

Pros and Cons of Application of Extraterritorial Jurisdiction in International Law: Various Practices in Southeast Asian Countries

Desvia Dwi Aryudhanty ^a✉, Lam Thong Yen ^b, Nai Jan Chan ^c

^a Center for Southeast Asian Studies, Universitas Negeri Semarang, Indonesia

^b Ho Chi Minh City University of Law, Vietnam

^c Souphanouvong University, Luang Prabang, Lao PDR

✉ Corresponding email: desvia@mail.unnes.ac.id

Abstract

The concept of extraterritorial jurisdiction in international law has garnered significant attention due to its implications on sovereignty, human rights, and global governance. This paper explores the diverse practices and approaches towards extraterritorial jurisdiction in Southeast Asian countries, considering both the advantages and disadvantages associated with its application. The pros of extraterritorial jurisdiction include the ability to hold individuals and entities accountable for actions committed beyond national borders, thereby addressing transnational crimes, ensuring justice for victims, and upholding international norms and standards. Furthermore, it can serve as a deterrent against cross-border



Copyrights © Author(s). This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License. (CC BY-SA 4.0). All writings published in this journal are personal views of the author and do not represent the views of this journal and the author's affiliated institutions.

offenses, promoting stability and security in the region. However, the application of extraterritorial jurisdiction also raises several concerns and challenges. One of the primary drawbacks is the potential infringement upon state sovereignty, as it involves the assertion of legal authority over foreign territories and nationals. This could lead to tensions between states and undermine diplomatic relations. Moreover, inconsistent or unilateral application of extraterritorial jurisdiction may result in legal uncertainty and conflicts of laws, hindering international cooperation and legal harmonization efforts. By examining the various practices in Southeast Asian countries, including legislative frameworks, judicial decisions, and diplomatic engagements, this paper aims to provide insights into the complexities surrounding the application of extraterritorial jurisdiction in the region. It underscores the need for balanced approaches that reconcile the pursuit of justice with respect for sovereignty and international law principles. Additionally, it highlights the importance of multilateral cooperation and dialogue in addressing transnational challenges while safeguarding the rights and interests of all stakeholders involved. Overall, this analysis contributes to a better understanding of the nuanced dynamics shaping the debate on extraterritorial jurisdiction in international law and its implications for Southeast Asia's legal landscape and regional cooperation mechanisms.

KEYWORDS

Extraterritorial Jurisdiction, State Sovereignty, International Law, Law Enforcement

Introduction

The application of extraterritorial jurisdiction in international law stands as a complex and contentious issue¹, particularly within the

¹ Colangelo, Anthony J. "What Is Extraterritorial Jurisdiction." *Cornell Law Review* 99.6 (2014): 1303; Ryngaert, Cedric. "The concept of jurisdiction in international law." *Research handbook on jurisdiction and immunities in international law*. Edward Elgar Publishing, 2015. 50-75; Kamminga, Menno. "Extraterritoriality." *The Max Planck Encyclopedia of Public International Law*. Oxford University Press, 2020.

dynamic geopolitical landscape of Southeast Asia. This region, characterized by its cultural diversity, economic integration, and historical complexities, provides a rich context for examining the diverse practices and implications of extending legal authority beyond national borders.²

Extraterritorial jurisdiction refers to the assertion of a state's legal authority over persons, entities, or conduct outside its territory. It encompasses various forms, including prescriptive, enforcement, and adjudicative jurisdiction, each posing distinct challenges and opportunities in the realm of international law.³ In Southeast Asia, where the boundaries between states are often porous, and transnational challenges such as terrorism, human trafficking, and environmental degradation are prevalent⁴, the application of extraterritorial jurisdiction holds significant implications for regional security, governance, and human rights.⁵

The term "*jurisdiction*" originates from the Latin word "*jurisdictio*," which combines "*juris*," meaning legal or lawful possession, and "*dictio*," signifying speech, word, or appellation. Consequently, from its etymology,

² Takeuchi, Mari. "Asian experience with extraterritoriality." *Research Handbook on Extraterritoriality in International Law*. Edward Elgar Publishing, 2023. 164-179; Stigall, Dan E. "International Law and Limitations on the Exercise of Extraterritorial Jurisdiction in US Domestic Law." *Hastings International and Comparative Law Review* 35.2 (2012): 323.

