

China-ASEAN Criminal Justice Cooperation Based on Value Consensus in the Context of the Belt and Road Initiative*

Wen Xinming,¹ Salawati Mat Basir,² Nurul Hidayat Ab Rahman³

^{1, 2, 3} The National University of Malaysia, Selangor, Malaysia



[10.15408/jch.v14i1.50957](https://doi.org/10.15408/jch.v14i1.50957)

Abstract

Against the background of the Belt and Road Initiative (BRI) and the increasing complexity of transnational crime, criminal judicial cooperation has become an essential yet insufficiently examined aspect of China-ASEAN legal cooperation. Existing BRI scholarship has primarily focused on investment protection and commercial dispute resolution, leaving the normative foundations of criminal judicial cooperation largely underexplored. This article adopts a value-based analytical framework to examine the feasibility of criminal judicial cooperation between China and ASEAN states. Through an analysis of ASEAN criminal judicial cooperation instruments and practices, the article identifies core value orientations embedded in ASEAN mechanisms, including the prioritisation of state sovereignty and legal autonomy, a functional emphasis on public order and regional security, minimum guarantees of procedural justice, and a constrained pursuit of cooperation efficiency. These value orientations are then compared with those reflected in China's criminal justice system. The analysis demonstrates that, despite differences in legal traditions and institutional structures, China and ASEAN share a substantial overlap at the level of value prioritisation and normative bottom lines. The coexistence of diverse legal traditions, including Islamic law influences within ASEAN, further illustrates the viability of cooperation based on minimum value consensus rather than legal uniformity. Building on this finding, the article proposes a value-consensus-oriented model for China-ASEAN criminal judicial cooperation that balances effectiveness, legal diversity, and state sovereignty.

Keywords: Belt and Road Initiative; China-ASEAN Relations; Criminal Judicial Cooperation; Value Consensus; Value Orientation

* Received: January 11, 2026; revised: February 20, 2026; accepted: March 21, 2026; published: March 30, 2026.

¹ **Wen Xinming.** Faculty of Law, The National University of Malaysia, Selangor, Malaysia. P159377@siswa.ukm.edu.my, ORCID: <https://orcid.org/0009-0002-8489-0719>

² **Salawati Mat Basir.** Associate Professor, Ph. D. in Law, Associate Professor, Faculty of Law, The National University of Malaysia, Selangor, Malaysia. salawati@ukm.edu.my, ORCID: <https://orcid.org/0009-0006-2186-2314>

³ **Nurul Hidayat Ab Rahman.** Ph.D. in Law, Senior Lecturer, Faculty of Law, The National University of Malaysia, Selangor, Malaysia. nhidayat@ukm.edu.my, ORCID: <https://orcid.org/0000-0003-1008-4263>

**Corresponding Author: P159377@siswa.ukm.edu.my

A. INTRODUCTION

In 2013, during his state visits to Kazakhstan and Indonesia, President Xi Jinping of China successively proposed cooperative initiatives to jointly build the Silk Road Economic Belt and the 21st Century Maritime Silk Road. These initiatives collectively formed the systemic development vision known as the Belt and Road Initiative. Drawing upon the historical experience of the ancient Silk Road while addressing contemporary demands for international economic and regional cooperation, the initiative focuses on policy coordination, infrastructure connectivity, trade and investment facilitation, deepened financial cooperation, and enhanced people-to-people exchanges. It is dedicated to fostering mutually beneficial cooperation among nations at different stages of development and with diverse institutional frameworks. As its implementation progresses, the Belt and Road Initiative has gradually transcended its original framework centred on economic and trade cooperation, evolving into a comprehensive cooperation platform spanning Eurasia and Africa, encompassing multiple regions and featuring broad international participation.

To date, the number of countries and international organisations participating in Belt and Road-related cooperation continues to grow, while the scope of collaboration has expanded beyond traditional infrastructure development and economic exchanges to encompass energy and resource development, the digital economy, green development, and legal and institutional coordination. This demonstrates that the Belt and Road is not merely an economic cooperation initiative but has progressively evolved into a multi-tiered, multi-domain international cooperation mechanism.

From a macro perspective, the formulation and implementation of the Belt and Road Initiative addresses structural challenges arising from globalisation, including regional development imbalances, inadequate provision of international rules, and fragmentation within the global governance system. It offers a novel practical pathway towards establishing a more open, inclusive, and sustainable international cooperation order. At the national level, the initiative provides a crucial institutional platform for China to deepen its opening-up, facilitate the lawful and orderly international expansion of enterprises, and broaden the scope for foreign economic, trade, and diplomatic cooperation. From a rule-of-law perspective, while promoting transnational cooperation, the Belt and Road Initiative increasingly highlights the fundamental role of legal rules in reconciling diverse interests, regulating cross-border conduct, and mitigating cooperation risks. As cooperation domains continue to expand and the cross-border flow of factors such as personnel, capital, and technology grows

increasingly frequent, how to provide stable and predictable legal safeguards for Belt and Road development through institutionalised legal coordination and judicial cooperation mechanisms has become a critical research question requiring urgent attention.

With the ongoing advancement of the Belt and Road Initiative, economic and trade exchanges, cross-border investment, and personnel flows among participating countries have shown significant growth. While promoting regional economic development, this process has objectively amplified the scope and complexity of transnational crime. Cross-border fraud, money laundering, bribery offences, smuggling crimes, and terrorism-related criminal activities often exploit factors such as frequent cross-border capital flows, significant differences in legal systems, and inadequate coordination between law enforcement and judicial bodies. Consequently, these crimes exhibit trends of multiplicity, concealment, and chain-like development within relevant Belt and Road regions. Compared to traditional criminal law application models centred on domestic crime governance, such offences pose new challenges to existing criminal law systems and judicial mechanisms in areas including the determination of criminal elements, the exercise of criminal jurisdiction, evidence collection and application, and the enforcement of judgments.

From the perspective of criminal law's function, transnational crime governance within the Belt and Road context concerns not only the punishment of specific illegal acts but also directly relates to the stability of transnational economic cooperation, the safeguarding of investment security, and the protection of the lawful rights and interests of both domestic and foreign individuals. However, constrained by differences in criminal legislative philosophies, the formulation of offences, evidentiary rules, and procedural safeguards across nations, the criminal law of any single state often faces practical difficulties in addressing cross-border crime, including limited criminal jurisdiction, high law enforcement and judicial costs, and limited effectiveness of penalties. Against this backdrop, how to enhance collaborative governance of transnational crimes related to the Belt and Road through criminal law coordination and criminal judicial cooperation mechanisms, while respecting national criminal sovereignty and legal diversity, has become one of the core issues that cannot be avoided in the rule of law development of the Belt and Road.

