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Country Control Rights in the Radio Frequency Spectrum for Broadcasting in Indonesia

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Abstract

The primary objectives of this research were to 1) analyze the incorporation of country control rights into relevant statutory regulations concerning the radio frequency spectrum in broadcasting, (2) assess whether the implementation of country control rights over the radio frequency spectrum aligns with its intended goal of maximizing the welfare of the population, and (3) develop a legal framework for country control rights in the context of digital broadcasting technology. A normative legal research method was employed to achieve these aims, utilizing statutory regulations, historical analysis, comparative research, and conceptual method. The statutory regulation method involved examining all laws and regulations pertaining to the frequency spectrum and broadcasting. The historical method was employed to investigate the evolution of regulations implemented in Indonesia, providing insights into the country's historical management of the radio frequency spectrum. A comprehensive understanding of spectrum management over time was crucial to determine the country's position in controlling the frequency spectrum. Additionally, the conceptual method sought to identify legal principles and relevant concepts underlying a new legal norm, particularly regarding country control rights in digital broadcasting technology. The results proved that, firstly, the country had effectively exercised various elements of control rights, including policy-making, regulation, management, administration, and supervision. Secondly, the objective of achieving the greatest prosperity for the people through country control rights had not been achieved. Thirdly, a consolidated method to country control rights, such as the concept of a single multiplexer or centrally managed radio frequency spectrum, would facilitate the country in attaining maximum prosperity for its people.

Keywords: Country Control Rights, Radio Frequency Spectrum, Broadcasting

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Introduction

The 1945 Constitution of Indonesia serves as the country's fundamental law, because it comprises normative principles, which are used to safeguards against irregularities and abuses in the evolving dynamics of society. This constitution is considered a tool used for political, economic, and social, embodying of the nation's collective aspirations (Asshiddiqie, 2005, 37). In respect to the management of natural resources, The constitution has also provided limitations to the management of natural resources in Article 33. This article is better known as the Indonesian ideology and political economy (Ibid, 37), which regulates several key provisions in paragraph (2), that "Production branches, which are important and affect the livelihood of people at large is controlled by the country." Paragraph (3) also states that "the land, water, and natural resources contained within them shall be controlled by the state and utilized for the greatest welfare of the people."

The regulation and management of natural resources in Indonesia have indeed encountered numerous challenges, largely due to the ambiguity of the economic system in place. The country right to control natural resources can be delegated to State-Owned Enterprises (*BUMN*) or private sectors. However, over time, many BUMN has struggled to compete with the private sector, resulting in the private sector assuming the management of natural resources. The meaning of the goal of managing natural resources for the greatest prosperity of the people is increasingly difficult to achieve.

Based on Law Number 32 of 2002 concerning broadcasting (hereinafter written as the Broadcasting Law), the radio frequency spectrum is a public domain with limited natural resources. Its management must be in accordance with the values outlined in Article 33 of the 1945 Constitution of Indonesia. The radio frequency spectrum holds immense significance for television broadcasting, as it is essential for reaching audiences. Various sharp criticisms continue to emerge against the practice of the broadcasting world. The broadcasting industry has faced persistent criticism, with many institutions being accused of prioritizing business aspects over their noble goals. Concerns are raised about television programs that veer away from promoting the nation's noble culture. Instead, they contribute to keeping the younger generation detached from these values. Current broadcasting landscape is colored by soap operas and infotainment shows that exhibit low quality, emphasize hedonistic behavior, lack child-friendliness, and contain excessive violence. These issues arise due to broadcasting institutions prioritizing business aspects over idealism.

Another problem in implementing the Broadcasting Law is the buying and selling broadcasting institutions, leading to forming media conglomerates. The emergence of media conglomerates directly impacts the quality of broadcast content. One of the consequences is the degradation of content diversity, as the principle of owner diversity is not upheld. The intervention of the owners certainly occurs, specifically with matters of a political nature and other strategic policies. Some of the information presented were uniform and biased towards Jakarta, where

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television stations are located and managed. The themes, information, and entertainment are ultimately uniform. Furthermore, television stations focus on entertainment and amusement, with minimal educational elements. The main priority became a business-oriented approach, aiming for high ratings and attracting advertisers. This situation further deviates from the objective of frequency management for the greatest prosperity of the people.

