

The Influence of Globalization in Indonesia's National Legal Order

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Article Info:	ABSTRACT
Submitted:	Globalization is an inevitable phenomenon that brings significant
09-04-2025	transformations across various sectors, including the legal order
Final Revised:	of a nation. In Indonesia, these changes can have both positive and
21-04-2025	negative implications on national law. Although there is a
Accepted:	prevailing notion that "the law always limps behind the times,"
23-04-2025	legal developments resulting from globalization must be
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26-04-2025	influence of globalization on the Indonesian legal system and to
	explore strategic efforts to ensure that legal changes remain
	aligned with the values of Pancasila and the 1945 Constitution.
	This research employs a normative juridical method with a
	conceptual and statutory approach, examining relevant legal
	doctrines and principles to understand the dynamics of
	harmonizing national and international law. The findings reveal
	that globalization demands not only the adaptation of national law
	but also a critical synchronization between global legal norms and
	Indonesia's foundational legal philosophy. The study concludes
	that harmonization between international and national law is not
	just necessary but inevitable, ensuring that legal development
	remains responsive without abandoning national identity and
	sovereignty. The implication of this research underlines the
	importance of continuous legal reform and strategic alignment to
	uphold Indonesia's legal integrity amidst global influence.
	Keywords: Globalization; Legal Harmonization; Vertical
	Harmonization; Horizontal Harmonization
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Introduction

Law and Economics are closely related where they influence each other. The history of economic growth and legal development, all over the world shows this (Xu, 2011). An economic development will affect the legal map, on the contrary, legal changes will also have a wide impact on the economy. Law and Economics are two subsystems of a social system that interact with each other (Mobus, 2022).

The relationship between law and economics is an opposite relationship, the economy runs very fast and flexibly while the law develops slowly and tends to be rigid (Mercuro & Medema,

2020). Law and Economics are closely related where they influence each other. The history of economic growth and legal development, all over the world shows this (Mercuro & Medema, 2020; Saada, 2025). An economic development will affect the legal map, on the contrary, legal changes will also have a wide impact on the economy (Ameer et al., 2025; Kantorowicz-Reznichenko & Kantorowicz, 2025). Law and Economics are two subsystems of a social system that interact with each other. In such an approach, the law is not only seen as a set of autonomous norms, but also as a social institution that is clearly closely related to various social aspects in society.

Viewed in terms of its function, there are two functions of law, namely, first, as a crystallization of the value system that grows in the dynamics of society and second, as signs that determine the direction of community development that is to be achieved. Law has a function as a crystallization of the value system that grows in the dynamics of society because law can capture and formulate aspirations that have developed previously in society (Bantekas & Akestoridi, 2022).

The law of a nation is actually a reflection of the social life of the nation concerned, so actually the formation of a country's law must be free from the influence and interests of other countries (Yuldashev et al., 2021). If it sounds loud lately, we need the formation of democratic laws, but the formation of democratic laws does not mean that the laws that are formed will be effective (Müller, 2021). In this context, for example, the mission of a law does not lie in how democratic the formation of the law is, but lies in the extent to which what is intended to be achieved from the formation of the law can be achieved or achieved. This means that the benefits of participatory lawmaking are more of an effort to improve the democratic character and legal legitimacy of the laws that are formed (Golmohammadi, 2023; Pogrebinschi, 2023).

Economic globalization has far-reaching implications for the legal field. Economic globalization has also led to legal globalization (Gore, 2022; Witt et al., 2021). In this regard, the globalization of law is not only based on agreements between nations but also on an understanding of the legal and cultural traditions between the West and the East. Legal globalization occurs through legal standardization efforts, including through international agreements. Legal globalization as referred to at the next stage will result in regulations that apply in developing countries, especially regarding investment, trade, services and other economic fields to be close to or centered on developed countries (convergence). However, there is no guarantee that these regulations will yield the same results in every country.

If the law of a nation is a reflection of the social life of the nation concerned, then national law becomes a paradox with the globalization of law. Although in certain ways the globalization of the law is also understood, the globalization of the law will continue in a different legal system. No matter how much legal globalization is something that is difficult to avoid, but nation states will not simply surrender their sovereign functions, and in a global system there will be no free control from the nation-state because globalization is not a toll road without mechanisms. The mechanism of how the traffic of the nation-state's public relations is actually built on an agreement or contract, a convention, so that the difference is that the boundary is the national law, then the restriction is an agreement between the nation state.

