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The State's Right to Control (Droit De Regalie): The Regulatory Regime of Airspace and Outer Space in National Agrarian Law

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Abstract

This study examines the legal issue (juridical polemic) regarding the status of "outer space" in the Basic Agrarian Law (UUPA). The UUPA includes outer space as part of the national wealth under state control (HMN). However, this view has led to a conflict of norms after Indonesia ratified the 1967 Space Treaty through Law No. 16 of 2002. This international treaty affirms that outer space is the common heritage of humanity and prohibits any country from claiming sovereignty there. In addition, there is also the issue of the unclear vertical boundaries of "airspace", which is part of state sovereignty. This study aims to analyse the regulatory regime governing Airspace and Outer Space under the National Agrarian Law, and to identify the obstacles to implementing the State's Right of Control (HMN) over Outer Space following the enactment of the 1967 Space Treaty. The research method used is normative law, which focuses on the analysis of primary legal materials (such as the 1945 Constitution of the Republic of Indonesia, the Basic Agrarian Law, and Law No. 16/2002) and secondary legal materials. The results of the analysis show that there are two fundamentally different legal regimes. Airspace is treated as a territory of full and exclusive state sovereignty. However, this sovereignty has weaknesses, namely that it is not mentioned in the 1945 Constitution and is limited by the right of passage in the Indonesian Archipelagic Sea Lanes (ALKI). Conversely, outer space is entirely governed by international law, which prohibits sovereignty. The conclusion reached is that the State's Right of Control (HMN) over Outer Space cannot be exercised. This is due to two main obstacles: unresolved conflicts between the UUPA and the 1967 Space Treaty, and Indonesia's technological backwardness in utilising strategic resources in space, such as the Geostationary Orbit (GSO).

INTRODUCTION

National sovereignty is one of the most important things that a country must protect. As is known from various constitutional literature, the prerequisites for the formation of a country are the existence of territory, people, and a sovereign government. A country's territory usually consists of three elements, namely land, sea, and the airspace above it (Baiq, 2017). A sovereign state is then defined as a state that has supreme power, namely a state that is free from the power of other states, and in a broad sense, both internally and externally. Indonesia has 17,508 islands with abundant natural resources (Wulandari & Tamsil, 2016). As a subject of sovereign international law, Indonesia has national laws over its territory and legislation to protect its natural resources.

The 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution), as the constitution of Indonesia, regulates management, including natural resources, in Article 33 paragraph (3), which reads: "The land, waters and natural resources contained therein shall be controlled by the state and used for the greatest benefit of the people." Article 33 paragraph (3) implicitly contains the right of state control, meaning that the state, as the highest authority, has the obligation to exercise its sovereign power and has the authority to regulate the use and management of natural resources through the creation of legal products. The mandate of this article was realised with the enactment of Law No. 5 of 1960 concerning Basic Agrarian Principles (hereinafter referred to as the UUPA) on 24 September 1960. In other words, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia is the foundation of national agrarian policy.

The UUPA then became the implementing regulation of the state's right of control contained in Article 1 paragraph (2) of the UUPA: "All land, water and airspace, including the natural resources contained therein within the territory of the Republic of Indonesia, as a gift from God Almighty, are the land, water and airspace of the Indonesian people and constitute national wealth." This is further explained in Article 1 paragraph (3): "The relationship between the Indonesian people and the land, water and airspace referred to in paragraph (2) of this article is a permanent relationship." The construction of this article differs from Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia in that it includes the phrase "airspace" as part of the territory of the Republic of Indonesia and part of the national wealth. According to Article 1 paragraph (6) of the UUPA, outer space is the space above the earth and water. In contrast, Article 48 of the UUPA defines it as the space above the earth and water that contains energy and

elements that can be utilised in efforts to maintain and develop the fertility of the earth and water, the natural wealth contained therein, and matters related thereto (Santoso, 2012). However, outer space is not widely discussed in national regulations. Unlike outer space, Indonesian national law frequently addresses airspace, which is one of the elements of a state's sovereign territory.

