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# Transnational Crime Mitigation in Southeast Asia Through the ASEAN Treaty on Extradition

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## ABSTRACT

The rapid expansion of transnational crime in Southeast Asia, driven by regional economic integration, increased cross-border mobility, and the growing sophistication of digital technologies, has exposed the limitations of existing extradition mechanisms based primarily on bilateral treaties and Mutual Legal Assistance Treaties (MLATs). These constraints have intensified the need for a comprehensive regional legal framework capable of supporting more effective cross-border law enforcement. This article examines the ASEAN Treaty on Extradition (ATE) as ASEAN's first multilateral extradition instrument and evaluates its implications for regional criminal justice cooperation, state sovereignty, and the principle of non-intervention. Employing doctrinal legal research through statutory, conceptual, and comparative approaches, the study analyzes relevant international and regional legal instruments alongside scholarly literature. The analysis demonstrates that the ATE establishes a more coherent extradition framework by incorporating fundamental principles, including dual criminality, specialty, procedural safeguards, and human rights protection, thereby addressing many shortcomings of fragmented bilateral arrangements. Nevertheless, disparities in domestic legal systems, uneven ratification, legislative harmonization, and differing interpretations of sovereignty continue to impede its effective implementation. This study argues that the ATE marks a significant step toward an integrated ASEAN criminal justice framework and contributes to the ongoing development of regional legal cooperation by proposing stronger legal harmonization, institutional coordination, and political commitment among ASEAN Member States.

***Keywords:*** *ASEAN Agreement on Extradition; Regional Cooperation; Transnational Crime*

## INTRODUCTION

The advancement of globalization has intensified interactions among nations through trade flows, investment, migration, and advances in information technology. On the other hand, globalization has also expanded the scope of transnational criminals who exploit open national borders to commit various criminal acts, such as human trafficking, money laundering, drug trafficking, arms smuggling, terrorist financing, cybercrime, and cross-border corruption. The nature of these crimes, which span multiple jurisdictions, means that national law enforcement mechanisms are no longer sufficient when implemented unilaterally. Therefore, international cooperation has become a vital tool in ensuring the effectiveness of law enforcement against transnational criminals.[1]

The geographical characteristics of Southeast Asia, combined with increasing regional connectivity and disparities among domestic legal systems, have created conditions that allow transnational criminal activities to develop across ASEAN jurisdictions. In response to these challenges, ASEAN has established various regional legal instruments, including the ASEAN Mutual Legal Assistance Treaty in Criminal Matters (AMLAT), the ASEAN Convention Against Trafficking in Persons (ACTIP), and several strategic action plans designed to enhance collective efforts in preventing and addressing transnational criminal activities. Despite these initiatives, existing mechanisms have not fully addressed the need for the extradition of offenders who seek refuge in other member states, as extradition continues to depend largely on bilateral agreements and the domestic legal policies of individual countries.[2] A significant development occurred in 2025 when ASEAN member states adopted the ASEAN Treaty on Extradition (ATE), marking an important step toward the establishment of a multilateral regional framework for extradition. The ATE represents a major milestone in ASEAN's legal integration by providing a more consistent and comprehensive legal foundation for extradition proceedings involving individuals accused or convicted of transnational crimes. Despite its significance, the implementation of the treaty continues to encounter several challenges, including variations in domestic legal systems, differing ratification processes, concerns related to state sovereignty, and the continued influence of the principle of non-intervention, which has traditionally served as a cornerstone of ASEAN regional cooperation.[3]

These challenges indicate that the effectiveness of the ASEAN Treaty on Extradition (ATE) is determined not merely by the existence of a regional legal framework, but also by the degree of harmonization among national legal systems, the political commitment of ASEAN member states, the institutional capacity of law enforcement authorities, and the willingness of states to foster mutual trust and cooperation in the implementation of extradition. Therefore, a study on the implementation of the ATE is important to assess the extent to which this agreement can address the weaknesses of extradition mechanisms that were previously based solely on bilateral relations or the principle of reciprocity. A number of previous studies have examined ASEAN cooperation in combating transnational crime. Pushpanathan Sundram's research explains that ASEAN's success in addressing transnational crime still faces obstacles in the form of weak legal harmonization, uneven institutional capacity, and implementation mechanisms that depend on the commitment of individual member states. Another study by Apriansyah, Lestari, and Deliana highlights the effectiveness of AMLAT as an instrument of mutual legal assistance, but has not specifically examined regional extradition mechanisms as a separate instrument.

[1] Sundram P (2024) ASEAN cooperation to combat transnational crime: progress, perils, and prospects. Front. Polit. Sci. 6:1304828. doi: 10.3389/fpos.2024.1304828
[2] ASEAN Document Series on Transnational Crime
[3] 2025 ASEAN Treaty on Extradition - Centre for International Law, National University of Singapore; ASEAN Treaty on Extradition (official text)

Research on extradition treaties also largely remains focused on bilateral relations, thus failing to comprehensively address the implications of the ATE's establishment for the ASEAN legal system as a whole.[4]

Based on the existing literature, a significant research gap remains, as limited scholarly attention has been devoted to examining the ASEAN Treaty on Extradition (ATE) as a newly established regional legal instrument. In particular, few studies have explored the relationship between the effectiveness of extradition, the principle of non-intervention, the harmonization of national legal systems, and the enhancement of law enforcement cooperation within ASEAN. Given its regional scope, the ATE has the potential to transform extradition cooperation by shifting it from a predominantly bilateral framework toward a more integrated and institutionalized multilateral system.

