



# THE 3<sup>rd</sup> INTERNATIONAL CONFERENCE AND CALL FOR PAPER

**"Legal Development in Various Countries"**



**IMAM AS SYAFEI BUILDING**  
Faculty of Law, Sultan Agung Islamic University  
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

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2017

# **The 3<sup>rd</sup> PROCEEDING**

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## **The 3<sup>rd</sup> PROCEEDING**

“Legal Development in Various Countries”

Reviewer:

Prof. Dr. H. Gunarto, S.H., S.E., Akt., M.Hum

Dr. Hj. Anis Mashdurohatun, S.H., M.Hum

Prof. Henning Glaser

Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM

Prof. Shimada Yuzuru

Prof. Associate Dr. Dr. Ahmad Zaharudin Sani

Editor:

Dr. Amin Purnawan., S.H., CN., M.Hum

Dr. Hj. Widayati., S.H., M.H

Dr. Hj. Sri Endah Wahyuningsih, S.H., M.Hum

Dr. H. Ahmad Khisni., S.H., M.H

M. Abdul Hadi., SE

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## INFORMATION OF THE CONFERENCE AND CALL PAPER

**WORLD CLASS ISLAMIC UNIVERSITY**  
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SULTAN AGUNG ISLAMIC UNIVERSITY

# Welcome to Participants on International Conference

## "LEGAL DEVELOPMENT IN VARIOUS COUNTRIES"

*This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. And focusing on the development of law in both developed and developing countries and its role in shaping a good future.*

**KEYNOTE SPEAKER:**  
**Prof. Henning Glaser**  
Thammasat University, Thailand

**IMAM AS SYAFEI BUILDING**  
Faculty of Law, Sultan Agung Islamic University  
Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

Organized by : Faculty of Law Sultan Agung Islamic University (UNISSULA) Semarang-Indonesia

**SPEAKERS :**

1. Prof. Shimada Yuzuru  
Nagoya University, Japan
2. Prof. Dr. Ruzian Markom  
Universitas Kebangsaan Malaysia, Malaysia
3. Prof. Dr. I Gusti Ayu Rachmi, S.H., M.M  
Sebelas Maret University, Indonesia
4. Assoc Prof. Dr. Ahmad Zaharuddin S.  
Universitas Utara Malaysia, Malaysia
5. Dr. Anis Mashdurohatus, S.H., M.Hum  
Sultas Agung Islamic University, Indonesia

Indonesia, September 05<sup>th</sup> 2017

**WORLD CLASS ISLAMIC UNIVERSITY**  
**UNISSULA**  
SULTAN AGUNG ISLAMIC UNIVERSITY

# International Conference

**5**  
September  
2017

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Jalan Raya Kaligawe, KM. 4 Semarang, Indonesia

**FACULTY OF LAW**  
Sultan Agung Islamic University

**SPEAKERS :**

1. Prof. Shimada Yuzuru  
Nagoya University, Japan
2. Dr. Hilaire Tegnau, LL.M.  
Faculty of Law, Sorbonne University
3. Prof. Dr. Ruzian Markom  
Universitas Kebangsaan Malaysia, Malaysia
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Sebelas Maret University, Indonesia
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Universitas Utara Malaysia, Malaysia
6. Dr. Anis Mashdurohatus, S.H., M.Hum  
Sultan Agung Islamic University, Indonesia

Organized by : Faculty of Law UNISSULA Semarang-Indonesia

This Conference And Call Paper was held by the Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on:

Day: Tuesday

Date : September 5<sup>th</sup> 2017

Time : 08:00 - 15:00 pm

Place : Imam AsSyafei Building 3<sup>rd</sup> Floor

Faculty of Law, Sultan Agung Islamic University, Semarang, Indonesia

Jl. Raya Kaligawe Km. 4 PO. BOX.1054 Telp. (024) 6583584 Fax.(024)6582455  
Semarang 50112

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AND CALL FOR PAPER  
“LEGAL DEVELOPMENT IN VARIOUS COUNTRIES”**

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## PREFACE

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Assalamu'alaikum, Wr. Wb

First of all, let's say Thanks to Allah, who has been giving us guidance, happiness, healthy, and mercy, so we can finish this conference proceeding without any obstacles. Praise and salutation upon our prophet Muhammad saw the last messenger, the best figure of this universe; the person who was able to save us from Jahiliyah era.