The rapid advancement of information technology significantly impacts frequency management in broadcasting. One notable technological development is the digitization of broadcasting, which necessitates the transition from analog to digital systems. The analog system was considered inefficient, prompting the adoption of new technology that utilized frequency wave compression within computer systems, resulting in enhanced efficiency. According to Judhariksawan (2013, 51), a single analog television channel can accommodate up to six television programs and 28 radio broadcasts with a digital system. The concept of the country control rights over the radio frequency spectrum in the digital era becomes crucial for achieving the greatest prosperity for the people.

Research Problem

1. How is an explanation of the concept of country control rights into various statutory regulations related to radio frequency spectrum for broadcasting?
2. Does the radio frequency spectrum management system for broadcasting fulfill the aspects of people's prosperity in country control rights?
3. What should be the method to integrating the concept of country control rights into the development of broadcasting technology?

Research Method

This research employed a normative legal research method, which comprises of three distinct methods, namely statutory regulation, historical, and conceptual. The statutory regulation method involved thoroughly examining all relevant laws and regulations pertaining to frequency and broadcasting. Analyzing these statutory regulations established a comprehensive understanding of the legal framework. The historical method was adopted to delve into the development of various regulations and related legal institutions to understand the spirit and causes of these legal norms (Muhjad & Nuswardani, 2012, 47). Furthermore, a comprehensive understanding of frequency management was needed to determine the country's position in controlling frequency. The conceptual method, was employed to provide an analytical perspective used to address the problems. It involved examining the legal concepts underlying the research topic and the values embedded within the normalization of regulations. This method was particularly useful in analyzing and formulating the legal concept of digital technology broadcasting from the perspective of country control rights.

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Analysis and Discussion

Evaluation of the Country Control Right Over the Radio Frequency Spectrum

The radio frequency spectrum is a valuable and limited natural resource that is increasingly in demand as more people rely on its usage. Therefore, the country must be able to manage it as well as possible for the prosperity of its people. An evaluation of its extent is necessary to assess the implementation of the country control rights over the radio frequency spectrum in Indonesia. The country possesses the authority to execute its functions through policy implementation, management actions, regulations, management practices, and supervision (Wawuntu, 2012, 3).

The government operates within the framework provided by the ITU Radio Regulations to fulfill its role in exercising country control rights. These regulations serve as guidance for member countries, including Indonesia, in managing radio frequencies effectively. Article 4.4 of the ITU Radio Regulations specifically prohibits departments or ministries appointed by member countries from assigning radio frequencies that deviate from the World Frequency Allocation Tables.

The Radio Frequency Spectrum Allocation table in Indonesia serves as the fundamental plan for national radio frequency spectrum utilization. This table is compiled based on the radio frequency spectrum allocation table specified in the 2012 edition of the ITU Radio Regulations. It provides a comprehensive framework for allocating radio frequency spectrum in Indonesia. The Indonesian Radio Frequency Spectrum Allocation table is a crucial reference for planning the utilization of radio frequency bands through band and channeling plans. These plans ensure the efficient and coordinated use of radio frequency resources within the allocated spectrum. In accordance with the regulations, each assignment of radio frequency must align with the corresponding allocation of radio frequency bands specified in the Indonesian Radio Frequency Spectrum Allocation table.

Based on the various descriptions above, it can be concluded that firstly, the government relies exclusively on the international regulations established by the ITU in the Radio Regulations when formulating general policies concerning the radio frequency spectrum. This allocation table serves as a fundamental guideline for the government to develop detailed policies and ensure efficient radio frequency spectrum management. Secondly, the government has entrusted the Directorate General of Resources and Equipment of Post and Information Technology (SDPPI) with three primary functions under the Ministry of Communication and Information Technology. These include policy-making, supervision, and control based on the terminology in ITU called administration.

To effectively execute policies and oversee the management of the radio frequency spectrum, it is essential to establish a range of regulations that align with the intended aims and objectives. The Ministry of Communication and Informatics (*Menkominfo*) encompasses various forms of laws and regulations, including

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Presidential Regulations, *Menkominfo* Regulations, *Menkominfo* Decrees, Directorate General Regulations, and Circular Letters. Generally, the issuance of laws and regulations is designed to accommodate the prevailing needs.

