



Ratifying the HCCH 2005 and 2019 Conventions: Legal Reform and the Pursuit of Certainty in Indonesia's International Private Law

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Abstract: In the era of globalization, the increasing intensity of cross-border transactions demands a national legal system capable of ensuring legal certainty in international trade. However, Indonesia has yet to ratify the HCCH 2005 Convention on Choice of Court Agreements and the HCCH 2019 Convention on the Recognition and Enforcement of Foreign Judgments. This study aims to analyze the urgency of ratifying both conventions in the context of Indonesia's international trade, assess the readiness of national legal and institutional frameworks, and examine lessons learned from countries that have ratified similar conventions. This research adopts a normative legal approach using three methods: the statutory approach to examine the relevance of national regulations, the conceptual approach to understand the foundational principles of the HCCH conventions, and the comparative approach through case studies of ratifying countries. The data sources consist of primary legal materials such as international conventions and national legislation, as well as secondary materials including scholarly journals and legal literature. The research question in this study is: 1) What is the urgency of ratifying the 2005 and 2019 HCCH Conventions in Indonesia?; 2) How prepared is Indonesia's legal and institutional system to accept the ratification of the 2005 and 2019 HCCH Conventions?; and 3) What lessons can Indonesia learn from countries that have ratified the 2005 and 2019 HCCH Conventions?. The findings reveal that, despite Indonesia's significant economic potential, its legal system has not yet adequately accommodated the recognition of jurisdiction and enforcement of foreign judgments. Countries such as Mexico, Singapore, and members of the European Union have demonstrated that ratifying these conventions strengthens legal certainty, enhances investor confidence, and expedites the resolution of cross-border disputes. This study concludes that the ratification of the HCCH 2005 and 2019 Conventions must be an integral part of Indonesia's civil law reform agenda. The implication is that Indonesia must revise its national regulations, enhance institutional capacity, and develop a structured ratification roadmap to ensure effective implementation and reinforce its legal standing within the global system

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1. Introduction

Since the early 2000s, Indonesia has demonstrated increasing engagement in international trade, encompassing exports of goods, services, and cross-border investments. The growing volume of global transactions demands a legal system capable of providing certainty and legal protection for business actors operating across jurisdictions (S. Putri & Ibrahim, 2023). However, Indonesia's private international law framework remains limited in addressing the complexities of transnational legal relationships. This is evident from the absence of a comprehensive legal instrument that effectively governs international jurisdiction and the recognition and enforcement of foreign judgments (Hastuti, 2016). In fact, the need for a legal mechanism aligned with international practices has become increasingly urgent amid accelerating economic globalization. The lack of harmonization with global legal standards not only risks generating legal disputes but also undermines foreign investors' trust in Indonesia's legal system (William & Syailendra,

2023). Consequently, Indonesia's economic development requires a more modern and responsive private international law framework as a legal foundation.

The 2005 Hague Convention on Choice of Court Agreements and the 2019 Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters are international legal instruments highly relevant to Indonesia (Margaretha et al., 2023). Both conventions have been ratified by a number of countries with diverse legal systems, including the European Union, the United Kingdom, the United States, and Singapore (P. Penasthika, 2021). These conventions provide legal certainty for parties in selecting dispute resolution forums and ensure the enforceability of court judgments across borders. For a country like Indonesia, which continues to promote foreign investment and engage in international economic cooperation, participation in such global legal frameworks is of critical importance (W. R. Putri et al., 2025). However, Indonesia has yet to ratify either convention, revealing a gap between practical legal needs and normative readiness. This delay may undermine the competitiveness of Indonesia's legal system in supporting cross-border transactions (Maylinda & Dalimunthe, 2024). Therefore, the urgency of ratifying the 2005 and 2019 HCCH Conventions must be examined comprehensively and critically.