³ Florey, Katherine. "State Courts, State Territory, State Power: Reflections on the Extraterritoriality Principle in Choice of Law and Legislation." *Notre Dame Law Review* 84.3 (2009).

⁴ Harms, Erik. "Porous enclaves: Blurred boundaries and incomplete exclusion in South East Asian cities." *South East Asia Research* 23.2 (2015): 151-167; Ullah, AKM Ahsan, and Asiyah Az-Zahra Ahmad Kumpoh. "Are borders the reflection of international relations? Southeast Asian borders in perspective." *Journal of Asian Security and International Affairs* 5.3 (2018): 295-318.

⁵ Puspita, Natalia Yeti. "ASEAN Mechanism for Human Security Problems in Southeast Asia: What's Wrong?." *Jurnal Dinamika Hukum* 19.2 (2020): 521-553; Middleton, Carl. "National human rights institutions, extraterritorial obligations and hydropower in Southeast Asia: Implications of the region's authoritarian turn." *Advances in Southeast Asian Studies* 11.1 (2018): 81-97.

jurisdiction pertains to matters of law, ownership under the law, or authority in accordance with legal principles.⁶

In practice, the term "*jurisdiction*" encompasses various meanings. For instance, in English courts, particularly in cases involving child custody, it's often mentioned that parties are restricted from taking actions "*outside the jurisdiction of the court*," indicating a prohibition on removing children from the UK territory. Here, "*jurisdiction*" refers to territory. Similarly, in the UN Charter, the term "*domestic jurisdiction*" is commonly used, denoting domestic authority.

However, in its most prevalent usage, "*jurisdiction*" typically denotes the authority wielded by a state over individuals, entities, or events. As stated by Wayan Parthiana, it refers to the power or authority vested in a judicial body or other state entities based on applicable laws.⁷ When associated with the state, "*jurisdiction*" implies the power or authority of the state to promulgate and enforce laws enacted by the state or nation itself.

Furthermore, in academic discourse, Shaw asserts that jurisdiction embodies the competence or legal authority wielded by the State over legal entities, objects, and occurrences. This jurisdictional prerogative mirrors foundational principles including state sovereignty, equality among states, and the principle of non-intervention.

Extraterritorial Jurisdiction (ETJ) denotes the legal capacity of a government to exercise authority beyond its customary boundaries. While any governing body can assert ETJ over external territories at will, the efficacy of such claims in territories beyond their immediate reach typically requires agreement either with the legal authority governing those territories or with a legal authority encompassing both territories. In cases where eligibility is lacking, ETJ is often termed as an "*agreed jurisdiction*" or referred to as an "*ETJ claim*."⁸

⁶ Dorsett, Shaunnagh, and Shaun McVeigh. *Jurisdiction*. Routledge-Cavendish, 2012; Colangelo, Anthony J. "The Legal Limits of Universal Jurisdiction." *Virginia Journal of International Law* 47 (2006): 149.

⁷ Parthiana, I. Wayan. *Pengantar Hukum Internasional*. (Bandung: Mandarmaju, 1990).

⁸ Maier, Harold G. "Interest balancing and extraterritorial jurisdiction." *American Journal of Comparative Law* 1 (1983): 579-597; Kanalan, Ibrahim. "Extraterritorial

Furthermore, ETJ also encompasses the extension of a country's laws beyond its borders, enabling its courts to assert jurisdiction over parties engaged in activities outside the country's jurisdictional boundaries. This authority is independent of other countries' cooperation, as the individuals affected are either within the jurisdiction of the country in question or their cases are adjudicated by its courts. For instance, numerous countries have enacted laws empowering their criminal courts to prosecute acts of piracy or terrorism committed beyond their national borders. Such laws may apply solely to citizens of the country or to individuals regardless of nationality.