Regulation of the Minister of Communication and Informatics of Indonesia Number 4 of 2014 pertains to the Radio Frequency Master Plan specifically designed for the organization of amplitude modulation (AM) radio broadcasting. This regulation ensures that AM broadcasts adhere to international regulations and are allocated appropriately for each region. The primary objective is to establish a comprehensive master plan that facilitates the optimal and efficient utilization of available radio frequencies while preventing disruptions in broadcast reception caused by interference from domestic and foreign radio transmitters.

Regulation of the Minister of Communication and Informatics of Indonesia Number 3 of 2017 addresses the radio frequency master plans specifically designed for organizing frequency modulation (FM) radio broadcasting. This regulation mandates that all FM radio operations adhere to technical provisions, including maintaining a 100 kHz spacing between radio frequency channels for LPP, LPS, and LPK. Radio stations for LPP and LPS are categorized into three classes, namely Class A, Class B, and Class C. Class A stations have a service area with an outermost point located 30 km from the center. In contrast, Class B stations have a service area with an outermost point situated 20 km from the center. Class C stations have a service area with an outermost point located 12 km from the center. LPK radio stations, are classified as Class D, with a service area extending up to 2.5 km from the location of the transmitting station.

Class A Radio Stations are specifically intended for broadcasts in the Special Capital Region of Jakarta and border areas with other countries. Meanwhile, Class B Radio Stations are intended for broadcasts in the Provincial Capital, including the Special Capital Region of Jakarta. Those in Class C are intended for broadcasts in district areas, while Class D Radio Stations are for community radio broadcasts.

Regulation of the Minister of Communication and Informatics Number 31 of 2014 focuses on the Radio Frequency Master Plan for implementing special telecommunications for analog broadcast television on the Ultra High Frequency (UHF) bands. This regulation serves as a replacement for the previous Decree of the Minister of Transportation Number KM. 76 of 2003, which addressed the same topic. The government's rationale for introducing the new regulation was to ensure an adequate supply of radio frequency channels for special telecommunication operations specifically required for analog broadcast television on the UHF band. Additionally, the change in administrative areas within Indonesia necessitated a revision of the service areas for analog broadcast television operations nationwide on the UHF band. These changes were implemented to align with the evolving requirements and ensure efficient utilization of the available radio frequency resources for analog broadcast television in the UHF band.

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The Ministry of Communication and Informatics of Indonesia has issued Regulation Number 18 of 2016 in order to enhance public services and streamline the licensing process for broadcasting operations. This regulation specifically focuses on the requirements and procedures for obtaining broadcasting operation permits, which are vital for the management of Radio Frequency. The Ministerial Regulation covers a broad scope, outlining the necessary criteria and steps for acquiring different types of licenses, including Principle of License, Broadcasting Operations License, and extensions of Broadcasting Operations License. The regulation emphasizes that prior to engaging in any broadcasting activities, it is imperative for a Broadcasting Institution to first obtain the required license.

Meanwhile, in the management aspect, the management of radio frequency canals based on the Broadcasting Law is given to broadcasting institutions. These institutions are classified into four distinct types, namely Public Broadcasting Institutions, Private Broadcasting Institutions, Community Broadcasting Institutions, and Subscription Broadcasting Institutions. They operate according to their master plans, which have been established and regulated by the government. It is important to highlight that establishing Foreign Broadcasting Institutions is strictly prohibited in Indonesia.

To fulfill their roles as Public Broadcasting Institutions, such as RRI or TVRI, in organizing various broadcast programs, it is necessary to allocate a specific number of radio frequency channels. In this situation, the country ensures that an allocation of radio frequency channels is provided, amounting to at least 20% of the total number of frequency channels in each broadcasting service area. In cases where a broadcast service area has fewer than 10 frequency channels available, RRI and TVRI should be allocated a minimum of 2 channels. The provision of a 20% frequency allocation is intended to maintain balanced information dissemination between Public Broadcasting Institutions and other broadcasting entities. This allocation ensures that all segments of society across Indonesia have access to a diverse range of broadcast programs.

