

The Principle of State Sovereignty and Its Limitations under Contemporary International Law: Implications for Indonesia's Foreign Policy and Regional Cooperation

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Abstract

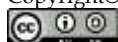
This study aims to analyze the principle of state sovereignty and its limitations in the context of international law, along with its implications for Indonesian foreign policy. This study will be conducted using a qualitative research approach, relying on normative legal research methods and utilizing secondary data from various international legal instruments, academic literature, and relevant policy documents. The study's findings highlight the importance of the principle of sovereignty in international relations, yet its implementation is often subject to various constraints within the context of international law, including international commitments in the areas of human rights, environmental protection, global security, and international cooperation. For Indonesia, the evolving interpretation of sovereignty requires a strategic balance between maintaining national autonomy and fulfilling international responsibilities. Indonesia's active engagement in regional frameworks, particularly within ASEAN, reflects an adaptive foreign policy approach that seeks to uphold sovereignty while promoting regional stability and cooperation.

Keywords: Foreign Policy, International Law, Regional Cooperation, State Sovereignty

Abstrak

Penelitian ini bertujuan untuk menganalisis prinsip kedaulatan negara dan batasan-batasannya dalam konteks hukum internasional, beserta implikasinya terhadap kebijakan luar negeri Indonesia. Studi ini akan dilakukan dengan pendekatan penelitian kualitatif, mengandalkan metode penelitian hukum normatif dan menggunakan data sekunder dari berbagai instrumen hukum internasional, literatur akademis, dan dokumen kebijakan yang relevan. Temuan studi ini menyoroti pentingnya prinsip kedaulatan dalam hubungan internasional, namun implementasinya seringkali tunduk pada berbagai batasan dalam konteks hukum internasional, termasuk komitmen internasional di bidang hak asasi manusia, perlindungan lingkungan, keamanan global, dan kerja sama internasional. Bagi Indonesia, interpretasi kedaulatan yang terus berkembang membutuhkan keseimbangan strategis antara menjaga otonomi nasional dan memenuhi tanggung jawab internasional. Keterlibatan aktif Indonesia dalam kerangka kerja regional, khususnya di dalam ASEAN, mencerminkan pendekatan kebijakan luar negeri adaptif yang berupaya menjunjung tinggi kedaulatan sekaligus mempromosikan stabilitas dan kerja sama regional.

Kata Kunci: Hukum Internasional, Kedaulatan Negara, Kebijakan Luar Negeri, Kerja Sama Regional



Introduction

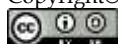
The principle of state sovereignty has been viewed as one of the most fundamental principles of international law. The concept of sovereignty has traditionally been viewed as the supreme authority of the state to govern itself, manage its internal affairs, and conduct external affairs without external influence (Mbaku, 2018). The concept of state sovereignty was traditionally consolidated in the post-Westphalia era of 1648, when the Peace of Westphalia established the foundation of the modern state system, which emphasized the independence and equality of states in the international community. The concept of state sovereignty in the classical international legal system viewed the state as having exclusive jurisdiction within the territorial sphere of the state, where other state actors were not allowed to intervene in the affairs of the state (Garner, 1925; Gioia, 2006). The concept of state sovereignty thus became the cornerstone of international relations (Alter & Raustiala, 2018; Petersen, 2017).

However, it has been observed that with the evolution of international law in contemporary times, there has been a gradual change in the conventional perception of sovereignty (Dunoff & Pollack, 2017). Globalization, international cooperation, and the interdependence of nations have resulted in the emergence of international laws that impose certain restrictions on absolute sovereignty (Maftei, 2015). Various international agreements and organizations have resulted in the emergence of a framework that prompts nations to abide by a set of common practices and standards on issues such as the protection of human rights, conservation of the environment, and global security (Bettati, 1996; Head, 2018). Therefore, it can be said that sovereignty in contemporary times is not seen as an absolute authority.

