

Legal Certainty: Indonesia and the Rome Statute

Giras Bowo & Alissa Gunawan

Legal Certainty, International Criminal Law, and the International Criminal Court



Trial on International Criminal Law in the International Criminal Court

Students from different nationalities go to the Netherlands, especially The Hague, to study international law, peace, and justice just like us. During our study here in The Hague, where the exercise of international peace and justice is strongly upheld, we were provoked to be critical about the international legal system, legal certainty, and how those two impact the citizens of our home country: Indonesia.

Legal certainty in its simplified idea refers to the principle that requires legal rules to be sufficiently clear and precise. This principle makes sure that both people with or without legal knowledge fully understand how their acts are regulated by the law and thus protect themselves against any arbitrary exercise by a state or its public authorities.

How should we see the exercise of legal certainty within the standpoint of international criminal law? First, it is necessary to understand the institution accountable for international criminal law. The Rome Statute, as the legal basis for the International Criminal Court, holds the purpose to prevent serious crimes against humanity and bring justice over the individuals who commit them. These crimes are genocide, war crimes, crimes against humanity, and

crimes of aggression. The mentioned crimes generally leave an extraordinary effect on the parties involved, especially the victims.

The question of the legal certainty of international criminal law in Indonesia is affected by Indonesia's status as a non-state party to the Rome Statute. As a non-signatory of the Rome Statute, how does this situation of legal uncertainty affect the enforcement of the rule of law in Indonesia?

Indonesia and the Rome Statute: Current Discourse



Ratification of international treaties happens in the House of Representatives

The status of Indonesia as a non-state party has such an effect of enforcing the system of international justice, that it puts the goal of legal certainty and the enforcement of the rule of law towards the public at a disadvantage. Indonesian citizens are exposed to the possibility of human rights violations due to them not knowing how the acts are regulated and what can they expect from those.

What if there is going to be a future incident that constitutes international crimes and human rights violations in Indonesia? Without legal certainty on international criminal law, will individuals get justice?

Towards Legal Certainty in Indonesia



Indonesia's campaign for Human Rights Council

For us, this situation of legal uncertainty of international law and human rights in Indonesia is very disturbing. Indonesia's indifference over the enforcement of the rule of law on international law and human rights certainly worries us as Indonesians.

Both of us, as students of International Relations and International Law, have realized the importance of Indonesia's ratification on the Rome Statute. We have realized how Rome Statute ensures the upholding and protection of the human rights of all global individuals. Last week, Indonesia has secured its seat in the UN Human Rights Council for the 2020-2022 period. We hope that Indonesia's membership in the Human Rights Council will reflect on its effort in upholding international law and human rights. By ratifying the Rome Statute, Indonesia can show a more tangible and concrete effort to the international community that Indonesia—as reflected in its constitution—is an active participant in promoting world peace among nations.