The government's commitment to policy consistency is tested, particularly concerning the utilization of radio frequency channels, which must adhere to predetermined master plans. In the case of the AM radio master plan, specific channel allocations are designated for different broadcasting institutions. For instance, channel no. 53 is intended for LPP RRI national broadcasts, while channels 17 and 19 are designated for LPK broadcasts in each broadcast area. When a broadcasting service area consists of 20 radio frequency channels, it is specified that 3 channels are dedicated to LPP and LPK, with the remaining 17 allocated to LPS and LPP. The availability of 20% of channels for LPP in each broadcast service area cannot be guaranteed.

Similarly, in the master plan for FM radio broadcasts, the government does not allocate a specific 20% quota for LPP activities, rather, LPP competes with LPS for channel utilization. This can be observed in the canal planning, where channel numbers 1 to 200 are shared between LPP and LPS, while 202, 203, and 204 are

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exclusively designated for LPK. In various areas, LPP is unable to achieve the mandated 20% frequency allocation. For instance, in the Special Region of Yogyakarta, LPP manages only 4 radio frequency channels, whereas LPS occupies 38 radio frequency channels. When comparing the number of channels utilized by LPP and LPS, it becomes evident that LPP falls short of the 10% benchmark.

Based on the information presented, it can be concluded that the government's policy towards the four types of broadcasting operators, namely LPP, LPS, LPK, and LPB, lacks balance. Community radio or LPK, as per regulations, is only allocated a limited number of radio frequency channels, 3 for FM and 2 for AM, which hampers its development. Despite regulatory provisions allowing for community TV, its practical implementation is challenging, resulting in many requests being rejected by the FRB. Meanwhile, LPP, which represents the country, is only given an allocation of at least 20% of the existing number of radio frequency channels. In many areas, these provisions are inconsistently implemented, leading to the private sector or LPS dominating the management of radio frequency channels.

In terms of supervision, the government undertakes its role to oversee, evaluate, control, and enforce laws with the objective of ensuring that the country control over natural resources is utilized to maximize the benefits for the people. In the context of supervising the radio frequency spectrum, the focus is on ensuring that its utilization aligns with the predetermined master plan of the radio frequency spectrum.

The Directorate General of *SDPPI* operates as an echelon I-level work unit under the Ministry of Communication and Information Technology. Its primary responsibility is formulating and implementing policies and technical standardization pertaining to resources and equipment in the post and information technology sector. The Directorate General of SDPPI fulfills three key functions in the domain of post and information technology resources and equipment, namely regulation, supervision, and control (*Sigma Research Indonesia*, 2017, 1).

To fulfill these functions effectively, the Ministry of Communication and Informatics has established regional technical implementation units known as the Radio Frequency Spectrum Monitoring Technical Implementation Unit. This Technical Implementation Unit (UPT) has the task of carrying out supervision and control in the field of radio frequency spectrum use. These tasks include observation, emission source detection, monitoring, control, evaluation and scientific testing, measurement, coordination of radio frequency monitoring, preparation of plans and programs, provision of spare parts, maintenance and repair of devices, as well as administrative and household affairs (Ditjen *SDPPI*, *2017* 21).

Each *UPT* shares similar responsibilities, although variations may exist due to differences in the resources and manpower available to them. Additionally, in terms of law enforcement, the *UPT* is supported by Civil Servant Investigators (*PPNS*), totaling 233 personnel nationwide as of 2017 (Directorate General of

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SDPPI, 2017, 23). During the first half of 2017, PPNS investigated 13 suspects involved in radio frequency violations in various regions, resulting in seven individuals receiving court verdicts (Ditjen *SDPPI, 2017* 22).

Based on the provided information, it is evident that the radio frequency spectrum is recognized as a finite natural resource, as indicated by both the Telecommunications Law and the Broadcasting Law. From the perspective of the country control right, which the 1945 Constitution collectively establishes, the country is entrusted with the responsibility to fulfill its functions in formulating policies, implementing management actions, enacting regulations, carrying out management, and conducting supervision. In this situation, the Ministry of Communication and Informatics, representing the country, has undertaken extensive planning, management, administration, and monitoring of the utilization of the frequency spectrum.