We would like to extend our thanks to the invited speakers: **Prof. Henning Glaser from Thammasat University, Prof. Shimada Yuzuru from Nagoya University, Hilaire Tegan, Ph.D from Sorbone University, Prof. Dr. I Gusti Ayu Ketut Rachmi Handayani, MM from SebelasMaret University, Dr. Zaharudin from Universiti Utara Malaysia, and Dr. Anis Mashdurohatun, S.H., M.Hum from Sultan Agung Islamic University.**

This is our third International conference and call for paper held by Faculty of Law, Sultan Agung Islamic University. This annual conference tries to gain any information and studies done by academician and practitioner to be discussed as guidelines to exchange and discuss views on the most important recent on Legal Development happens in both developed and developing countries and its role in shaping a good future, and to discuss the challenges and practical aspects in integrating competition law enforcement and guidelines to develop legal state in accordance with the diversity of all countries around the world. We hope this conference brings benefit for both participants and our faculty.

We are pleased to have your critique, suggestion and correction in order to make us better. Finally, we do thanks to all who helped this conference. May Allah guide us to always develop useful knowledge for human being.

See you in our fourth International and call for paper next year.

Wassalamualaikum, Wr. Wb

Semarang, September 5<sup>th</sup> 2017

**Chairman of the Committee,**



**Dr. Anis Mashdurohatun, S.H., M.Hum**  
**NIDN : 06-02105-7002**

## GREETING FROM THE DEAN OF FACULTY OF LAW

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*As-salamu'alaikum Wr. Wb.*

Thank to Allah SWT is an absolute act that we must say after conducting the International Conference and Call for Paper by theme: “**Legal Development in Various Countries**” which is held by Faculty of Law, Sultan Agung Islamic University (UNISSULA) Semarang, on September 5<sup>th</sup> 2017.

This conference tries to reviews different theories of legal development in order to highlight their similarities and differences. In the end, as in contract theories, no monist view of legal development possesses the explanatory power needed to understand how law has come to be and where it may take us in the future. What we do have is a foundation built on at least two millennia of legal history. The intellectual starting point for this project is Nathan Isaacs' unfinished work on a cycle theory of legal development. His view of legal development takes issue with Henry Sumner Maine's thesis that development in advanced legal systems is progressive in nature. And, more importantly for the current undertaking, that this progression is linear in nature. Instead, Isaacs' review of thousands of years of Jewish legal development indicated that legal development perpetually progressed in cycles.


Therefore, to discuss more about legal development or law reform, Faculty of Law, Sultan Agung Islamic University is confidence to conduct a conference by the theme “**Legal Development in Various Countries**” focusing on the development of law in both developed and developing countries and its role in shaping a good future.

Finally, we thank to the presenters, article senders, and comittee who have contributed in this event, so that this international seminar ran well.

*Wassalamu'alaikum Wr. Wb.*

Semarang, September 5<sup>th</sup> 2017

Dean,



**Prof. Dr. Gunarto, SH, SE, Akt, M.Hum**  
NIDN.062004670

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# REMOTE SENSING TO THE INDONESIAN SURFACE OF THE FOREIGN SATELLITE AND THE SOVEREIGNTY OF INDONESIA

**Ruman Sudradjat**

[rumansudrajat@gmail.com](mailto:rumansudrajat@gmail.com)

The Student of Law Doctoral Programme UNISSULA

**Teguh Prasetyo**

[prof.teguh.prasetyo@gmail.com](mailto:prof.teguh.prasetyo@gmail.com)

Lecturers Of Faculty Of Law, UKSW, Salatiga

**Achmad Arifulloh**

[achmadarifullah2014@gmail.com](mailto:achmadarifullah2014@gmail.com)

Lecturer Of UNPRI Postgraduate College, Medan.