One of the most important developments in the limitation of sovereignty has been the rise of international law on human rights and humanitarian law (Helfer, 2019; Jetschke, 2017; Osgood, 2018). The creation of international institutions like the United Nations and the ratification of international conventions on human rights have created a framework for holding states accountable for their actions vis-à-vis individuals in their jurisdiction (James, 1999). The concept of Responsibility to Protect (R2P) highlights the recognition of the international community of certain circumstances in which external intervention in the internal affairs of a state could be warranted to prevent gross violation of human rights, including genocide, war crimes, and crimes against humanity (Hathaway, 2008; Jackson, 2003). This highlights how the traditional concept of non-intervention has been adapted to accommodate the protection of universal human values.

In addition to the above, other global problems such as transnational crimes, climate change, terrorism, and economic integration have strengthened the need for cooperative legal arrangements that may limit the freedom of states (Jetschke, 2016). International agreements on the above problems often require states to align their internal policies with the norms accepted globally (Kelsen, 1959; Schreuer, 1993). For example, environmental agreements require states to enact laws that reduce emissions or conserve the environment, while economic agreements have rules on economic policies such as tariffs. The above agreements prove that sovereignty today exists within the context of international agreements where states voluntarily agree to limit their freedom for the sake of stability in international relations.

In the case of Indonesia, the principle of sovereignty assumes great importance in view of its historical experiences and constitutional provisions (Kousar & Khokhar, 2025; Raz, 2017). Being a country that has emerged from a period of colonial domination, Indonesia has always stressed the need to protect its national sovereignty and territorial integrity in its

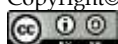


foreign policy orientation. The Indonesian constitution and its foreign policy stress the need for independence, non-alignment, and respect for international law. At the same time, Indonesia is a part of a number of international organizations and regional groupings, the most important being the Association of Southeast Asian Nations (ASEAN), which promotes regional cooperation, peace, and economic integration in the region. In this context, Indonesia has to strike a delicate balance between its need to protect its sovereignty and its obligation to support collective actions in international and regional contexts.

Thus, the dynamic relationship between sovereignty and international cooperation holds significant implications for Indonesian foreign policy, including the nation's involvement in international regional governance. Although Indonesia respects the principle of non-intervention, which is one of the key principles of ASEAN, it also supports efforts to build regional security, economic, and humanitarian cooperation. This is, of course, due to the dynamic nature of the principle of sovereignty in the modern international system, where states strive for their sovereignty while, at the same time, dealing with international issues on the basis of international cooperation instruments. Therefore, it is vital to explore how the principle of sovereignty is restricted in the modern international system of law, in order to be able to analyze Indonesian foreign policy.

Despite the continued relevance of state sovereignty in international law, the growing intricacy of international governance has created an important debate on how far state sovereignty can be restricted in international law. Modern events in international law, such as the enforcement of human rights, humanitarian intervention, regulation of the environment, and regional integration, have put state sovereignty to test and forced states to respond to these changes in international law. For Indonesia, dealing with these changes in international law is an opportunity as well as a challenge in maintaining its sovereignty while discharging its international obligations and enhancing regional integration in regional institutions such as ASEAN. It is important to consider how state sovereignty is restricted in international law and how these restrictions affect Indonesia's foreign policy and regional integration institutions. This study aims to analyze the principle of state sovereignty and its limitations under contemporary international law, with particular emphasis on the legal and political developments that have reshaped the traditional understanding of sovereignty.

Although numerous studies have examined the evolution of state sovereignty within contemporary international law (Gaeta, 2010; Nollkaemper, 2023, 2025; Schulze & Hwang, 2019), most of them focus on general theoretical developments or global perspectives. Limited attention has been given to how these evolving legal limitations concretely influence national foreign policy, particularly in the context of developing countries. In the case of Indonesia, existing literature often discusses its commitment to sovereignty and regional cooperation separately, without sufficiently analyzing the dynamic interaction between international legal constraints and Indonesia's strategic role within ASEAN. Therefore, there remains a research gap in understanding how the transformation of sovereignty under contemporary international law shapes Indonesia's foreign policy behavior and its engagement in regional governance. Accordingly, this study aims to bridge this gap by providing a comprehensive analysis of the transformation of sovereignty and its implications for Indonesia. Based on the above discussion, this study addresses the following research questions: (1) How has the concept of state sovereignty evolved under contemporary international law?; (2) What legal mechanisms limit the exercise of state sovereignty?; (3) How do these developments influence Indonesia's foreign policy and its role within ASEAN regional cooperation? By answering these questions, this study will contribute to the scholarly debate on sovereignty by offering



a contextual analysis of how contemporary international legal norms reshape the practice of sovereignty in Indonesia's foreign policy and regional diplomacy.