The novelty of this study lies in its examination of the ASEAN Treaty on Extradition (ATE) as a regional legal instrument from the perspectives of international law and ASEAN legal integration. Rather than merely assessing the substantive provisions of the treaty, this research analyzes its implications for state sovereignty, the effectiveness of regional efforts to combat transnational crime, and the challenges associated with harmonizing the domestic legal frameworks of ASEAN member states. Accordingly, the study seeks to contribute to the advancement of regional international legal scholarship while offering practical recommendations for the development of a more effective and coherent ASEAN extradition regime. This research is confined to a normative legal analysis of the ATE, relevant ASEAN legal instruments on law enforcement cooperation, and the international legal principles governing extradition. It does not undertake a comprehensive comparative assessment of the treaty's empirical implementation across all ASEAN member states, as the ratification and implementation processes remain ongoing. This limitation is intended to maintain the study's focus on the legal and conceptual dimensions of the ATE and to evaluate its potential effectiveness as a regional legal framework for extradition.[5]

Based on the foregoing background, this study addresses two principal research questions. First, how does the ASEAN Treaty on Extradition (ATE) function as a regional legal instrument in enhancing extradition cooperation among ASEAN member states to combat transnational crime? Second, what are the implications of the ATE's implementation for the principles of non-intervention, state sovereignty, and the harmonization of national legal systems within ASEAN? These research questions provide the analytical framework for assessing the effectiveness of the ATE and evaluating its contribution to the advancement of regional international law and legal integration in Southeast Asia.

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[4] Apriansyah, M. I. (2024). The Effectiveness of the ASEAN Treaty on Mutual Legal Assistance (AMLAT) in Addressing Transnational Crime in Indonesia. *Jurnal Pro Justitia*, 5(1). https://doi.org/10.57084/jpj.v5i1.1483

[5] Fadhlullah, R. (2026). *Addressing law enforcement issues in ASEAN Mutual Legal Assistance (MLA) regime towards transnational organised crime: Lessons from illicit drugs case in ASEAN*. *Jurnal Ilmu Sosial dan Ilmu Politik*, 7(2), 427-447. https://doi.org/10.56552/jisipol.v7i2.332

## RESEARCH METHOD

This research examines the legal construction of extradition cooperation under the ATE through a normative analysis focused on ASEAN regional integration, state sovereignty, and transnational crime enforcement. The normative legal research method is considered appropriate because the study emphasizes the examination of legal principles rather than empirical observations or societal behaviour. Specifically, it seeks to assess the coherence, harmonization, and effectiveness of both international and domestic legal norms that provide the legal foundation for the implementation of extradition.[6]

This research applies three analytical approaches, namely the statutory approach, the conceptual approach, and the comparative approach. The statutory approach involves examining relevant international, regional, and domestic legal instruments governing extradition, including the ASEAN Treaty on Extradition (ATE), the ASEAN Mutual Legal Assistance Treaty in Criminal Matters (AMLAT), the United Nations Convention against Transnational Organized Crime (UNTOC), and the extradition laws of ASEAN member states. The conceptual approach is employed to analyze fundamental principles of international law that underpin extradition, including the principles of dual criminality, specialty, non-refoulement, reciprocity, and non-intervention. Meanwhile, the comparative approach is utilized to evaluate the provisions of the ATE alongside bilateral extradition arrangements and other regional extradition frameworks, with the objective of identifying their respective strengths and limitations, as well as assessing opportunities for greater legal harmonization within the ASEAN region.[7]

This study utilizes three categories of legal materials: primary, secondary, and tertiary legal sources. Primary legal sources comprise international treaties, international conventions, official ASEAN instruments, and domestic legislation governing extradition. Secondary legal sources include peer-reviewed journal articles, textbooks on international law, prior academic studies, reports issued by international organizations, and other scholarly publications addressing law enforcement cooperation, transnational crime, and legal integration within ASEAN. Tertiary legal sources consist of legal dictionaries, legal encyclopedias, and other reference materials that provide clarification and contextual understanding of the legal terminology and concepts applied in this research.[8]

The collection of legal materials was conducted through a literature review by searching various primary and secondary legal sources obtained from scientific databases such as Google Scholar, HeinOnline, Scopus, SpringerLink, and the official portals of ASEAN and the United Nations. All legal materials were selected based on their relevance to the research focus, the authority of the source, and the recency of the

[6] Marzuki, P. M. (2017). Penelitian hukum (Edisi revisi). Prenada Media, pp. 55-61.
[7] Shaw, M. N. (2021). *International Law* (9th ed.). Cambridge: Cambridge University Press. pp. 525-548.
[8] Marzuki, *Op.cit.*, pp. 181-196.

publication, thereby providing a strong theoretical and legal foundation for the analysis process.[9]

The analytical technique employed was qualitative legal analysis through the processes of inventorying, classifying, interpreting, and systematizing the legal materials. The analysis was conducted using grammatical, systematic, and teleological methods of interpretation to understand the substance of the provisions in the ATE and their relationship to principles of international law. Subsequently, a prescriptive analysis was conducted to formulate legal arguments regarding the effectiveness of the ATE as a regional instrument in strengthening extradition cooperation and combating transnational crime in the ASEAN region. This approach allows the researcher to evaluate the alignment between applicable legal norms and the objectives of the ATE's establishment, as well as to identify the need for harmonization of national laws among ASEAN member states.[10]

To ensure the validity of the analysis, this study employs a legal source triangulation technique by comparing international legal instruments, national regulations, expert doctrine, and the results of previous research. Furthermore, legal interpretation is conducted consistently while taking into account the principles of international law that have evolved in extradition practice, ensuring that the conclusions drawn are based on comprehensive, systematic, and academically sound arguments.

