



Transformation of Jurisdictional Arrangements: A Comparative Study Between the Old and New Criminal Codes

Adek Sikumbang*¹, Ismail Koto²

^{1,2} Magister Ilmu Hukum Sekolah Pascasarjana Universitas Muhammadiyah Sumatera Utara

*Corresponding Author: adeksikumbang04@gmail.com

Abstract: This paper investigates the transformation of criminal jurisdiction regulation in Indonesia following the passage of the new Criminal Code, Law Number 1 of 2023. It focuses on a comparative comparison of the old Criminal Code and the new framework, notably in terms of compatibility with international criminal law principles and effectiveness in combating transnational crime. Using a normative (doctrinal) legal research approach, this study examines legislative provisions and legal concepts relating jurisdiction, such as territoriality, active and passive nationality, protection, and universality principles. The findings show that the new Criminal Code represents a substantial paradigm change from a primarily territorial jurisdiction to a more comprehensive and flexible framework. It has various jurisdictional bases that are generally recognized in international law, increasing the state's ability to respond to cross-border crimes such as money laundering, human trafficking, and cybercrime. From a normative standpoint, the new regulation shows more alignment with international legal standards and provides a more adaptable legal base. However, from an empirical standpoint, the efficiency of this extended jurisdiction depends on institutional readiness, inter-state collaboration mechanisms, and the incorporation of supporting legislative instruments such as extradition and mutual legal assistance. To avoid jurisdictional excess, jurisdictional growth must be balanced with the protection of human rights, such as fair trial guarantees and respect for state sovereignty. To summarize, while the new Criminal Code reflects a constructive legislative development, its practical effectiveness is dependent on consistent

Received: April 6, 2026	Accepted: May 29, 2026	Published: May 31, 2026
<p>To Cite this Article: Adek Sikumbang, and Ismail Koto. "Transformation of Jurisdictional Arrangements: A Comparative Study Between the Old and New Criminal Codes". <i>Abdurrauf Law and Sharia</i> 3 no 1(2026):164-183. https://doi.org/10.70742/arlash.v3i1.782.</p>		
<p>Copyright © 2026 by Author(s) This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License</p>		

implementation, institutional capability, and increased international cooperation.

Keywords: Rethinking Criminal Jurisdiction; Era of Transnational Crime; Indonesia's New Penal.

Abstrak: Artikel ini mengkaji transformasi pengaturan yurisdiksi pidana di Indonesia pasca diberlakukannya Kitab Undang-Undang Hukum Pidana (KUHP) baru melalui Undang-Undang Nomor 1 Tahun 2023. Kajian ini berfokus pada perbandingan antara KUHP lama dan kerangka hukum baru, khususnya dalam aspek kesesuaiannya dengan prinsip-prinsip hukum pidana internasional serta efektivitasnya dalam menghadapi kejahatan transnasional. Dengan menggunakan pendekatan penelitian hukum normatif (doktrinal), penelitian ini menganalisis ketentuan peraturan perundang-undangan dan konsep-konsep hukum yang berkaitan dengan yurisdiksi pidana, seperti prinsip teritorialitas, nasionalitas aktif dan pasif, perlindungan (protection principle), serta universalitas. Hasil penelitian menunjukkan bahwa KUHP baru merepresentasikan perubahan paradigma yang signifikan, dari yurisdiksi yang semula berorientasi terutama pada prinsip teritorial menuju kerangka yurisdiksi yang lebih komprehensif dan fleksibel. KUHP baru mengakomodasi berbagai dasar yurisdiksi yang diakui dalam hukum internasional, sehingga memperkuat kapasitas negara dalam merespons kejahatan lintas batas, seperti pencucian uang, perdagangan orang, dan kejahatan siber. Dari perspektif normatif, pengaturan baru ini menunjukkan tingkat harmonisasi yang lebih baik dengan standar hukum internasional serta menyediakan landasan hukum yang lebih adaptif terhadap perkembangan kejahatan modern. Namun demikian, dari perspektif empiris, efektivitas penerapan perluasan yurisdiksi tersebut sangat bergantung pada kesiapan kelembagaan, mekanisme kerja sama antarnegara, serta integrasi instrumen hukum pendukung seperti ekstradisi dan bantuan hukum timbal balik (mutual legal assistance). Untuk menghindari potensi eksekusi yurisdiksi, perluasan kewenangan tersebut harus diimbangi dengan perlindungan hak asasi manusia, termasuk jaminan peradilan yang adil (fair trial) dan penghormatan terhadap kedaulatan negara. Dengan demikian, meskipun KUHP baru mencerminkan perkembangan legislasi yang konstruktif, efektivitas implementasinya dalam praktik sangat ditentukan oleh konsistensi pelaksanaan, kapasitas institusional, dan penguatan kerja sama internasional.

Kata Kunci: Penataan Ulang Yurisdiksi Pidana; Era Kejahatan Transnasional; KUHP Baru Indonesia.