Methods Research

The present research applies a qualitative research methodology with a normative jurisprudence perspective to investigate the concept of state sovereignty as well as the limits placed on it in modern international law. The use of the normative jurisprudence perspective is intended to investigate the legal concepts, principles, and doctrines associated with the idea of sovereignty. In conducting this study, there will be several methods that will be employed to conduct an analysis of the phenomenon of sovereignty. These include the statutory method, the conceptual method, and the case method. The first one will involve the examination of various statutes and other international legal documents relating to the subject of sovereignty and its limitations. The second method involves analyzing theories relating to the issue of sovereignty. On the other hand, the third method will provide a means of understanding the implementation of laws on the ground, specifically in Indonesia.

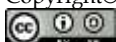
Legal documents employed in this research can be categorized into two groups: primary and secondary legal documents. The first category refers to international laws which are legally binding and includes, but is not limited to, the UN Charter, international human rights conventions, and the ASEAN Charter. The second category comprises academic publications such as books and journals dealing with interpretation and critical analysis of international law and sovereignty. The method of analysis adopted for this research is qualitative doctrinal analysis, which involves the use of legal interpretation techniques. Legal interpretation is employed to determine the interpretation of legal norms in international documents, whereas doctrinal analysis is used to conduct an analysis of the legal principles and their impact on the foreign policy of Indonesia.

Results and Discussion

Transformation of the Principle of State Sovereignty in Contemporary International Law

The analysis of modern international law shows that the principle of state sovereignty has undergone a substantial change in comparison to its traditional understanding. Traditionally, sovereignty was understood as an absolute authority of a state in governing its internal affairs without any interference from external players. Such a traditional understanding of sovereignty was based on the Westphalian model of international relations, where the independence and equality of states in international relations were emphasized. Sovereignty was understood as an exclusive jurisdiction of a state in governing its territory, people, and political institutions. However, modern international law has undergone substantial changes in its understanding of sovereignty.

In the modern international legal order, sovereignty is not considered an absolute concept. Rather, it is related more to the obligations that need to be met within the international community. The development of international institutions, legal systems, and agreements has given rise to norms that dictate the behavior of states beyond their borders. This is in response to the increasing awareness of the need for international norms on matters that transcend borders, such as environmental sustainability, global security, and human rights. In this sense, sovereignty has come to represent a balance of obligations where states



can enjoy their independence but also have the responsibility of meeting international standards that create stability.

Legal Limitations of Sovereignty through International Commitments

One of the significant findings of this study is that the curtailment of state sovereignty, as seen in modern international law, is largely the result of voluntary restrictions on state sovereignty that occur as a result of international treaties and agreements between states. As such, when states enter into international agreements, such as international treaties, they agree to adhere to certain international standards that may, in turn, affect their internal policies and decision-making processes. This, however, does not necessarily diminish their sovereignty; on the contrary, it is the exercise of sovereignty by consent. This is because states reserve the right to determine whether or not to become members of such international agreements, which is ultimately a strategic decision for the attainment of collective gains such as economic and security cooperation, among other things.

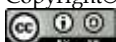
Nevertheless, the growing intensity of international legal obligations may lead to a situation where there is a clash of national sovereignty and international imperatives. Trade agreements, environmental treaties, and human rights conventions may bind countries to implement policies that conform to internationally accepted norms. Although such instruments may encourage cooperation and facilitate predictability in international affairs, it may also restrict the policy space of countries in some cases. From a critical perspective, it is interesting to consider the implications of such a situation in terms of the balance that needs to be maintained between national interests and international imperatives, especially in the context of developing countries that have to contend with complex international legal obligations in the context of domestic imperatives.

The Influence of Human Rights and Humanitarian Norms

Another significant aspect of the limitation of sovereignty in contemporary international law is related to the role and impact of international human rights law. Since the inception of global institutions and numerous international agreements on human rights, there has been an increasing focus on protecting individuals as an integral part of international law. This has meant that sovereignty can no longer be invoked to protect egregious breaches of human rights on a state's territory. There are now monitoring and reporting bodies and judicial institutions to ensure that states respect their obligations on human rights.