Unlike outer space, which is recognised in the UUPA, the phrase "airspace" was first used in the preamble to Law No. 24 of 1992 on Spatial Planning, which states that the management of diverse natural resources on land, in the oceans, and in the air, needs to be carried out in a coordinated and integrated manner with human resources and artificial resources in a sustainable development pattern. State sovereignty over airspace is addressed in the United Nations Convention on the Law of the Sea (UNCLOS, 1982), which affirms that the sovereignty of coastal states extends to the airspace above the sea and the land beneath it. This concept of sovereignty is a development of the Roman legal concept of *"cuius est solum, ejus usque ad* coelum", which means "whoever owns the land owns everything above it up to the sky and everything below the ground".

The practical significance of defining the vertical extent of national airspace is not merely theoretical. It carries concrete legal and geopolitical consequences, as demonstrated by the longstanding dispute over the management of the Flight Information Region (FIR) above the Riau Archipelago and Natuna Islands. Since 1946, the airspace above those territories had been controlled and managed by Singapore under authority delegated by ICAO, because Indonesia, as a newly independent state, lacked the technological capacity to provide adequate aviation navigation services (Mangisi, 2020). Although the legal consolidation of Indonesia's sovereignty over those waters was definitively confirmed through UNCLOS 1982, the practical control of the FIR remained in Singaporean hands for decades, creating what one scholar aptly described as the paradox of a state being required to seek permission from its neighbour to move within its own house (Chappy, 2020). It was not until 25 January 2022 that a comprehensive FIR Realignment Agreement was signed in Batam, yet even under the 2022 arrangement, Indonesia continued to delegate FIR management for airspace between 0 and 37,000 feet to Singapore for 25 years (Indrawati, 2022). This case powerfully illustrates that the absence of a clearly defined vertical boundary for national airspace is not an abstract academic deficiency but a practical vulnerability with direct implications for sovereignty, national security, and economic interests.

Seven years after the enactment of the UUPA, Indonesia signed the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, or the 1967 Space Treaty, which was initiated by UNCOPUOS (United Nations Committee on the Peaceful Uses of Outer Space). This treaty was prompted by the Soviet Union's space expeditions and exploration for scientific research and development, following the launch of Sputnik I on 4 October 1957 (Priyatna, 1989). Indonesia ratified the treaty through Law No. 16 of 2002 concerning the Ratification of the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, 1967. Including the Moon and Other (Celestial Bodies, 1967). This ratification shows that Indonesia agrees with *the* 1967 *Space Treaty* as the primary space regulation, which does not conflict with Pancasila and the 1945 Constitution of the Republic of Indonesia, and aligns with the concept of national aerospace.

In fact, ratification of this treaty conflicts with the scope of agrarian matters under state control under the Basic Agrarian Law. Article II of the 1967 *Space Treaty* states: "*Outer space, including the moon and other celestial bodies, is not subject to national appropriation by claim of sovereignty, by means of use or occupation, or by any other* means." In short, this regulation means that no state may claim sovereignty over outer space, so the use of outer space belongs to all nations without exception and is not subject to the jurisdiction of any state. This then intersects with Article 1 paragraph (2) of the UUPA, which implicitly declares Indonesia's sovereignty over outer space within its jurisdiction. Thus, under the UUPA, Indonesia has authority to regulate the use of outer space above the territory of the Republic of Indonesia. Based on the above description, this study will answer two main questions, namely: First, how is the regime for regulating Airspace and Outer Space established in the National Agrarian Law? Moreover, *second,* what are the obstacles to Indonesia's control of Outer Space under the 1967 Space Treaty in relation to the state's right of control?