The implementation of the broadcasting law has not been able to achieve the desired level of effectiveness and falls short of realizing the goal of maximizing the prosperity of the people. Several factors contributed to this situation, including the weakening of the role of the Indonesia Broadcasting Commission (KPI), which was initially intended to be a strong and independent institution. Additionally, law enforcement is not sufficiently stringent, particularly concerning the operation of network broadcasting systems and the role of public broadcasting institutions. The expected representation of the country by public broadcasting institutions has not been optimally fulfilled, rendering them unable to compete effectively. Policies from the Ministry of Communications and Informatics, which are often inconsistent, have also caused the initial aspirations of the Broadcasting Law not to be reached. For instance, Public Broadcasting Institutions were intended to be allocated a minimum frequency canal of 20%, but this target has not been met in practice. The government prioritized private broadcasting institutions, resulting in a significant gap between the actual achievement and the intended 20% allocation.

The country must rekindle the original spirit of the broadcasting law to effectively exercise its control right. This can be achieved by strengthening the role of KPI and ensuring the implementation of a robust broadcast network system that upholds the principles of ownership diversity and content diversity. Granting significant roles to prominent public broadcasting institutions, such as TVRI and RRI, as representatives of the country, in directly managing the frequency spectrum is essential. These measures are necessary to facilitate the attainment of the highest possible level of prosperity for the people.

Analysis of the Implementation of the Broadcasting Law For the Greatest Prosperity of the People

The implementation of the Broadcasting Law emphasizes the control rights of the country over the radio frequency spectrum, with the aim of promoting the overall well-being of its people. In essence, the Broadcasting Law provides ample opportunities to use the radio frequency spectrum for the benefit of the

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people. It creates favorable conditions for business endeavors in the following ways. Firstly, by mandating local stations to become part of a network system, thereby promoting entrepreneurial investment in this sector. Secondly, Broadcasting Law legally ensures the establishment of local television stations, thereby generating employment opportunities for a significant workforce. Thirdly, the law stimulates the growth of production houses in different regions, fostering partnerships to produce content for local and networked television channels. Lastly, the presence of local broadcasting institutions and their programs caters to the information needs of local communities, delivering up-to-date news and content relevant to their specific regions.

In analyzing the implementation of the Broadcasting Law, it is essential to question whether the use of the radio frequency spectrum has genuinely contributed to the overall prosperity of the people. The proper implementation of the mandated Network Station System, as outlined in the Broadcasting Law, has been inconsistent, deviating from the intended purpose of the law. Consequently, the radio frequency spectrum in regional areas appears to be primarily monopolized by the private television industry. This situation has led to only a handful of existing television networks, approximately ten, benefiting significantly from a series of government policies.

The owners of capital within the private television sector reap the greatest reward of advertising revenue and other associated benefits. This scenario severely limits business opportunities for investors in regional areas to enter the broadcasting sector. The state-owned natural resource, the radio frequency spectrum, fails to be fully used for the ultimate prosperity of the people. Consequently, the non-realization of the network station system impedes the growth of local broadcasting institutions. Established local television stations face an uneven playing field when competing for advertisements with national network television. Naturally, networked national television holds a distinct advantage due to its operational efficiency, as it does not require extensive recruitment of workers or studio construction in regional areas. Many local television stations struggle financially merely to survive due to their inability to compete effectively.

The failure to implement the network broadcasting system has led to the stagnation of television broadcast production houses in the regions. These production houses were initially expected to provide content for local television stations, contributing to their growth within the regions. They were anticipated to create job opportunities, thereby boosting the regional economy. These expectations have not been realized due to the failure of the intended plan.

Generally, the unsuccessful implementation of the network broadcasting system deprived local governments and their communities of the economic benefits that were expected from private national television broadcasts. Consequently, it can be concluded that the use of the public-owned radio frequency spectrum for private television broadcasting has not effectively contributed to the overall prosperity of

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the people. These benefits have been enjoyed by only a small fraction, specifically the owners of the television networks.

In terms of broadcast content, the analysis shows that private television broadcasters nationally prioritize the airing of entertainment programs. Despite their popularity, soap operas, infotainment shows, and reality programs often receive low ratings in terms of content quality. It appears that broadcasting institutions pay little attention to public opinion, as private broadcasters continue producing programs driven by heavy advertising revenue.