Introduction

The implementation of the Criminal Code (KUHP) no. 1 of 2023 has given momentum to Indonesian legal reforms. This report describes the essential transition from the colonial legal system to the national legal system, which is hoped to be more responsive to the dynamics of contemporary society. One of the most important aspects that has undergone significant transformation is the development of criminal jurisdiction, which serves as the foundation for establishing a country's legitimacy in enforcing criminal laws.¹

In international law, state jurisdiction is based on several fundamental principles, including territoriality (territorial principle), active and passive nationality (active and passive nationality principles), protection (protective principle), and universality. These principles have evolved as a response to the needs of the country in order to protect the country's legal system and increase the number of citizen interactions. In this context, jurisdiction is not only seen as a land-based benefit, but also as a dynamic and complex legal construct.²

The development of Indonesian law cannot be separated from the ongoing social, political, and legal globalization. One of the most important aspects of Indonesian law reform is the transformation of the Criminal Code (KUHP) from a colonial product to a national KUHP, as outlined in UU no. 1 of 2023. This transformation does not only undermine the need for legal decolonization, but it also serves as a means of adapting to the development of modern legal principles, such as the implementation of criminal jurisdiction.³

The extent to which a state has the authority to enforce a crime is determined by the jurisdictional provisions in criminal law. Jurisdiction extends beyond territory. It encompasses principles beyond territory, allowing states to prosecute individuals who commit offenses outside their borders in some cases.

¹ Wahyudi Saputra Barasa, Abdur Rachman Parlindungan, "Pembaharuan Sistem Hukum Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana," *Indonesian Journal of Criminal Law and Criminology* 6, no. 3 (2024), <https://doi.org/https://doi.org/10.18196/ijclc.v6i3.28788>.

² Roger O'Keefe, "Universal Jurisdiction: Clarifying the Basic Concept," *Journal of International Criminal Justice* 2, no. 3 (2004), <https://doi.org/https://doi.org/10.1093/jicj/2.3.735>.

³ Dibi Vation Manik, "Reform of Indonesian Criminal Law Reviewed From Law Number 1 of 2023 About the Criminal Code," *International Journal of Sociology and Law* 2, no. 1 (2024), <https://doi.org/https://doi.org/10.62951/ijsl.v2i1.330>.

Jurisdictional provisions have become increasingly complex and strategic amidst globalization, marked by increased human mobility, information technology, and transnational crime.⁴

The old Criminal Code, derived from the Criminal Code of Criminal Procedure (WvS), regulated criminal jurisdiction in a rather limited manner and based on the conventional principle of territoriality. Although the old Criminal Code also incorporated several other principles, such as the active and passive national principles, their application was limited and did not address contemporary criminal developments. These limitations created numerous problems, particularly when dealing with transnational crimes such as terrorism, human trafficking, money laundering, and cybercrime. In contrast, the new Criminal Code expands criminal jurisdiction by incorporating international legal principles such as the principle of universality and the protection of national interests. This expansion aims to provide the state with a stronger legal basis for addressing various types of crimes that no longer recognize geographical boundaries. However, many questions and difficulties have arisen as a result of this change, both conceptually and in its implementation.⁵

How the new jurisdictional changes in the Criminal Code can be reconciled with international legal principles is a key issue. In this context, it is crucial to ensure that the expansion of jurisdiction does not lead to jurisdictional conflicts with other countries, which could ultimately disrupt diplomatic relations and international cooperation. Furthermore, it is important to consider the extent to which the new regulations provide legal security and prevent law enforcement officials from abusing their authority.⁶

Conversely, changes in jurisdiction must also be considered to protect human rights. Individual rights can be threatened when a state's jurisdiction is

⁴ Irma Lida Arni, "Paradigma Baru Dalam KUHP 2023: Tinjauan Politik Hukum Dan Analisis Kebahasaan," *Journal of Information Systems and Management* 2, no. 1 (2024), <https://doi.org/https://doi.org/10.4444/jisma.v4i5.1220>.

⁵ Zainal Arifin Hoesein Marnija, "The Dynamics of Criminal Law Reform in Indonesia: From the Colonial Penal Code to the 2023 National Criminal Code," *Fox Justti: Jurnal Ilmu Hukum*, 2024.

⁶ Jessica Shurson, "Investigative Jurisdiction: The Evolving Limits of Extraterritoriality in Transnational Digital Investigations," *International & Comparative Law Quarterly* 74, no. 3 (2025), <https://doi.org/https://doi.org/10.1017/S0020589325100985>.

expanded, particularly when dealing with foreign nationals or individuals committing acts outside Indonesian jurisdiction. Therefore, it is crucial to ensure that the new jurisdiction in the Criminal Code complies with internationally recognized principles of due process of law and human rights protection.

The readiness of law enforcement officials to implement new jurisdictional regulations is also an issue. Improved institutional capacity, such as knowledge of international jurisdictions, cross-border cooperation, and the use of technology in law enforcement, must be accompanied by changes in legal norms. Without adequate preparation, regulatory changes may not yield the desired results.⁷

As long as there are national legal interests to protect, criminal jurisdiction regulations should provide a comprehensive and flexible legal basis for states to prosecute various types of crimes, whether occurring within or outside their territory. Furthermore, jurisdictional regulations must comply with international legal standards to avoid jurisdictional conflicts and ensure legal certainty and justice. Therefore, jurisdictional regulations are needed to be updated to be more responsive, flexible, and oriented toward protecting broader legal interests.⁸

Furthermore, there are difficulties in synchronizing the new Criminal Code with other regulations governing specific crimes, such as laws on terrorism, corruption, and cybercrime. Overlapping authority and confusion in legal application can arise due to inconsistent norms. Therefore, to integrate various existing legal instruments, an integrative approach is required.