In practice, implementing the principle of extraterritorial jurisdiction is fraught with numerous challenges, particularly regarding interactions with the jurisdictions of other states. While a state may possess jurisdiction over a specific legal action, entity, or interest, the practical enforcement of extraterritorial jurisdiction faces limitations, as a state cannot exert its authority within the territory of another sovereign state. Despite possessing jurisdiction over a particular legal matter, legal entity, or interest, the effective exercise of extraterritorial jurisdiction may be hindered by the constraints of international law and sovereignty.⁹

This paper seeks to explore the pros and cons of the application of extraterritorial jurisdiction in Southeast Asian countries, shedding light on the diverse approaches taken by states within the region. By examining legislative frameworks, judicial decisions, and diplomatic engagements, it aims to provide a comprehensive analysis of the complexities inherent in navigating the intersection of sovereignty, international law, and global governance.

The extraterritorial jurisdiction brings forth a myriad of opportunities. It allows states to hold individuals and entities accountable for crimes committed beyond their borders, thereby addressing the

state obligations beyond the concept of jurisdiction." *German Law Journal* 19.1 (2018): 43-64.

⁹ Chimni, B. S. "The international law of jurisdiction: A TWAIL perspective." *Leiden Journal of International Law* 35.1 (2022): 29-54; Maier, Harold G. "Extraterritorial jurisdiction at a crossroads: an intersection between public and private international law." *American Journal of International Law* 76.2 (1982): 280-320.

challenges posed by transnational criminal activities.¹⁰ Furthermore, it serves as a tool for promoting justice, upholding human rights standards, and ensuring the rule of law in an increasingly interconnected world.

However, alongside these potential benefits, the application of extraterritorial jurisdiction also raises significant concerns. Chief among these is the potential infringement upon state sovereignty, as states assert legal authority over foreign territories and nationals. This tension between sovereignty and jurisdictional reach has the potential to strain diplomatic relations and impede international cooperation efforts, particularly in a region as diverse and interconnected as Southeast Asia.

Moreover, the inconsistent application of extraterritorial jurisdiction may lead to legal uncertainty, conflicts of laws, and violations of due process rights, further complicating efforts to address transnational challenges effectively.¹¹ As such, striking a balance between the pursuit of justice and the respect for sovereignty remains a paramount concern for policymakers, jurists, and stakeholders within the region.

In light of these complexities, this paper aims to provide a nuanced understanding of the pros and cons of the application of extraterritorial jurisdiction in Southeast Asian countries. By examining the various practices and approaches adopted by states within the region, it seeks to identify key trends, challenges, and opportunities for enhancing regional cooperation and legal harmonization efforts.

Application of the Principle of Extraterritorial Jurisdiction in Indonesia

¹⁰ McCorquodale, Robert, and Penelope Simons. "Responsibility beyond borders: state responsibility for extraterritorial violations by corporations of international human rights law." *The Modern Law Review* 70.4 (2007): 598-625; Passas, Nikos. "Cross-border crime and the interface between legal and illegal actors." *Security Journal* 16 (2003): 19-37.

¹¹ Lehmann, Matthias. "Legal fragmentation, extraterritoriality and uncertainty in global financial regulation." *Oxford Journal of Legal Studies* 37.2 (2017): 406-434; Kannis, Eleni. "Pulling (apart) the triggers of extraterritorial jurisdiction." *University of Western Australia Law Review* 40.1 (2015): 221-243.

In the domain of legislative authority (jurisdiction to prescribe), a state possesses the prerogative to formulate laws and regulations pertaining to extraterritorial matters. Nevertheless, upon enactment, the compatibility of such laws with the sovereignty of other nations must be rigorously evaluated to ascertain whether they infringe upon the jurisdictional integrity of other countries.

State jurisdiction to enact extraterritorial laws comprises three distinct categories. Firstly, there is jurisdiction over extraterritorial subjects exclusively. An illustrative instance of this lies within Section 46 of the Canadian Competition Act, which proscribes monopoly agreements made outside Canadian borders by domestic companies. Herein, the law extends the ambit of Canadian regulatory dominion to encompass actions undertaken by domestic entities beyond national confines.¹²

Secondly, jurisdiction may be asserted solely over extraterritorial individuals. This is exemplified by statutes such as Section 477.1 of the Criminal Code of Canada, which delineates offenses occurring aboard Canadian-flagged vessels at sea. Noteworthy is that this provision applies indiscriminately to acts committed by Canadian nationals or foreigners, demonstrating the exercise of jurisdiction predicated on geographical location rather than citizenship status.