Existing research on the rule of law safeguards for the Belt and Road Initiative has predominantly focused on investment protection, commercial dispute resolution, or the refinement of general judicial assistance mechanisms. Systematic analysis remains lacking regarding the normative foundations of

criminal judicial cooperation, particularly the value-based criteria upon which different jurisdictions rely when handling transnational criminal cases. In practice, a state's willingness to extradite suspects, provide judicial assistance, or recognise and enforce foreign criminal judgments is often determined not merely by formal treaty obligations, but more profoundly by the value orientations and institutional philosophies embodied in its criminal law.

Consequently, this paper endeavours to adopt a 'value consensus' perspective. By analysing existing criminal judicial cooperation treaties and relevant legal documents within ASEAN, it seeks to extract core value criteria applied in handling criminal cases and conduct comparative research with the value orientations in China's criminal judicial practice. Building upon this foundation, the paper further draws upon the criminal law value structures of ASEAN nations influenced by Islamic legal traditions, such as Malaysia and Indonesia. It demonstrates that within a regional framework characterised by pluralistic value foundations, establishing an operational criminal judicial cooperation mechanism through the identification of minimal common value standards holds practical feasibility both theoretically and in practice. This paper aims to propose a path for criminal justice cooperation based on value consensus that is acceptable to both China and ASEAN countries, while respecting legal diversity and national sovereignty.

B. METHODS

Based on the aforementioned theoretical framework, this paper adopts a research methodology centred on normative textual analysis, supplemented by comparative legal observation. Specifically, it first systematically reviews existing criminal judicial cooperation treaties, regional conventions, and relevant legal documents within ASEAN, focusing on provisions concerning criminal jurisdiction, mutual legal assistance, extradition, and procedural safeguards. From these, it extracts value criteria reflecting cooperative orientations.

Building upon this foundation, the paper will conduct a comparative analysis of these value standards against the value orientations manifested in China's criminal judicial practice, thereby assessing the normative intersections between the two parties in handling criminal cases. Simultaneously, acknowledging the diversity of legal traditions among ASEAN member states, the institutional practices of countries such as Malaysia and Indonesia serve as supplementary observation subjects. This demonstrates that within a regional framework characterised by pluralistic value foundations, establishing an

operational criminal judicial cooperation mechanism through identifying minimal common value standards is feasible both theoretically and practically. Through this analysis, this paper aims to provide a normative foundation for establishing a China-ASEAN criminal justice cooperation mechanism grounded in shared values, thereby laying the analytical groundwork for subsequent concrete institutional design.

C. RESULTS AND DISCUSSION

1. Concept of Value-Based Judicial Cooperation Mechanism

a. Concept of 'value' in Criminal Law

In criminal law theory, 'value' typically denotes the fundamental objectives and priorities pursued by the criminal justice system at the normative level and realised through specific institutional arrangements. These values transcend abstract moral judgements or political declarations, being transformed into operational criteria for legislative, judicial, and policy decision-making through institutional mechanisms such as the principle of legality, proportionality, procedural safeguards, and restraint in sentencing. In this sense, criminal law serves not merely as an instrument of governance but as a legal form that defines and constrains the state's punitive power.

Within the Chinese criminal law theoretical framework, research indicates that one fundamental mission of criminal law lies in clarifying the conditions and boundaries under which the state may exercise its punitive power. This prevents arbitrary expansion of punitive authority and establishes institutional safeguards for citizens' rights and freedoms. Criminal law values manifest precisely through a series of principles and rules, embodying the normative choices made by the state in balancing the punishment of crime, the maintenance of social order, and the protection of individual rights. Thus, criminal law values do not represent a singular objective but rather an institutionalised outcome resulting from the weighing of multiple interests.

Understanding criminal law values as 'institutionalised priorities' holds particular significance for transnational criminal judicial cooperation. When addressing issues such as extradition, mutual legal assistance in criminal matters, or the recognition and enforcement of foreign criminal judgments, states must frequently weigh multiple considerations: the public interest in combating cross-border crime, the protection of fundamental individual rights, judicial efficiency, and national criminal sovereignty. Such determinations are grounded precisely

in the relatively stable hierarchy of values and baseline standards embedded within their criminal legal systems.

b. 'Value-Based' Criteria in Criminal Judicial Cooperation

In transnational criminal justice cooperation, interactions between states are not confined solely to the establishment of criminal facts or procedural coordination. They are inevitably shaped by the underlying value orientations and institutional philosophies embedded within each nation's criminal legal system. Whether deciding to extradite suspects, provide evidentiary assistance, or recognise and enforce foreign criminal judgments, such determinations are seldom purely technical legal assessments. They profoundly reflect the differing value criteria applied by distinct jurisdictions in handling criminal cases.

Within the analytical framework of this paper, 'value-based criteria' does not denote moral judgements or religious beliefs in the general sense. Rather, it refers to the operational institutional values that states prioritise when multiple systemic objectives conflict in criminal judicial cooperation practice. Such values are typically embodied in criminal legislative structures, criminal procedural rules, and policies governing external judicial cooperation. For instance, in handling transnational criminal cases, states may need to balance public security against individual rights, judicial efficiency against procedural safeguards, and international cooperation obligations against national sovereignty. The prioritisation of these values across different jurisdictions often directly influences their attitudes, scope, and conditions for criminal judicial cooperation.

Therefore, understanding criminal judicial cooperation through the lens of value-based balancing criteria helps reveal the underlying normative divergences behind seemingly 'technical' obstacles to cooperation. It also provides a more explanatory analytical perspective for interpreting why different states adopt divergent cooperative stances in similar cases.

c. Value Consensus as the Normative Foundation for Criminal Judicial Cooperation

In theory, transnational criminal judicial cooperation may be achieved through multiple avenues, including the harmonisation of substantive criminal law, the coordination of procedural rules, and the establishment of mutual recognition mechanisms. However, within regional frameworks characterised by highly diverse legal traditions, political systems, and socio-cultural contexts,

comprehensive criminal law harmonisation often lacks a realistic basis and readily provokes sensitive concerns regarding national criminal sovereignty. By contrast, advancing criminal justice cooperation grounded in value consensus offers a more flexible and acceptable normative pathway.