## ABSTRACT

Remote sensing of satellites in space for mapping and extracting natural resources data is useful for humans in this respect for all countries. Utilization of satellite data in Indonesia has been done since 1974 For the various interests and needs of Indonesia especially before the purchase of a set of utilization of remote sensing satellite by Indonesia in Pare Pare 1993 operates in 1995 but the problems faced by Indonesia remote sensing of this satellite is emphasized on the principle of "Free flow Information of All mankind "irrespective of whether or not the consent of the country derived the country's data data from the satellite and the retrieval of the surface data of the Indonesian earth by the satellites of other countries Clearly not entirely known by Indonesia so that this will be detrimental because it relates to Indonesia's sovereignty issue.

**Keynote: Remote Sensing, Indonesian Surface, Foreign Satellite**

## Introduction

Every sovereign State in the world is clearly having their own natural resources and being under the sovereignty of the country and governing them in the constitution of each country as well as Indonesia's ownership of its resources is governed by the 1945 Constitution.<sup>1</sup> It is a fact that every country wants to know Any natural resources owned by the state concerned in its territory of territorial sovereignty. And the territory of Indonesia is at sea 12 seats which is the sovereignty of the state<sup>2</sup> and the Exclusive Economic Zone (ZEE) in

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<sup>1</sup> Undang-Undang Dasar Republik Indonesia 1945, Lengkap UUD 1945, (dalam Lintasan Amandemen) dan UUD (yang pernah berlaku) di Indonesia ( sejak tahun 1945). Redaksi Lima Adi Sekawan, Lima Adi Sekawan, 2007, hlm. 12. Disebutkan dalam Pasal 33 (1) ...(2)...(3) Bumi dan air dan kekayaan yang terkandung di dalamnya dikuasai oleh negara dan dipergunakan untuk sebesar besarnya kemakmuran rakyat.

<sup>2</sup> Mochtar Kusumaatmadja, **Bunga Rampai Hukum Laut**, Bina Cipta, Jakarta, 1978, hlm. 26. Pada tgl 13 Desember 1957 Lahir konsepsi Deklarasi Djuanda yaitu: "Bahwa segala perairan di sekitar, di antara dan yang menghubungkan pulau pulau yang termasuk daratan Negara Republik Indonesia, dengan tidak memandang luas atau lebarnya adalah bagian bagian yang wajar daripada wilayah daratan Negara Republik Indonesia dan dengan

the sea beyond the territorial seabed 12 miles which is the state sovereign territory and ZEE by 200 mil.laut.<sup>3</sup>

For Indonesia, however, as a full sovereign state without the possession of aerospace science and technology (airspace and space including geostationary orbit)<sup>4</sup> adequate and self-sufficient for the control of natural resources for its own interests, especially the ownership of the Remote Sensing technology, a very long period of time in order to exploit the earth's surface resources and surface contents and the depth of the earth and the oceans as a whole. which is in the territory of sovereignty both in the land, sea and air space above it, while the utilization of these natural resources is currently only limited and not maximal that can be enjoyed in a fair and prosperous for all Indonesian people.<sup>5</sup> For that the government has made the Law Number 17 Year 2017 Concerning the National Long Term Development Plan.

Satellite Remote Sensing is a satellite that is in space around the earth in orbit more or less at an altitude of 1000 km in space from the surface of the earth and the satellite is able to detect natural resources of the earth and the sea from a distance with remote sensing different from the visible Humans and also the Camera tool for shooting from a distance with a regular

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demikian merupakan bagian daripada perairan nasional yang berada di bawah kedaulatan mutlak daripada Negara Republik Indonesia'. Lalu lintas yang damai di perairan pedalaman ini bagi kapal asing terjamin selama dan sekedar tidak bertentangan dengan kedaulatan dan keselamatan negara Indonesia. Penentuan batas laut territorial yang lebarnya 12 mil yang diukur dari garis-garis yang menghubungkan titik-titik terluar pada pulau-pulau Negara Republik Indonesia akan ditentukan dengan Undang-Undang.