Normatively, Indonesia has yet to establish a specific legal instrument that explicitly regulates private international jurisdiction. In practice, the handling of cross-border civil cases often encounters challenges related to jurisdiction, conflict of laws, and the enforcement of foreign judgments (Al-Ghifari et al., 2025). These issues contribute to a high degree of legal uncertainty for business actors, particularly in international contracts. In contrast, many countries have developed more harmonized legal systems through the ratification of international conventions, including those under the Hague Conference on Private International Law (HCCH) (Rabbani & Jaelani, 2024). This creates a significant gap between Indonesia's current legal reality (*das Sein*) and the international normative standards (*das Sollen*). On one hand, Indonesia's legal system remains relatively insular to global legal developments; on the other hand, the country actively participates in international economic cooperation. This discrepancy highlights the urgent need to strengthen Indonesia's private international law framework through the ratification of relevant global conventions (Anomsari et al., 2025).

One of the key challenges in the ratification process lies in the readiness of national regulations and institutional frameworks. Ratification requires more than political approval; it also demands procedural legal adjustments, the strengthening of judicial capacity, and cross-sectoral legal harmonization (Sunyowati, 2013). Without comprehensive legal reform, ratification risks being ineffective or even leading to inconsistencies in implementation. Furthermore, the limited legal literacy and understanding of private international law principles among law enforcement officials constitute a structural barrier (Ume, 2020). In this regard, academic studies that offer a roadmap for ratification and institutional reform are critically needed. Such studies remain scarce in Indonesian legal literature, presenting a significant opportunity for scholarly contribution. Accordingly, this research aims to fill that gap through a normative and comparative legal approach.

The experiences of countries that have ratified the HCCH 2005 and 2019 Conventions such as Singapore, which integrated the conventions into its legal framework and boosted investor confidence, and European states, which have streamlined cross-border dispute resolution through effective enforcement mechanisms (Stone, 2010) offer valuable insights for Indonesia. However, the adoption of international norms must account for domestic legal structures and institutional capacities to avoid merely symbolic ratification (Astawa, 2014). This study adopts a normative, comparative, and prospective approach to analyze both conventions within the broader context of Indonesia's civil law reform. Unlike prior studies focusing narrowly on legal technicalities or individual conventions, this research presents a multidimensional assessment of practical urgency, regulatory readiness, and international best practices. It highlights the gap between *das Sein* and *das Sollen* in Indonesia's private international law, offering evidence-based

recommendations and policy relevant insights. The novelty of this study lies not only in its substance, but also in its integrative and forward-looking analytical framework.

This study holds significant value in supporting the national legal reform agenda, particularly in strengthening Indonesia's position within the framework of international private law. The findings are expected to serve as valuable input for policymakers, judicial institutions, and legal scholars in recognizing the importance of ratifying the HCCH Conventions. Additionally, the study's conclusions may contribute to enhancing institutional capacity for more effective handling of cross-border disputes. Nevertheless, the research is limited by its reliance on secondary documentation regarding the implementation of the conventions in other countries. Furthermore, as a normative and comparative study, it does not incorporate empirical perspectives from legal practitioners. Despite these limitations, the study opens avenues for future research with empirical or case study approaches. These limitations do not diminish the academic relevance or practical contribution of the research. Instead, this study constitutes a meaningful step toward developing a national legal system that is more responsive to global legal dynamics.

2. Materials and Methods

This research is a normative legal study, which relies on literature review and analysis of prevailing legal norms (Tan, 2021b). The choice of this method is based on the primary objective of analyzing the urgency of ratifying the 2005 and 2019 HCCH Conventions within the framework of reforming Indonesia's international private law. The approaches employed in this study include the statute approach, the conceptual approach, and the comparative approach. The data used are secondary legal materials, consisting of primary legal sources such as the 2005 and 2019 HCCH Conventions and relevant national legislation; secondary legal materials including scholarly literature; and tertiary legal materials such as legal dictionaries. Data collection was conducted through library research. The collected data were analyzed qualitatively using a normative-comparative analysis technique to identify legal gaps, assess compatibility, and formulate policy recommendations (Disemadi, 2022).