Thirdly, jurisdiction may extend to extraterritorial acts perpetrated by extraterritorial actors. This is evidenced by legislation such as the Crimes Against Humanity and War Crimes Act, particularly Sections 6 and 8. These provisions address offenses occurring beyond Canadian territory and perpetrated by individuals beyond the immediate jurisdiction of Canadian authorities. In such scenarios, Canadian law is invoked to hold offenders accountable for actions committed abroad, underscoring the extraterritorial applicability of national legal frameworks in confronting egregious international transgressions.

The establishment of extraterritorial laws or arrangements does not inherently constitute an offense or breach of international law.¹³ However,

¹² Sweeney, Brendan. "International governance of competition and the problem of extraterritorial jurisdiction." *Comparative Competition Law*. Edward Elgar Publishing, 2015. 345-383.

¹³ Colangelo, Anthony J. "Constitutional Limits on Extraterritorial Jurisdiction: Terrorism and the Intersection of National and International Law." *Harvard*

to justify the assertion of jurisdiction to prescribe, a robust legal foundation is required to justify potential encroachments on sovereignty, as outlined in regulations concerning cyberspace, such as those governing internet content. As elucidated by the International Court of Justice in its opinion in the Lotus Case, a state is generally precluded from exercising sovereignty within the territory of another state, and jurisdiction cannot extend beyond its borders without explicit authorization derived from international custom or conventions.

In essence, problems only exist when states enforce or enforce their laws extraterritorially. If a country does not enforce or implement the laws it has established, then in fact it will not cause practical problems. However, it would be very unwise if a country is not able to map its prescriptive *jurisdiction* extraterritorially, for example by looking at where Indonesia intends and has the potential and capacity to enforce the law against the laws that Indonesia has set.

In this case, the criteria given by the International Court of Justice in applying extraterritorial state jurisdiction to other states are: 1) *permissive rules* derived from international customs (*international customary law*); and 2) *permissive rules* derived from a convention.

In the context of its implementation by Indonesia, the establishment of an extraterritorial regime, especially in cyber law, is contained in Article 2 of Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), as follows: "*This Law applies to any Person who commits legal acts as stipulated in this Law, whether located in the jurisdiction of Indonesia or outside the jurisdiction of Indonesia, which has legal consequences in the jurisdiction of Indonesia and/or outside the jurisdiction of Indonesia and harms the interests of Indonesia.*"¹⁴

In the explanation of Article 2 of Law No. 11 of 2008 concerning Electronic Information and Transactions, it is stated that this Law has jurisdictional reach not only for legal acts applicable in Indonesia and / or committed by Indonesian citizens, but also applies to legal acts committed

International Law Journal 48 (2007): 121; Morgan, Edward M. "Criminal Process, International Law, and Extraterritorial Crime." *The University of Toronto Law Journal* 38.3 (1988): 245-277.

¹⁴ Republic of Indonesia. *Law Number 11 of 2008 concerning Electronic Information and Transactions*

outside the jurisdiction of Indonesia both by Indonesian citizens and foreign nationals or Indonesian legal entities or foreign legal entities that have consequences law in Indonesia, considering the use of Information Technology for Electronic Information and Electronic Transactions can be cross-territorial or universal.¹⁵

Pros and Cons of Applying Extraterritorial Jurisdiction in International Law

International law does not intricately regulate the constraints of a state's jurisdiction, aside from the principles established within international jurisdiction. For instance, it is generally understood that a state should refrain from exercising jurisdiction over persons, entities, or actions unrelated to its territory. However, if a country, denoted as Country B, breaches international law, Country A must substantiate the location where the transgression occurred by Country B.

Therefore, the question often arises whether a state can exercise *its extraterritorial* jurisdiction over foreign legal subjects who commit acts outside the territory of that country. Extraterritorial jurisdiction is used by some countries based on national interests, especially their business interests. Extraterritoriality is controversial, particularly from the point of view of territorial jurisdiction, as there is no *direct and immediate link between the initiation and completion of the act*, as found in the case of *Lotus*, which applies territorial jurisdiction as a subject.