## RESULTS AND DISCUSSION

### 1. The Role of *the ASEAN Treaty on Extradition* as a Regional Legal Instrument in Strengthening the Fight Against Transnational Crime in the ASEAN Region

The development of globalization has had significant consequences for the dynamics of transnational crime. Advances in information technology, increased human mobility, trade liberalization, and regional economic integration have benefited regional development, but at the same time have created greater opportunities for the proliferation of various forms of transnational crime. Crimes such as human trafficking, migrant smuggling, illicit drug trafficking, money laundering, terrorist financing, cross-border corruption, and cybercrime are no longer confined to the jurisdiction of a single country; rather, they involve international networks that operate in an organized manner and exploit differences in legal systems between countries. These characteristics render law enforcement mechanisms that rely solely on national authority less effective, necessitating more integrated international cooperation in the processes of investigation, prosecution, and the enforcement of criminal judgments.[11]

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[9] Association of Southeast Asian Nations, *ASEAN Treaty on Extradition* (2025); United Nations, *United Nations Convention against Transnational Organized Crime* (2000).

[10] Hutchinson, Terry (2015) The doctrinal method: Incorporating interdisciplinary methods in reforming the law. *Erasmus Law Review*, *2015*(3), pp. 130-138. doi: https://doi.org/10.5553/ELR.000055

[11] *United Nations Office on Drugs and Crime (UNODC)*, *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact (Bangkok: UNODC, 2019)*, pp. 1-15.

This phenomenon also poses a serious challenge for ASEAN member states. The Southeast Asian region occupies a strategic geographical position as an international trade route and a hub for population mobility, making it one of the region's most vulnerable to transnational criminal activity. A report *by the United Nations Office on Drugs and Crime* (UNODC) indicates that organized crime networks in Southeast Asia continue to evolve, particularly in the areas of cybercrime, synthetic drug trafficking, human trafficking, and money laundering all of which span multiple jurisdictions simultaneously. [12] These conditions indicate that the effectiveness of crime eradication can no longer rely solely on the capabilities of individual countries but requires a regional cooperation system capable of bridging jurisdictional differences and expediting law enforcement against perpetrators who flee to other countries.

Prior to the adoption of the ASEAN Treaty on Extradition (ATE), the mechanism for the surrender of criminal offenders in the ASEAN region was largely carried out based on bilateral extradition treaties or the principle of reciprocity. This system had limitations because not all ASEAN member states had direct extradition treaties with one another. As a result, when a suspect or convicted person flees to a country that does not yet have an extradition treaty with the requesting country, the extradition process often faces legal and diplomatic obstacles. Furthermore, the varying procedures in each bilateral treaty led to the absence of uniform regional standards, meaning that the effectiveness of cooperation depended heavily on political relations between countries and the domestic policies of each member state.[13]

Efforts have actually been made to address these limitations through the 2004 Treaty on AMLAT. However, the scope of AMLAT only governs mutual legal assistance in investigations, prosecutions, the summoning of witnesses, the exchange of evidence, and the execution of certain legal actions, without specifically regulating the mechanism for the surrender of criminal offenders through extradition.[14] Thus, the existence of AMLAT has not yet been able to replace the need for a regional legal instrument that specifically regulates extradition procedures for all ASEAN member states.

In this context, the establishment of the ASEAN Treaty on Extradition (ATE) is a strategic step that demonstrates the progress of regional legal integration in the field of criminal law enforcement cooperation. The ATE is the first multilateral instrument in ASEAN that specifically regulates extradition mechanisms among member states by establishing more uniform legal standards regarding the requirements, procedures, rights, and obligations of the parties. From an international law perspective, the existence of the ATE reflects the strengthening of the principle of rule-based cooperation that is, cooperation among states that is no

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https://www.unodc.org/roseap/uploads/archive/documents/Publications/2019/SEA_TOCTA_2019_web.pdf

[12] *Ibid*. pp. 16-34.

[13] *Treaty on Extradition* (2025); Shaw,, *Op.cit*., pp. 531-540.

[14] *Treaty on Mutual Legal Assistance in Criminal Matters* (2004), Article 1.

longer based solely on political relations or the principle of reciprocity, but is carried out in accordance with mutually agreed-upon legal norms.[15]

Theoretically, the establishment of the ATE can be analyzed using the Institutionalism perspective developed by Robert O. Keohane. According to this theory, international institutions serve to reduce transaction costs, increase transparency, build trust, and create legal certainty in relations between states. Through the establishment of common rules, international organizations are able to reduce the uncertainty arising from differences in interests or national legal systems. In the context of ASEAN, the ATE functions as a regional institution that reduces coordination barriers in the execution of extradition, thereby providing member states with a common legal framework for handling requests for the surrender of criminal offenders.[16]

Beyond the institutional perspective, the establishment of the ATE can also be understood through the concept of cooperative sovereignty. This concept explains that international cooperation does not necessarily diminish a state's sovereignty; rather, it serves as a means for states to exercise their sovereignty more effectively in addressing issues that cannot be resolved unilaterally. By ratifying the ATE, ASEAN member states do not lose authority over their legal systems but voluntarily agree to a shared mechanism to strengthen the effectiveness of law enforcement against transnational crimes. Therefore, the ATE is a manifestation of the exercise of state sovereignty through international cooperation based on the consent of states.[17]