3. Results and Discussion

3.1 *The Urgency of Ratifying the 2005 and 2019 HCCH Conventions in the Context of Indonesia's International Trade Dynamics*

International trade has become a fundamental pillar of global economic growth in the era of globalization. Through market liberalization and cross-border cooperation, the flow of goods, services, investment, and technology has increased significantly. In this context, developing countries like Indonesia strive to strengthen global economic integration as a strategy to expand market access and enhance national competitiveness (Sidiq, 2023). However, participation in the international economic system also demands a legal framework that is capable of managing cross-jurisdictional transactions efficiently and fairly. As business actors engage with partners from various countries, legal disputes become an inevitable risk (Tuturoong & Herry, 2022). Therefore, legal certainty becomes a crucial element in fostering trust and ensuring stability in international commercial activities. Without a reliable legal system, economic opportunities may transform into complex legal risks (Syahrin, 2018).

Indonesia is one of the developing countries that has experienced rapid growth in international trade over the past two decades. Data from Statistics Indonesia (Badan Pusat Statistik/BPS) indicate a consistent increase in both exports and imports, particularly in the manufacturing, mining, agriculture, and fisheries sectors (Puspendari et al., 2022). Moreover, Indonesia has actively participated in various regional and multilateral free trade agreements, such as ASEAN, the Regional Comprehensive Economic Partnership (RCEP), and several Comprehensive Economic Partnership Agreements (CEPA) with strategic partner countries. This engagement reflects Indonesia's commitment to playing an active role in the global economic architecture (Meher et al., 2024). However, the growing number of cross-border transactions has also given rise to new legal chal-

allenges, especially concerning jurisdiction, contract enforcement, and the resolution of cross-border civil and commercial disputes. These challenges demand a national legal system capable of ensuring legal certainty and effectiveness in the international legal sphere (Winanti, 2022).

Cross-border transactions involve not only differences in language and culture but also significant variations in legal systems and dispute resolution forums. In international trade practice, the selection of forum and the enforcement of foreign court judgments often constitute critical issues that directly affect the sustainability of contractual relationships (Halim, 2023). When disputes arise between parties from different countries, legal challenges emerge concerning the appropriate jurisdiction and the applicable dispute resolution mechanisms (Albar, 2019). In the absence of internationally recognized frameworks, domestic court decisions frequently lack cross-border enforceability. As a result, business actors tend to favor jurisdictions whose legal systems are already integrated within modern international legal frameworks, particularly those that have ratified conventions under the Hague Conference on Private International Law (HCCH) (Roliana & Jaelani, 2023).

The 2005 HCCH Convention on Choice of Court Agreements was established in response to the growing need for legal certainty regarding the selection of jurisdiction in international contracts. The Convention provides that courts chosen by the parties through a valid agreement shall have exclusive jurisdiction to resolve disputes arising from the contract (P. P. Penasthika, 2024). Furthermore, contracting states are obligated to recognize and enforce judgments issued by the designated courts. For Indonesia, which has a strong interest in ensuring the enforceability of international contracts, adopting the principles of this Convention would offer stronger legal protection for business actors. Conversely, the absence of ratification renders Indonesian forums vulnerable to being overlooked in cross-border contractual arrangements (Mahendra et al., 2024).

Meanwhile, the 2019 HCCH Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters complements the legal framework required to facilitate cross-border dispute resolution. This Convention aims to establish a uniform and predictable system for the recognition and enforcement of foreign court judgments across jurisdictions of contracting states (Himmah & Wibisono, 2023). In practice, a valid judgment rendered by a court in one contracting state must be recognized and enforced in another contracting state without the need for protracted procedures or inconsistent grounds for refusal. For Indonesia where no efficient mechanism currently exists for recognizing and enforcing foreign judgments ratification of this Convention would represent a critical step toward enhancing the credibility and fairness of the national judicial system within the international legal landscape (Nurhidayatullah, 2023).