Furthermore, this research examines how well the new Criminal Code reflects national legal values rooted in Pancasila and the 1945 Constitution. Legal transformation, not only normative changes, but also the identity and character of the state, must be reflected. In this regard, jurisdiction must be able

⁷ Juri Kasvarof, "Reorientation of the Criminal Justice System Towards Restorative Justice in The Perspective of the New Criminal Code (KUHP)," *Jurnal Indonesia Sosial Sains* 4, no. 1 (2025), <https://doi.org/https://doi.org/10.59141/jiss.v7i3.2252>.

⁸ Dodik Setiawan Nur Heriyanto Ba'abud, Mohammad Fadel Roihan, "Application of the Principles of Extraterritorial Jurisdiction Towards Cross-Border Crimes," *Uti Possidetis: Journal of International Law* 5, no. 1 (2024), <https://doi.org/https://doi.org/10.22437/up.v5i1.28300>.

to balance state interests, international obligations, and the protection of individual rights.

This research provides theoretical and practical contributions to the development of criminal law and international law. Theoretically, this research offers a reinterpretation of the concept of national fraud in the era of globalization, where disclosure is no longer limited to the principle of territoriality but has evolved as an instrument for protecting the legal interests of states against transnational crimes. This research also strengthens the study of harmonization between national criminal law and the principles of violations in modern international law. Practically, this research provides recommendations for policymakers and law enforcement officials in realizing an effective, coordinated, and human rights-oriented implementation of extraterritoriality.

Method

This research uses a type of normative legal research (doctrinal legal research) which focuses on the analysis of legal norms that regulate criminal jurisdiction in the old Criminal Code (KUHP) and the new Criminal Code.⁹ This approach was chosen because the research aims to examine, compare, and evaluate the normative construction of jurisdictional arrangements in both legal regimes, as well as assess their compliance with the principles of international law. This approach is carried out by examining the legal provisions governing criminal jurisdiction in the old Criminal Code (Wetboek van Strafrecht) and the new Criminal Code (Law Number 1 of 2023), including provisions related to the principles of territoriality, nationality, protection, and universality. This approach is used to analyze jurisdictional concepts in criminal law, such as the territorial principle, active nationality principle, passive nationality principle, protective principle, and universality principle, which have developed in international legal doctrine.

⁹ Nigel Duncan Hutchinson, Terry, "Defining and Describing What We Do: Doctrinal Legal Research," *Deakin Law Review* 17, no. 1 (2012), <https://doi.org/https://doi.org/10.21153/dlr2012vol17no1art70>.

Result and Discussion

Criminal Jurisdiction Reform in Indonesia: A Comparative Analysis of the Old and New Criminal Codes

Criminal jurisdiction is regulated in the old and new Criminal Codes. It can be seen that there has been a significant paradigm shift, both normative and structural, in how states position their authority over criminal acts. Principles of international criminal law, such as universality, protection, active and passive nationality, can be used to examine this change. All of these principles indicate the basis of a state's legitimacy to enforce criminal law and how flexible national law is to adapt to the outside world. Dapo Akande points out that "international law recognizes several bases of jurisdiction, including territoriality, nationality, protective, and universality principles" in this context, demonstrating that the legitimacy of state jurisdiction has many dimensions. Furthermore, according to Cedric Ryngaert, "the traditional dominance of territorial jurisdiction is increasingly challenged by the realities of globalization."¹⁰

The provisions regarding criminal jurisdiction in the old and new Criminal Codes (KUHP) demonstrate a significant paradigm shift in how the state exercises its authority over criminal acts. This shift is not only normative but also reflects the transformation of the orientation of Indonesian criminal law from a conventional-territorial system to one that is more responsive to the development of transnational crime. From an international criminal law perspective, this change can be analyzed through the principles of international jurisdiction, such as the territoriality principle, the active nationality principle, the passive nationality principle, the protective principle, and the universality principle. As stated by Dapo Akande, international law recognizes various bases of state jurisdiction, demonstrating that the legitimacy of state criminal authority does not rest solely on territorial boundaries. This view is reinforced by Cedric Ryngaert, who states that the dominance of the territorial principle is increasingly challenged by globalization and the rise of cross-border crime.

The strengthening of the protective principle in the new Criminal Code demonstrates an awareness that threats to national interests do not always originate from actions committed within the country's territory. The state is

¹⁰ Dapo Akande, "Treaty Law and ICC Jurisdiction over the Crime of Aggression," *European Journal of International Law* 29, no. 3 (2018), <https://doi.org/https://doi.org/10.1093/ejil/chy059>.

empowered to take action against acts abroad that threaten national security, economic stability, or the integrity of the national legal system. Normatively, this expansion demonstrates harmony with developments in modern international law. However, it is critical to note that this expansion of jurisdiction also has the potential to lead to overcriminalization and excessive jurisdiction if not accompanied by clear parameters regarding the boundaries of protected national interests.