An exemplar of a case involving the application of extraterritorial jurisdiction is the *American Banana Co. v. United Fruit Co.* In this instance, the plaintiff, a U.S. citizen and proprietor of a banana plantation in Costa Rica, brought a lawsuit against the defendant, the owner of United Fruit Co. The plaintiff alleged that the defendant violated the

¹⁵ See Pramesti, Indriana, and Arie Afriansyah. "Extraterritoriality of Data Protection: GDPR and Its Possible Enforcement in Indonesia." *3rd International Conference on Law and Governance (ICLAVE 2019)*. Atlantis Press, 2020; Putri, Rahmatilla Aryani, Huala Adolf, and Jafar Sidik. "Law Enforcement of Cyber Crime Jurisdiction in Transnasional Law." *4th Social and Humanities Research Symposium (SoRes 2021)*. Atlantis Press, 2022; Manullang, Sardjana Orba. "Understanding the Duties and Responsibilities of the Police in Criminal Cases in the Jurisdiction of a Country: A Study of Legal Literacy." *LEGAL BRIEF* 11.4 (2022): 2155-2166.

Sherman Act by influencing the Costa Rican government to expropriate land owned by the plaintiff's Banana Co.

The Supreme Court rendered a decision stating that the U.S. Sherman Act cannot be enforced against the activities of United Fruit Co. conducted abroad unless such activities contravene Costa Rican law. This ruling underscores the principle that violations of U.S. law occurring outside the country cannot serve as grounds for prosecution in U.S. courts unless they run counter to the laws of the jurisdiction where the actions occurred.

In the 1945 Alcoa case, the U.S. government sued Alcoa and Aluminum Ltd. under the Sherman Act in which defendants were accused of conspiring with various foreign companies (Switzerland, Germany, England) to impede U.S. domestic and foreign trade in aluminum production and sales. This has set a very popular precedent for extraterritorial jurisdiction. The U.S. appeals court ruled that Congress cannot invoke the Sherman Act if:

- a. There is no intent to cause any effect on U.S. trade; and
- b. Has no consequences for US trade.

If both conditions are met, the Sherman Act can be applied even if the activity is conducted outside the United States.¹⁶

In addition to the US, the application of extraterritorial jurisdiction is also applied by the European Court of Justice (ECJ) with regard to the application of EC *competition law* in the Wood Pulp case. In this case, controversy arose around two matters concerning the jurisdiction of the ECJ and the substance of the claim. In this case, the court found that more than 42 *suppliers of wood pulp* violated the *European Community Competition Law*. The companies are 11 U.S. companies, 6 Canada, 11 Sweden, 11 Finland, 1 Norway, 1 Spain, and 1 Portugal. These Non-EC companies sell their goods to Europe through various means such as agents, branches, and subsidiaries located in Europe.¹⁷

¹⁶ Adams, Walter. "The Aluminum Case: Legal Victory--Economic Defeat." *The American Economic Review* 41.5 (1951): 915-922; Winerman, Marc, and William E. Kovacic. "Learned Hand, Alcoa", and the Reluctant Application of the Sherman Act." *Antitrust Law Journal* 79.1 (2013): 295-347.

¹⁷ See Breibart, Evan. "The Wood Pulp Case: The Application of European Economic Community Competition Law to Foreign Based Undertakings." *Georgia Journal of*

The exercise of Extraterritorial jurisdiction often poses many problems. Investment in branches of companies abroad, for example, will require cooperation from the competent authorities as well as enforcement jurisdiction of court decisions. Other States have no obligation to assist or cooperate with foreign authorities with regard to the recognition and execution of such foreign rulings.

Extraterritorial Jurisdiction: Cases and Practices

An embassy constitutes a key aspect of a country's extraterritorial affairs, enabling the exercise of its jurisdiction within the territory of the host country. In the event of vandalism at the British government's residence in Iran, which indirectly jeopardizes the personal security of all embassy representatives, the British government faces challenges in asserting its jurisdiction. This violation by the Iranian government contravenes the provisions outlined in the 1961 Vienna Convention.¹⁸

According to the Vienna Convention, a country's foreign representative buildings are entitled to protection from the host country. These buildings are considered part of the sending country's extraterritorial jurisdiction, allowing it to exert its authority within the host country. The principle of non-interference regarding foreign representatives encompasses two critical aspects.