The absence of international legal instruments supporting jurisdiction and the recognition of foreign judgments has created significant legal uncertainty for businesses. As a result, many foreign investors and companies avoid Indonesian courts due to their perceived lack of enforceability beyond national borders (Alwan & Rahayu, 2025). This undermines confidence in Indonesia's legal system and poses risks to investment and trade. In a competitive global environment, jurisdictions offering efficient legal protection are more likely to attract international partnerships. Thus, ratifying the HCCH Conventions is a strategic necessity, not merely a political or diplomatic choice (Nishitani, 2020). Neighboring countries like Singapore and the Philippines have already taken progressive steps by ratifying or moving toward ratification of the HCCH Conventions (Kusumadara, 2022a). For these countries, international legal integration enhances competitiveness and strengthens their position in global value chains. As one of Southeast Asia's largest economies, Indonesia must not fall behind. Delayed ratification risks weakening Indonesia's legal standing in international contracts and diminishing its influence in global legal forums (Nishitani, 2024). It is therefore imperative for Indonesia to adopt a strategic position by becoming a party to both the 2005 and 2019 HCCH Conventions.

The ratification of the HCCH 2005 and 2019 Conventions aligns with Indonesia's broader legal reform agenda. Amid persistent criticisms of judicial inefficiency and legal uncertainty, accession to international legal instruments serves both as a symbol and a catalyst for internal transformation. Ratification can drive regulatory harmonization, strengthen judicial capacity, and modernize legal education. Beyond practical benefits in trade, it enhances Indonesia's legal credibility on the global stage. Thus, ratification is not an end in itself but a gateway to a more adaptive and responsive legal system. Moreover, it supports national priorities in improving investment climate and legal certainty for cross-border business. While the government promotes economic acceleration through infrastructure, industrialization, and market integration (Meryadinata et al., 2025), these efforts require a reliable legal framework for resolving international disputes and enforcing judgments. The HCCH Conventions offer such a framework, making their ratification not only legally necessary but strategically vital for Indonesia's inclusive and competitive economic development (Tan, 2021a).

3.2 Indonesia's Legal and Institutional Readiness to Accommodate the Ratification of the HCCH 2005 and 2019 Conventions

The ratification of international conventions in the field of private international law requires adequate legal and institutional preparedness. In the context of Indonesia, ratifying the HCCH 2005 and 2019 Conventions entails not only political commitment but also comprehensive legal reform. This includes updating regulations, adjusting procedural law, and strengthening the capacity of judicial institutions to adopt principles related to jurisdiction and the recognition and enforcement of foreign judgments (Gusman & Zora, 2021). Currently, Indonesia lacks a comprehensive legal framework for private international law its exequatur mechanism remains limited, and there is no explicit regulation governing legally binding choice of court agreements in international contracts (Kusumadara, 2022b). This regulatory gap generates legal uncertainty and undermines Indonesia's competitiveness in cross-border transactions. Therefore, prior to ratification, Indonesia must ensure its legal and institutional readiness to support the effective and sustainable implementation of these conventions.

In the Indonesian legal system, the ratification of international treaties is governed by Law No. 24 of 2000 on International Treaties, which requires legislative involvement for agreements deemed strategic or those that impact national law (Romli, 2022). Although the HCCH 2005 and 2019 Conventions fall within the scope of private international law, their ratification still necessitates political commitment and inter-ministerial coordination to avoid normative conflicts. Accordingly, raising awareness and disseminating the content of these conventions to policymakers is a crucial part of institutional preparedness (Monalisa, 2024). At the same time, the judiciary plays a central role in the implementation of such conventions, particularly in recognizing choice-of-court agreements and enforcing foreign judgments. However, judicial capacity and technical understanding of private international law remain limited (Sutrisno, 2025). To ensure effective post-ratification implementation, the Supreme Court should issue clear guidelines or Circular Letters (SEMA) as operational references for the courts. Without strong judicial support, ratification risks becoming a symbolic act with little practical legal impact.