This ‘value consensus’ does not demand high convergence in criminal law philosophies among participating states, nor does it imply homogenising their legal systems. Rather, it entails identifying and affirming a set of minimal value standards acceptable to all parties in handling transnational criminal cases, while preserving institutional differences. Such consensus typically manifests not as uniform substantive rules, but as shared recognition of fundamental principles. These include the common condemnation of serious transnational crimes, minimum safeguards for procedural fairness, and mutual respect for national criminal sovereignty and judicial autonomy.

Comparative legal experience demonstrates that many regional criminal justice cooperation mechanisms operate not on the basis of fully harmonised legal systems, but rather through reliance on such minimal value consensus. In this sense, value consensus does not serve as an instrument to diminish legal diversity, but rather functions as a normative bridge that reduces friction in cooperation and enhances institutional predictability across diverse legal jurisdictions.

d. The ‘Value’ in Islamic Law from a Comparative Perspective

From a comparative perspective, similar value constraints are not confined solely to secular criminal law systems. Within the Islamic legal tradition, the legitimacy of criminal rules is likewise grounded in a distinct set of value objectives, known as the ‘Objectives of Islamic Law’ (Maqāṣid al-Sharī‘a). This theory emphasises that criminal law norms should serve to protect fundamental interests such as life, reason, property, and social order. It achieves this through strict evidentiary requirements, proportionality in the application of punishment, and limitations on the state’s punitive power, thereby regulating the exercise of punitive authority.

Although the value sources of Islamic law bear religious connotations, the value orientation manifested in its criminal judicial practice does not fundamentally conflict with the principles of procedural justice, proportionality, and restraint in sentencing emphasised by modern criminal law. Principles such as ‘exoneration in cases of doubt,’ the restrained exercise of sentencing discretion, and the prohibition of unjust punishment all reflect the institutional logic of

constraining punitive authority. This comparative legal experience demonstrates that even within legal systems characterised by highly diverse value foundations and normative origins, identifying and affirming operational common value standards can still provide a stable normative fulcrum for criminal judicial cooperation.

For a region as legally and culturally diverse as ASEAN, the participation of countries like Malaysia and Indonesia, which bear significant influence from Islamic legal traditions, in regional criminal justice cooperation mechanisms while maintaining their own value foundations demonstrates that advancing judicial cooperation through minimal value consensus remains institutionally feasible within a context of diverse value origins.

2. The Institutional Framework and Value-Based Criteria for Asean Criminal Justice Cooperation

a. The Legal Framework and Evolution of ASEAN Criminal Justice Cooperation

ASEAN criminal justice cooperation has not been developed on the basis of a unified criminal law system or supranational power structure. Instead, it has gradually evolved into a regional cooperation model within the context of member states' highly independent sovereignty and significant differences in legal traditions and political systems. Since its establishment in 1967, ASEAN cooperation in security and law enforcement has consistently adhered to the fundamental principles of 'consensus', 'non-interference in internal affairs', and 'gradual advancement'. This organizational culture, known as the 'ASEAN Way', has profoundly influenced the formation and evolution of its criminal justice cooperation legal framework.

Historically, the immediate impetus for ASEAN's early criminal justice cooperation initiatives stemmed not from institutional integration but from addressing security threats to regional stability, such as transnational drug trafficking, smuggling, and terrorism. The 1976 Treaty of Amity and Cooperation and Declaration of Concord explicitly proposed exploring regional judicial cooperation and extradition mechanisms for the first time, formally integrating criminal justice cooperation into ASEAN's regional security agenda. For a considerable period thereafter, ASEAN cooperation in criminal justice primarily relied on non-binding instruments such as political declarations, action plans, and ministerial meetings, with legal institutional development lagging behind.

Entering the 21st century, as transnational crime patterns grew more complex and economic-trade activities and personnel flows among member states significantly increased, ASEAN began gradually advancing the institutionalization of criminal justice cooperation. The 2004 ASEAN Agreement on Mutual Legal Assistance in Criminal Matters became the first multilateral legal instrument specifically regulating mutual legal assistance in criminal matters among ASEAN member states. It aimed to enhance member states' capabilities in preventing, investigating, and prosecuting crimes through procedural assistance such as evidence collection, witness questioning, document service, and asset seizure. In 2019, this agreement was upgraded to the formal ASEAN Treaty on Mutual Legal Assistance in Criminal Matters (MLAT) and incorporated into the ASEAN legal instrument system, marking the formal entry of ASEAN criminal justice cooperation into an institutionalized phase.

It should be noted that even with this increased institutionalization, the legal framework for ASEAN criminal justice cooperation retains distinct characteristics of "limited binding force." Unlike the European Union's approach of leveraging supranational institutions to promote criminal law harmonization and judicial mutual recognition, ASEAN has consistently avoided establishing directly binding regional authorities in criminal matters, instead emphasizing member states' autonomy in specific cooperative initiatives. The United Nations Office on Drugs and Crime has also noted that criminal justice cooperation in the ASEAN region retains considerable ad hoc and informal characteristics, with its effectiveness highly dependent on political mutual trust and willingness to consult among member states.

This institutional orientation is particularly evident in the practices of extradition and mutual legal assistance in criminal matters. Although ASEAN established a regional mutual legal assistance treaty in 2004, it has yet to develop a unified inter-regional extradition treaty. Only in 2018 did it introduce the ASEAN Treaty on Extradition for member states to reference in bilateral negotiations. This approach reflects ASEAN's high degree of caution regarding national sovereignty and legal autonomy when dealing with highly sensitive issues such as personal liberty and the transfer of penal jurisdiction.

From a structural perspective, ASEAN's criminal justice cooperation framework exhibits several distinct characteristics: First, it advances through parallel multilateral treaties and policy documents, yet overall legal binding force remains limited. Second, while mutual legal assistance forms the core of cooperation, mechanisms like extradition and recognition of criminal judgments have developed relatively slowly. Third, institutional designs commonly

incorporate broad grounds for refusal and reservation clauses to ensure member states retain ultimate control over criminal matters. Fourth, its operational practice relies heavily on informal communication and political coordination mechanisms. These characteristics do not simply reflect institutional shortcomings but represent ASEAN's institutional choices for feasible cooperation within the reality of coexisting diverse legal cultures and sovereignty concepts.