Firstly, the receiving country is obligated to furnish comprehensive protection to foreign representatives within its borders, safeguarding them from any form of interference. Even under extraordinary circumstances such as the breakdown of diplomatic relations or armed conflict between the sending and receiving countries, the receiving state remains obliged to

International & Comparative Law 19.1 (1989): 149; Jeffrey, M. "The implications of the wood pulp case for the European communities." *Leiden Journal of International Law* 4.1 (1991): 75-107.

¹⁸ Aceves, William J. "The Vienna Convention on Consular Relations: A Study of Rights, Wrongs, and Remedies." *Vanderbilt Journal of Transnational Law* 31.2 (1998): 257; Akalanka, KAAAN Thilakarathna. "The evolution of The Vienna Convention on Diplomatic Relations and Consular." *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 11.1 (2020): 67-83.

ensure the protection of the representative building, its properties, and archives.

Secondly, the foreign representative themselves enjoy immunity from inspection, including their personal belongings and all documents within the embassy premises. The Vienna Convention explicitly delineates the boundaries of such buildings, including the land upon which they stand, irrespective of ownership, if they are utilized for the purposes of the foreign state's representation, encompassing the residence of the head of the mission.

The sequence of events in this case unfolds with the UK openly aligning itself with US policy towards Iran, notably evidenced by its support for the economic sanctions imposed by the US Treasury and Secretary of State on November 22. These sanctions, implemented under the US Patriot Law, signify a drastic escalation in measures against Iran. The latest round of British-backed US sanctions is perceived as stringent and impactful, intended to impart a severe lesson to Iran.

Anticipated by various quarters, these new US sanctions are speculated to pave the way for the issuance of a fresh UN resolution targeting Iran. This prospective resolution symbolizes the culmination of international frustration, particularly on the part of the United States, bolstered by British support and that of its allies, towards Iran's hardline stance in negotiations with the West.

The escalating tension reached a critical point when the Iranian Parliament approved a bill on 27/11 to downgrade diplomatic relations with Britain, as reported by the Iranian news agency, IRNA. Two days later, students launched an assault on the British embassy, pelting stones and hurling Molotov cocktails from outside the perimeter fence. They clashed with Iranian security forces stationed at barricades. Despite efforts to fortify the embassy, it succumbed to the onslaught within two hours as the students breached the police barricades.

Protection is indeed needed for the British embassy of the Iranian government, because in this there are obligations of protection inside / environment of the foreign representative building (*Interna Rationae*) and protection outside the foreign representative building (*Externa Rationae*). Activities that occur outside the foreign representative building in this case rallies / demonstrations that damage the British embassy building, it is a

disturbance to the peace of representatives in carrying out their missions or can reduce the dignity and dignity of foreign representatives in a country which in essence can be contrary to the meaning and meaning of Article 22 (2) of the 1961 Vienna Convention. Article 22 (2) provides for a special level of protection in addition to the existing obligation to demonstrate sincerity in protecting foreign representatives residing in a country.

In the case of the destruction of the British Embassy to Iran, the Iranian state has neglected to protect foreign representatives (representatives of the British state) in the territory of its country while violating article 22 paragraph (2) of the 1961 Vienna Convention. However, we need to note here that in relation to the material of International Criminal Law, the perpetrators who damage the Embassy are students (groups) of Iranian citizens, and not under the policy of the government/organization in Iran, so this crime is not a transnational crime but an international crime, because it is considered an international crime both regulated in international conventions (Vienna Convention) and in law international customs. Henceforth, the following actions ought to be pursued:

1. Given that this crime falls outside the jurisdiction of the ICC (International Court of Justice), the perpetrators responsible for this destruction must be prosecuted under Iranian national law at the behest of the British government. It is imperative that the Iranian state fulfills its obligation to prosecute these wrongdoers.
2. Should the Iranian state fail to demonstrate willingness or capacity to prosecute the perpetrators, jurisdictional authority over them can be transferred to British national law based on the territorial principle. Under this principle, individuals who vandalize the British embassy are deemed to have committed crimes within the territory of the British state.
3. Furthermore, the Iranian state is obligated to provide compensation to the British state as per the principle of *ex gratia*. This serves as a manifestation of Iranian state responsibility towards the British state.