One of the main challenges in ratifying the HCCH 2005 and 2019 Conventions is harmonizing national laws with the provisions of the conventions. Harmonization involves not only adopting international norms but also aligning them with local practices and the principles of Indonesia's mixed legal system. Certain imperative national provisions such as those concerning exclusive jurisdiction or choice of forum must be revised to ensure consistency with the conventions (Setyowati et al., 2016). Effective coordination among institutions such as the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, and the Supreme Court is essential to prevent dual implementation. Institutional readiness must also include the active involvement of academics and legal research institutions. Universities and international law centers can support the legislative process by providing evidence-based research, drafting academic papers, developing

regulatory models, and offering technical training. Cross-sector collaboration between the state and the academic community is therefore vital to ensure the effective and sustainable integration of the conventions into the national legal framework (Mardiyanto, 2023b).

In addition to regulatory and human resource aspects, administrative and technological readiness is a crucial component in supporting the ratification of the HCCH 2005 and 2019 Conventions. The recognition and enforcement of foreign judgments require a transparent, accurate, and accessible legal information system across jurisdictions (Pujiono & Sulistianingsih, 2023). Judicial digitalization through initiatives such as e-court and e-litigation must be expanded to include the registration of choice-of-court clauses, tracking of cross-border cases, and enforcement of foreign judgments. Equally important is the strengthening of human resource capacity in the legal sector (Sari, 2022). Law enforcement officers, judges, prosecutors, lawyers, and notaries must receive intensive training and continuous education in private international law. Legal education curricula should incorporate dedicated modules on the principles and practices of the HCCH Conventions. Active engagement of Indonesian legal professionals in international forums such as seminars, trainings, and knowledge exchanges will accelerate the adoption of best practices. Without adequate technological infrastructure and skilled human resources, the integration of national law into the global legal framework will be difficult to achieve effectively (Siregar et al., 2024).

Therefore, Indonesia's legal and institutional readiness to accommodate the HCCH Conventions remains partial and not yet fully integrated. Initial efforts such as strengthening judicial institutions and digitalizing the legal system have been undertaken, but they have not yet addressed the substantive harmonization of private international law. Moreover, the lack of awareness among policymakers and limited public literacy regarding the importance of these conventions present significant obstacles. Assessing institutional readiness is essential to develop a ratification strategy that is not only timely but also appropriate. Failure to anticipate institutional preparedness may result in non-operational ratification or even normative contradictions. Thus, regular evaluations and a well-structured roadmap are critical to ensuring a measured and effective ratification process. In this context, legal and institutional readiness constitutes a fundamental component in the ratification of the HCCH 2005 and 2019 Conventions.

3.3 Lessons from Countries that Ratified the HCCH 2005 and 2019 Conventions as a Basis for Strengthening Ratification and Civil Law Reform in Indonesia

In the era of global legal integration, the experiences of countries that have ratified the HCCH 2005 and 2019 Conventions serve as strategic references for Indonesia (Zefanya, 2022). These conventions address the universal need for legal certainty in cross-border civil and commercial transactions, particularly regarding forum selection and the enforcement of foreign judgments. Countries such as Mexico and members of the European Union have demonstrated that ratification enhances international business confidence, strengthens the legal position of national jurisdictions in international contracts, and streamlines the recognition and enforcement of foreign judgments (Roliana & Jaelani, 2023). For Indonesia, studying these legal reforms and practices offers a solid foundation for designing a ratification policy that is relevant, efficient, and competitive (Nishitani, 2020). A comparative approach is essential not only from a technical perspective but also as a strategic pathway to reinforce the national legal system amid the evolving dynamics of global trade.