METHOD

This study employs a normative legal research method. The author examines primary legal materials, namely applicable laws and regulations, including the 1945 Constitution of the Republic of Indonesia, the Basic Agrarian Law (UUPA), the Law ratifying the 1967 Space Treaty, and other related laws such as the Spatial Planning Law, the State Territory Law, and the Aviation Law. In

addition, this study also uses secondary legal materials to support its analysis. These materials include books, various scientific articles, and opinions from legal experts. The study is characterised as explanatory research, meaning it is designed not merely to describe an existing legal phenomenon, but to explain, reinforce, and test the theoretical propositions and hypotheses underlying the relationship between the variables under examination (Ishaq, 2017). In this article, the explanatory function is realised through the investigation of the causal relationship between two normative variables: first, the regulatory status of airspace and outer space under Indonesia's national agrarian law framework (particularly the *Undang-Undang Pokok Agraria*/UUPA, Law No. 5 of 1960); and The constraints on the exercise of the State's Right of Control over outer space following Indonesia's ratification of the 1967 Space Treaty through Law No. 16 of 2002. Beyond its explanatory function, this study also takes the form of prescriptive legal research, as defined by Peter Mahmud Marzuki, who defines such research as an inquiry directed at producing recommendations concerning both the causes of a legal problem and the measures necessary to address it (Marzuki, 2013). This prescriptive orientation is not confined to the article's concluding remarks. However, it is woven into the analytical discussion itself, manifesting at each stage where the author moves from diagnosis to normative prescription.

DISCUSSION AND ANALYSIS

1. Airspace and Outer Space Regulation in National Agrarian Law Airspace Regulation in National Law

The discussion of airspace cannot be separated from the element of a country's sovereignty. Indonesia is an archipelagic country characterised by the Nusantara, which has sovereignty over its territory. According to Law No. 43 of 2008 concerning State Territory, the territory of Indonesia is divided into five elements, namely land territory, water territory, seabed, airspace above it and all resources contained therein, the boundaries of which are determined by international law. Regulations concerning airspace as a unified territory of Indonesia are also stipulated in Article 1 paragraph (1) of Law Number 26 of 2007 concerning Spatial Planning: "Space is a container that includes land space, sea space, and airspace, including space within the earth as a single territorial unit, where humans and other creatures live, carry out activities, and maintain their survival." The position of airspace as a national sovereign territory is further explained in Article 5 paragraph (3):

"National spatial planning covers jurisdictional areas and national sovereign territories, which include land, sea and airspace, including space within the earth, as a single entity."

The same is explained in Law No. 1 of 2009 concerning Aviation, which defines airspace as "air territory," the air sovereignty territory of the state, located above the land and water territory of Indonesia. Recalling the concept of state sovereignty, which encompasses land, sea, and airspace, Indonesia has *complete and exclusive* sovereignty over its airspace. This concept implies that all objects entering Indonesian airspace (such as foreign commercial and military aircraft) must obtain permission from the Indonesian state for security and surveillance purposes, in order to maintain defence and security in the airspace. According to Prof. Atip, three state authorities arise from sovereignty, namely the authority to utilise, the authority to control, and the authority to regulate (Latipulhayat, 2023). Therefore, the government's control over Indonesia's airspace is evident in the formulation of laws and regulations governing airspace for national interests across aviation, economy, defence and security, socio-culture, and the air environment.

The Law on State Territory establishes Indonesia's land and maritime boundaries but does not regulate the boundaries of Indonesian airspace as a whole. As a whole, this means that airspace boundaries are divided into horizontal and vertical airspace boundaries (Setiani, 2017). Indonesia's control of horizontal airspace is limited to the territory and the sea below it. These horizontal boundaries are determined by the airspace boundaries of other countries that border Indonesia. This means Indonesia's horizontal airspace boundaries coincide with its land and sea boundaries. If Indonesia's sovereignty ends at its territorial waters, which extend 12 miles from the coastline, then that is also the boundary of Indonesia's sovereignty over its airspace. Article 6 paragraph (1) letter c of the Law on Territorial Areas essentially stipulates that the boundaries between airspace and outer space are determined by international law. The boundary between airspace and outer space is what the author calls the vertical airspace boundary. This boundary is important because it directly affects the utilisation of outer space resources. The difference in regulatory regimes between air law, which is fully sovereign and exclusive, and outer space law, which is open, will have significant implications for Indonesia's sovereign rights over both domains.