The territoriality principle was the basis of the old Criminal Code for determining criminal jurisdiction. Only crimes occurring within the country's territory could be handled by the state, including crimes whose locus delicti existed within Indonesian jurisdiction. Although the principle of active nationality was recognized, allowing the prosecution of Indonesian citizens who committed offenses abroad, its structure was limited and unsystematic. Furthermore, the principles of protection and passive nationality were not essential components of a comprehensive jurisdictional system and could only be invoked in specific situations.¹¹

Due to these limitations, national criminal laws cannot easily address international crimes. A territorial-based approach is no longer useful in the era of globalization, where communication, economic activity, and the mobility of people transcend national borders. A more flexible legal approach is needed because crimes such as money laundering, human trafficking, and cybercrime often involve more than one jurisdiction. Due to its conservative nature, the old Criminal Code cannot comprehensively address these issues.¹²

A more complex jurisdictional structure is demonstrated in the recent Criminal Code. Territoriality remains the primary basis, but it is no longer the sole basis for authority. The principles of active and passive nationality are increasingly recognized in the new Criminal Code, allowing the state to prosecute its citizens who commit crimes abroad and providing protection to Indonesian citizens who become victims of crimes abroad. National legal

¹¹ Cedric Ryngaert, *Jurisdiction in International Law (2nd Edition)* (United Kingdom: Oxford University Press, 2015), <https://doi.org/https://doi.org/10.1093/law/9780199688517.001.0001>.

¹² Nico Krisch, "Jurisdiction Unbound: (Extra)Territorial Regulation as Global Governance," *European Journal of International Law* 33, no. 2 (2022), <https://doi.org/https://doi.org/10.1093/ejil/chac028>.

interests are no longer limited by geographical boundaries, as demonstrated by the strengthening of these two principles.¹³

Furthermore, the principle of protection in the new Criminal Code is substantially strengthened. States have the authority to prosecute crimes committed outside their territory if the crime threatens vital state interests, such as national security, economic stability, or the integrity of the legal system. This principle aligns with developments in international law, which recognizes that states have the right to protect their fundamental interests even if violations occur outside their territory.

Although still limited, the application of the principle of universality in the new Criminal Code represents an important development. This principle allows states to punish individuals who commit certain crimes regardless of the location of the crime or the nationality of the perpetrator or victim, particularly for crimes considered *hostis humani generis*, such as terrorism or crimes against humanity. Recognition of this principle demonstrates an effort to align with international criminal law, although its implementation requires further improvement. Compared with the old Criminal Code, the new Criminal Code is more in line with the principle of international jurisdiction. However, this expansion of jurisdiction is not without several legal consequences that require careful consideration. The potential for jurisdictional conflicts between states is a major issue. A cooperative mechanism is needed to determine the most appropriate jurisdiction in cases where more than one state claims authority over a crime. The lack of a mechanism to prevent jurisdictional expansion that could potentially lead to conflicts at the global level.

From a law enforcement effectiveness perspective, the expanded jurisdiction in the new Criminal Code provides states with greater opportunities to take legal action against international crimes. However, the outcome depends heavily on institutional readiness and international collaboration. Foreign state authorities need to cooperate with cross-jurisdictional law enforcement agencies on extradition, mutual legal assistance,

¹³ Aris Hardinanto, "Analisis Kritis Formulasi Living Law Dalam Undang-Undang Nomor 1 Tahun 2023 Tentang KUHP," *Journal of Law and Legal Reform* 5, no. 3 (2023), <https://doi.org/https://doi.org/10.15294/jllr.v5i3.13923>.

and information exchange. Broad powers cannot be effectively exercised without the support of these mechanisms.¹⁴

Human rights protection must be part of the analysis of the new Criminal Code. The principle of broad jurisdiction must be balanced with the protection of individual rights, such as the right to a fair trial and protection from arbitrary action. In this regard, it is crucial to ensure that the application of jurisdiction beyond jurisdiction does not violate fundamental principles of international law, such as non-interference and respect for liberty. Although the recent Criminal Code offers more innovative legal instruments, its implementation still faces numerous challenges, both technically and institutionally. However, an ideal jurisdictional arrangement should balance effective law enforcement, legal certainty, and human rights protection. Therefore, the success of jurisdictional transformation is determined not only by normative changes but also by the legal system's ability to consistently apply jurisdictional arrangements.¹⁵

A comparison of the old and new Criminal Codes demonstrates that Indonesian criminal law reform has moved toward greater sophistication and alignment with developments in international law. However, to achieve maximum results, ongoing efforts are needed to harmonize regulations, strengthen law enforcement agencies, and enhance international cooperation. Without these measures, the benefits of the expanded jurisdiction in the new Criminal Code will not be maximized.

Table 1. Comparative Analysis of Criminal Jurisdiction under the Previous and New Indonesian Criminal Codes

No.	Aspect	Previous Criminal Code	New Criminal Code (Law No. 1 of 2023)	Comparative Implications
1	Main Jurisdictional Principle	Primarily based on the territoriality principle.	Retains territoriality as the primary basis while expanding jurisdiction through active nationality, passive	Demonstrates a shift toward a more flexible and internationally oriented jurisdictional framework, although it

¹⁴ Tri Andrisman Pramono, Bambang, "Kerja Sama Internasional Dalam Penegakan Hukum Terhadap Kejahatan Transnasional," *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (2020), <https://doi.org/https://doi.org/10.20885/iustum.vol27.iss2.art5>.

¹⁵ Teguh Prasetyo, "Hukum Pidana Dan Perlindungan Hak Asasi Manusia Dalam Sistem Peradilan Pidana," *Jurnal Ilmu Hukum* 9, no. 2 (2018), <https://doi.org/https://doi.org/10.30652/jih.v9i2.5432>.