It is within this institutional context that ASEAN criminal justice cooperation has gradually developed a distinct logic of collaboration, diverging from the highly integrated regional models. Rather than pursuing unified criminal law rules, it maintains the basic functioning of regional criminal justice cooperation through procedural assistance and minimal institutional arrangements. This logic provides the necessary institutional foundation for subsequent analysis of the underlying value orientations and normative expressions embedded within ASEAN's criminal justice cooperation.

b. Core Values and Their Normative Expression in ASEAN Criminal Justice Cooperation

ASEAN criminal justice cooperation is not a value-neutral technical arrangement. Its institutional designs in areas such as extradition, mutual legal assistance in criminal matters, anti-money laundering, and combating transnational cybercrime all reflect a set of stable value criteria. These values are not manifested as unified criminal law concepts or abstract principles, but are instead institutionally embedded within the criminal justice cooperation mechanism through the structural arrangement of treaty provisions, the restrictive formulation of cooperative obligations, and the establishment of exception clauses.

1) The Primacy of National Sovereignty and Legal Autonomy

From the overall structure of multilateral and bilateral criminal justice cooperation documents, national sovereignty and legal autonomy constitute the most fundamental value orientation in ASEAN criminal justice cooperation. Whether in the areas of mutual legal assistance in criminal matters, extradition, or anti-money laundering and transnational cybercrime governance, member states retain the authority to conduct substantive reviews and make final determinations on requests for assistance. Relevant studies indicate that ASEAN member states generally treat the potential harm to their constitutional principles, fundamental legal systems, or national security as a key criterion for

determining whether to provide mutual legal assistance in criminal matters. This stance demonstrates a high degree of consistency in practice.

This value orientation is particularly evident in extradition regimes. Most ASEAN nations explicitly stipulate rules through bilateral treaties or domestic legislation, such as non-extradition of their own citizens, non-extradition for political offenses, and conditional extradition for capital cases. The essence of these provisions is not to deny the importance of criminal cooperation, but to institutionalize safeguards ensuring that the state's ultimate control over the exercise of penal authority remains uncompromised. Therefore, ASEAN criminal judicial cooperation is not aimed at institutional unification or legal convergence, but rather constitutes "limited cooperation" conducted on the premise of preserving sovereignty.

2) Functional Orientation of Public Order and Regional Security

At the level of value objectives, ASEAN criminal justice cooperation exhibits a pronounced orientation towards public order and regional security. Since its inception, ASEAN's fundamental purpose in advancing criminal justice cooperation has been to address drug-related crime, terrorism, organised crime, and the rapidly evolving transnational cybercrime and money laundering offences of recent years. This functional positioning dictates that its criminal justice cooperation does not seek to cover all types of crime, but rather prioritises serious criminal activities posing a tangible threat to regional stability.

In the domains of anti-money laundering and cybercrime governance, this value orientation further manifests as the selective adoption of international standards. For instance, while ASEAN member states generally participate in mechanisms related to the Financial Action Task Force (FATF), they often adapt international rules for domestic application within their national legislations and criminal justice cooperation frameworks, taking into account their respective economic structures and societal risk tolerance. This approach indicates that ASEAN places greater emphasis on the 'functional effectiveness' of criminal justice cooperation rather than formal, absolute compliance with rules.

3) Minimum Safeguards for Procedural Fairness

ASEAN's criminal judicial cooperation primarily focuses on procedural fairness at the level of 'minimum guarantees'. Relevant treaties typically stipulate in principle that the execution of assistance requests must comply with the domestic legal procedures of the requested state and must not manifestly prejudice the fundamental rights of the parties involved. However, they do not

establish highly uniform provisions regarding rules of evidence, the content of the right to defence, or judicial review procedures.

This institutional choice does not signify neglect of procedural justice, but rather reflects a pragmatic consensus formed within ASEAN's context of legal diversity. Research indicates that significant disparities exist among ASEAN member states in terms of legal traditions, judicial structures, and religious-cultural backgrounds. Overly detailed procedural rights standards at the regional level could potentially undermine the feasibility of cooperation. Therefore, by establishing minimum thresholds for procedural justice, ASEAN maintains operational cooperation while respecting these differences.

4) Practical Considerations Regarding Cooperative Efficiency and Institutional Feasibility

Beyond value-based principles, operational efficiency and institutional feasibility constitute crucial practical considerations in ASEAN criminal justice cooperation. Through establishing central authorities, clarifying formal requirements for assistance requests, and advancing information-sharing mechanisms, ASEAN has to some extent reduced institutional communication costs in handling transnational criminal cases. This is particularly evident in cooperative efforts against cross-border telecommunications fraud and financial crimes.

It should be noted, however, that efficiency is not prioritised above sovereignty and procedural safeguards, but remains structurally constrained by the aforementioned value orientation. This 'constrained efficiency perspective' imbues ASEAN criminal justice cooperation with flexibility rather than compulsion in practice, explaining its current reliance on negotiation and case-by-case handling in complex transnational cases.

5) The Formation of Minimum Value-Based and Its Significance

Overall, ASEAN criminal justice cooperation is not built upon a unified criminal law value system or legal culture. Instead, it has institutionalized a minimal consensus of values: premised on national sovereignty and legal autonomy, centered on maintaining public order and regional security, and pursuing cooperative efficiency while ensuring minimum safeguards for procedural justice. This value structure enables ASEAN to sustain continuity in criminal justice cooperation within a highly diverse legal environment.

More significantly, this value consensus exhibits distinct "interoperability." It does not rely on specific religions or ideologies but is

grounded in a functional value hierarchy, thereby providing normative space for extra-regional countries to participate in or align with ASEAN's criminal justice cooperation mechanisms. These characteristic lays a crucial institutional and theoretical foundation for exploring the establishment of a value-based criminal justice cooperation mechanism between China and ASEAN within the context of the Belt and Road Initiative.

3. Value-Based Criteria and Their Normative Expression in China's Criminal Justice System

a. Core Value Orientations in China's Criminal Justice System

Before exploring the establishment of a criminal justice cooperation mechanism based on shared values between China and ASEAN, it is necessary to conduct a normative review of the value criteria embodied within China's criminal justice system. Unlike analytical approaches focused solely on institutional design or individual legal rules, this paper does not concentrate on specific criminal offenses or procedural details. Instead, it examines the fundamental value orientations guiding China's criminal justice system in addressing criminal issues and their institutionalized expressions. This value-based analysis facilitates an assessment of whether substantive common ground exists between China's criminal justice philosophy and the value structures embodied in ASEAN criminal justice cooperation.