One of the most important developments in this respect is related to the establishment of the notion of Responsibility to Protect (R2P). Such a notion is based on the idea that sovereignty implies a responsibility for states to protect their populations against serious crimes such as genocide, war crimes, ethnic cleansing, and crimes against humanity. In cases where a state is not able to protect its own citizens, the international community can consider collective actions in order to prevent humanitarian disasters. While the implementation of R2P is a controversial issue in international politics, its existence is a good indicator of how sovereignty is no longer an absolute notion but is related to a new norm in international law that emphasizes human security and global ethics. Such a notion is one of the most important examples of how international law redefined the notion of state sovereignty.

Globalization and Transnational Challenges



The study also shows that globalization and transnational issues have greatly contributed to the evolving limitations of sovereignty. For instance, modern global issues like climate change, terrorism, cyber attacks, pandemics, and transnational crimes cannot be controlled individually by a state. Therefore, international efforts are needed to mitigate these issues globally. Consequently, legal frameworks governing state behavior in different fields have been established. For instance, climate change conventions urge states to reduce their emission levels and protect their biodiversity. Similarly, international security conventions advocate for state collaboration in dealing with terrorism and transnational crimes.

From a critical point of view, these developments suggest that sovereignty in the modern international system is exercised in terms of active participation in international cooperation instead of complete seclusion. States that actively participate in international institutions have access to common knowledge, resources, and tools that increase their capacity to deal with global problems. However, active participation in international institutions may also mean that states have to adapt their policies in accordance with international standards, which can sometimes be seen as a limitation in terms of state sovereignty.

Implications for Indonesia's Foreign Policy

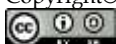
Moreover, with regard to Indonesia, it can be noted that the changing meaning of state sovereignty has considerable implications for the development and implementation of its foreign policy. It has been observed that Indonesia has traditionally placed considerable emphasis on the maintenance of national sovereignty and independence as a guiding principle of its foreign policy. Such a principle has been deeply embedded in Indonesia's historical experience of colonialism and its desire to maintain political independence in international relations. At the same time, Indonesia recognizes the need for international cooperation to attain economic development and peace globally.

Thus, the foreign policy of Indonesia can be seen as a strategic move that seeks to strike a balance between the preservation of sovereignty on one hand, while engaging constructively with international institutions on the other. For example, Indonesia is part of many international institutions, both at the global level and at the regional level, where it contributes constructively to debates on international cooperation, environmental sustainability, and international security, among other issues. The foreign policy of Indonesia, therefore, can be seen as one that seeks to shape international norms that are in the interest of the nation while, at the same time, discharging its responsibility as a member of the international community.

Indonesia's Role in Regional Cooperation within ASEAN

Indonesia's involvement in regional cooperation in the Association of Southeast Asian Nations (ASEAN) is a clear case that demonstrates how sovereignty and regional governance are related. ASEAN is a regional organization that was formed on a set of principles that place a lot of emphasis on the respect for sovereignty, territorial integrity, and non-interference in the internal affairs of its member states. This has been a guiding principle in the conduct of diplomacy in ASEAN. The ASEAN framework is important in that it offers a platform for promoting stability in the region while still respecting the sovereignty of its members, including Indonesia.

Nevertheless, the scope of ASEAN has gradually been expanded to cover a wider range of issues, including the protection of human rights, disaster management, economic integration, and environmental sustainability, among others. Indonesia has been at the



forefront of pushing ASEAN to be more cooperative in handling regional affairs, while at the same time respecting the principle of non-interference in the affairs of other member states. This is part of the diplomatic strategy that the country has employed to cope with the ever-changing landscape of international law principles. However, regional crises, such as humanitarian crises in some of the member states, pose a challenge to the principle of sovereignty in the Southeast Asian region.

