The Legal Vacuum of Foreign Relations Law: Democracy on International Law Implementation in Indonesia

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Abstract

Increased foreign relations are governed by international law, influencing national law in their implementation. These relations produce rights and obligations that bind state parties, often formalized through treaties. However, in Indonesia, applying international legal norms domestically presents challenges due to a lack of comprehensive regulations addressing their entry into force and internal implementation readiness. This essay discusses the complexity and the legal basis for adopting foreign relations' effect on national law and seeks to address the legal vacuum of foreign relations law that has hindered democratic processes in Indonesia's international law application in Indonesia. This essay examines two research questions: (1) how does foreign relations law bridge national and

international relations? (2) how the principles of democracy are applied in the application of international law in Indonesia? Using the normative legal research method, which researches legal principles, legal systemic, and legal history. It finds that non-state actors have become a remarkable change in foreign relations, thus the foreign relations that come to domestic law have become more complex. From our perspective, the absence of a comprehensive foreign relations law in Indonesia has created a significant gap in aligning international law, which contains Indonesia's international rights and responsibilities, with the democratic principles in Indonesia. As a result, the lack of a specific legal framework guiding the implementation of international law within a democratic context limits the effectiveness and transparency of Indonesia's foreign policy.

Keywords
foreign relations, foreign policy, democratic state

I. Introduction

In principle, the country conducts diplomacy because it cannot govern in isolation. Diplomacy gives rise to foreign relations that help the country meet its needs and interests. As a reciprocal relationship, foreign relations not only benefit the country but also entail international responsibility. These benefits and responsibilities are encompassed within international law, which fundamentally addresses the rights and obligations of states. How the country conducts this international law has two effects. First, it impacts the

country's position within the international community. Second, it affects the country's sovereignty in foreign relations; whether the country agrees to be completely governed by international law or modifies them to reflect its unique characteristics. In many legal studies, how the government responds to law is categorized as either monist or dualist within their legal system.

In many discussions, including in Indonesia, the issue of monism and dualism is closely related to the ratification of international treaties, as it delineates specific responsibilities for each country party. However, monism and dualism pertain to how domestic law adopts international law. International law is not only sourced from international treaties but also from international customs, general principles of law recognized by civilized nations, and judicial decisions as well as the teachings of the most highly qualified publicists.

Moreover, over time, the practice of diplomacy has involved non-state actors who provide significant benefits in foreign relations. Thus, international law comes not only from other countries parties in international treaties but also from international organizations and non-governmental organizations. The actor responsible for carrying out this international law in Indonesia is the President[1], who can delegate authority to the Ministry of Foreign Affairs[2].

Since Article 1(2) and Article 1(3) of the Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (Indonesian Constitution) declare that Indonesia is a democratic country based on law, every government action must be conducted according to the law to ensure it serves the people. In Indonesia, the discussion of international law is primarily related to Law No. 24 of 2000 on International Treaties and Law No. 37 of 1999 on Foreign Relations (Law

[1] Article 6 (1) Undang-Undang Nomor 37 Tahun 1999 tentang Hubungan Luar Negeri.

[2] Article 6 (2) Undang-Undang Nomor 37 Tahun 1999 tentang Hubungan Luar Negeri.

37/1999). Law 37/1999 does not address many issues regarding Indonesia's legal system regarding foreign relations and international law.

In this essay, we draw up the complexities of international law arising from foreign relations and capture the legal vacuum concerning foreign relations law in Indonesia. We examine how these two factors have developed out of sync, leading us to overlook that foreign relations must also be conducted based on the people's sovereignty. Ultimately, if constitutional law cannot establish a legal framework for conducting foreign relations, the state cannot capture democracy in the foreign policy it pursues.

Research Question

In the era of increasing globalization, diplomacy and foreign relations have become tools that countries must have to compete as well as to develop and align with the era. The dynamic of diplomacy and foreign relations have affected the nations in more complex ways. The complexity and the legal basis to adopt the effect of foreign relations and diplomacy have been out of sync. This asynchrony will fail to capture democracy in the implementation of international law in Indonesia. This study aims to capture how the legal vacuum of foreign relations law has affected the lack of democracy in the implementation of international law in Indonesia. This essay will explain:

1. How does foreign relations law bridge national and international relations?
2. How the principles of democracy are applied in the application of international law in Indonesia?

II. Method

This essay uses the normative legal research method which tends to view law as a prescriptive discipline, focusing on the perspective of its norms, which are inherently prescriptive. The normative legal research method in this essay includes:[3]

1. research on legal principles;
2. research on legal systematics;
3. research on the level of vertical and horizontal synchronization;
4. comparative law; and
5. legal history.