1) Priority of Maintaining Social Order and Public Safety

From the perspective of its overall functional positioning, China's criminal justice system has long prioritized maintaining social order and public security as its primary objective. This value orientation permeates criminal legislation, criminal policy, and judicial practice, manifesting within the criminal law system through the targeted regulation of acts that severely endanger social security, public order, and national interests. This functional orientation is particularly pronounced in addressing transnational crimes. For instance, the sustained high-pressure crackdown on cross-border telecommunications fraud, money laundering, terrorism-related offenses, and organized crime demonstrates criminal justice's heightened sensitivity to public security risks.

It should be noted that the emphasis on social order and public security does not imply that criminal justice is reduced to a singular governance tool. On the contrary, this value objective is typically integrated with assessments of the social harmfulness of crime, forming a crucial consideration in criminal policy formulation and sentencing. In transnational crime governance, this value orientation provides a practical impetus for China's active participation in

international criminal justice cooperation and lays the policy foundation for its efforts to promote cooperative mechanisms at the regional level.

2) The Institutional Requirements for Legally Restricting the Power to Impose Punishment and Procedural Normativity

Whilst emphasising its role in safeguarding societal security, China's criminal justice system also places significant importance on legally restricting the state's punitive authority. The Criminal Law imposes clear constraints on the conditions for invoking punitive power, its scope of application, and operational mechanisms through fundamental principles such as the principle of legality, the principle of individual responsibility, and the principle of proportionality. The Criminal Procedure Law, meanwhile, ensures that investigative, prosecutorial, and adjudicative activities proceed within statutory frameworks through procedural regulations. These institutionalised constraints on punitive authority constitute a vital component of China's criminal justice value structure.

In judicial practice, procedural normativity manifests not only through adherence to statutory procedures but also through emphasis on evidentiary rules, safeguarding defence rights, and defining the boundaries of judicial discretion. In transnational criminal judicial cooperation scenarios, when addressing extradition requests, mutual legal assistance, or the use of evidence obtained abroad, China typically emphasises that cooperative actions must comply with domestic legal procedures and fundamental principles of the rule of law. This stance bears significant similarity at the value level to the orientation of 'minimum guarantees of procedural fairness' reflected in ASEAN criminal judicial cooperation.

3) The High Priority Placed on National Sovereignty and Criminal Jurisdiction

Similar to ASEAN member states, China has consistently regarded national sovereignty and criminal jurisdiction as core values that cannot be readily relinquished in the field of criminal justice. Whether establishing the principles of territorial jurisdiction, personal jurisdiction, and protective jurisdiction in criminal legislation, or emphasising the principle of reciprocity and the primacy of domestic law in external criminal judicial cooperation, China maintains substantive control over criminal matters.

In the practice of transnational crime governance, this value orientation manifests as a cautious approach to extradition conditions, the scope of mutual legal assistance, and the recognition and enforcement of criminal judgments. China typically advances criminal judicial cooperation through bilateral treaties

rather than multilateral uniform mechanisms, incorporating necessary reservation clauses and grounds for refusal within these treaties to ensure cooperation does not undermine national sovereignty, security, or fundamental legal systems. This approach does not negate the importance of international cooperation, but rather reflects the prioritisation of sovereignty and legal autonomy within its value hierarchy.

4) Cooperative Efficiency and Pragmatic Orientation

In the practice of criminal judicial cooperation, China has demonstrated a pronounced pragmatic orientation, pursuing cooperative efficiency and tangible outcomes without compromising fundamental values. Through establishing central agency liaison mechanisms, advancing cooperation in specialised crime areas, and enhancing information sharing between law enforcement and judicial bodies, China has accumulated considerable cooperative experience in several transnational crime domains. This practice-oriented approach ensures that criminal justice cooperation transcends mere treaty commitments, yielding tangible results in specific case handling.

It is noteworthy that this pursuit of efficiency remains consistently constrained by the aforementioned value orientation. Cooperative efficiency is not an independent objective that supersedes procedural norms or sovereign considerations, but rather a pragmatic factor embedded within a comprehensive value assessment. This 'constrained efficiency perspective' has enabled China's criminal justice cooperation to maintain a relatively robust equilibrium in both institutional design and practical implementation.

b. Comparative Analysis Between China and ASEAN

Having previously examined the value orientations within ASEAN's criminal justice cooperation and the value criteria embodied in China's criminal justice system, we may now conduct a comparative analysis to assess whether a shared value foundation exists to underpin criminal justice cooperation amidst diverse legal cultures and institutional frameworks. Unlike analytical approaches focused on uniform rules or institutional transplantation, this paper does not prioritise examining the consistency between China and ASEAN in criminal legislation or procedural details. Instead, it centres on whether both parties adopt similar perspectives in terms of value prioritisation and baseline judgments when handling transnational criminal cases.

1) High Degree of Consistency on National Sovereignty and Criminal Autonomy

From a value structure perspective, China and ASEAN demonstrate a high degree of consistency on issues of national sovereignty and criminal autonomy. Both China's criminal justice system and ASEAN's criminal justice cooperation framework regard the state's ultimate control over criminal matters as an unshakeable fundamental value. In highly sensitive domains such as extradition, mutual legal assistance in criminal matters, and the recognition and enforcement of criminal judgments, both sides emphasise that cooperation must not undermine their respective constitutional principles, fundamental legal systems, or national security.

This shared value manifests institutionally through criminal justice cooperation primarily conducted via bilateral treaties or limited multilateral arrangements, commonly incorporating grounds for refusal and reservation clauses to safeguard substantive national discretion in specific cases. Consequently, no fundamental 'sovereignty versus cooperation' conflict exists between China and ASEAN; divergences primarily concern the depth of cooperation and institutional mechanisms rather than core value positions.

2) Functional Consensus Centred on Public Order and Social Security

Regarding the functional objectives of criminal justice cooperation, China and ASEAN demonstrate significant convergence in values. Both parties regard transnational crime governance as a vital means of safeguarding social order, public security, and regional stability. In practice, they prioritise concentrating cooperative resources on crime types posing immediate threats to public security, such as cross-border telecommunications fraud, money laundering, terrorism, organised crime, and narcotics offences.