Based on Article 53 of the 1982 Convention on the Law of the Sea (UNCLOS, 1982), "*all ships and aircraft enjoy the right of archipelagic sea lanes passage in such sea lanes and air routes*." This provision means that a country's full sovereignty over its national airspace is not absolute, as the principle of innocent passage applies (Adi & Wisnu, 2019). The right of passage

through archipelagic sea lanes opens the airspace above Indonesia's archipelagic sea lanes (ALKI) to foreign aircraft. The opening of airspace above ALKI could pose a threat to Indonesia's security and sovereignty because (Adikara, 1999): **First**, foreign parties could easily carry out airstrikes to destroy vital national targets and reach strategic areas along the ALKI route. **Second,** foreign parties can easily conduct espionage or surveillance using advanced technology. **Third,** foreign parties can easily enter national jurisdiction through the ALKI route. **Fourth,** foreign parties can easily determine the readiness of national air defence elements around the ALKI route using satellites.

The FIR dispute between Indonesia and Singapore warrants deeper analytical examination as a case study that crystallises the normative deficiencies in Indonesia's regulation of its vertical airspace boundaries. A Flight Information Region, as defined under Annex 11 of the 1944 Chicago Convention and transposed into Indonesian national law through Ministerial Regulation No. 55 of 2016, constitutes a designated airspace within which flight information and alerting services are provided (Indrawati, 2016). The determination of FIR authority by the International Civil Aviation Organisation (ICAO) is based not solely on territorial sovereignty, but also on the availability of supporting infrastructure and technical capacity. It is precisely this gap between sovereign entitlement and technical capability that gave rise to Indonesia's protracted loss of FIR control over a significant portion of its own territory.

The historical background of Singapore's FIR control over the Riau Archipelago and Natuna Islands dates back to 1946, when ICAO designated Singapore (then a Commonwealth territory with superior technical infrastructure) to manage flight information services over those waters, which at the time were still classified as high seas (Indrawati, 2016). The subsequent transformation of Indonesia's territorial status over those waters, first through the Djuanda Declaration of 1957 and later through the definitive affirmation of UNCLOS 1982, should logically have triggered a corresponding transfer of FIR authority. Article 49(2) of UNCLOS expressly affirms that the sovereignty of an archipelagic state extends to the airspace above its archipelagic waters, a provision that Indonesia incorporated domestically through Law No. 17 of 1985. However, the normative reaffirmation of sovereignty in international treaty law did not automatically translate into operational control. The persistence of Singapore's FIR management long after Indonesia's sovereign title over those waters had been conclusively established exposed a structural disconnect between legal entitlement and institutional enforcement.

The practical consequences of this arrangement were severe and multidimensional. From a defence and security perspective, every civil and military aircraft transiting the airspace above the Riau Archipelago and Natuna was obligated to report to Singaporean Air Traffic Control (ATC), effectively granting Singapore operational oversight of a strategically sensitive corridor within Indonesian territory (Fahrazi, 2019). Singapore further designated prohibited areas corresponding to its military training zones situated above Indonesian territory, directly constraining Indonesia's freedom of action in its own airspace. The security implications of this arrangement were exacerbated by the fact that the Natuna region is itself a zone of overlapping geopolitical interests, particularly amid maritime tensions in the South China Sea. From an economic standpoint, navigation service fees collected from aircraft transiting those routes accrued to Singapore rather than to Indonesia, depriving the Indonesian state of revenue legitimately owed for the use of its own sovereign airspace (Indrawati, 2022). It has been estimated that Indonesia would stand to gain approximately IDR 250 billion per year upon full assumption of FIR management.