Public Broadcasting Institutions, such as TVRI and RRI, which should serve as cornerstones of broadcasting, do not receive adequate attention. In this case, the government tends to allow and neglect the allocation of resources in accordance with regulations. These Public Broadcasting Institutions are expected to fulfill the essential objectives of broadcasting, including education, fostering national character, and serving as a unifying tool for the nation. However, the series of government policies prioritizing both Public and Private Broadcasting Institutions are not aligned with the mandate of the Constitutional Court. The country must prioritize the direct management of natural resources as it facilitates the path to prosperity.

Community Broadcasting Institutions, which are meant to affirm the diversity of ownership, have not been given the allocation stipulated in the law as expected. Despite being mentioned in the Act and intended to be aligned with other broadcasting institutions, these institutions have been overlooked. The television master plan has failed to provide frequency channels for Community Broadcasting Institutions, leaving them with only a meager allotment of three channels for community radio.

The allocation for educational programming remains significantly limited. Similarly, the implementation of the social cohesion function has not been effectively shown. This is evident in various infotainment programs that do not foster harmony among people but exacerbate conflicts between individuals and their social groups. The use of broadcasting institutions for political activities that favor specific groups, particularly television channels controlled by political party figures, is highly prevalent. Even during election periods, many television stations appear to neglect neutrality, while KPI appears powerless in addressing these violations.

The Media Care Society (*MPM*), during the hearing at the Constitutional Court, expressed their concerns in the following manner:

> "The concentration of national broadcasting in the hands of a few capital owners, without adequate decentralization, has given rise to an unjust, unequal, and imbalanced national information system, leading to the dominance of Jakarta over other regions in Indonesia. Consequently, even minor news events occurring in Jakarta tend to receive nationwide coverage. Significant social events occurring in other regions may not

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> receive the same level of attention. Empirical evidence shows that regional news is predominantly featured on television only when it involves conflict, violence, insults, or other negative aspects capable of creating a distorted image. Such circumstances pose a clear threat to the integrity and future of the Indonesian nation" (Constitutional Court of the Republic of Indonesia, 2011, 355).

Based on the descriptions provided, it can be concluded that there are significant gaps in fulfilling the right of the community to access information. The management of the radio frequency spectrum, aimed at maximizing the prosperity of the people, has fallen short of expectations. Furthermore, the prevalence of subpar broadcast programs, Jakarta-centric bias, and lack of diversity contributes to these issues. The root cause lies in the profit-driven nature of Private Broadcasting Institutions, which prioritize business interests and ratings-driven content for attracting advertisers rather than prioritizing the public interest.

The obligation to broadcast local programs comprising 10% of the daily schedule, serving as the cornerstone of the remaining broadcast network systems, is not being effectively implemented. Various reasons are cited, including high production costs, limited local content, and inadequate resources in certain regions. Consequently, the diversity of broadcast content that people in their respective regions should enjoy is diminished. The rich cultural diversity of Indonesia remains untapped, overshadowed by the unnecessary focus on events like the flooding in the capital, which may not be relevant or necessary for the entire Indonesian population to be informed.

The broadcasting industry is currently facing turmoil due to the frequent acquisition of broadcasting institutions by external parties. It is concerning that these acquisitions often involve individuals who have prior experience in managing broadcasting businesses. Despite a Constitutional Court decision on this matter, many broadcasting institutions continue to transfer ownership to a select few individuals. Consequently, the vast radio frequency spectrum available in Indonesia, which should be used for the benefit of the people, remains limited and controlled by only a few individuals.

This situation leads to the conclusion that although the Broadcasting Law recognizes the radio frequency spectrum as a finite natural resource intended for the maximum prosperity of the people, its implementation does not adhere to constitutional principles. The underlying philosophy of Article 33 of the 1945 Constitution, which emphasizes the responsible use of the radio frequency spectrum, is treated merely as a formality. It is essential to ensure that laws do not contradict the constitution, making it imperative for current policymakers in the broadcasting field to prioritize the 1945 Constitution as the supreme law and policy guiding the broadcasting industry. However, the current implementation of the Broadcasting Law has failed to achieve the envisioned prosperity for the people.

