relevant, comprehensive, and up-to-date legal data. This data will then be analyzed with the aim of providing in-depth understanding, as well as alternative settlement Which relevant to problem law

International. As part of private law, international civil law aims to provide legal certainty and justice in resolving disputes involving international elements. Data sources are obtained from legislation, legal journals, legal doctrine, and encyclopedias.

Discussion

a. Position Country In Agreement International In Era Globalization Based on the Perspective of International Private Law

In international law, a state is viewed as a legal subject with the capacity to bear rights and obligations in international relations. This status is obtained when an entity fulfills the required elements. formation country as formulated in Convention Montevideo 1933 about Right And Obligation Country, that is own resident still, region certain, government Which effective, as well as ability For weave connection with country others. Fulfillment of these elements forms the basis for an entity to carry out its functions and responsibilities as a subject of international law. As a sovereign state, every country has various inherent rights and obligations based on the principle of sovereignty.⁸ One of these rights is the authority to grant or refuse recognition to an entity claiming to be a state. In law international, action confession No is obligation Which must be fulfilled by each country, but rather is a decision based on considerations political, law, And interest national from each country. Consequently, a country may choose not to recognize an entity as a state even if it has received recognition from a number of other countries or received support in various international forums. In fact, support provided through the United Nations (UN) General Assembly does not automatically oblige all countries to grant recognition, considering that General Assembly decisions are in principle recommendatory and not legally binding. However, in certain situations, an obligation arises for a country not to grant recognition (the obligation of non-recognition). This obligation of non-recognition arises primarily in the context of illegal territorial acquisition. like invasion Which done through use violence Which violate international law And aim For prevent legitimacy action illegal kind of That in the international legal order¹⁰.

Since the beginning of the formation of international law, the state has been positioned as the most important and perfect legal subject (*supreme subject*) thanks to its ownership of full sovereignty over its territory and citizens. This attribute of sovereignty legitimizes the state's absolute legal capacity to produce regulations, exercise legal rights and obligations, and formulate legal actions on the global stage. The relationship between states and other subjects of international law is based on the principle of legal capacity *and* functional interaction within the global legal order. As the primary and most perfect subject of international law (*supreme subject*), country own sovereignty full (*sovereign*) Which No owned by the subject law other. Difference capacity here it is Which form pattern connection in public international law which is simultaneously unique, dynamic, and hierarchical. Civil law international appear from connection law Which involving element foreign—such as the presence of foreign citizens, assets located abroad, or contracts between parties from different countries. The position of states in the realm of Private International Law (IPL) is closely intertwined with the function of international treaties as legal instruments that regulate private interactions across jurisdictions. Although the primary focus of IPL is on settlement connection law intersubject private Which load element In foreign countries, the existence of the state remains the primary focus. In this regard, the state holds central authority in formulating, implementing, and overseeing the effectiveness of these legal norms. The state's role is not merely limited to being a public international legal entity, but also as a sovereign holder that adopts global regulations into domestic law through the process of ratification and harmonization of laws.

From the perspective of private international law, international treaties serve not only as a source of law but also as an instrument for harmonizing laws between countries. Through these treaties, countries agree on norms, principles, And procedure Which can implemented in a way together For finish cross-border civil law issues. Such harmonization aims to reduce regulatory gaps between national legal systems, thereby promoting legal certainty, consistency in the application of law, and more effective protection for parties involved in international legal relations. International treaties play a crucial role in regulating cross-border civil legal relations by establishing uniform

legal norms, mitigating potential legal conflicts, and providing legal certainty for parties from different jurisdictions. Through these treaties, various aspects of private legal relations such as international contracts, marriage mixture, inheritance, investment, as well as confession And implementation of the decision court foreign can arranged based on principles Which agreed jointly by participating countries. However, the effectiveness of international treaties in regulating cross-border civil law issues depends not only on the substance of the treaty itself, but also on how its provisions are accepted, adopted, and implemented in each country's national legal system. Therefore, the relationship between national law and international treaties is crucial, considering that implementation norm international on Finally need support national regulations so that they can run effectively and guarantee legal certainty in practice.

The position of international agreements in International Private Law is also reflected in their role in regulating various fields, such as international business contracts, cross-border trade, mixed marriages, international inheritance, appointment of children. child between countries, protection right riches intellectual, until confession and the enforcement of foreign court decisions and arbitration awards. Various international conventions, such as those drafted within the framework of the Hague Conference on Private International Law (HCCH) and the United Nations Commission on International Trade Law (UNCITRAL), provide concrete examples of how international agreements play a role in creating uniform regulations for cross- border civil relations.

National law plays a crucial role in the resolution of international disputes through two main aspects: first, as the basis for jurisdiction in dispute resolution, whether through litigation or arbitration; and second, as the applicable law chosen in international contracts, with the limitation that such law must not conflict with public order and must have a concrete relationship with the contract in question. Several institutions within the national legal system play a crucial role in the regulation and implementation of international law. As expressly stipulated in Article 11 of the 1945 Constitution, the President has the authority to negotiate and sign international treaties. In the event of a conflict between national law and international law, international law may apply directly to national law, or conversely, may not be enforced until incorporated into national law. Both systems are dynamic and mutually influence each other .