Multiple diplomatic efforts were undertaken over several decades to reclaim FIR authority. The Regional Air Navigation Meeting (RAN Meeting) I of 1973 in Honolulu established that Singapore would manage airspace over the Natuna and Riau Islands at altitudes above 20,000 feet, while Malaysia would manage those below 20,000 feet. The RAN Meeting II of 1983 in Singapore and the RAN Meeting III of 1993 in Bangkok both saw Indonesia assert its intent to reclaim FIR management, yet neither produced a binding resolution (Suhartono et al., 2019). The bilateral Realignment Agreement of 21 September 1995, ratified through Presidential Decree No. 7 of 1996, formalised Indonesia's delegation of FIR authority in Sector A (from sea level to 37,000 feet) and Sector B (from sea level to unlimited height) to Singapore, yielding Indonesia virtually no substantive operational gain. It was only through sustained diplomatic pressure under President Joko Widodo that a comprehensive resolution was eventually achieved (Indrawati, 2022). On 25 January 2022, the FIR Realignment Agreement was signed at Batam, expanding the Jakarta FIR boundary to encompass the full territorial extent of Indonesia, including the Riau Archipelago and Natuna, and adding 249,575 km² to the internationally recognised scope of Indonesian FIR jurisdiction.

The 2022 agreement, however, was not without its own normative tensions. A critical provision of the agreement stipulated that Indonesia would continue to delegate FIR management

of airspace between 0 and 37,000 feet to Singapore for 25 years, renewable by mutual consent. This concession attracted immediate criticism from multiple quarters on two distinct grounds. First, from the perspective of national sovereignty, the delegation of management over the operationally most significant altitude band, within which the overwhelming majority of civil aviation activity takes place, meant that Singapore retained de facto operational control of Indonesian airspace despite the formal legal reaffirmation of Indonesian sovereignty.[14] Second, from the perspective of domestic law, Article 458 of Law No. 1 of 2009 on Aviation mandated that all delegated FIR authority be evaluated and reclaimed by a national aviation service provider no later than 15 years after the law's enactment, setting 2024 as the outer temporal limit for continued delegation. A 25-year delegation commencing in 2022 therefore potentially conflicts with this statutory mandate, raising the question of whether the executive agreement is consistent with the hierarchy of national legislation.

The analytical significance of the FIR case for the present article is twofold. First, it demonstrates empirically that the failure to define the upper vertical limit of national airspace (the precise point at which the sovereignty regime of the Chicago Convention gives way to the *res communis* regime of the 1967 Space Treaty) creates a legal vacuum that is readily exploited through the leverage of technological superiority and institutional momentum. The question of whether Indonesian sovereignty extends upward to 37,000 feet, to 100 kilometres (the Kármán line), or to some other altitude is not merely academic; it determines the spatial scope within which the State's Right of Control under Article 1(2) of the UUPA may legitimately be asserted. Second, the FIR case reveals that technological backwardness continues to function as a de facto limitation on Indonesia's sovereign capacity in the aerospace domain. This dynamic finds a direct parallel in the context of Geostationary Orbit (GSO) utilisation, where the *first-come, first-served* principle structurally disadvantages states that lack the technological capacity to occupy and utilise orbital slots in advance of technologically developed states. In both contexts, the root cause of Indonesia's constrained sovereignty is the same: the absence of a comprehensive legal framework that defines, protects, and actively operationalises Indonesia's vertical sovereign domain from the surface of its territory to the outer limits of its national airspace (Sefriani, 2015).

Therefore, the author considers that the regulations governing airspace are not yet explicit in regulating the use of national airspace. This is due to the absence of the phrase "airspace" in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which only includes

land, water, and natural resources contained therein as objects of state control. Given that the utilisation of airspace differs from the utilisation of land and water, as the latest equipment and technology must support it. In addition, the presence of telecommunications, defence, and security-related frequencies in Indonesian airspace makes it a strategic resource that must be regulated by the state through national law, as a natural resource that can be utilised for the prosperity of the people (Setiani, 2017). The inclusion of "airspace" in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia should strengthen the legitimacy of the state's right to control airspace in order to create the greatest possible prosperity for the people.

2. Regulation of Outer Space in National Law

The mandate to enact the UUPA to support the economy and promote public welfare is set out in Article 33, paragraph (4), which provides that further provisions of Article 33 shall be regulated by law. The position of the UUPA as an "implementing regulation" of the constitution also makes it the parent of regulations governing agrarian affairs and natural resource management. The scope of the UUPA as articulated in Article 1 paragraph (2) extends to three domains: the earth (*bumi*), water (*air*), and space (*ruang angkasa*). The space referred to in the UUPA is the space above the earth and water. The UUPA does not define "space," so the boundary between airspace and space is unclear. The relationship between the nation and Indonesia's land, water, and outer space is eternal (pursuant to Article 1, paragraph (3)). This means that as long as the Indonesian people and the land, water and outer space still exist, this relationship cannot be severed by any power.