In the event that the Iranian state fails to exhibit accountability for these actions, the British government reserves the right to recall its diplomatic representatives from Iran. Such an act constitutes the highest

form of protest by the sending country against the receiving country's actions.

Conclusion

In conclusion, the application of extraterritorial jurisdiction in international law presents both opportunities and challenges, particularly within the context of Southeast Asian countries. On one hand, extraterritorial jurisdiction enables states to hold individuals and entities accountable for actions committed beyond their borders, addressing transnational crimes and upholding international norms. It serves as a deterrent against cross-border offenses, promoting stability and security in the region. Additionally, it provides avenues for seeking justice and redress for victims of transnational crimes.

However, the application of extraterritorial jurisdiction also raises concerns regarding sovereignty, legal certainty, and international cooperation. Asserting jurisdiction beyond national borders may infringe upon state sovereignty and lead to diplomatic tensions. Inconsistent application and conflicts of laws may result in legal uncertainty and hinder international cooperation efforts. Moreover, extraterritorial jurisdiction may exacerbate inequalities between states and disproportionately impact less powerful nations.

Despite these challenges, Southeast Asian countries have implemented various practices regarding extraterritorial jurisdiction, reflecting the complex interplay between sovereignty, international law, and regional cooperation. As the region continues to grapple with transnational challenges, a balanced approach is needed that respects sovereignty while upholding international legal principles and promoting cooperation among states.

In navigating the pros and cons of extraterritorial jurisdiction, Southeast Asian countries must strive for legal harmonization, diplomatic engagement, and adherence to international norms to effectively address transnational crimes and uphold justice in the region. By doing so, Southeast Asian countries can harness the potential of extraterritorial jurisdiction to foster regional stability, security, and cooperation in the pursuit of common goals.

References

- Aceves, William J. "The Vienna Convention on Consular Relations: A Study of Rights, Wrongs, and Remedies." *Vanderbilt Journal of Transnational Law* 31.2 (1998): 257.
- Adams, Walter. "The Aluminum Case: Legal Victory--Economic Defeat." *The American Economic Review* 41.5 (1951): 915-922.
- Akalanka, KAAAN Thilakarathna. "The evolution of The Vienna Convention on Diplomatic Relations and Consular." *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 11.1 (2020): 67-83.
- Breibart, Evan. "The Wood Pulp Case: The Application of European Economic Community Competition Law to Foreign Based Undertakings." *Georgia Journal of International & Comparative Law* 19.1 (1989): 149.
- Chimni, B. S. "The international law of jurisdiction: A TWAIL perspective." *Leiden Journal of International Law* 35.1 (2022): 29-54.
- Colangelo, Anthony J. "Constitutional Limits on Extraterritorial Jurisdiction: Terrorism and the Intersection of National and International Law." *Harvard International Law Journal* 48 (2007): 121.
- Colangelo, Anthony J. "The Legal Limits of Universal Jurisdiction." *Virginia Journal of International Law* 47 (2006): 149.
- Colangelo, Anthony J. "What Is Extraterritorial Jurisdiction." *Cornell Law Review* 99.6 (2014): 1303.
- Dorsett, Shaunnagh, and Shaun McVeigh. *Jurisdiction*. Routledge-Cavendish, 2012.
- Florey, Katherine. "State Courts, State Territory, State Power: Reflections on the Extraterritoriality Principle in Choice of Law and Legislation." *Notre Dame Law Review* 84.3 (2009).
- Harms, Erik. "Porous enclaves: Blurred boundaries and incomplete exclusion in South East Asian cities." *South East Asia Research* 23.2 (2015): 151-167.