This essay uses conceptual and statute approaches, which will emphasize practical application by addressing real legal issues encountered by practitioners, highlighting how the absence of comprehensive foreign relations law contributes to the lack of democracy in implementing international law in Indonesia. The analysis will examine legal facts, relevant regulations, cases, and legal norms or doctrines pertinent to the research question.

[3] Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat* (Jakarta: Raja Grafindo Persada, 2001), 14

III.DISCUSSION

Foreign Relations Law Bridge National and International Relations

The participation of nonstate actors in foreign relations stimulates more complexity in international and domestic law. Under international law, the legal personality is always linked to the law-making capacity.[4] Initially, nonstate actors cannot be categorized like the state, which could implement the functions of law-takers or law-makers.[5] However, in recent developments, non-state actors, such as liberation movements, multinational companies, and other entities, have power and status features close to those of the modern states.[6] Of course, it influences the law-making concept under international law. The idea of law-making in the international sphere may become less exclusive as it accommodates new participants, such as non-state actors, to accommodate the new shape of the law-making process at a global level, which is significantly multileveled and multilayered.[7] This condition also results in the development of domestic law, which may influence the involvement of various subjects in international negotiations.

In international law development, the involvement of non-state actors influences law-making and actions on various issues. The roles of non-state actors cannot be limited by creating a new legal personality category because non-state actors are classified in diverse categories (even if they are classified as Multinational Companies and Non-

[4] Noortmann, Ryngaert. "Non-State Actors: Law-Takers or Law-Makers? Is That the Question?", *Taylor & Francis Group* (2010), 197

[5] Ibid, 195.

[6] Ibid.

[7] Ibid.

Governmental Organizations).[8] Then, creating one legal personality seems complicated because non-state actors have different characteristics from each other. Compared to the state legal personality, the non-state actors may have limited capacity to have similar international legal capacity as the states. Yet, in our argumentation, with the limitation of the authority of nonstate actors, they always have roles in influencing the law-making procedure and results. Then, non-state actors become significant in international relations nowadays.

The involvement of non-state actors in international relations influences the state's exclusive position as the main subject of international law. As Noortmann and Ryngaert have indicated, "*fragmented sets of international rights and obligations have been attributed to a diverse cluster of non-state actors*.[9] A wide range of non-state actors may be identified, such as non-governmental organizations, multinational enterprises, national liberation armies, intergovernmental organizations, and armed non-state actors.[10] The acknowledgment of new subjects (non-state actors) in international law influences the question of the role and position of these entities and how they are involved in law-making in the global forum, which may result in the creation of international rights and obligations. In addition, Burleson and Pei Wu analyze the increase of the influence of non-state actors in international legal and policy negotiations and argue that public participation is necessary to achieve justice in international consensus.[11] Public

[8] Ibid, 197.

[9] Ibid, 1.

[10] Ibid, 1.

[11] Elizabeth Burleson, Diana Pei Wu. "Non-State Actor Access and Influence in International Legal and Policy Negotiations", *Fordham Environmental Law Review* 21, no. 1 (2010): 193-208, 193

participation may create good governance, which will respond to present and future societal needs in an accountable, effective, transparent, equitable, and inclusive manner.[12] In recent developments, non-state actors, such as civil society, have important roles as effective negotiation advocates among nation-states. The results may build sustained trust in government and reinforce the establishment of international consensus.[13]

In the development of international relations, the role of non-state actors triggered a new concept in international law-making and law enforcement, which was previously underestimated in the state-centric system.[14] There is a need to analyze the law-making pluralization to create the international legal rules contents, which additionally include the concept of the relation among the international actors, such as state and international organizations. This discussion is strongly related to international affairs, as from the history of Westphalian law, the states are the main actors in international politics. Recently, the role of non-state actors has played a significant role in foreign relations, which may bring the alteration of decision-making in an international context. Then, it becomes a question of how their roles with the other subjects may influence foreign legal policy.

Foreign policy is the basis for states' relationships with other foreign entities and may affect the legal dimension, both domestic and international. According to Lacharriere, foreign legal policy in international law is influenced by domestic law

[12] Ibid, 205.

[13] Ibid, 208.

[14] Jean d'Aspremont. "Multiple Perspective on Non-State Actors in International Law", *Taylor & Francis Group* (2011), 1

and relates to maintaining the national interest.[15] However, Megeret Frederic argued that foreign legal policy should not be understood only as translating national interests into international law; it can be considered broader as governmental policy toward international law.[16] She also indicated the Constitutional Framework's significance in influencing the shape of foreign legal policy.[17] Domestic law would be the basis for applying policies in states' actions in foreign relations. In Indonesia, foreign relations rules can be found in the Constitution, Law Number 37/1999, and other laws and regulations that give authority to implement foreign relations. From an international perspective, the consent of states resulting from their foreign policies may form treaties that bind their commitments internationally. With this view, Megeret Frederic argued that foreign legal relations were undoubtedly more than the implementation of international law and not certainly determined by domestic law.[18] Yet, the interaction creates the effect of the legal dimension on domestic and international law.