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The enactment of the Job Creation Law, commonly known as the Omni Bus Law, has brought about significant changes to the process of obtaining business licenses and has streamlined investment requirements for the public, particularly for business actors. This law has introduced modifications, deletions, and new provisions in the Broadcasting Law, with three key aspects relevant to broadcasting. These include amending Article 33, which governs the procedure for obtaining broadcasting licenses, removing Article 34, covering aspects such as license validity periods, and adding a new article addressing the digitalization of broadcast media. From the perspective of HMN, the question arose as to whether these regulatory changes would bring the objective of managing the radio frequency spectrum closer to achieving the greatest possible prosperity for the people.

One of the fundamental changes pertains to Article 33, which governs the licensing process for broadcasting institutions. This article previously stipulated a series of assessment stages needed to obtain a license, recognizing the significance of limited public-owned frequencies controlled by broadcasting institutions. These stages involved strict selection processes involving multiple stakeholders, including the KPI and the public, through evaluation hearings. Under the Job Creation Law, these processes have been eliminated and consolidated into a single requirement: "Broadcasting can be carried out after obtaining a Business Permit from the Central Government." This change effectively removes public involvement in selecting and evaluating licensing arrangements for broadcasting. From the perspective of HMN, where the country has the authority to manage the frequency spectrum, changing the management system may not pose a problem since the final permit issuance remains within the purview of the government. However, from a democratization standpoint, this change presents challenges. The essence of democracy lies in public involvement, and by eliminating the role of the public, the development of democratization in broadcasting is hindered.

The enactment of the Job Creation Law has led to the explicit abolishment of Article 34 in the Broadcasting Law. This removal affects three crucial provisions within Article 34, namely the stipulated validity periods of radio licenses for 5 years and television licenses for 10 years, the prohibition on the transfer or sale of broadcast media, and the measures to prevent monopolistic practices through regulations such as broadcasting operation permits. The revocation of these provisions was prompted by various reasons, such as failure to meet the designated trial period, violation of the prescribed use of radio frequency spectrum and broadcast coverage area, non-performance of broadcasting activities for more than three months without notifying the KPI, transfer to another party, violation of the basic plan for broadcasting techniques and technical requirements for broadcasting equipment, or violation of broadcast program standards following a court decision with permanent legal force. The removal of these provisions signifies that broadcasting operation permits would no longer have expiration dates and may even be transferred or traded.

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The absence of an expiration date for permits poses a significant concern, as it allows the private sector to control the frequency spectrum indefinitely. This perception is fundamentally flawed because the radio frequency spectrum is a public resource that should be used for the utmost benefit of the people. Furthermore, when the private sector gains a larger share of frequency spectrum control in the future, the ability of the government to manage it is further diminished. By prioritizing economic interests over content quality, the private sector may distance itself from the role of the government in fostering the welfare of the people.

The Concept of Country Control Rights in Digital Broadcasting

The old technology was abandoned due to the rapid advancement of technology, especially with the innovation and use of the radio frequency spectrum. This innovative technological development enables the compression of electromagnetic waves into more efficient digital formats. Consequently, the analog terrestrial broadcasting system must transition to a more cost-effective digital system.

The international commitment to migrate to digital terrestrial broadcasting was first formalized at the ITU Regional Radiocommunication Conference (RRC) on June 17, 2006. This regional conference included countries from Region 1, encompassing Europe, Africa, the Middle East, and the Islamic Republic of Iran as the Chair (KPI, 2014, 2).

The conference, attended by 120 countries, led to the adoption of the *Final Acts of the Regional Radiocommunication Conference for the planning of digital terrestrial broadcasting services in parts of Regions 1 and 3. This agreement pertains to the frequency bands of 174-230 MHz and 470-862 MHz (RRC-06)* and was held in Geneva from May 15 to June 16, 2006 (ITU, 2006, 141).

In the meeting, a significant decision was reached regarding the simultaneous Analog Switch Off (ASO) deadline, which was set for June 17, 2015, but developing countries were granted flexibility until 2020. The migration from analog to digital broadcasting systems is a multifaceted process that necessitates the formulation of important policies and decisions. It is crucial to carefully consider the unique social, political, and economic situations in each country. The priorities differ in terms of geographical conditions, market dynamics, and population distribution. Therefore, the government must exhibit courage, make firm decisions regarding the timing of the analog switch-off, and have a clear plan for using digital dividends, among other factors.