This functional consensus implies that China and ASEAN need not resolve all value differences beforehand in criminal justice cooperation. Instead, they can progressively advance cooperative mechanisms by focusing on criminal domains where there is strong regional consensus regarding their impact on stability and security. In this sense, criminal justice cooperation is not the outcome of abstract value-based bargaining, but rather grounded in a shared recognition of tangible risks. This cooperation logic, oriented towards public order, provides a practical foundation for establishing stable cooperative relationships between the two sides in practice.

3) Minimum Standards for Procedural Fairness as a Common Floor

Regarding procedural fairness, while China and ASEAN exhibit differences in institutional design and the specifics of rights safeguards, no irreconcilable opposition exists at the level of fundamental values. Both parties emphasise that criminal judicial activities must be conducted within statutory procedures, opposing arbitrary detention, unlawful evidence collection, or judicial conduct manifestly violating basic procedural justice. In transnational criminal judicial cooperation, this value orientation typically manifests as follows: cooperation requests must comply with the basic procedural requirements of the requested state's law and must not manifestly prejudice the legitimate rights and interests of the parties concerned.

It is important to emphasise that the consensus between China and ASEAN on procedural fairness manifests more as a 'minimum guarantee standard' rather than a highly detailed or rights-maximising model. This characteristic affords greater institutional flexibility in their criminal judicial cooperation and reduces the risk of cooperation being impeded by divergent procedural standards. From the perspective of shared values, this 'bottom-line procedural justice' provides a practical and feasible normative foundation for cooperation across multiple jurisdictions.

4) 'Bounded Consensus' on Cooperative Efficiency

On the issue of cooperative efficiency, China and ASEAN demonstrate a degree of shared values. Both recognise that high procedural costs and communication barriers in transnational crime governance severely undermine the practical effectiveness of criminal judicial cooperation. Consequently, in institutional design and operational practice, both sides enhance cooperative efficiency through establishing central authorities, advancing information sharing, and undertaking specialised cooperation initiatives.

However, neither side regards efficiency as an independent value that can override sovereignty and procedural safeguards. Cooperation efficiency remains structurally constrained by national sovereignty, legal autonomy, and the fundamental principles of procedural justice. This 'constrained view of efficiency' creates a substantive convergence in value prioritisation between China and ASEAN, providing a crucial foundation for establishing cooperative mechanisms grounded in shared values.

5) The Existence of Value Differences and the Significance of Value Consensus

Although China and ASEAN share common ground on numerous core values, it must be acknowledged that significant differences persist in their

criminal justice philosophies and institutional frameworks. For instance, ASEAN member states exhibit considerable diversity in religious culture, legal traditions, and political systems, whereas China possesses a relatively unified criminal law system and a more centralised judicial authority structure. These disparities may lead to differing interpretations of certain procedural issues or penal policies during the handling of specific cases.

However, from the perspective of shared values, such differences need not inherently constitute obstacles to cooperation. On the contrary, provided both sides can establish fundamental consensus on core values and priority sequencing, institutional divergences themselves can be accommodated through treaty design, soft law coordination, and case-by-case consultation. Thus, the existence of value differences does not negate judicial cooperation; rather, it underscores the importance of institutional design grounded in shared values.

Among ASEAN member states, one of the most pronounced manifestations of value divergence centres on the influence of Islamic legal traditions within the criminal justice systems of certain nations. Member states such as Malaysia and Indonesia have, to varying degrees both historically and in contemporary practice, incorporated Islamic legal principles concerning justice, fairness, social order, and restraint in sentencing into their penal systems. While this value source possesses formal religious attributes, it is typically translated through secular legislation and procedural rules in criminal justice practice, thus not constituting a direct institutional obstacle to regional cooperation mechanisms.

Functionally, Islamic law does not prioritise expanding state penal authority. Instead, it imposes value-based constraints on the exercise of penal power by emphasising strict conditions for punishment application, proportionality, and restrictions on undue punishment. For instance, the principle of ‘presumption of innocence’, restraint in discretionary sentencing, and protection of social order and fundamental interests all reflect a value-oriented approach to criminal law. Functionally, this value structure does not fundamentally conflict with modern criminal law’s emphasis on procedural justice, restraint in punishment, and safeguarding public security.

More significantly, it is precisely this internally diverse value foundation that has enabled ASEAN to develop an institutional approach to criminal justice cooperation characterised by minimal consensus on values. In other words, the functioning of ASEAN criminal justice cooperation within a context where civil law systems, common law traditions, and Islamic law influences coexist does not rely on value uniformity, but rather on the identification and respect for an

operational baseline of values. This fact conversely demonstrates that within the Belt and Road framework, China and ASEAN may establish stable criminal justice cooperation mechanisms through the institutionalised expression of value consensus, despite divergences in value origins and legal traditions.

4. Establishing a China-ASEAN Criminal Justice Cooperation Mechanism Based on Value Consensus

Building upon the preceding argument that China and ASEAN have established a minimum consensus on values within the criminal justice domain, the critical next step lies in how to institutionalise this consensus through systemic design, thereby expressing and applying it to the handling of specific transnational criminal cases. Unlike approaches pursuing uniform criminal law or institutional homogeneity, a cooperation mechanism grounded in shared values emphasises the institutionalised development of criminal justice collaboration through incremental, flexible, and operational means, while respecting legal diversity and national criminal sovereignty.

a. Designing Bilateral and Regional Treaties Centred on Value-Relative Clauses

In the current phase of China-ASEAN criminal judicial cooperation, bilateral treaties remain the most practically viable institutional vehicle. Cooperation mechanisms grounded in shared values do not necessitate highly uniform provisions on substantive criminal law or procedural rules within treaties. Instead, they should incorporate explicit value clauses to codify the core values recognised by both parties in criminal judicial cooperation.

Specifically, within extradition treaties, mutual legal assistance treaties, or relevant supplementary protocols, the following principles may be articulated through foundational clauses: cooperation shall be premised upon respect for national sovereignty and legal autonomy; its purpose lies in safeguarding public order and societal security; procedures shall comply with the fundamental legal requirements of the requested State while protecting the basic lawful rights and interests of individuals; and implementation must balance efficiency with legitimacy. While such value clauses do not directly prescribe operational details, they provide a shared normative framework for subsequent treaty interpretation and practical implementation.