One of the principal features of the ASEAN Treaty on Extradition (ATE) is its incorporation of the principle of dual criminality as a core prerequisite for extradition. Under this principle, the conduct underlying an extradition request must constitute a criminal offense under the laws of both the requesting and the requested states. The dual criminality requirement is essential for balancing the need for effective international law enforcement cooperation with respect for the rule of law and the sovereignty of domestic criminal justice systems. Consequently, a requested state is not obligated to extradite an individual when the alleged conduct is not recognized as a criminal offense under its national legislation. In this regard, the principal functions as an important legal safeguard against the misuse of extradition procedures while promoting legal certainty and mutual confidence in interstate cooperation.[18]

The incorporation of the principle of dual criminality in the ASEAN Treaty on Extradition (ATE) is closely aligned with Article 16 of the 2000 UNTOC, which encourages States Parties to establish extradition arrangements based on the

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[15] *ASEAN Charter* (2007), Article 1 and Article 2.

[16] Keohane, R. O. (2005). *After hegemony: Cooperation and discord in the world political economy*. Princeton university press. pp. 85-109.

[17] Keohane, *Loc.cit.*, pp. 179-188.

[18] Leavy, Patricia (ed.), *The Oxford Handbook of Qualitative Research*, Oxford Library of Psychology (2014; online edn, Oxford Academic, 4 Aug. 2014), pp. 495-515. https://doi.org/10.1093/oxfordhb/9780199811755.001.0001, accessed 23 June 2026.

requirement that the relevant conduct constitutes a criminal offense in both the requesting and requested states. This alignment illustrates that the ATE does not introduce an entirely new legal standard but instead reflects internationally recognized principles governing extradition. Accordingly, the ATE may be regarded as a regional mechanism through which ASEAN member states implement their international obligations under the UNTOC to strengthen cooperation in combating transnational organized crime.[19]

In addition to the principle of dual criminality, the ASEAN Treaty on Extradition (ATE) incorporates the principle of specialty, which restricts the requesting state from prosecuting, punishing, or detaining an extradited individual for any offense other than the one upon which the extradition request was granted. This principle constitutes a fundamental safeguard in international extradition law, as it prevents the abuse of extradition procedures for purposes beyond those mutually agreed upon by the states concerned. By limiting the scope of prosecution, the principle of specialty strengthens mutual trust among ASEAN member states while safeguarding the rights of extradited individuals. Furthermore, it reflects the broader commitment of modern international law to ensure that effective law enforcement is carried out in accordance with the principles of legal certainty, due process, and the protection of human rights.[20]

Beyond the principles of dual criminality and specialty, the regulation of grounds for refusing extradition constitutes another essential component of the extradition framework. Under international law, states are not subject to an unconditional obligation to approve every extradition request submitted by another state. Instead, the discretion to refuse extradition serves both as an expression of state sovereignty and as a legal safeguard to ensure that extradition procedures are not employed in a manner that contravenes fundamental principles of international law or undermines the protection of human rights.

From the perspective of modern extradition law, grounds for refusing extradition are generally divided into mandatory grounds for refusal and optional grounds for refusal. Mandatory grounds for refusal relate to conditions that legally preclude the execution of extradition, such as when the criminal offense underlying the request is a political offense, there is a real risk of human rights violations, or the extradition request is made for discriminatory purposes. Meanwhile, optional grounds for refusal grant the requested state discretion to consider certain factors, such as ongoing judicial proceedings in its own country (pending proceedings), national interests, or specific humanitarian considerations.[21]

The provisions regarding grounds for refusal in the ATE serve an important function because they reflect a balance between the interests of law enforcement and

[19] *United Nations Convention against Transnational Organized Crime* (2000), Article 16.
[20] Bassiouni, M. C. (2014). International extradition: United States law and practice. Oxford University Press. https://doi.org/10.1093/law/9780199917891.001.0001, hlm. 516-540; Gilbert, G. (2006). *Responding to international crime*. Brill, pp. 145-150.
[21] Bassiouni, *Op.cit.*, pp. 585-620.

the protection of individuals. On the one hand, ASEAN countries need effective mechanisms to ensure that perpetrators of transnational crimes cannot evade criminal liability by moving to another jurisdiction. On the other hand, states still have an obligation to ensure that the extradition process does not result in a violation of an individual's fundamental rights. This approach aligns with developments in international law that view extradition not only as an instrument for combating crime but also as a mechanism that must be subject to the rule of law and respect for human rights.[22]

One important aspect in applying grounds for refusing extradition is the relationship between extradition and the principle of non-discrimination. In international practice, an extradition request may be refused if there are indications that legal proceedings against an individual are in fact based on political, racial, religious, national, or specific political views. This provision holds particular relevance in the ASEAN context because the diversity of member states' political and legal systems can influence perceptions of the independence of the judicial process. Therefore, the mechanism for reviewing extradition requests serves as a crucial instrument for maintaining a balance between the obligation of international cooperation and protection against potential abuses of state power.[23]

In addition to provisions regarding the refusal of extradition, the ATE also plays a significant role in regulating the technical aspects of extradition implementation, including **transit** mechanisms. Transit refers to the process of transferring a person approved for extradition through the territory of a third country before reaching the destination country. Although transit is often viewed as an administrative matter, in practice this mechanism plays a strategic role as it involves issues of jurisdiction, security, and inter-state coordination.