Previous research has addressed the intersection of law and economics, particularly how globalization impacts legal systems in developing countries. According to Posner (Posner, 2007),

the economic analysis of law offers insights into how legal rules can be designed to promote efficiency and economic development. Meanwhile, Mattei (Mattei, 2003) emphasized that globalization of law tends to create a convergence of legal systems, especially through the imposition of global trade laws and investment norms. Similarly, Kennedy (2006) discussed how legal transplants resulting from economic globalization could create conflicts within national legal systems, especially those with strong traditional or religious legal roots. However, these studies often focus on normative comparisons or macro-level convergence of laws, without adequately exploring how national identity and socio-cultural values are preserved in legal harmonization. The novelty of this research lies in its specific emphasis on how Indonesia, as a pluralistic legal state rooted in Pancasila and the 1945 Constitution, can navigate legal globalization while maintaining national sovereignty. This study contributes a contextualized approach to understanding the transformation of Indonesian law amid global economic pressures, advocating for adaptive yet culturally grounded legal reforms.

Thus, the existence of economic globalization can lead to the globalization of international law which results in changes in the Indonesian legal order. Based on the above description in this paper, the author is interested in discussing the following problems: (1) How does economic globalization result in globalization in the legal context? (2) How does globalization affect Indonesia's national legal order.

Material and Methods

This research employs a normative juridical approach with a descriptive-analytical method. The focus is to examine legal norms and how they are affected by and respond to the dynamics of economic globalization, particularly in the context of Indonesian law. The statute approach is used, which means that the analysis is primarily based on existing laws and regulations, including the 1945 Constitution, Law No. 25 of 2007 on Investment, and international legal instruments that influence domestic regulations. This method is appropriate for exploring how harmonization between national and international legal systems can be achieved without undermining Indonesia's legal sovereignty.

The data used in this study are secondary data, which are classified into three categories: primary legal materials (binding legal instruments such as statutes, treaties, and court decisions), secondary legal materials (doctrines, scholarly writings, and commentaries), and tertiary legal materials (legal dictionaries and encyclopedias). The population in this research includes all regulatory frameworks related to globalization and legal harmonization, both at the national and international levels. A purposive sampling technique is applied, selecting relevant laws, treaties, academic articles, and official government publications based on their relevance to the research questions. The research instrument used is a document checklist to ensure systematic data collection from each category of legal materials.

To ensure reliability and validity, a triangulation process is used through the cross-verification of data from multiple legal sources. Data collection techniques involve literature review, documentation, and comparative analysis. The analysis procedure follows the stages of legal reasoning: identification of norms, interpretation, and evaluation. The final analysis aims to provide a constructive synthesis that contributes to the development of a legal framework capable of adapting to global challenges while preserving the principles of Pancasila and national sovereignty.

Results and Discussions

Definition of Globalization

Globalization is the process of disseminating science and culture among the rest of the world, thus causing the loss of clear boundaries. The definition of globalization is according to the definition of Achmad Suparman who says that globalization is a process that makes an object or behavior a characteristic of every individual in the world without being limited by region. The definition of globalization according to the definition of Anthony Giddens said that globalization is the intensification of social relations worldwide so as to connect events that occur in one location with each other and cause changes in both.

Globalization is a process towards the scope of the world. Thus, globalization can be interpreted as a global process, where all events both economic, political and cultural that occur in one part of the world can affect the lives of people around the world. Or it can be called globalization is a process in which social relations and interdependence between humans in this world are getting bigger.

Paul Kennedy dan Robin Cohen dalam Prabawati (2008:2) declares that transformation has brought us to globalism, a new awareness and understanding that the world is one. Giddens emphasizes that most of us are aware that we are actually taking part in a world that must change uncontrollably marked by tastes and interests in the same, changes and uncertainties, and the realities that may occur. In line with that, Peter Drucker mentions globalization as an era of social transformation.

According to Prof. Dr. Muladi, globalization, (2014) which was originally economical, supported by modern technological advances in the fields of telecommunications, transportation, and modern informatics, is ultimately multidimensional and interdisciplinary, both positive and negative, which as a whole requires legal tools to regulate it.