Every agreement is closely related to the principle of *pacta sunt servanda* . This principle is the basis for the implementation of rights and fulfillment of obligations by the parties in the agreement. Based on the principle of *pacta sunt servanda* , a party can sue the other party. other For comply provision Which has agreed in contract. Can it is said that the application of this principle is absolute; in other words, anyone who has made promise bound in a way strict For fulfill it in accordance with promise the.. Normatively, the principle of *pacta sunt servanda* is regulated in the Vienna Convention on the Law of Treaties. Article 26 of the convention states that "*Every treaty in force is binding upon the parties to it and must be performed by them in good faith.*" This provision indicates that every country that has expressed its agreement to be bound by something agreement international obliged carry out all over provision in agreement the in a way Honest, consistent, And full not quite enough answer (*good faith*). From the perspective of International Private Law, the principle of *pacta sunt servanda* has great relevance because many cross-border private legal relationships depend on the enforceability of agreement international ¹². Law Civil International own function which is important in relation to the legal problems that arise. It is important to know that International Civil Law is the entire set of rules or principle law Which arrange connection civil Which crossing limit country or the law that arrange law civil law between perpetrator law Which each submit in different national civil laws.

b. Implementation of International Agreements by States in Regulating Cross-Border Civil Legal Relations in the Era of Globalization

Globalization has had a significant impact on the Indonesian legal system. This must balanced with determination strong public Indonesia For improve their legal system. This is increasingly apparent, considering that every country wants to avoid from isolation in scene competition international must face And responding to reality globalization. By Because That, law national need aligned with development of global law. For example, economic globalization regulates human activities aimed at meeting needs through the trade of goods and services; this reflects the emergence of new forces designed to improve

the welfare of society .¹³ Globalization is a phenomenon that cannot be avoided by any country because it has encouraged increased cross-border interaction and cooperation in various fields, especially economics, trade, investment, and civil relations. In facing these developments, the law has a strategic role, not only as an instrument to maintain order and provide legal protection, but also as a means of directing and supporting economic growth that is oriented towards increasing welfare public. The more the complex activity economy international has give birth to various connection law Which involving more from One jurisdiction, so that the resolution can no longer rely solely on national legal provisions. Differences in legal systems between countries have the potential to give rise to legal conflicts (*conflicts of laws*), legal uncertainty, and obstacles in the implementation of the rights and obligations of the parties .¹⁴

One form of implementation of state sovereignty in international law is the ability to establish relations with other countries. This ability is an important element emphasized in Article 1 paragraph (1) letter (d) of the Montevideo Convention. 1933 on the Rights and Obligations of States, which states that a state must have the capacity to establish relations with other states. In carrying out these international relations, states not only engage in diplomatic interactions, but also establish various forms of cooperation outlined in international agreements as a legal basis for the implementation of the rights and obligations of the parties.¹⁵ International agreements have a very important position as one of the main sources of international law which serves as a basis for states and other subjects of international law in establishing, regulating, and strengthening legal relations and cooperation. The same in various field, like political, economy, trading, investment, social, culture, and cross-border civil relations. Through international agreements, the parties agree on legally binding rights and obligations to achieve certain goals, based on the principles of equality, good faith, and respect for state sovereignty. A country's participation in international agreements, whether of a constitutional nature, bilateral and multilateral, is form real implementation sovereignty The state also reflects its position as a subject of international law. Through this participation, the state acquires binding rights and obligations under international law and plays an active role in building cooperation with other states. In line with Lassa Oppenheim's view, the authority to create and bind itself to an international treaty is an inherent attribute. on country Which sovereign. With say other, ability For agree international agreements are one manifestation of the existence and sovereignty of a state in socializing international. Subject law international must understand And Applying the principles of international law with a strong sense of responsibility and an awareness of the importance of maintaining international stability and security. One way to achieve this is through ongoing cooperation and consultation aimed at fostering mutually beneficial international relations.

In international legal practice, a treaty may contain a provision requiring ratification before it becomes binding on the parties. However, the obligation to ratify does not apply to all international treaties, as the mechanism for their enforcement depends on the content of the treaty and the agreement of the countries involved. in process negotiations. With thus, for party own authority to determine whether an agreement comes into effect after signing or must first be signed formerly get ratification through mechanism ratification in accordance with agreed-upon provisions. According to Mochtar Kusumaatmadja, the practice of ratification is rooted in the historical development of international relations when communication between countries was still very limited .¹⁶ On time the, head country No can in a way direct supervise the actions of delegates who are given full authority to conduct negotiations with other countries. Therefore, the results of negotiations that have been signed by the representatives of the countries still require final approval from the head of state or government as a form of confirmation that the delegates have not exceeded the authority that has been given to them. Ratification then becomes a mechanism to ensure that the country truly agrees to the contents of the agreement before declaring itself legally bound by the rights and obligations arising from the international agreement. As international relations develop, the function of ratification is no longer merely a form of validation of the actions of state representatives, but also becomes a constitutional instrument that reflects the official agreement of the country to bind itself to an international agreement. Considering Article 2b of the 1969 Vienna Convention, the definition of ratification does not stand alone but is accompanied by acceptance or acceptance, approval, and follow as well as (accession). After ratify agreement international, country own obligation in frame ensure compliance country Good in a way internal that is in in ratifying countries and internationally. Chapter 14 Convention Vienna 1969, that agreement something country