No.	Aspect	Previous Criminal Code	New Criminal Code (Law No. 1 of 2023)	Comparative Implications
2	Law Enforcement Effectiveness	Criminal enforcement was largely confined to offenses committed within national territory.	nationality, protection, and limited universality principles. Enables prosecution of certain crimes committed outside national territory, subject to international legal cooperation.	may increase the risk of jurisdictional overreach. Expands the state's capacity to address transnational crimes, but effectiveness depends on institutional capacity and international cooperation mechanisms. Requires effective extradition
3	Implementation Challenges	Relatively straightforward due to limited jurisdictional scope.	More complex because of the broader jurisdictional reach and involvement of multiple legal systems.	arrangements, mutual legal assistance, intelligence-sharing mechanisms, and diplomatic coordination to avoid jurisdictional conflicts.

Source: Developed by the authors based on a comparative analysis of the Previous Criminal Code and Law No. 1 of 2023.

Table 1 illustrates the fundamental transformation of Indonesia's criminal jurisdiction framework under the transition from the previous Criminal Code to the new Criminal Code enacted through Law No. 1 of 2023. With regard to jurisdictional principles, the previous Criminal Code was predominantly grounded in the territoriality principle, whereas the new Criminal Code retains territoriality as its primary basis while expanding jurisdiction through the recognition of the active nationality, passive nationality, protection, and, to a limited extent, universality principles. This development reflects a significant shift in the orientation of Indonesian criminal law toward greater conformity with contemporary international criminal law and the growing necessity to address transnational forms of criminality.

From the perspective of law enforcement effectiveness, the new Criminal Code provides broader legal authority for the State to prosecute

offenses that possess cross-border dimensions. This expanded jurisdiction enhances Indonesia's capacity to respond to transnational crimes such as money laundering, human trafficking, cybercrime, and other offenses that transcend national boundaries. Nevertheless, the existence of broader jurisdictional powers does not automatically guarantee effective enforcement. Their practical effectiveness depends on the availability of adequate institutional capacity, well-functioning international cooperation mechanisms, and supporting legal instruments, including extradition agreements and mutual legal assistance frameworks.

Regarding implementation challenges, the expanded jurisdiction introduced by the new Criminal Code generates a higher degree of legal and operational complexity than the previous regime. The possibility of overlapping jurisdictional claims, conflicts of authority between states, and the need for cross-border coordination among law enforcement agencies require stronger mechanisms for international cooperation. Consequently, the success of Indonesia's criminal jurisdiction reform cannot be measured solely by normative legislative changes. Rather, it depends on the readiness of legal institutions, the effectiveness of international collaboration, and the State's ability to balance robust law enforcement with the protection of fundamental human rights and respect for state sovereignty.

The New Criminal Code's Jurisdictional Framework and Transnational Crime

The development of transnational crime has fundamentally changed how states define criminal jurisdiction. In this context, the jurisdictional provisions in the new Criminal Code can no longer be understood merely as a technical instrument for determining court authority, but rather as part of a broader legal strategy to address the complexity of global crime. Therefore, an analysis of the alignment of the jurisdictional provisions in the new Criminal Code with international legal principles needs to be placed within the framework of the changing structure of crime, which is increasingly transnational and decentralized.¹⁶

¹⁶ Dan E. Stigall, "Ungoverned Spaces, Transnational Crime, and Extraterritorial Jurisdiction," *Notre Dame Journal of International & Comparative Law* 12, no. 1 (2022), <https://doi.org/10.2139/ssrn.3949998>.

One of the key indicators of alignment with international law lies in a legal system's ability to proportionally integrate various jurisdictional bases. In this regard, the new Criminal Code demonstrates a tendency to adopt a multi-principled approach that no longer relies exclusively on the principle of territoriality. This integration reflects the recognition that the connection between the state and a crime is not always determined by geographic location, but also by the legal relationship between the state and the perpetrator, victim, and affected interests.¹⁷

This approach aligns with international practice, which positions jurisdiction as a flexible instrument for safeguarding a state's legal interests without neglecting the limitations established by international law. In this context, jurisdictional flexibility not only means expanding authority but also encompasses the ability to adapt the application of the law to the characteristics of the crime at hand. The new Criminal Code, through its normative construction, seeks to accommodate this need by providing space for the application of jurisdiction beyond the state's territory under certain circumstances.¹⁸

Normative alignment with international law is measured not only by the adoption of jurisdictional principles, but also by the extent to which these regulations respect the limitations inherent in the principle of state sovereignty. In international practice, the application of extraterritorial jurisdiction often creates tensions if not handled carefully. Therefore, the success of the new Criminal Code in achieving alignment with international law depends heavily on its ability to balance national interests with international obligations.¹⁹

In relation to the effectiveness of handling transnational crime, the jurisdictional provisions in the new Criminal Code provide greater opportunities for states to act proactively. Transnational crimes are generally complex, involve multiple actors, and exploit jurisdictional gaps between states.

¹⁷ Valsamis Mitsilegas, "The Transformation of Criminal Jurisdiction in an Era of Global Security," *New Journal of European Criminal Law* 13, no. 3 (2022), <https://doi.org/https://doi.org/10.1177/20322844221114587>.