Compared to the direct transplantation of specific rules, this treaty design approach centred on value clauses is more conducive to gaining acceptance

among member states in contexts of significant legal system divergence. It also helps strengthen the legitimacy of cooperative mechanisms within domestic legal frameworks.

b. Refining Operational Standards for Value Consensus through Soft Law Mechanisms

Beyond formal treaties, soft law mechanisms serve an irreplaceable function in criminal judicial cooperation grounded in shared values. Given the differences between China and ASEAN in legal traditions, judicial structures, and procedural details, refining value consensus at the operational level through non-legally binding cooperative documents can enhance the predictability and consistency of cooperation without triggering sovereignty sensitivities.

Specifically, consideration may be given to developing China-ASEAN criminal justice cooperation guidelines, best practice documents or joint operational manuals. These could clarify value assessment criteria for specific matters such as extradition request reviews, evidence assistance, and asset freezing and return. For instance, in cooperation requests involving restrictions on personal liberty, the focus of procedural scrutiny should be clarified; in cases posing significant public security risks, the priority of cooperation should be emphasised; and where institutional differences exist, recommended pathways for consultative resolution should be proposed. Through such approaches, abstract shared values can be progressively transformed into operational cooperation norms.

c. Advancing the Gradual Establishment of Cooperation Mechanisms by Sector

Criminal justice cooperation mechanisms grounded in shared values should adopt a phased, sector-specific approach. Given the high degree of alignment between China and ASEAN in perceiving public security risks, cooperation mechanisms may prioritise areas such as cross-border telecommunications fraud, money laundering, terrorist financing, and organised crime. These criminal activities not only pose immediate threats to regional stability but also lend themselves more readily to consensus-building on fundamental values.

In terms of specific mechanism design, cooperation could initially focus on areas requiring relatively lower intensity, such as mutual legal assistance in criminal matters, exchange of evidence, and asset recovery. This would gradually

build a foundation of mutual trust, with higher levels of institutional alignment explored subsequently based on the effectiveness of such cooperation. Advancing through sector-specific approaches helps mitigate institutional friction while preventing the dilution of the mechanism's practical efficacy that might result from overly broad cooperation scopes.

d. Exploring Limited Mutual Recognition Mechanisms While Respecting Sovereignty

In areas where value consensus is relatively solid and cooperative practices are well-established, limited mutual recognition mechanisms may be explored to further enhance the efficiency of criminal judicial cooperation. It must be emphasised that the term 'mutual recognition' here does not denote comprehensive acceptance of criminal judgments or law enforcement decisions, but rather refers to the principled respect for the procedural legitimacy or factual basis of the other party's judicial actions under specific matters and conditions.

For instance, in matters of evidence assistance or asset freezing, treaties or soft law arrangements could reduce the scope of duplicate reviews. Regarding extradition or the transfer of sentenced persons, certain procedural steps could be streamlined provided fundamental values are upheld. Through such 'limited mutual recognition,' shared values are translated into institutional trust, which in turn reinforces the stability of cooperative mechanisms.

e. Institutionalised Dialogue and Capacity Building as Safeguards for Value Consensus

Finally, a criminal justice cooperation mechanism grounded in value consensus cannot function without sustained institutionalised dialogue and capacity-building support. Regular exchange programmes for judges, prosecutors and law enforcement officers, coupled with joint training mechanisms and case study platforms, foster a shared understanding of value consensus among different jurisdictions when handling specific cases.

Such institutionalised dialogue not only mitigates misunderstandings and friction in cooperation but also enables the practical refinement and enhancement of existing cooperative mechanisms. This dynamic interaction thereby consolidates and advances the shared value consensus.

f. Risks, Limitations and Regulatory Safeguards of a Value-Based Consensus Mechanism for Criminal Justice Cooperation

Although establishing a China-ASEAN criminal justice cooperation mechanism grounded in shared values holds practical feasibility at the normative level, its operation remains constrained by several structural risks and institutional limitations. Firstly, criminal justice cooperation profoundly involves the external extension of a state's penal authority. The inherent sensitivity of sovereignty dictates that any cooperative mechanism must be predicated upon state consent and the retention of substantive discretionary powers; otherwise, it would struggle to secure sustained political and legal backing. Secondly, even with minimal consensus on core values, divergent interpretations of values such as procedural fairness and public security may persist across different jurisdictions. Without institutionalised coordination mechanisms, such value consensus risks translating into normative uncertainty in practice. Thirdly, disparities in judicial capacity and resource allocation between China and ASEAN member states may generate asymmetries in cooperation, thereby undermining the mechanism's long-term stability. Moreover, an overly institutionalised cooperative design may diminish the mechanism's flexibility in handling complex cases, contradicting the incremental objectives emphasised by the value-based consensus approach. Given these considerations, the effective operation of a value-based consensus criminal justice cooperation mechanism hinges on establishing a normative safeguard system centred on procedural transparency and mutual trust. This should be achieved through reservation clauses, soft-law coordination, capacity-building, and sustained institutional dialogue, thereby ensuring stable cooperation while respecting sovereignty and legal diversity.

D. CONCLUSION

Against the backdrop of deepening Belt and Road cooperation and increasingly complex transnational criminal patterns, criminal judicial cooperation has become an unavoidable priority in China-ASEAN legal collaboration. Compared to investment dispute resolution or commercial legal cooperation, criminal judicial cooperation involves the direct exercise of state penal authority, restrictions on personal liberty, and the boundaries of criminal sovereignty, rendering its institutional framework subject to heightened political sensitivity and legal complexity. How to enhance the predictability and collaborative efficiency of handling transnational criminal cases while respecting

legal diversity and national sovereignty constitutes a key challenge in the rule of law development of the Belt and Road Initiative.

This paper undertakes a systematic analysis of the normative foundations for China-ASEAN criminal judicial cooperation from the perspective of 'value consensus'. By examining the ASEAN Convention on Mutual Legal Assistance in Criminal Matters and related institutional practices, it distills the core value orientations embedded within its cooperative mechanisms: prioritising the protection of national sovereignty and legal autonomy; pursuing functional objectives oriented towards public order and social security; ensuring minimum safeguards for procedural fairness; and making pragmatic considerations for cooperative efficiency. Building upon this, the paper further examines the value criteria reflected within China's criminal justice system, noting that China similarly emphasises sovereign control, public security, procedural regularity, and constrained cooperative efficiency in its criminal justice practices.