- Jeffrey, M. "The implications of the wood pulp case for the European communities." *Leiden Journal of International Law* 4.1 (1991): 75-107.
- Kamminga, Menno. "Extraterritoriality." *The Max Planck Encyclopedia of Public International Law*. Oxford University Press, 2020.
- Kanalan, Ibrahim. "Extraterritorial state obligations beyond the concept of jurisdiction." *German Law Journal* 19.1 (2018): 43-64.
- Kannis, Eleni. "Pulling (apart) the triggers of extraterritorial jurisdiction." *University of Western Australia Law Review* 40.1 (2015): 221-243.
- Lehmann, Matthias. "Legal fragmentation, extraterritoriality and uncertainty in global financial regulation." *Oxford Journal of Legal Studies* 37.2 (2017): 406-434.
- Maier, Harold G. "Extraterritorial jurisdiction at a crossroads: an intersection between public and private international law." *American Journal of International Law* 76.2 (1982): 280-320.
- Maier, Harold G. "Interest balancing and extraterritorial jurisdiction." *American Journal of Comparative Law* 1 (1983): 579-597.
- Manullang, Sardjana Orba. "Understanding the Duties and Responsibilities of the Police in Criminal Cases in the Jurisdiction of a Country: A Study of Legal Literacy." *LEGAL BRIEF* 11.4 (2022): 2155-2166.
- McCorquodale, Robert, and Penelope Simons. "Responsibility beyond borders: state responsibility for extraterritorial violations by corporations of international human rights law." *The Modern Law Review* 70.4 (2007): 598-625.
- Middleton, Carl. "National human rights institutions, extraterritorial obligations and hydropower in Southeast Asia: Implications of the region's authoritarian turn." *Advances in Southeast Asian Studies* 11.1 (2018): 81-97.
- Morgan, Edward M. "Criminal Process, International Law, and Extraterritorial Crime." *The University of Toronto Law Journal* 38.3 (1988): 245-277.
- Parthiana, I. Wayan. *Pengantar Hukum International*. (Bandung: Mandarmaju, 1990).

- Passas, Nikos. "Cross-border crime and the interface between legal and illegal actors." *Security Journal* 16 (2003): 19-37.
- Pramesti, Indriana, and Arie Afriansyah. "Extraterritoriality of Data Protection: GDPR and Its Possible Enforcement in Indonesia." *3rd International Conference on Law and Governance (ICLAVE 2019)*. Atlantis Press, 2020.
- Puspita, Natalia Yeti. "ASEAN Mechanism for Human Security Problems in Southeast Asia: What's Wrong?." *Jurnal Dinamika Hukum* 19.2 (2020): 521-553.
- Putri, Rahmatilla Aryani, Huala Adolf, and Jafar Sidik. "Law Enforcement of Cyber Crime Jurisdiction in Transnasional Law." *4th Social and Humanities Research Symposium (SoRes 2021)*. Atlantis Press, 2022.
- Republic of Indonesia. *Law Number 11 of 2008 concerning Electronic Information and Transactions*
- Ryngaert, Cedric. "The concept of jurisdiction in international law." *Research handbook on jurisdiction and immunities in international law*. Edward Elgar Publishing, 2015. 50-75.
- Stigall, Dan E. "International Law and Limitations on the Exercise of Extraterritorial Jurisdiction in US Domestic Law." *Hastings International and Comparative Law Review* 35.2 (2012): 323.
- Sweeney, Brendan. "International governance of competition and the problem of extraterritorial jurisdiction." *Comparative Competition Law*. Edward Elgar Publishing, 2015. 345-383.
- Takeuchi, Mari. "Asian experience with extraterritoriality." *Research Handbook on Extraterritoriality in International Law*. Edward Elgar Publishing, 2023. 164-179.
- Ullah, AKM Ahsan, and Asiyah Az-Zahra Ahmad Kumpoh. "Are borders the reflection of international relations? Southeast Asian borders in perspective." *Journal of Asian Security and International Affairs* 5.3 (2018): 295-318.
- Winerman, Marc, and William E. Kovacic. "Learned Hand," Alcoa", and the Reluctant Application of the Sherman Act." *Antitrust Law Journal* 79.1 (2013): 295-347.

DECLARATION OF CONFLICTING INTERESTS

The authors state that there is no conflict of interest in the publication of this article.

FUNDING INFORMATION

None

ACKNOWLEDGMENT

None

HISTORY OF ARTICLE

Submitted : March 21, 2022

Revised : June 19, 2022; August 29, 2022; December 11, 2022

Accepted : January 10, 2023

Published : January 31, 2023