Without provisions regarding transit, the extradition process may face obstacles when the route for transferring a person must pass through the territory of another ASEAN member state. Therefore, the transit provisions in the ATE demonstrate that the treaty not only addresses substantive aspects regarding the obligation to surrender criminal offenders but also addresses the procedural aspects necessary for the extradition process to proceed effectively. This demonstrates that the ATE is a comprehensive legal instrument, as it governs all stages of extradition from the request, through examination and approval, to the actual surrender.[24]

A comparison between the ASEAN Treaty on Extradition (ATE) and the 1957 European Convention on Extradition reveals both common features and significant distinctions. Both instruments incorporate core principles of international extradition law, including dual criminality, the principle of specialty, recognized grounds for refusing extradition, and safeguards for the protection of individual

[22] Gilbert, *Op.cit.*, pp. 131-160.
[23] Application No. 14038/88; United Nations, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), Article 3.
[24] United Nations Office on Drugs and Crime (UNODC), *Revised Manuals on the Model Treaty on Extradition and the Model Treaty on Mutual Assistance in Criminal Matters* (New York: United Nations, 2010), pp. 21-38.

rights. Nevertheless, important differences arise from the distinct institutional and legal characteristics of their respective regional organizations. The European extradition framework has evolved within a highly integrated legal order supported by supranational institutions, including the Council of Europe and regional judicial mechanisms. In contrast, ASEAN's extradition regime operates within an intergovernmental framework that continues to emphasize consensus-based decision-making and adherence to the principle of non-intervention as fundamental principles governing relations among its member states.[25]

These differences in character result in the ATE having a more flexible approach compared to the European system. ASEAN does not employ supranational mechanisms that can directly compel member states to fulfil specific obligations; consequently, the effectiveness of the ATE depends heavily on the political commitment and implementation of national laws by each member state. This situation serves as both a strength and a weakness of the ATE. This flexibility allows countries with different legal systems to adopt the same instruments, but at the same time, it can reduce the level of uniformity in their application.[26]

When compared to the AMLAT, the ATE serves a different yet complementary function. AMLAT focuses on legal assistance cooperation in the investigation and prosecution of criminal cases, such as the collection of evidence, the examination of witnesses, the transmission of legal documents, and other procedural assistance. Meanwhile, the ATE specifically governs the surrender of individuals who have been suspected of or found guilty of committing a criminal offense. Thus, AMLAT and the ATE can be understood as two instruments that form a more comprehensive system of ASEAN criminal legal cooperation, with AMLAT supporting the evidentiary process and the ATE supporting the process of surrendering offenders.[27]

In the context of Indonesian national law, the implementation of the ATE is also closely linked to Law No. 1 of 1979 on Extradition. This law has long served as the primary basis for Indonesia's extradition proceedings with other countries. However, the rise of transnational crimes, along with the growing need for regional cooperation, indicates that the bilateral approach which is the defining feature of the 1979 Extradition Act needs to be strengthened through multilateral instruments. The ATE can complement these national mechanisms by providing a broader basis for cooperation with ASEAN member states.[28]

In addition to Indonesia, other ASEAN countries also have their own extradition legal systems. Malaysia regulates extradition through the Extradition Act of 1992, Singapore through the Extradition Act of 1968, and the Philippines through Presidential Decree No. 1069 (Extradition Law). These three countries demonstrate that, prior to the ATE, ASEAN's extradition mechanisms relied heavily on domestic

[25] Council of Europe, *European Convention on Extradition* (Paris, 1957); Shaw, *Op.cit.*, pp. 531-548.
[26] Acharya, A. (2014). Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order (3rd ed.). Routledge. pp. 80-105, https://doi.org/10.4324/9781315796673
[27] ASEAN, *Treaty on Mutual Legal Assistance in Criminal Matters* (2004), Article 1.
[28] Republic of Indonesia Law Number 1 of 1979 concerning Extradition.

law and bilateral relations. Therefore, the ATE serves a harmonizing function by establishing regional standards that can serve as a common ground among these various national legal systems.[29]

Based on this analysis, it can be concluded that the role of the ATE lies not only in establishing mechanisms for the surrender of transnational criminals but also in efforts to foster uniformity in extradition norms across the ASEAN region. Through the application of the principles of dual criminality and specialty, mechanisms for refusing extradition, and other procedural provisions, the ATE strengthens the legal foundation for regional criminal cooperation. However, the effectiveness of this instrument remains dependent on member states' ability to harmonize their national laws, enhance the capacity of law enforcement agencies, and build mutual trust among states in fulfilling their extradition obligations.

**2. Implications of the ASEAN Treaty on Extradition for the Principle of Non-Intervention, State Sovereignty, and National Legal Harmonization**

The principle of non-intervention constitutes one of the core norms that define the nature of international relations within the ASEAN region. From its establishment, ASEAN has consistently emphasized the importance of respecting the sovereignty, political independence, and territorial integrity of its member states, while upholding the prohibition against interference in their internal affairs as a fundamental basis for regional cooperation. This principle was formally enshrined in the 1976 Treaty of Amity and Cooperation in Southeast Asia (TAC) and later reaffirmed in the 2007 ASEAN Charter, where it remains one of the organization's guiding principles.[30]

In interstate relations, the principle of non-intervention primarily serves to preserve regional stability by recognizing each state's sovereign right to govern its domestic affairs free from external influence or interference. This principle is inherently connected to the concept of state sovereignty, which grants states exclusive authority to exercise governmental powers, establish legal frameworks, and enforce criminal laws within their respective territories. Nevertheless, the growing prevalence of transnational crime demonstrates that a strictly absolute interpretation of sovereignty is increasingly inadequate, as many contemporary legal challenges extend beyond national boundaries and require cross-border cooperation.