As a sovereign state subject to international law, Indonesia is a member of UNCOPUOS. This is demonstrated by the signing of *the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies* in 1967, briefly referred to as *the Space Treaty* 1967. As mentioned above, the treaty's formulation was based on the success of developed countries such as the United States and the Soviet Union in launching telecommunications satellites.

Indonesia followed up by ratifying it with Law No. 16 of 2002 concerning the Ratification of *the* 1967 *Space Treaty*. The ratification of this law made the international treaty the basis for the formulation of Indonesia's aerospace regulations. The problem that then arose was the difference in the conception of space between Law No. 16 of 2002 and the UUPA. The conception of space in Law No. 16 of 2002, as stipulated in the 1967 Space Treaty, is that the use of space can

be carried out by anyone as long as it is for the common good. This is based on the principle of equality and the existence of applicable international law (Sukmantari & Tanaya, 2023). Thus, Indonesia cannot exercise sovereignty over the space above its territory. This conceptual difference became even clearer when the government passed Law No. 21 of 2013 on Space Activities, which, according to the author, is consistent with Law No. 16 of 2002. This is because the term "outer space" is defined as the region beyond Earth's atmosphere. This explicitly confirms that outer space is distinct from the concept of airspace as understood by Indonesia, and that state sovereignty does not apply to outer space.

3. Obstacles to the Realisation of Indonesia's Control over Outer Space as a Form of State Sovereignty

The UUPA and Law No. 16 of 2002 share the same view of outer space, namely, space above the earth and water (Wulandari & Tamsil, 2016). The difference lies in the concept of control over outer space, which, according to the UUPA, can be exercised by Indonesia as long as it is above the territory of the unitary state of the Republic of Indonesia. Efforts to fight for the rights of the Indonesian people in accordance with the mandate of the UUPA have been made, one of which is demanding the legalisation of sovereignty claims over space through the 1974 Bogota Declaration initiated by eight equatorial countries, namely Colombia, Ecuador, Congo, Kenya, Uganda, Zaire, Brazil and Indonesia. The essence of the declaration is the rejection of the concept of *the common heritage of humanity as the basis for the use of outer space, and the adoption of natural resources as the basis, thereby making outer space the sovereign territory of each country beneath* it. More specifically, the claim of sovereignty over outer space is directed at the *Geostationary Satellite Orbit* (GSO). GSO is an orbit that circles the Earth directly above the equator at an altitude of ±36,000 km (Pramono, 2011). This orbit is called geostationary because telecommunications satellites will naturally become stationary when located in this orbit. This declaration was rejected by developed countries, particularly the United States and the Soviet Union.

The utilisation of GSO territory is under the authority of the International Telecommunication Union (ITU) and UNCOPOUS, so the first-come, first-served principle applies. This principle is evidence that both UN agencies uphold the principle of equal rights for countries in the use of outer space (a principle enshrined in *the* 1967 *Space Treaty*), especially the GSO, which is categorised as *a limited natural resource* due to its limited size (Alamsyah et al.,

2020). Due to its limited area confined to the equator, its strategic location, and its specific characteristics, GSO is sought after by countries not crossed by the equator. The *first-come, first-served* principle indirectly enables exploitation, resulting in competition between developed and developing countries, since the utilisation of space requires advanced, cutting-edge technology. In this case, it is the developed countries that have advanced technology and sufficient financial resources to develop space technology, thereby enabling *technological appropriation.* Concerns about technological competition underlie the 1967 Bogota Declaration. Without the sovereignty of equatorial countries over GSO, countries with far more advanced technology will easily dominate GSO. According to the author, this phenomenon makes the concerns of equatorial countries, including Indonesia, reasonable. The fact that Indonesia's space technology cannot be considered advanced and sophisticated compared to countries that launch their satellites in GSO cannot be ignored. The lack of advanced technology and financial constraints to develop space technology limit Indonesia's ability to control and utilise the space above its territory. Indonesia's limitations in launching satellites pose obstacles to controlling space.