¹⁸ Iqbal Subihat, "Implications of the Expansion of Criminal Jurisdiction for State Sovereignty in Counter-Terrorism under the Criminal Code," *International Law Reform Review* 3, no. 2 (2025), <https://doi.org/https://doi.org/10.59948/ilre.v3i2.118>.

¹⁹ Topo Santoso, "Jurnal Hukum Internasional Indonesia," *Prinsip Yurisdiksi Dalam Hukum Pidana Dan Implikasinya Terhadap Kedaulatan Negara* 15, no. 2 (2018).

In such circumstances, a rigid approach limited to national territory will struggle to provide an adequate response. By broadening the jurisdictional framework, the new Criminal Code provides a legal instrument that allows states to address criminal activity previously beyond the reach of national law.²⁰

However, it should be noted that the effectiveness of jurisdiction is not solely determined by the breadth of its authority, but also by the quality of its implementation. In practice, cross-border law enforcement faces various obstacles, ranging from differences in legal systems, limited international cooperation, to technical obstacles in the evidentiary process. Therefore, the expansion of jurisdiction must be accompanied by strengthening implementation mechanisms capable of bridging these differences.

One crucial aspect of implementing transnational jurisdiction is coordination between law enforcement authorities. In many cases, the success of addressing transnational crime depends heavily on a country's ability to cooperate with other jurisdictions, whether through information exchange, asset tracking, or the surrender of perpetrators. Without effective coordination, expanding jurisdiction has the potential to create overlapping authorities, which can hamper law enforcement.

Furthermore, the effectiveness of jurisdictional arrangements is also influenced by the readiness of the judicial system to handle cases with international dimensions. Transnational cases often involve complex legal aspects, including the application of foreign law, recognition of foreign court decisions, and protection of the rights of suspects and victims from various jurisdictions. In this regard, the new Criminal Code needs to be supported by a broader legal framework, including criminal procedure law and international treaties, to function optimally.²¹

In this context, the primary challenge lies in integrating international legal principles into national law enforcement practices. While the new Criminal Code normatively reflects alignment with international law, its implementation requires changes in legal culture and institutional practices.

²⁰ Nyoman Serikat Putra Jaya Nugraha, Ridwan Arifin, "Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan Transnasional," *Jurnal Hukum Dan Peradilan* 9, no. 1 (2020), <https://doi.org/https://doi.org/10.25216/jhp.9.1.2020.1-18>.

²¹ Adhi Setya Wibowo, "Tantangan Implementasi Hukum Pidana Dalam Perspektif Sistem Peradilan Pidana," *Jurnal Rechts Vinding* 10, no. 2 (2021).

Law enforcement officials need to have a sufficient understanding of international jurisdictional principles and the ability to apply them in concrete case contexts.

The new Criminal Code has demonstrated a significant step forward in integrating international legal principles into the national criminal justice system. However, its effectiveness in addressing transnational crime depends heavily on the state's ability to implement these norms consistently, in a coordinated manner, and with a focus on human rights protection. Without such support, progressive jurisdictional arrangements have the potential to have little impact on law enforcement practices.²²

From a comparative perspective, the old Criminal Code relied predominantly on the territorial principle, limiting the state's authority to crimes committed within Indonesian territory. This approach reflected the classical understanding of sovereignty, in which criminal jurisdiction was closely tied to geographical boundaries. In contrast, the new Criminal Code adopts a broader and more systematic framework by incorporating the principles of active nationality, passive nationality, protection, and limited universality. This development indicates that Indonesia no longer perceives criminal law solely as an instrument for protecting territorial sovereignty, but also as a mechanism for safeguarding national interests and responding to increasingly globalized forms of criminality. However, the expansion of jurisdiction also creates complex legal consequences, particularly the possibility of overlapping jurisdictional claims between states and the emergence of excessive extraterritorial intervention.

heoretically, this reform reflects a transition from a traditional territorial criminal law paradigm toward a transnational criminal law orientation. In this context, the new Criminal Code can be analyzed through the perspective of global legal pluralism, where domestic criminal law increasingly interacts with international legal norms. Cedric Ryngaert's theory concerning the declining dominance of territorial jurisdiction becomes highly relevant because globalization has weakened the effectiveness of purely territorial enforcement mechanisms. Likewise, Dapo Akande's theory regarding multiple jurisdictional bases explains that modern criminal jurisdiction derives legitimacy not only

²² Rika Lestari, "Kepastian Hukum Dan Keadilan Dalam Penegakan Hukum Pidana Di Indonesia," *Jurnal Penelitian Hukum De Jure* 20, no. 3 (2020), <https://doi.org/https://doi.org/10.30641/dejure.2020.V20.301-315>.

from territoriality, but also from nationality, protection of state interests, and universal concern for certain international crimes. Consequently, the new Criminal Code represents not merely a legislative reform, but also an ideological transformation in the way the state conceptualizes sovereignty, authority, and criminal justice in the era of globalization.