Transnational crime creates conditions in which perpetrators can exploit territorial boundaries and differences in legal systems between countries to evade legal proceedings. In such situations, the rigid application of the principle of non-intervention can actually hinder the effectiveness of international law enforcement. Therefore, developments in modern international law indicate a shift in the

[29] Malaysia, *Extradition Act 1992*; Singapore, *Extradition Act 1968*; Philippines, *Presidential Decree No. 1069: Extradition Law of the Philippines*.
[30] *Treaty of Amity and Cooperation in Southeast Asia* (1976), Pasal 2; ASEAN, *ASEAN Charter* (2007), Article 2 act (2).

understanding of state sovereignty from a concept of exclusive sovereignty toward a concept of cooperative sovereignty. States retain their legal authority but voluntarily impose certain limitations through international agreements to achieve common interests.[31]

The existence of the ASEAN Treaty on Extradition (ATE) can be understood as a concrete manifestation of this transformation. Through the ATE, ASEAN member states do not surrender their sovereignty to a supranational body but rather use their sovereign authority to establish a binding mechanism for legal cooperation. By ratifying the ATE, member states voluntarily accept the obligation to provide assistance in the process of surrendering criminal offenders in accordance with mutually agreed-upon procedures. Therefore, the execution of extradition under the ATE cannot be categorized as an act of intervention, but rather as the fulfilment of an international obligation arising from the states' own consent (state consent).[32]

From the perspective of international treaty law, the interaction between the ASEAN Treaty on Extradition (ATE) and the principle of state sovereignty is governed by the doctrine of *pacta sunt servanda*, as enshrined in Article 26 of the 1969 Vienna Convention on the Law of Treaties. This doctrine provides that treaties in force are legally binding on the parties and must be performed in good faith. Consequently, once a state has validly expressed its consent to be bound by an international treaty, it cannot rely on the principle of national sovereignty to unilaterally avoid or disregard the obligations arising from that treaty.[33]

The application of the principle of *pacta sunt servanda* in the context of the ATE demonstrates that state sovereignty and international obligations are not two mutually exclusive concepts. On the contrary, sovereignty serves as the basis for a state to determine whether it will be bound by an international treaty. Once a state has consciously expressed its consent, the fulfilment of those obligations is a consequence of the exercise of its own sovereignty. Thus, extradition under the ATE does not diminish a state's sovereignty but rather constitutes a form of collective exercise of sovereignty to address issues that cannot be resolved individually.[34]

Nevertheless, the implementation of the ATE must still take into account the characteristics of ASEAN, which differ from those of other regional organizations. ASEAN does not have a supranational system like the European Union, which allows regional institutions to exercise direct authority over member states. Instead, ASEAN employs a consensus-based approach that provides significant leeway for member states to consider their respective national interests. These characteristics mean that the effectiveness of ATE depends heavily on the level of political commitment, legal willingness, and institutional readiness of each member state.[35]

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[31] Slaughter, A. M. (2005). *A new world order*. Princeton University Press, pp. 12-35.
[32] Aust, A. (2013). *Modern Treaty Law and Practice* (3rd ed.). Cambridge: Cambridge University Press, pp. 179-188.
[33] Vienna Convention on the Law of Treaties, Article 26 and Articel 27.
[34] Klabbers, J. (2023). *International Law* (4th ed.). Cambridge: Cambridge University Press, pp. 41-60.
[35] Acharya, *Op.cit.*, pp. 80-105.

In practice, tensions between the principle of non-intervention and the need for extradition cooperation may arise when a country is asked to hand over an individual deemed to have specific political significance or when there are differing views regarding human rights protection standards. Therefore, the ATE should be understood not as an instrument that eliminates a state's authority to refuse extradition, but as a mechanism that provides legal standards regarding when an extradition request may be accepted or rejected. This approach reflects a balance between ASEAN's collective interest in combating transnational crime and states' obligations to protect national interests and individual rights.[36]

Furthermore, the implementation of the ATE reflects a significant shift in the interpretation of the principle of non-intervention within the ASEAN legal framework. Historically, ASEAN cooperation has been strongly characterized by the emphasis on respect for state sovereignty and the limitation of external interference in domestic affairs. However, the growing complexity and transnational nature of modern criminal activities have encouraged ASEAN member states to establish more practical and structured forms of cooperation in the areas of law enforcement and regional security. Therefore, the ATE illustrates that the principle of non-intervention is no longer perceived solely as a limitation on regional cooperation, but rather as a principle that must be reconciled with the collective need to address shared transnational threats through enhanced legal cooperation.[37]

Based on this discussion, it is clear that the ATE has significant implications for the evolution of the concept of national sovereignty in the ASEAN region. This instrument demonstrates that extradition cooperation does not constitute a reduction in state authority but rather represents an adaptation of the concept of sovereignty in response to the cross-border nature of modern crime. Through the ATE, ASEAN seeks to strike a balance between respect for the principle of non-intervention and the need to build a more effective and coordinated regional law enforcement system.