Critical Reflection on Sovereignty and International Responsibility

In this respect, the implications of this study reveal that the limitations on sovereignty, under the current international legal regime, should not be construed merely in terms of limitations on states, but rather limitations that facilitate international cooperation and legitimize global governance in a positive sense. By participating in international legal systems, states are able to partake in international decision-making mechanisms and further their strategic interests accordingly. In Indonesia, the ability to effectively deal with such dynamics is essential for the continued effectiveness of Indonesian foreign policy. Sovereignty is one of the essential principles that guide Indonesian foreign policy, but it is necessary for such foreign policy to be able to effectively deal with the interconnected nature of modern international relations while respecting the sovereignty of other nations for the continued advancement of international cooperation.

Case-Based Analysis of Sovereignty Limitations in Practice

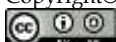
1. Rohingya Crisis: Human Rights vs Non-Interference

One of the most important cases demonstrating the constraint on the exercise of state sovereignty in reality relates to the humanitarian crisis concerning the Rohingya in Myanmar. The crisis has gained much attention worldwide due to the serious human rights violations that have occurred, including the forced displacement, persecution, and even crimes against humanity. In the case of ASEAN, this particular crisis represents a challenge in terms of the principle of non-interference which the organization has long been adhering to. As stated by the principle, each state within ASEAN should be sovereign in terms of managing their internal affairs without outside interference. Yet, as the humanitarian crisis has become more severe, it has put much pressure on ASEAN member states to change their views regarding such a principle in accordance with the current development of international human rights standards.

An example that indicates the practical limit in exercising state sovereignty is the humanitarian crisis involving the Rohingya in Myanmar. This humanitarian issue has attracted the attention of the whole world because of the gross human rights violations, including forced displacement, persecution, and even crime against humanity. With regards to ASEAN, this crisis can be seen as a dilemma especially since the region has long been practicing the principle of non-interventionism. According to this principle, it is expected that each member-state of ASEAN will act independently in managing its own affairs without any intervention from outside forces. However, since the crisis is growing to be bigger and more complicated, it puts pressure on ASEAN countries to reconsider their stance towards this principle based on the developments on international human rights issues.

2. South China Sea Dispute: Sovereignty vs Regional Stability

Apart from the problems of security and humanitarianism, the environmental problem of climate change is a good illustration of the influence of the global world on the state's



sovereignty. Climate change is a problem that transcends national boundaries; therefore, it is important to cooperate to tackle this phenomenon effectively. International accords were signed by states with the objective of coordinating their efforts in tackling environmental problems. The involvement of Indonesia in international accords dealing with climate change demonstrates its understanding of the necessity to participate in such accords. In this regard, states are obliged to develop their domestic policies focusing on decreasing greenhouse gas emissions and forest protection.

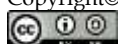
Although it seems that such agreements would limit national sovereignty, this is, in fact, an assertion of sovereignty by mutual consent. In joining the international regime of the environment, Indonesia has been contributing towards the development of global norms as well as receiving international assistance in the form of technology and funding. In this respect, it can be seen that sovereignty in international relations today is not weakened but transformed into one where the sovereign state takes part in global governance responsibly. The case of climate change demonstrates that modern-day sovereignty not only includes safeguarding national interests but also undertaking responsibilities toward the global society.

Conclusion

This study demonstrates that the principle of state sovereignty remains a fundamental foundation of international law, but its interpretation and application have evolved significantly in response to the dynamics of contemporary global governance. Modern international law increasingly recognizes that sovereignty is not an absolute authority but rather a form of responsible statehood that operates within a framework of international obligations, including commitments to human rights protection, environmental sustainability, and collective security. These limitations largely arise from voluntary participation in international agreements and institutions, reflecting states' recognition of the need for cooperation in addressing complex transnational challenges. For Indonesia, this evolving legal landscape requires a careful balance between safeguarding national sovereignty and fulfilling international and regional responsibilities. Through active engagement in multilateral diplomacy and regional cooperation, particularly within ASEAN, Indonesia demonstrates that sovereignty can be effectively maintained while simultaneously contributing to collective regional stability and global governance. Therefore, the contemporary understanding of sovereignty should be viewed not as a diminishing of state authority but as an adaptive principle that enables states to navigate the interconnected realities of the modern international system. This study contributes to the scholarly debate on sovereignty by offering a contextual analysis of how contemporary international legal norms reshape the practice of sovereignty in Indonesia's foreign policy and regional diplomacy.

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