The legal system is applied to create social order. If it is implemented within the scope of a country, it is called national law; otherwise, if it applies between countries, it is called international law.[19] The relationship between the two laws is also a concern because conflict norms among them can cause problems.

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[15] Megeret, Frederic. "Foreign Legal Policy as the Background to Foreign Relations Law?". *Cambridge University Press* (2021) https://doi.org/10.1017/9781108942713.007, 112

[16] Ibid, 115.

[17] Ibid, 114.

[18] Ibid, 126.

[19] Ariando, Melda K. "Kedudukan Hukum Internasional dalam Sistem Hukum Nasional". *Indonesian Journal of International Law* 5 No. 3 (2018), 505-506

Two theories are developed to discuss the application of international law to national law. They are formed due to different views regarding the binding basis for international and national law applications.[20] Heinrich Triepel[21] and Dionisio Anziotti[22] put two fundamental differences between the schools of monism and dualism, where the schools of monism believe that international law and national law are a single unit of rules binding on the state, individuals, or other legal subjects. The dualism school explained by Kelsen[23] holds the view that international and national law are not unified legal systems but stand separately, with different, independent, and isolated systems of norms because they are based on two different basic norms.

Applying international law to the national legal system refers to the following two doctrines: first, the doctrine of incorporation; this doctrine applies to international law, which can directly become part of national law. International law comes into force (binding and force) when the country ratifies any convention/treaty or agreement with another country; then, all rights and obligations will arise and be binding on the state and citizens without having to go through the regulatory process (legislation) first as for several states that adhere to the doctrine, namely, the United States, Britain, Canada, Australia, and several other countries with the Anglo-Saxon system. The transformation doctrine states otherwise that no international law will become national law without internalization (internal

[20] J.G. Starke. *Monism and Dualism in the Theory of International Law*. The British Year Book of International Law, 1936.

[21] Ariando, Melda K, *Op. Cit*, 508-511

[22] Dionisio Anziotti. *Cours de Droit International*. Paris: Recueli Sirey, 1929.

[23] H. Kelsen, Pengantar Masalah Teori Hukum, 1992, 111, dalam Spaak, Torben, 2013, Kelsen on Monism and Dualism, Article: Maret 2013, https://www.researchgate.net/publicatioon/256051854,

ratification) processes, as treaties and international agreements cannot be enforced before being transformed into national law. The transformation process is an effort to align international interests with internal interests (national interests), while countries that adhere to this doctrine are Southeast Asian countries, including Indonesia.[24] Looking for a middle ground that the Indonesian legal system has a special character in preventing and anticipating the occurrence of a legal vacuum, Indonesia does not fully adhere to the understanding of positivism if laws are unable to answer existing problems, law enforcers can refer to other levels or sources of law such as customs, treaties, jurisprudence, and doctrine.

Applying international law in a country requires several processes, which depend on the legal system adopted (checks and balances principles in the democratic state to align the national interest). The application of international law in Indonesia has been emphasized in the Preamble and Article 11 paragraph (1) of the 1945 Constitution to participate in world peace and make agreements with the international community; paragraph (2) any agreements and agreements made that have external impacts on society and state finances must obtain the approval of the House of Representatives (legislative/DPR) (check and balance mechanism); and paragraph (3) the mechanism for implementing paragraphs (1) and (2) will be specifically regulated by law, in this case the mechanism is regulated in Law 24/2000. The process and procedure for forming these laws and regulations are determined based on the provisions of Law 12/2011, which normatively regulates the content of the laws and regulations and their hierarchy, as well as the procedure of law-making.

[24] Ibid.

It is essential to discuss the legal basis and actors involved in implementing foreign relations under the Indonesian legal system. As mentioned in consideration of Law 37/1999 concerning Foreign Relations, foreign relations in bilateral, regional, and multilateral are implemented to align with the national interest following the foreign policy principle of "free and active." This regulation Article 1 defines the meaning of foreign relations as any activity that concerns regional and international aspects carried out by the Government at the central and regional levels or its institutions, state institutions, business entities, political organizations, community organizations, non-governmental organizations, or Indonesian citizens. In this provision, foreign relations are conducted by various actors, including as the subject of foreign relations law in Indonesia, with the President having the authority to implement foreign relations and foreign policy, which can be mandated to the Minister of Foreign Affairs.[25] Generally, this Law shows the main actors in international relations in Indonesia, acknowledging other significant actors implementing foreign relations.