The effectiveness of the implementation of the ATE depends not only on the quality of the norms contained in this international treaty but is also largely determined by the ability of member states to adapt their national legal systems. Although the ATE provides a regional legal framework for extradition mechanisms, its implementation must still proceed through each country's domestic legal mechanisms because the authority to arrest, prosecute, and surrender a person falls within the scope of national jurisdiction. Thus, the harmonization of national laws is a fundamental aspect to ensure that the provisions of the ATE can be applied effectively and consistently throughout the ASEAN region.[38]

The concept of legal harmonization in the context of the ATE does not mean that all ASEAN countries must have identical legal systems. Harmonization is more

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[36] Gilbert, *Op.cit.*, pp. 131-160.
[37] Weatherbee, D. E. (2014). *International relations in Southeast Asia: the struggle for autonomy*. Bloomsbury Publishing PLC, pp. 120-145.
[38] Klabbers, *Op.cit.*, pp. 41-60.

accurately understood as a process of aligning principles, procedures, and minimum standards to prevent conflicts between international obligations and domestic legal provisions. This is important given that ASEAN comprises countries with diverse legal systems, such as civil law systems influenced by continental European traditions, common law systems developed in several former British colonies, and mixed legal systems that combine various sources of law.[39]

These differences in legal systems can affect various aspects of the extradition process, ranging from the mechanism for submitting requests, standards of proof, the authority of the competent agencies, to the procedures for making final decisions. In some countries, extradition decisions may involve a fairly extensive judicial process, whereas in others, such decisions fall largely within the executive branch's authority, taking into account political considerations and international relations. These differing approaches have the potential to lead to inconsistencies in the application of the ATE if not accompanied by adjustments to national regulations.[40]

In the Indonesian context, the implementation of extradition has thus far been based on Law No. 1 of 1979 on Extradition. This law serves as the primary legal basis for the Indonesian government in both making and fulfilling extradition requests from other countries. Substantively, Law No. 1 of 1979 has adopted several general principles of international extradition law, such as the principle of double criminality, the principle of specialization, and the exclusion of political offenses.[41]

However, in light of the evolution of modern transnational crime, there are several aspects of Law No. 1 of 1979 that require strengthening. That law was enacted in a context of international relations that differed from current conditions, when transnational crime had not yet developed to the level of complexity seen in the digital age. The rise of cybercrime, international money laundering, globally networked human trafficking, and cross-border economic crimes underscores the need to update the legal approach to extradition to make it more responsive to the nature of contemporary crime.[42]

The ATE can serve as a complementary instrument for Indonesia because it provides a broader basis for regional cooperation compared to the bilateral approach that has long been dominant. Through the ATE, Indonesia can establish a more structured legal mechanism for coordinating extradition with other ASEAN member states. However, the implementation of the ATE still requires harmonization with national law, including potential adjustments to administrative procedures, the authority of relevant agencies, and mechanisms for protecting individual rights during the extradition process.[43]

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[39] David, R., & Brierley, J. E. (1978). *Major legal systems in the world today: an introduction to the comparative study of law*. Simon and Schuster, pp. 17-25.
[40] Shaw, *Op.cit.*, pp. 531-548.
[41] Republic of Indonesia Law Number 1 of 1979, Article 2, Article 4, and Article 5.
[42] *Bangkok: UNODC, 2019*, pp. 50-75.
[43] Aust, *Op.cit.*, pp. 179-188.

In addition to Indonesia, Malaysia also has extradition regulations through the Extradition Act of 1992. This legislation governs extradition procedures based on treaty relationships or the principle of reciprocity with other countries. Malaysia's system demonstrates a relatively flexible approach, as it grants the government certain authorities to consider legal aspects and international relations in the extradition process. However, this flexibility also indicates that political factors and government policy still exert significant influence over the implementation of extradition.[44]

Singapore regulates its extradition mechanism through the Extradition Act of 1968. As a common law country, Singapore places great emphasis on procedural aspects and the protection of due process of law. Singapore's approach to extradition demonstrates that effective international cooperation can go hand in hand with respect for domestic legal principles, provided there are clear legal standards regarding the requirements and procedures for extradition.[45]

Meanwhile, the Philippines regulates extradition through Presidential Decree No. 1069 (Extradition Law of the Philippines). This regulation reflects the characteristics of a legal system that combines influences from continental and U.S. legal traditions. The Philippines views extradition as a mechanism for international cooperation that must remain subject to constitutional protections of individual rights. This approach is relevant to the ATE because it highlights the importance of balancing the interests of combating crime with the protection of human rights.[46]

A comparison of national regulations across ASEAN countries reveals that while there are common underlying principles in extradition law, differences persist in procedural and institutional aspects. This situation presents both a challenge and the primary reason why harmonization through the ATE is necessary. The ATE serves as a regional standard that provides a common ground for various national legal systems without erasing the distinctive characteristics of each member state.

In addition to regulatory harmonization, another challenge in implementing the ATE is limited institutional capacity. Extradition is not merely a matter of normative law but also requires coordination among various institutions such as the police, the prosecutor's office, the Ministry of Justice, the Ministry of Foreign Affairs, and the courts. Without effective coordination, the extradition process may face delays or even failure, even though the international legal basis is in place.[47]

The next challenge relates to differences in human rights protection standards. ASEAN member states have varying levels of development in their legal institutions and approaches to human rights protection. Therefore, the implementation of the ATE must ensure that extradition cooperation not only pursues the effectiveness of law enforcement but also guarantees that every individual subject to extradition

[44] Malaysia, *Extradition Act 1992*.
[45] Singapore, *Extradition Act 1968*.
[46] Philippines, *Presidential Decree No. 1069: Extradition Law of the Philippines*.
[47] United Nations Office on Drugs and Crime (UNODC), *Manual on International Cooperation for the Purposes of Extradition* (Vienna: United Nations, 2012), pp. 45-70.

continues to receive adequate legal protection. This approach is essential so that the ATE does not merely serve as an instrument for the surrender of criminals but also reflects the principles of justice under international law.[48]

Based on this analysis, strengthening the implementation of the ATE requires several strategic steps. First, ASEAN member states need to harmonize their national regulations with the minimum standards set forth in the ATE. Second, the capacity of law enforcement agencies must be enhanced through training and regional coordination mechanisms. Third, ASEAN needs to establish a joint evaluation mechanism to ensure that extradition proceedings are conducted effectively while upholding the principles of international law.