<sup>3</sup> Boer Mauna, Hukum Internasional, Alumni Bandung, 2005, hlm. 362. Pasal 57 Konvensi Hukum Laut 1982 mengenai lebarnya Zona Ekonomi Eksklusif menyatakan bahwa lebar zona ekonomi eksklusif tidak boleh melebihi 200 mil laut dari garis pangkal dari mana lebar laut ilayah diukur.

<sup>4</sup> Dalam Undang-Undang nomor 20 Tahun 1982 Tentang Pokok Pokok Pertahanan Keamanan Negara pada pasal 30 disebutkan bahwa Tentara Nasional Indonesia ditemukan istilah "Dirgantara" disebutkan bahwa Angkatan Udara bertugas:selaku penegak kedaulatan negara di udaramempertahankan keutuhan wilayah dirgantaranasional bersama-sama dengan segenap komponen kekuatan pertahanan keamanan negara lainnya. Dan dalam penjelasannya yang dimaksud Dirgantara pada penjelasan pasal 30 ayat 3 huruf a dariUU no 20 tahun 1982 Yang dimaksud dengan tugas penegakan kedaulatan negara diartikan sama dengan Penjelasan ayat (2) huruf a pasal ini bagi wilayah udara. Adapun **pengertian dirgantara mencakup ruang udara dan antariksa termasuk orbit geo-stationer yang merupakan sumber daya alam terbatas.** <http://www.google> diakses Agustus 2017 Undang-Undang Nomor 20 Tahun 1982 telah dicabut dan diganti dengan undang undang nomor34 tahun 2004 tentang Tentara Nasional Indonesia, dan di dalam Pasal 10 disebutkan bahwaTentara Nasional Angkatan Udara menegakkan hukum dan menjaga keamanan di wilayah udara yurisdiksi nasional sesuai dengan ketentuan hukum nasional dan hukum internasional yang telah diratifikasi;

<sup>5</sup> Dalam Penjelasan Undang Undang nomor 17 Tahun 2017 tentang Rencana pembangunan Jangka Panjang Nasional (RPJPN)Pembangunan Jangka Panjang Nasional Tahun 2005–2025 merupakan kelanjutan daripembangunan sebelumnya untuk mencapai tujuan pembangunan sebagaimandiamanatkan dalam Pembukaan Undang-Undang Dasar Negara Republik IndonesiaTahun 1945. Untuk itu, dalam 20 tahun mendatang, sangat penting dan mendesak bagi bangsa Indonesia untuk melakukan penataan kembali berbagai langkah-langkah, antara lain di bidang pengelolaan sumber daya alam, sumber daya manusia, lingkungan hidup dan kelembagaannya sehingga bangsa Indonesia dapat mengejar ketertinggalan dan mempunyai posisi yang sejajar serta daya saing yang kuat di dalam pergaulanmasyarakat Internasional.

lens and a magnifying lens through aerial photography by airplane or called "Air Born System".

### **Subject matter**

Satellite remote sensing from space capable of mapping the area and data retrieval of natural resources data with technology of sensing/ shooting of satellites carefully and accurately both mapping the area and taking natural resources data from the country itself but also the mapping of the region and data collection of natural resources data But occasionally the shooting of the satellite is unknown to the country where region data and natural resource data are taken by the remote sensing satellite as it passes in in space over its territory and this means it has violated the sovereignty of a country.

This remote sensing satellite can not be seen and detected by a state without technology, sensing remotely and quickly, and this satellite is known as "remote sensing satellite" or "remote sensing by satellite"). If the country passed by the remote sensing satellite knows it and requires its territory data either through cooperation or not, the satellite owner will only provide the data requested by the country and must pay the price of the satellite image images at a very high price.