Digital TV systems offer numerous advantages in terms of broadcasting performance and quality compared to analog TV systems. Initially, digitization was primarily intended for broadcasting visual and audio content. However, digitization has enabled various interactive services similar to those available on information and communication technology platforms. Digital TV systems also facilitate the reception of television signals on mobile devices (ITU, 2006, 141). These systems

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can transmit significantly larger amounts of information, opening up possibilities for creating diverse, innovative services that were previously restricted to other media platforms.

The distribution of digital dividends commenced the moment ASO was implemented. According to Rahayu et al., the following points should be considered during this distribution process. Firstly, special allocations must be made for public entities, including public broadcasting institutions and emergency services. For example, a reserve of 2 x 5 MHz in the US has been set aside for this purpose. Secondly, it is essential to reserve a spectrum for wireless microphones and other short-range wireless communication devices used in activities such as sports events and music concerts (Rahayu et al., 2015, 255).

From the perspective of country control rights, broadcasting digitization still relies on finite natural resources despite its efficient use of frequency spectrum. Its use must align with the values enshrined in Article 33 of the 1945 Constitution, which aims to promote the greatest prosperity of the people. The 1945 Constitution, as the collective creation of the people, mandates the country to carry out some functions and the Ministry of Communication and Informatics has implemented various policies and arrangements in this regard. However, some of these policies and arrangements are perceived to be in conflict with other higher-level regulations.

Currently, there is a debate regarding the future management of the frequency spectrum infrastructure. The discussion revolves around two concepts, namely, the single multiplexer (*mux*) model, where the country acts as the sole operator, and the hybrid mux model, where the management involves both the country and the private sector. However, the significance of this conceptual difference is being overlooked, as the government has already decided to adopt the Multimux system for managing the spectrum after the implementation of the Job Creation Law. This decision deviates from the spirit of Article 33 of the 1945 Constitution. According to the logical flow of the State's Controlling Rights, it would be appropriate to promptly implement a single multiplexer model, as prioritized by the Constitutional Court. This approach would facilitate the country in achieving the maximum welfare for its people, simplifying policy-making, regulation, management, administration, and supervision.

The passage of the Job Creation Law 32/2002 has addressed a long-standing issue by introducing Article 60A, which focuses on the digitalization of media in Indonesia. This article specifically governs the migration of broadcasting systems and the use of valuable natural resources. It establishes that regulating broadcasting system migration would be conducted through Government Regulations without diminishing the importance of detailed oversight. However, considering the strategic importance of the radio frequency spectrum and its widespread use by Indonesian citizens, it would be more appropriate to have comprehensive legislation regulating its management. It is essential to involve the public in decision-making processes concerning this valuable natural resource to achieve the greatest prosperity for the people.

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Despite potential protests from civil society, the Legislative Councils and the President would likely remain committed to implementing the law as a valid legal norm in the country. The next crucial step is the development of Government Regulations that align with public interest and prioritize the welfare of the people. Given past instances where the government prioritized private interests over public ones, it is important to emphasize the need for effective regulation of broadcast media digitization to ensure that the management of the radio frequency spectrum in the digital era aligns with the expectations of achieving maximum public welfare.

Conclusion

1. In conclusion, the country control over the radio frequency spectrum had been widely implemented through a combination of policy, regulation, management, administration, and supervision. These measures adhered to international rules and involved the allocation and distribution of radio frequency spectrum through a master plan, licensing arrangements, and oversight by both the KPI for broadcast content control and a monitoring agency for radio frequency spectrum usage. The government placed greater emphasis on managing private than public broadcasting institutions.
2. The objective of utilizing country control rights to manage the radio frequency spectrum for the utmost prosperity of the people h not been successfully realized. The anticipated establishment of a network broadcast system aimed at fostering local television growth did not materialize, which led to lack of job opportunities in the regions. Furthermore, the widespread buying and selling of radios and televisions resulted in increased concentration of ownership, which ultimately enabled only a select few individuals in Indonesia to reap the greatest economic benefits.
3. The concept behind the country's authority used to govern the advancement of superior digital broadcasting technology comprised the management of frequency infrastructure, referred to as a single multiplexer system. This system was adopted by Indonesia to streamline efforts needed to achieve the highest possible level of prosperity for its people.***

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