The government must also formulate clearer operational guidelines regarding the exercise of extraterritorial jurisdiction in order to prevent jurisdictional conflicts and minimize the risk of abuse. Furthermore, human rights protection should become a central component of criminal justice policy to ensure that the expansion of jurisdiction does not compromise individual liberties. Accordingly, the new Criminal Code should not be viewed solely as a progressive legislative achievement, but rather as the beginning of a broader transformation in Indonesia's criminal justice system, where the true challenge lies in translating international legal principles into effective, accountable, and rights-oriented law enforcement practices.²³

Conclusion

The enactment of the new Criminal Code through Law No. 1 of 2023 represents a significant milestone in the reform of Indonesia's criminal law system, particularly in the regulation of criminal jurisdiction. This study finds that the new Criminal Code has shifted the orientation of criminal jurisdiction from a predominantly territorial approach toward a more comprehensive framework incorporating the principles of territoriality, active nationality, passive nationality, and protection. Such development reflects Indonesia's effort to harmonize its national criminal law with evolving principles of international law and to respond more effectively to the growing challenges posed by transnational crime.

From a theoretical perspective, this study contributes to the discourse on criminal jurisdiction by demonstrating that the new Criminal Code reflects a redefinition of national criminal jurisdiction in the era of globalization. Jurisdiction is no longer understood solely as an expression of territorial sovereignty but also as a legal instrument for protecting national interests and

²³ Budi Hermawan, "Human Rights and the Expansion of Criminal Jurisdiction under Indonesia's New Criminal Code," *Jurnal Hukum Ius Quia Iustum* 31, no. 1 (2024), <https://doi.org/https://doi.org/10.20885/iustum.vol31.iss1.art5>.

addressing cross-border criminal activities. This shift signifies a transition from a classical territorial criminal law paradigm toward a transnational criminal law orientation, where domestic criminal law increasingly interacts with international legal principles. From a practical perspective, the expanded jurisdictional framework provides broader opportunities for law enforcement agencies to address transnational crimes. However, its effectiveness depends on institutional readiness, stronger international cooperation mechanisms, and the development of clear operational guidelines concerning the exercise of extraterritorial jurisdiction. The implementation of these provisions also requires effective extradition arrangements, mutual legal assistance mechanisms, intelligence-sharing systems, and enhanced technical capabilities among law enforcement institutions.

Nevertheless, this study has several limitations. The analysis is primarily normative and focuses on statutory and conceptual aspects of jurisdictional reform, without comprehensively examining the empirical challenges associated with the implementation of extraterritorial jurisdiction. Issues such as institutional readiness, political constraints, and practical obstacles in international legal cooperation remain beyond the scope of this research. Therefore, future studies should adopt empirical and comparative approaches to evaluate the practical implementation of criminal jurisdiction under the new Criminal Code. Further research is particularly needed to assess the effectiveness of cross-border law enforcement practices, the role of international cooperation in combating transnational crime, and the impact of expanded jurisdiction on human rights protection and legal certainty. Such studies would provide a more comprehensive understanding of whether the progressive jurisdictional framework introduced by the new Criminal Code can operate effectively in practice.

Acknowledgement

The authors would like to express their sincere gratitude and appreciation to all individuals who provided valuable support, insightful comments, and constructive feedback throughout the research and manuscript preparation process. The authors also gratefully acknowledge the academic and institutional support provided by the Master of Law Program, Graduate School, Universitas Muhammadiyah Sumatera Utara, which significantly contributed to the successful completion of this study.

Author Contributions Statement

AS, was responsible for the conceptualization of the study, research design, methodology development, data collection and analysis, manuscript drafting, and revision. IK, contributed to the supervision of the research, validation of the analytical framework, critical review of the manuscript, and final editing. Both authors have read and approved the final version of the manuscript and agree to be accountable for all aspects of the work, ensuring the accuracy, validity, and integrity of the research.

AI Usage Statement

The authors used Artificial Intelligence (AI) tools solely to assist with language enhancement, grammar correction, and the improvement of manuscript readability. All research ideas, analyses, interpretations, arguments, and scholarly contributions presented in this article are the original work and sole responsibility of the authors. The authors carefully reviewed and verified all AI-assisted outputs prior to submission to ensure their accuracy, integrity, and compliance with accepted academic standards and research ethics.

Conflict of Interest

The authors declare that there are no conflicts of interest, whether financial, professional, institutional, or personal, that could have influenced the conduct, findings, interpretation, or publication of this research. The authors further affirm that the study was conducted independently, objectively, and in accordance with the principles of academic integrity and research ethics.

References

- Akande, Dapo. "Treaty Law and ICC Jurisdiction over the Crime of Aggression." *European Journal of International Law* 29, no. 3 (2018). <https://doi.org/https://doi.org/10.1093/ejil/chy059>.
- Arni, Irma Lida. "Paradigma Baru Dalam KUHP 2023: Tinjauan Politik Hukum Dan Analisis Kebahasaan." *Journal of Information Systems and Management* 2, no. 1 (2024). <https://doi.org/https://doi.org/10.4444/jisma.v4i5.1220>.
- Ba'abud, Mohammad Fadel Roihan, Dodik Setiawan Nur Heriyanto. "Application of the Principles of Extraterritorial Jurisdiction Towards Cross-Border Crimes." *Uti Possidetis: Journal of International Law* 5, no. 1 (2024). <https://doi.org/https://doi.org/10.22437/up.v5i1.28300>.
- Barasa, Abdur Rachman Parlindungan, Wahyudi Saputra. "Pembaharuan