In relation to law, Ralf Michaels stated that in order to describe the relationship between law and globalization clearly and meet the multidimensional and interdisciplinary character of globalization, the understanding of the concept of globalization cannot be "oversimplified". Globalization and law must be understood through 3 (three) different concepts, namely: globalization as reality; as a theory; and as an ideology (as ideology). "Rather globalization and law mutually shape each other, todays globalization is as much a product of a law as it influences the law". Globalization has indeed had a great impact on all aspects of life, including the field of law.

Economic Globalization Results in Globalization in the Legal Context

Economic globalization has actually occurred for a long time, the period of the spice trade, the period of forced planting (Cultuur stelsel) and the period when the Dutch private capital of the Colonial Era was with forced labor. In these three periods, Indonesia's products have reached Europe and America. On the other hand, the import of textiles and manufactured goods, however simple, has been going on for a long time (Rajagukguk, 1997).

Today's economic globalization is a new manifestation of the development of capitalism as an international economic system. When the economy becomes integrated, legal harmonization follows. The establishment of the WTO (World Trade Organization) on January 1, 1995 has been preceded by the formation of regional economic blocs such as the European Community, NAFTA (North American Free Trade Agreement), AFTA (Asean Free Trade Area) and APEC (Asia Pacific Economic Coorperation). There is no contradiction between regionalization and globalization of trade. On the contrary, global economic integration requires the creation of new trading blocs. Trade with the WTO and its regional economic cooperation means developing democratic institutions, reforming market mechanisms, and functioning the legal system.

Developments in technology and patterns of economic activities have made people in the world increasingly in touch, needing each other, and determining each other's fate, but also competing with each other. This is dramatically especially seen in world trade activities, both in the field of goods (trade in goods), and in the field of services (trade in services). This interconnectedness requires an agreement on the applicable rules of the game. The rules of the game applied to international trade are the rules of the game that developed in the GATT (General Agreement on Tariffs and Trade)/WTO system (Kartadjoemena, 2000). Regardless of its characteristics and obstacles, economic globalization has a huge impact on the legal field. Economic globalization also causes legal globalization. The globalization of law is not only based on international agreements between nations, but also on understanding the legal and cultural traditions between the west and the east.

Globalization in the field of international business contracts has been happening for a long time. Because developed countries bring new transactions to developing countries, their partners from developing countries accept these international business contract models, either because they did not know the model before, or because of weak bargaining positions. Therefore, it is not surprising that joint venture agreements, franchise agreements, licensing agreements, agency agreements, are almost the same in all countries. The legal consultant of one country easily works on such treaties in other countries.

Erman Rajagukguk (1997) said that the similarity of the legal provisions of various countries can also occur because a country follows the model of developed countries related to legal institutions to obtain capital accumulation. The Limited Liability Company Laws of various countries, from "Civil Law" to "Common Law" contain similar substances. Likewise, capital market regulations, everywhere are no different, one thing from one another because the funds flowing into these markets are no longer tied to time and state boundaries.

The growing demand for transparency, the development of international crimes in money laundering and insider trading encourage international cooperation. Behind the hard work to create the globalization of the law, according to Erman, there is no guarantee that the law will give the same results everywhere. This is due to political, economic and cultural differences. The law is not the same as the horse. People wouldn't name a donkey or a zebra is a horse. Although the shape is almost the same. Horses are horses. The law is not so. What is called the law depends on the perception of the community (Rajagukguk, 1997). Friedman, said that the enforcement of legal regulations depends on the legal culture of the society. The legal culture of the society depends on the legal culture of its members which is influenced by educational background, cultural environment, position or position, and even interests (Rajagukguk, 1997).

In the face of such a thing, it is necessary to "check and balance" in the state. "Check and balance" can only be achieved with a strong parliament, an independent judiciary, and public participation through its institutions. In the above case, especially in the issue of supervision and Law Enforcement, two things are inseparable components of the rule of law system. There will be no law enforcement if there is no supervision system and there will be no rule of law if there is not adequate law enforcement. In this field, our beloved country Indonesia is still limping to understand what the rule of law means as we often state it eloquently. ECW Wade and Godfrey Philips in PM Hadjon (1987:81) stated three concepts regarding the "Rule of Law" namely (Suhardi, 2002):

1. The Rule of Law prioritizes law and order in society which in the view of western traditions is born from the realm of democracy.