For tie up acceptance of the agreement is expressed through ratification if:

- a. The treaty itself contains such agreements expressed through ratification.
- b. Otherwise, it will be determined that the negotiating countries have agreed that ratification is necessary.
- c. Representative of country have signed the agreement but then the agreement must be ratified.
- d. There is will from the country.

When something country ratify agreement international, country the carry obligation to ensure implementation agreement That Good in in country and in level international. Obligations This covers alignment law national with agreement international treaties or, as stated by Hikmahanto Juwana, ensuring that the treaty is in line with the constitution and transposing it into national law. The transformation of international treaties into national law can be done through two mechanisms, namely by method adoption special/transformation And incorporation. Difference mechanism The implementation of international law in the national legal system is basically influenced by the theory adopted by each country regarding the relationship between international law and national law. In study law international, there is two theory main Which explain the relationship, namely the dualism theory and the monism theory. These two theories give rise to different approaches in implementing international norms into the national legal system .¹⁷ Countries that adhere to the dualism theory view that international law and national law are national is two system law Which stand Alone, own source, subject, and different regulatory scopes. In contrast, countries that adhere to the monist theory consider that international law and national law are part of a single legal system .¹⁸ Based on this view, international legal norms can apply in system law national without need change substance to in form regulation national law, as long as the state has expressed its agreement to be bound by the international agreement in accordance with the applicable mechanism. In other words, international law is seen as an inseparable part of national law so that its application does not always require a transformation process as adopted in the dualism theory. law international No can valid in a way automatic in in region National law. To be legally binding on citizens and state institutions, the provisions of international treaties must first be amended or transformed into national legislation through mechanisms determined by each country's constitution.

The state plays a very important role in ensuring that international agreements No only tie in a way formal, but Also can implemented in a way effective In practice, a country's participation in an international agreement carries legal consequences in the form of an obligation to implement all agreed provisions in accordance with the principle of *pacta sunt servanda* , which states that every applicable agreement must be implemented in good faith. One form of the state's role is to harmonize national laws and regulations with the provisions contained in international agreements. After something agreement ratified in accordance with mechanism law Which In effect, the state is obliged to adjust or create national regulations so as not to conflict with agreed international obligations¹⁹. This step aims to create synchronization between law national And law international so that provision in agreement can implemented in a way effective as well as give certainty law for public. Harmonization of law civil international own relevance Which very significant for Indonesia, especially amidst increasing global economic and legal interactions. As a country with a legal system Which pluralistic And market digital Which develop rapidly, Indonesia face major challenges in adapting to international legal standards without loses its national legal characteristics. Therefore, the steps reform law international civil law become need strategic so that Indonesia is capable compete in a way global. In side other, harmonization Also play a role important in interesting investment foreign and improve trust world international to system law Indonesia. With By adopting globally recognized principles of international law, Indonesia can strengthen its position as a center of trade and arbitration in the Asian region. Southeast. However, the implementation of harmonization must still pay attention to basic values. national law, such as social justice and humanity which are the spirit of the Indonesian legal system.

Conclusion

From the perspective of Private International Law, international treaties are not only a source of international law, but also function as a harmonization instrument that regulates various cross-border civil legal relations, such as international contracts, trade, investment, mixed marriages, inheritance, and the recognition and enforcement of foreign judgments. Through the mechanism of ratification and harmonization with national law, the state acts as a liaison between international legal norms and the national legal system, thereby creating legal certainty, legal protection, and justice for parties involved in civil relations containing foreign elements. The

implementation of international treaties by the state is a factor that determines the effectiveness of the regulation of cross-border civil legal relations in the era of globalization. The development of globalization accompanied by increased mobility of people, goods, services, capital, and technology has given rise to increasingly complex legal relations that require harmonious regulations at the international and national levels. The state needs to continue to strengthen harmonization between national laws and provisions in international agreements so that their implementation can run consistently and provide certainty. law for public. Effort the can done through update regulations in the field of International Private Law, improving the ratification and implementation mechanisms for international agreements, and increasing coordination between state institutions in implementing international obligations. In addition, the government needs to increase participation in various forum And convention international Which related with connection law civil across countries, while ensuring that every international commitment continues to pay attention to national interests and the principle of state sovereignty

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