- Sistem Hukum Undang-Undang Nomor 1 Tahun 2023 Tentang Kitab Undang-Undang Hukum Pidana.” *Indonesian Journal of Criminal Law and Criminology* 6, no. 3 (2024).
<https://doi.org/https://doi.org/10.18196/ijclc.v6i3.28788>.
- Hardinanto, Aris. “Analisis Kritis Formulasi Living Law Dalam Undang-Undang Nomor 1 Tahun 2023 Tentang KUHP.” *Journal of Law and Legal Reform* 5, no. 3 (2023).
<https://doi.org/https://doi.org/10.15294/jllr.v5i3.13923>.
- Hermawan, Budi. “Human Rights and the Expansion of Criminal Jurisdiction under Indonesia’s New Criminal Code.” *Jurnal Hukum Ius Quia Iustum* 31, no. 1 (2024).
<https://doi.org/https://doi.org/10.20885/iustum.vol31.iss1.art5>.
- Hutchinson, Terry, Nigel Duncan. “Defining and Describing What We Do: Doctrinal Legal Research.” *Deakin Law Review* 17, no. 1 (2012).
<https://doi.org/https://doi.org/10.21153/dlr2012vol17no1art70>.
- Kasvarof, Juri. “Reorientation of the Criminal Justice System Towards Restorative Justice in The Perspective of the New Criminal Code (KUHP).” *Jurnal Indonesia Sosial Sains* 4, no. 1 (2025).
<https://doi.org/https://doi.org/10.59141/jiss.v7i3.2252>.
- Krisch, Nico. “Jurisdiction Unbound: (Extra)Territorial Regulation as Global Governance.” *European Journal of International Law* 33, no. 2 (2022).
<https://doi.org/https://doi.org/10.1093/ejil/chac028>.
- Lestari, Rika. “Kepastian Hukum Dan Keadilan Dalam Penegakan Hukum Pidana Di Indonesia.” *Jurnal Penelitian Hukum De Jure* 20, no. 3 (2020).
<https://doi.org/https://doi.org/10.30641/dejure.2020.V20.301-315>.
- Manik, Dibi Vation. “Reform of Indonesian Criminal Law Reviewed From Law Number 1 of 2023 About the Criminal Code.” *International Journal of Sociology and Law* 2, no. 1 (2024).
<https://doi.org/https://doi.org/10.62951/ijsl.v2i1.330>.
- Marnija, Zainal Arifin Hoesein. “The Dynamics of Criminal Law Reform in Indonesia: From the Colonial Penal Code to the 2023 National Criminal Code.” *Fox Justi: Jurnal Ilmu Hukum*, 2024.
- Mitsilegas, Valsamis. “The Transformation of Criminal Jurisdiction in an Era of Global Security.” *New Journal of European Criminal Law* 13, no. 3 (2022).
<https://doi.org/https://doi.org/10.1177/20322844221114587>.
- Nugraha, Ridwan Arifin, Nyoman Serikat Putra Jaya. “Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan Transnasional.” *Jurnal Hukum Dan Peradilan* 9, no. 1 (2020).
<https://doi.org/https://doi.org/10.25216/jhp.9.1.2020.1-18>.

- O'Keefe, Roger. "Universal Jurisdiction: Clarifying the Basic Concept." *Journal of International Criminal Justice* 2, no. 3 (2004). <https://doi.org/https://doi.org/10.1093/jicj/2.3.735>.
- Pramono, Bambang, Tri Andrisman. "Kerja Sama Internasional Dalam Penegakan Hukum Terhadap Kejahatan Transnasional." *Jurnal Hukum Ius Quia Iustum* 27, no. 2 (2020). <https://doi.org/https://doi.org/10.20885/iustum.vol27.iss2.art5>.
- Prasetyo, Teguh. "Hukum Pidana Dan Perlindungan Hak Asasi Manusia Dalam Sistem Peradilan Pidana." *Jurnal Ilmu Hukum* 9, no. 2 (2018). <https://doi.org/https://doi.org/10.30652/jih.v9i2.5432>.
- Ryngaert, Cedric. *Jurisdiction in International Law (2nd Edition)*. United Kingdom: Oxford University Press, 2015. <https://doi.org/https://doi.org/10.1093/law/9780199688517.001.0001>.
- Santoso, Topo. "Jurnal Hukum Internasional Indonesia." *Prinsip Yurisdiksi Dalam Hukum Pidana Dan Implikasinya Terhadap Kedaulatan Negara* 15, no. 2 (2018).
- Shurson, Jessica. "Investigative Jurisdiction: The Evolving Limits of Extraterritoriality in Transnational Digital Investigations." *International & Comparative Law Quarterly* 74, no. 3 (2025). <https://doi.org/https://doi.org/10.1017/S0020589325100985>.
- Stigall, Dan E. "Ungoverned Spaces, Transnational Crime, and Extraterritorial Jurisdiction." *Notre Dame Journal of International & Comparative Law* 12, no. 1 (2022). <https://doi.org/10.2139/ssrn.3949998>.
- Subihat, Iqbal. "Implications of the Expansion of Criminal Jurisdiction for State Sovereignty in Counter-Terrorism under the Criminal Code." *International Law Reform Review* 3, no. 2 (2025). <https://doi.org/https://doi.org/10.59948/ilre.v3i2.118>.
- Wibowo, Adhi Setya. "Tantangan Implementasi Hukum Pidana Dalam Perspektif Sistem Peradilan Pidana." *Jurnal Rechts Vinding* 10, no. 2 (2021).