2. The Rule of Law shows a legal doctrine that government must be carried out in accordance with the law.

3. The Rule of Law shows a political framework that must be detailed by legal regulations, both substantive and procedural law..

The various elements of the meaning of the Rule of Law must be implemented as a whole, not piecemeal, and at the same time. The exclusion and suspension of one of its elements will damage the entire system. So that in the flow of economic globalization that results in legal globalization to further improve development in Indonesia, supervision is needed over the application of the rule of law by implementing adequate law enforcement.

Indonesia is different from developed countries such as America and the United Kingdom. If in both countries, they pursue development successively from the first, creating unity in their country, second, promoting industrialization, and third, realizing social welfare. The sequence of state development as taken by the two countries mentioned above, is an ideal step to realize a solid country, with solid economic and citizen support. However, for Indonesia, it is impossible for us to carry out this one by one, but must be done at once. Creating unity, promoting development and realizing prosperity must be done simultaneously.

The conditions mentioned above do provide opportunities for the creation of disharmony in the achievement of legal development goals. Moreover, if the officials who carry out the agenda do not understand the condition of the state (citizens) so that none of the three agendas that are carried out can be realized according to expectations. For Indonesia, there is still a lot to learn about the things that have been achieved by the developed country and realize that with the right legal system, the law can influence citizens to work even harder, because their achievements are protected and guaranteed by the law, so that the results of the work automatically increase the prosperity of the community.

Thus, according to the author, economic globalization directly encourages the development and application of broader and more complex international law. The Indonesian state must cooperate with other countries in creating and implementing a legal framework that supports increasingly integrated global economic activities.

The influence of globalization in Indonesia's national legal order

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The influence of globalization in Indonesia's national legal order, which is so large, certainly cannot be left alone. Rather, this needs to be balanced with the strong desire of the entire Indonesian nation in the context of better national law development. This is even more understandable considering that globalization is a symptom that cannot be denied or avoided by any country that does not want to be excluded from the international arena.

One aspect of globalization and law is how developed countries use it against developing countries for political interests. Iskandar (2018) in his journal said that law has many functions, namely the following: 1). Law as a tool of social control (control); 2). Law as a tool to change society; and 3). Law as a political tool.

According to the author, the legal function mentioned in numbers 1) and 2) above can be referred to as "Law as a tool of social engineering" while the legal function mentioned in number 3) is "Law as a political instrument". The term law as a tool of social engineering was coined by Roscoe Pound which means law as a tool for community renewal where law is expected to play a role in changing social values in society. Law as a tool of social engineering can also be interpreted as law is a means of social control. Meanwhile, the definition of Law as a political instrument is that law functions as a political instrument where the law is used to achieve certain goals, including international law that is used to protect the interests of developed countries. The two ways that developed countries most often do to developing countries, the first is the way that utilizes international agreements, and the second is the way that takes advantage of dependencies in certain fields to urge changes in laws and regulations. Intervention through these two methods cannot be considered as an intervention that violates international law A country's participation in an international treaty means that the country deliberately imposes itself on carrying out the obligations enshrined in international law.

The role of law in globalization, for example in economic globalization, is in regulating human activities in fulfilling needs through trade in goods and services, becoming the right revelation of new forces that require the formation of people's welfare. In addition, the law here is to protect, regulate and plan economic life so that the dynamics of economic activities can be directed to progress and welfare for the entire community, economic globalization cannot be avoided by any country.

The development of the legal system must be interpreted as a law as an institution of laws and regulations or law as an institution in the sense of a law enforcement organization, the renewal of this field is based on the fact that so far, the law tends to be used as a tool of the ruler, as a tool of legitimacy or justification for government actions, in other words the law has been co-opted by and enslaved to the power of the ruler, So that the law tends to serve the will and will of certain rulers and elites.

Globalization is not something that must be rejected or opposed, but with strong laws it will actually provide benefits for the prosperity and welfare of the Indonesian people in particular. The foundation that needs to be considered is Pancasila and the 1945 Constitution in every basis for making Indonesian state law. The agreements or instruments made should also be based on the sources of the Indonesian nation's law.