Thus, the ATE can be understood not only as an agreement on the surrender of criminal offenders but also as an instrument of ASEAN regional legal integration. Its success will depend heavily on the ability of member states to balance national interests with the collective needs of the region. In the face of increasingly complex transnational crime, legal harmonization through the ATE is a crucial step toward establishing a more effective, responsive, and rule of law-based ASEAN criminal legal cooperation system.

## CONCLUSION

This study examines the role of the ATE as a regional legal instrument in enhancing law enforcement cooperation to combat transnational crime within the ASEAN region, while also analyzing its implications for the principles of non-intervention, state sovereignty, and the harmonization of domestic legal systems among ASEAN member states. These issues have become increasingly significant due to the expansion of transnational criminal activities, which pose challenges to national legal frameworks as states encounter jurisdictional constraints when pursuing offenders who escape across borders. Therefore, the establishment of an effective regional extradition mechanism is essential to prevent territorial boundaries from becoming obstacles to law enforcement efforts and to strengthen collective responses to cross-border criminal activities.

Based on the findings of this study, it can be concluded that the ASEAN Treaty on Extradition (ATE) serves a strategic function in enhancing criminal law cooperation within the ASEAN region by establishing a more systematic regional extradition framework compared to previously existing bilateral mechanisms. The ATE introduces common legal standards concerning fundamental extradition principles, including dual criminality, the principle of specialty, grounds for refusing extradition, and procedural requirements for extradition. The establishment of these shared standards contributes to greater legal certainty and facilitates stronger coordination among ASEAN member states in addressing transnational crimes that extend beyond national jurisdictions.

[48] Application No. 14038/88; United Nations, *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (1984), Article 3.

The findings of this study further demonstrate that the ASEAN Treaty on Extradition (ATE) is not inconsistent with the principles of non-intervention and state sovereignty, which have traditionally shaped ASEAN cooperation. Instead, the ATE reflects the development of the concept of sovereignty in contemporary international law, shifting from an understanding of absolute sovereignty toward the notion of cooperative sovereignty. Through the treaty, ASEAN member states maintain their sovereign authority while voluntarily accepting certain limitations arising from international commitments in pursuit of the shared objective of combating transnational crime. Therefore, the implementation of extradition under the ATE should not be interpreted as interference in the internal affairs of another state, but rather as the fulfilment of international obligations voluntarily undertaken by states in accordance with the principle of *pacta sunt servanda*.

Furthermore, this study reveals that the primary challenge in the implementation of the ATE concerns the harmonization of domestic legal frameworks among ASEAN member states. Variations in national legal systems, extradition procedures, institutional authorities, and standards of human rights protection may influence the effectiveness of the treaty's application. Accordingly, the success of the ATE cannot be determined solely by the establishment of regional legal norms, but also depends on the willingness of member states to align their domestic legislation, strengthen the institutional capacity of law enforcement authorities, and develop effective mechanisms for regional coordination and cooperation.

From an academic perspective, this study contributes to the advancement of international law and transnational criminal law scholarship by illustrating that regional legal integration can provide an effective response to the limitations of national jurisdiction in addressing cross-border criminal activities. The study highlights that the effectiveness of extradition cooperation is influenced not only by the availability of legal instruments but also by the degree of harmonization among domestic legal systems and the political commitment of states to implement their international obligations. In practical terms, the ATE has the potential to serve as a foundation for developing a more integrated, coordinated, and adaptive ASEAN law enforcement framework capable of responding to the evolving nature of contemporary transnational crime.

Nevertheless, this study has several limitations. First, this study employs a normative legal approach, so the analysis focuses more on regulatory aspects, principles of international law, and legal instruments related to extradition. This study has not conducted an empirical examination of the practice of extradition among ASEAN member states, including the effectiveness of administrative procedures and the institutional obstacles faced by law enforcement officials. Second, this study limits its discussion to the perspectives of international law and ASEAN regional law; consequently, it has not thoroughly addressed the political, economic, and diplomatic aspects that may influence the implementation of extradition.

Given these limitations, future research could focus on an empirical study of the practical implementation of the ATE, including case studies of extradition requests among ASEAN member states following the instrument's entry into force. Future research could also conduct a more in-depth comparative analysis of the extradition systems of specific ASEAN countries, particularly regarding differences in national procedures, human rights protections, and extradition decision-making mechanisms. Additionally, research on the relationship between the ATE and the development of the ASEAN legal community is an important area of study to be explored.

Ultimately, the success of the ASEAN Treaty on Extradition is determined not only by the strength of its legal norms but also by the ability of ASEAN member states to build trust, strengthen institutional cooperation, and align national interests with the region's collective needs. In the face of increasingly complex transnational crimes, legal cooperation is no longer an option but a fundamental necessity for the creation of an effective justice system. Therefore, the ATE represents a crucial step toward the establishment of an ASEAN regional legal order capable of addressing global challenges while upholding the principles of sovereignty and respect for human rights.

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