The dominance of satellites launched by developed countries into GSO above Indonesian territory can pose a threat to the country's defence and security systems. Although the launch of satellites based on *Article* I of *the* 1967 *Space Treaty* must be carried out with good intentions, including telecommunications and weather and climate monitoring, it does not rule out the possibility that satellites above Indonesia are satellites intended for espionage or remote sensing without permission to steal data on natural resources contained within Indonesian territory (Farhani & Chandranegara, 2019). The conditions under which the principles *of open space and first come, first served apply, technological backwardness, and the non-recognition of state sovereignty over space make it impossible to implement the UUPA mandate on state control of space*. If Indonesia's control over the space above the territorial waters of the state is carried out, it will conflict with the objectives of the Indonesian state as stated in the fourth paragraph of the preamble to the 1945 Constitution of the Republic of Indonesia, "...To implement world order based on freedom, eternal peace and social justice." Indonesia's submission to international law is one of the efforts to uphold world order, as international law is the result of agreements among nations.

Based on the constraints described above, the regulation of outer space under the UUPA is neither incorrect nor irrational. According to the author, the agrarian law policy as outlined in the

UUPA has sought, from the outset, to address the urgency of regulating outer space. The drafters of the UUPA recognised the importance of utilising natural resources in outer space in light of technological developments. The National Agrarian Law has opened the door to ius constituendum for regulating the utilisation of space. Then, regarding the state's control over space, which cannot be exercised, Indonesia can still utilise space for the welfare of its people. Law No. 21 of 2013 is a milestone in the regulation of space in Indonesia, but, unfortunately, regulations on the utilisation of Indonesian space remain limited. Therefore, Indonesia needs regulations governing the utilisation of GSO slots to meet national needs and interests (Alamsyah et al., 2020), such as telecommunications, weather monitoring, and remote sensing, all of which rely on satellite imagery considering that the UUPA has a separate chapter regulating the right to use space, which in 48 paragraphs (2) mandates that the right to use space be regulated in a Government Regulation.

CONCLUSION

This study found a clear separation between the legal regimes governing Airspace and Outer Space in Indonesia. First, Airspace is recognised as part of the state's full and exclusive sovereignty and is regulated by Agrarian Law and sectoral regulations. However, this status of sovereignty has two weaknesses: its legitimacy is questionable because it is not mentioned in the 1945 Constitution, and, in practice, it is limited by the right of innocent passage in the Indonesian Archipelagic Sea Lanes (ALKI), which creates insecurity. In contrast, the Space regime actually contradicts the concept of sovereignty. Although the UUPA initially classified it as national wealth, the ratification of *the 1967 Space Treaty* through Law No. 16 of 2002 confirmed its status as *the common heritage of humanity*. This principle of international law explicitly prohibits claims of national sovereignty. As a result, the State's Right of Control (HMN) over Outer Space cannot be realised. The main obstacle is the unresolved conflict of norms between the UUPA and *the 1967 Space Treaty.* In addition, Indonesia faces practical obstacles stemming from technological backwardness in space, which hinder its ability to utilise strategic resources such as the Geostationary Orbit (GSO). Therefore, to overcome these constraints, the authors provides two policy recommendations: **first**, the urgency of a sectoral constitutional amendment to explicitly include the phrase "Airspace" into Article 33 paragraph (3) of the 1945 Constitution to strengthen the legitimacy and jurisdiction of HMN over national airspace as a strategic national asset; **second**, the government is highly recommended to immediately draft a specific Government Regulation

(PP) governing Space Utilization Rights as mandated by Article 48 paragraph (2) of the UUPA, particularly to manage GSO slots and protect national telecommunications and defense interests from the technological dominance of developed countries under the 'first come, first served' principle.

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