At the normative level as stated in the 1945 Constitution, it is formulated that Indonesia is a state of law, not a state based on power. So the 1945 Constitution requires the Indonesian state to be a state of law by guaranteeing the legal order, the principle of equality that implies the principle of freedom, the principle of freedom, the principle of democracy, and the principle of government functioning to serve the people. Based on the above description, it can be said that what the Indonesian state wants to fight for is a state based on the law, in which all the use of power must always be based on the law, and within the framework of the limits set by the law a fortiori for the use of public power. So the desired government is a government based on the law.

Therefore, the harmonization of national law is indispensable for the development of global law due to globalization. The national law that is formed must be a law that is contextual and appropriate for the Indonesian people, prioritizing the interests of the people, rather than a law that prioritizes the interests of capital or a law that favors globalization without paying attention to local aspects of Indonesia.

Iskandar (2018) mentioned that there are several reasons why there is an urgency to harmonize national law with the development of global law as a result of globalization:

- a. The relationship between countries becomes and is global interdependence and the increase of various global transactions creates new challenges for legal transactions. The relationship between global and local factors, which is reflected in the field of law, namely the increasing convergence (hybrid) and blurred lines between domestic law and international law, therefore, efforts to harmonize law must be carried out.
- b. In order to face the process of globalization which is full of possibilities both positive and negative, the state must harmonize its national laws against the development of global law, because the political law of the state in this case is the determinant of the success of a harmonization of national law in accordance with the context of their respective countries.
- c. There are 4 (four) aspirations in lawmaking, namely suprastructural aspirations (Government), infrastructure aspirations (society), expertise, and global aspirations. Thus, global aspirations cannot be ignored simply in the process of making national laws of a country.

The harmonization of regulations is divided into two, namely vertical and horizontal harmonization, with an explanation as a matter of principle.t:

1. Vertical harmonization is the harmonization of legislation that is carried out against other laws and regulations in different hierarchies.

2. Horizontal harmonization is the harmonization of laws and regulations carried out against laws and regulations that are in the same hierarchy and equivalent.

In Indonesia, Permenkumham 22 of 2018 concerning the harmonization of draft laws and regulations formed in the regions and Permenkumham 23 of 2018 concerning the harmonization of draft ministerial regulations, draft regulations of non-ministerial government institutions, draft regulations of non-structural institutions, and draft regulations of non-structural institutions. However, the harmonization of the rules has not yet regulated harmonization with international law related to the influence of globalization.

In the explanation of article 3 paragraph (2) of Government Regulation Number 59 of 2015 concerning the Participation of Drafters of Laws and Regulations in the Formation of Laws and Regulations and Their Guidance, it is stated that "What is meant by "harmonization" includes harmonization with the precepts in Pancasila, the preamble to the Constitution of the Republic of Indonesia in 1945, the Constitution of the Republic of Indonesia in 1945, and higher laws and regulations or the same level. But the meaning of harmonization in this paper is that in addition to the harmonization that has been mentioned above, it is also harmonized with international law due to the influence of globalization.

In this context, legal harmonization is an absolute solution, it is intended as a vehicle to create a set of rules whose basic principles come from the national laws of each country. Thus, each country will not feel that it has lost control over the activities of its citizens. Such a model of harmonization will not ignore the existence of individual national laws, but will absorb basic principles whose existence is then maintained through consensus and principles for mutual benefit.

It can be concluded that economic globalization has had a significant impact on Indonesia's national legal order, driving changes in various areas of law, such as trade law, investment, etc. Economic globalization requires Indonesia to continue to update and adapt national laws to international standards and increase cooperation with other countries to face increasingly complex global challenges through legal harmonization.

Conclusion

Economic globalization has undeniably accelerated the evolution of international law, necessitating a more harmonized and adaptive legal system at the national level. For Indonesia, this development brings both opportunities and challenges, as the country must respond to global economic integration without compromising its legal sovereignty rooted in Pancasila and the 1945 Constitution. The study concludes that economic globalization compels the Indonesian legal system to modernize, particularly by aligning with international legal standards in areas such as trade, investment, and intellectual property, while maintaining national values and interests. To that end, continuous legal reform, institutional strengthening, and capacity building in legal harmonization are essential. Future research should further investigate the mechanisms through which legal convergence and sovereignty can be balanced, including empirical studies on the effectiveness of international law implementation in Indonesia and comparative analyses with other developing countries facing similar pressures. These efforts will contribute significantly to the formulation of legal frameworks that are both globally competitive and domestically legitimate.

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