Remote sensing satellites in the area of data capture and data of natural resources data in the sovereignty of the sovereigns of other countries do not concern whether these satellites take data from a country's sovereign territory or not and this satellite ignores the boundaries of territorial sovereignty of a country as it is from space Space under the terms of Article 1 Outer Space treaty 1967 or the complete "Trtay on Principles concerning the activities of States in the exploration and use of Outer Space including the Moon and Other Celestial Bodies done at London Mascow, New York in January 1967"

In Article 1 Outer Space Treaty 1967 Mentioned that "The exploration and use of outer space, including the Moon and other celestial bodies, shall be carried out for the benefit and in the interests of all countries, irrespective of their degree of economic or scientific development, and shall be the province of all mankind."

Outer space, including the Moon and other celestial bodies, shall be free for exploration and use by all States without discrimination of any kind, on a basis of equal right and in accordance with international law, and there shall be free access to all areas of celestial bodies.

There shall be freedom of scientific investigation in outer space, including the Moon and other celestial bodies, and States shall facilitate and encourage international cooperation in such investigation.’

## **Discussion**

Indonesia as a sovereign country and also like other countries, in conducting regional mapping activities to obtain data of natural resources have used satellite technology of other countries. It is precisely this unconsciously taking the data of Indonesian territory is a violation of the sovereignty of the state of Indonesia. Indonesia itself since the establishment of Lapan in 1974, is still not able to have the technology, Indonesia for the purposes of obtaining natural resources data in all parts of Indonesia required using state-owned satellite technology other through Cooperation and paying the price of data with the expensive price

Indonesia as a sovereign country does recognize that in meeting the needs and needs of a national nature, has prepared a set of satellite data receiving stations of natural resources, and subsequently utilize remote sensing satellite to obtain the necessary data both for applied and for research materials. By using another state satellite that is ERTS {Earth Resources Technology Satellite) later called Landsat. (Land Satellite).

In 1993 a joint venture with Canada and the United States established the Earth Natural Resources Station in Pare Pare and in 1995 Indonesia had operated the earth station as an Earth segment with Landsat series satellites as a space field and the operation of the earth's natural resource station was conducted by National Institute of Aeronautics and Space (Lapan) But the fact Indonesia bought a set of earth station system and rented its satellite.

In Indonesia, the users of remote sensing satellite data consists of various national institutions, both government and non-governmental institutions and private parties, in addition to utilizing remote sensing information data from the satellite, (Remote Sensing by satellite), some are getting data With the information system through airborne (Air Born syastem) pemotrtran although the coverage is not as wide as when compared with data generated from satellite imagery.

Although there are already agencies that have conducted activities to obtain data from satellites such as Lapan, national agencies and private parties are also getting data or buy data from other countries of course with a high cost, it is tailored to the duties and functions of relevant agencies Which requires data data not obtained by Lapan.



In fact, if we observe remote sensing activities from satellites by Lapan, then in accordance with the duties and functions of conducting research and development, including the utilization of remote sensing of satellites. Lapan also has a remote sensing databank of satellite that is national, therefore for data users can easily get data without having to buy satellite data from abroad, because Lapan currently can provide data for agencies that need.

The development of remote sensing satellite technology for natural resource data by developed countries such as the United States is carried out in a series or continuously, in the sense that any given period of time is enhanced the image sharpness acceptable to the earth station, and between satellites in space and earth station devices Is a system that can not be separated.

In order to obtain data of the earth's natural resources. For example Landsat IV and V are different from previous Landsat series (I, II, and III) for which Landsat IV and V are equipped with TM (Thematic Mapper) which has the ability to capture sharper objects and work in conjunction with other sensors MSS (Multy Spectral Scanner).