Comparative analysis reveals that despite significant differences between China and ASEAN in legal traditions, institutional structures, and value origins, both sides have developed a practically significant convergence in their value hierarchies and baseline assessments within the criminal justice domain. This value consensus is not founded upon unified criminal law or institutional homogeneity, but rather constitutes a highly functional normative structure characterised by minimal consensus. Particularly within ASEAN, where civil law systems, common law traditions, and Islamic law influences coexist, the fact that criminal justice cooperation can still operate based on this value consensus further demonstrates that diverse value origins do not necessarily constitute institutional barriers to judicial cooperation.

Building upon this foundation, this paper proposes that China-ASEAN criminal judicial cooperation mechanisms should be constructed by leveraging value consensus as a normative fulcrum. This should be achieved through value clauses in treaties, operational guidance via soft law mechanisms, sector-specific incremental cooperation, and limited mutual recognition arrangements. Concurrently, this paper emphasises that a value-based cooperation pathway is not a panacea. Its effective operation requires full recognition of sovereignty sensitivities, divergent value interpretations, capacity asymmetries, and risks of excessive institutionalisation. It must be safeguarded through procedural transparency, institutionalised dialogue, and capacity-building measures.

Overall, this research demonstrates that within the Belt and Road framework, criminal judicial cooperation between China and ASEAN need not be predicated on legal unification nor pursue a highly integrated institutional

model. Instead, by identifying and institutionalising minimal value consensus, the stability and operational feasibility of criminal justice cooperation can be progressively enhanced while respecting legal diversity and national sovereignty. This value-consensus-oriented approach not only offers normative possibilities for China-ASEAN criminal justice collaboration but also provides a reference-worthy analytical framework for constructing regional criminal justice cooperation mechanisms within a multi-jurisdictional context.

REFERENCES

- Afzaal, M. (2022). China's Belt and Road Initiative: challenges, doubts and legal implications: China's maritime Silk Road Initiative and Southeast Asia: dilemmas, doubts, and determination, edited by Jean-Marc F. Blanchard, London, Palgrave Macmillan, 2019, xviii+ 258 pp., RRPE 60.65 (paperback), ISBN 978-9-8132-9274-1. *Asia Pacific Business Review*, 28(2), 273-286.
- Althabhwawi, N., Hui, C. J., Min, H. M., Xue, L., Bagheri, P., & Al-Jubouri, O. S. A. (2024). An Analysis of the Impact of China's Belt and Road Initiative towards Malaysia. *Geopolitics Quarterly*, 20(Special Issue), 183-209.
- Angelic, S. F., & Zawawi, M. (2026). Shurb Al-Khamr Under Islamic Criminal Law: Harm, Punishment, and Modern Legal Challenges. *Punishment, and Modern Legal Challenges* (January 04, 2026).
- Anshori, F., Juwita, M. R., & Supriyadi, A. (2024). A Legal Policy Analysis of the One Belt One Road Initiatives (Indonesia legal interpretation perspective). *Sustainability Policy and Human Geography*, 1(1), 38-54.
- Chirathivat, S., Rutchatorn, B., & Devendrakumar, A. (Eds.). (2022). China's belt and road initiative in ASEAN: growing presence, recent progress and future challenges.
- De Lombaerde, P., Moldashev, K., Qoraboyev, I., & Taghon, S. (2024). Strategic responses of regional economic organizations to the Chinese Belt and Road Initiative: the cases of ASEAN, EAEU, and EU. *Asia Pacific Business Review*, 30(2), 399-419.
- Huo, J. (2023). The Status Quo and Prospects of "Belt and Road" Economic and Trade Cooperation. In *Strategies for Chinese Enterprises Going Global* (pp. 67-83). Singapore: Springer Nature Singapore.

- Ibrahim, Z., Karimullah, S., Assaad, A., Septiani, R., & Okur, H. Ü. S. E. Y. İ. N. (2025). Integration of Maqasid al-Shariah in the Criminal Law Reform to Achieve Justice and Human Dignity. *Jurnal Hukum Islam*, 23(1).
- Jihong, M., & Nanxiang, S. (2025). The Characteristics of the Legal Risks of “One Belt One Road” and Their Preventive Measures. In *The Belt and Road Initiative: Past, Present, Future* (pp. 139-161). Singapore: Springer Nature Singapore.
- Johnston, L. A. (2019). The Belt and Road Initiative: what is in it for China?. *Asia & the Pacific Policy Studies*, 6(1), 40-58.
- Kamalludin, I. (2022). Restoration of Pancasila Values Against Criminal Law Reform Strategy in Indonesia Political Perspective of Islamic Law. *Syariah: Jurnal Hukum dan Pemikiran*, 22(1), 31-47.
- Putra, H. M., & Ahyani, H. (2022). Internalization in Islamic law progressive in criminal law changes in Indonesia. *Jurnal Ilmiah Al-Syir'ah*, 20(1), 68-90.
- Saifuddin, S., Tajuddin, H. H. A., Yahya, M. A., Rahman, M. R. A., & Hashim, F. (2024). Examining The Application of Standard of Proof in Criminal Cases: A Comparative Analysis of Islamic Law and Common Law in Malaysia. *Malaysian J. Syariah & L.*, 12, 11.
- Tan, V. (2024). The Belt and Road Initiative: conflict of laws and dispute resolution. *Journal of Financial Crime*, 31(6), 1420-1435.
- Tsui, S., Wong, E., Chi, L., & Tiejun, W. (2017). One belt, one road. *Monthly Review*, 1, 2016.
- Yaacoub, S., & Shang, C. S. (2022). Judicial Cooperation as Belt and Road Initiative (BRI) Transnational Dispute Settlement Order: Perspectives from the Arab Middle Eastern States. *European Journal of East Asian Studies*, 21(3), 395-424.
- Yang, Z. (2024). The Belt and Road Initiative and the Development of Contemporary International Law. *Wuhan U. Int'l L. Rev.*, 2, 1.
- Yu, H. (2024). China-ASEAN cooperation under the BRI. In *Understanding China's Belt and Road Initiative* (pp. 43-68). Singapore: Springer Nature Singapore.
- Zou, L., Shen, J. H., Zhang, J., & Lee, C. C. (2022). What is the rationale behind China's infrastructure investment under the Belt and Road Initiative. *Journal of Economic Surveys*, 36(3), 605-633.

Wen Xinming, Salawati Mat Basir, Nurul Hidayat Ab Rahman