Singapore serves as a key example in Southeast Asia of a country demonstrating strong commitment to an efficient international legal system. Although it has not ratified both HCCH Conventions, Singapore has aligned its legal framework through the enactment of the Choice of Court Agreements Act and the establishment of the Singapore International Commercial Court. Since ratifying the HCCH 2005 Convention in 2016, Singapore has increasingly been selected as a neutral forum in cross-border contracts, directly strengthening its legal services sector and reinforcing its reputation as a regional

legal hub. This illustrates that the strengthening of international legal instruments can be pursued in parallel with institutional and judicial development (Saladino, 2024). Meanwhile, the European Union collectively ratified the HCCH 2005 Convention and promotes cross-border recognition of judgments through an integrated legal system. The success of the Convention's implementation in Europe is evident in the harmonization of jurisdictional rules and the enforcement of judgments among member states, supported by instruments such as the Brussels I Regulation and the European Enforcement Order (Rijavec, 2023). As a result, the recognition and enforcement of foreign judgments have become faster, more efficient, and transparent. The EU's experience underscores that successful ratification requires a supporting legal infrastructure and a unified vision among legal authorities. For Indonesia, this highlights the importance of a well-coordinated regulatory system and consistent legal interoperability across all relevant institutions.

The experience of countries that have ratified the HCCH Conventions demonstrates that successful implementation depends on thorough harmonization of domestic regulations and strong institutional readiness (Juwana, 2019). Mexico, for example, has aligned its procedural legal system with the principles of the 2005 HCCH Convention without compromising constitutional values, including adjustments related to exclusive jurisdiction, the enforcement of foreign judgments, and the validity of choice of court agreements. Indonesia can pursue a similar path by revising its civil procedural laws and issuing implementing regulations through the Supreme Court and relevant ministries (Mardiyanto, 2023a). Furthermore, effective implementation requires technical preparedness of judicial and administrative institutions, such as appointing specialized judges, strengthening legal information systems, and providing professional training for legal personnel (Winanti, 2022). Therefore, regulatory reform must be accompanied by institutional capacity-building to ensure that ratification is not merely symbolic, but operational and impactful.

Ratifying the HCCH Conventions offers direct economic benefits by enhancing investor confidence and legal certainty in international business transactions. Countries that have ratified the conventions have experienced an increase in contracts selecting their national courts as the preferred forum, thereby strengthening their position in global supply chains and fostering the growth of legal and arbitration services (Meryadinata et al., 2025). For Indonesia, international legal reform represents a strategic investment that supports long-term economic competitiveness. Moreover, participation in the HCCH framework reinforces Indonesia's role in international legal forums, granting the country the right to engage in decision-making and the development of future legal instruments. Through ratification, Indonesia not only internalizes international norms but also expands its legal diplomacy and contributes to shaping a more inclusive global private law regime.

The experiences of HCCH member states clearly demonstrate that ratifying the 2005 and 2019 HCCH Conventions requires a comprehensive strategy encompassing legal reform, institutional strengthening, and political support. Indonesia has much to learn and adapt from judicial system reform and regulatory harmonization to enhancing the technical capacity of legal institutions. These lessons can serve as a foundation for developing a realistic, phased, and impactful ratification roadmap. Ultimately, Indonesia's commitment to international legal reform will not only strengthen its legal standing globally but also accelerate the transformation of its national legal system to align with the demands of international private law in an increasingly globalized world.

4. Conclusions

This study concludes that the growing complexity of Indonesia's international trade demands a more adaptive and harmonized private international legal framework. The absence of specific provisions on choice of court agreements and the enforcement of foreign judgments hinders legal certainty, while the current state of regulation, human resources, and institutional coordination remains fragmented. Comparative analysis shows

that countries that have ratified the HCCH 2005 and 2019 Conventions have achieved significant benefits, including more efficient dispute resolution, increased investor confidence, and a strengthened legal position in international relations. Therefore, ratification of these conventions is not only important but urgent. For future development, more technical and sector-specific studies are needed, such as the integration of the conventions into Indonesia's civil procedural law or empirical analyses of potential implementation barriers within the judiciary. The government is advised to develop a cross-sectoral ratification roadmap, strengthen judicial capacity, and revise relevant legislation. Furthermore, widespread dissemination to business actors, academics, and legal practitioners is essential to foster a collective understanding of the conventions' benefits and implications. With these strategic measures, ratifying the HCCH Conventions can serve as a critical milestone in Indonesia's international private law reform, advancing toward a more competitive and globally responsive legal system.

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