Furthermore with Landsat VI and Landsat VII series the data of natural resources and mapping of the result region is better and more sophisticated than the Landsat IV and V series, and so on The Landsat series is always developed and enhanced so as to obtain wider data with the mapping of natural resources data as much as possible with increasingly sharp coverage ("resolution") ranging from 30 m to 8 sq. M. Obtaining natural source data at certain depths in the oceans and in the soil. Other developed countries have satellite types capable of obtaining high resolution stainless image data below 10 meters depth such as IKONOS satellites and IRS satellites.

Landsat satellites in space are at altitudes between 750-920 km, and the speed around the earth to return to the same place between 16-18 days. This remote sensor sensing satellite image works to collect data as wide as 185 km continuously.

The existence of satellites for each particular peride of the Lansat is developed and enhanced this makes the purchaser of the earth station equipment and also as its satellite renter always dependent on the development of the technology if not to be said to be left behind. Currently the Landsat series satellite has been able to be developed and improved in order Retrieve high resolution satellite image data with phancromatic technology

For Indonesia inevitably dislikes the high cost and the presence of other countries across the territory of sovereignty Indonesia will still use this remote sensing technology for various needs and purposes and other interests. Although after obtaining data from satellite imagery to search for clarity from the satellite data, it is done to find the truth by pemotrtran from aircraft

as a comparison material or directly come to the location of the location in accordance with the results of satellite image data.

In Indonesia, both government departments and non-departmental agencies as well as private parties, also require data of natural resources and mapping of certain areas for various purposes, in addition there is also obtained data through pemotrtran from aircraft.

Data on area data, both natural resources data required and data for mapping of areas, for example by TNI SURTA (Survey and Mapping of the Indonesian National Army), among others, for the security of Indonesian territory and various national agencies including the Ministry requiring remote sensing satellite data and data Shooting results from aircraft.

At the Legal Sub Committee of the UN Committee on Space UNCOPUOS 2004 was questioned by remte sensing discussion as presented by Brazil's working non-paper proposal on remote sensing. There is a significant difference from countries about the new agenda that needs to be included. From these proposals, the possibility that will be agreed is the eyes of the remote sensing agenda presented by Brazil supported by the United States, Argentina in every trial it is only proposed the discussion of Remote Sensing to be discussed in Indonesia and asked to support the discussion of remote sensing this possibility is It is a question of the problem of the territory of the state that is detected by the remote sensing satellite of another country which will obviously harm the state territory ownership of territorial sovereignty.

As for developed countries in this remote sensing technology other than the United States with Landsat Series can be mentioned among others;

Russia used to have among other remote sensing satellites The METEOR Series COSMOS Series (1957-1988) is a satellite obtaining natural source data, navigation and marine. OKEAN II (1990) is a satellite for natural resource observation purposes, and the RESURE-f series is a natural resource satellite to produce imagery for natural resources research.

Japan ADEOS is a satellite for the benefit of further development especially for earth surface observation and up to now Japan has always developed this technology for the future.

ESA (European Space Agency has METEOSAT developed also specifically for the sake of natural resources.

France with Belgium and Sweden have been cooperating in the utilization of remote sensing satellites for the sake of natural resources, SPOT (1986-1990). SPOT is used to obtain cartographic data, geology, geomorphology, land use, agriculture, hydrology, forestry, oceanology and so on.

The People's Republic of China has a satellite named China Feng Yung (FY-1) is a meteorological satellite launched in 1988. These satellites are used to obtain images, surface temperatures and cloud tops and sea colors.

### Conclusions

With what has been described above, it would seem that such great benefits of technology to a country in need of utilizing remote sensing technology from satellites, especially this technology can produce accurate data / information with a relatively short time.

Nevertheless Indonesia and other countries for their sake are willing to sacrifice their sovereign territory to pass the satellite of the remote sensing technology of another country without being able to prevent it. Its inclusion to exploit the remote sensing of Indonesia by the state of the satellite owner is not just like a gift but it is bought very expensive and until now Indonesia has not been able to independently and make its own earth station by owning its own satellite for its sake is the concern of the Indonesian nation with the dependence This is while Indonesia does not know what natural resources data data dimbil unknown Indonesia which has a full sovereign territory.

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