International treaties are one of the prominent results in foreign relations. Treaties may bind the state parties to implement their rights and obligations based on the states' consent. However, adopting treaties in the Indonesian legal system sometimes presents challenges. Indonesian Foreign Relations Law only regulates the norm that states every state/government department/non-department needs to consult with the Minister of Foreign Affairs before negotiating the treaties.[26] Those entities must have full power from the Minister of Foreign Affairs to make treaties, particularly in

[25] Article 6 Law Number 37 of 1999 concerning Foreign Relations Law
[26] Article 14 Law Number 37 of 1999 concerning Foreign Relations Law

signing and receiving the draft of international treaties to consent to be bound.[27] Since the reformation, a specific Law has been established to alter Presidential Letter Number 2826/HK/1960 dated 22 August 1960, that is, Law 24/2000. This Law regulates the process of treaty-making, ratification, application, storage, and termination of international treaties. Internal ratification integrates international treaties into national law, transforming them into laws and regulations such as Laws and Presidential Regulations.[28] The difference between the ratification by Laws and Presidential Regulations placed in the substance of treaties as regulated under Articles 10 and 11 of this Law, which in the latter is considered unconstitutional by the Constitutional Court as long as only specific issues are considered to need to be ratified by Law.[29]

The integration and legal validity of international treaties in the Indonesian legal system are not based on the internal ratification process but on the international process. The Vienna Convention of 1969 concerning International Treaties, in Article 11, emphasized that states' consent to be bound by a treaty may be expressed by signature, exchange of instruments constituting a treaty, ratification, acceptance, approval, accession, or by any other means if so agreed. It describes various actions that may be taken by state parties to be bound by the treaties. The time to enter into force is under the consent of the state parties.[30] In the national legal system, treaties are entered into force and follow the provisions as consent to the

[27] Article 9 Law Number 24 of 2000 concerning International Treaties
[28] Article 9 Law Number 24 of 2000 concerning International Treaties
[29] Constitutional Court Decision Number 13/PUU-XV/2018
[30] Article 25 of the 1969 Vienna Convention concerning International Treaties

treaties.[31] Then, we argue that treaties' legal validity is determined by their international entry into force, and national legal obligations need a bridge to fill the gap in the parallel process.

Democracy in Implementation of International Law in Indonesia

Law 37/1999 was created on September 14, 1999, when Indonesia implemented the first version of the Indonesia Constitution. In this regime, the Indonesia Constitution is dominant with the presidential: there was a limited political party, communist development, and expansion of the Armed Force as a part of the political party.[32] Subsequently, Indonesia amended it with the first until the fourth amendment of the Constitution. The First Amendment is about limiting the president's authority and strengthening the authority of the House of Representatives (DPR). There is a change of the authority to make the legislation from the President to the DPR.[33] The second Amendment is about the state territory and division of the regional government, perfecting the First Amendment in terms of strengthening the position of the DPR and more detailed provisions regarding human rights.[34] The

[31] Article 15 point (1) Law Number 24 of 2000 concerning International Treaties

[32] Sonia Ivana Barus, "Proses Perubahan Mendasar Konstitusi Indonesia Pra dan Pasca Amandemen," *University of Bengkulu Law Journal* 2, no. 1 (2017): 29–55, https://doi.org/10.33369/ubelaj.2.1.29-55 h.55

[33] Article 5 (1), Article 7, Article 9, Article 13 (2), Article 14, Article 15, Article 17(2) and (3), Article 20, and Article 22 of Indonesia Constitution Amandement I

[34] Article 18, Article 18A, Article 18B, Article 19, Article 20 Ayat (5), Article 20A, Article 22A, Article 22B, BAB IXA, Article 28A, Article 28B, Article 28C, Article 28D, Article 28E, Article 28F, Article 28G, Article 28H, Article 28I, Article 28J, BAB XII, Article 30, BAB XV, Article 36A, Article 36B, and Article 36 of Indonesia Constitution Amandement II

third Amendment is about the Form and Authority of the State, Authority of DPR, President, Impeachment, State Finance, Judicial Power, and Public Elections.[35] The fourth amendment is about the Education, Culture, Economy, Social Welfare, and Transitional and Additional Provisions.[36] In short, all the amendments reflect the move from executive-heavy to legislative-heavy.[37] The amendment process strengthens the provision Indonesia is a democracy based on law country.

The amendment of the Indonesia Constitution has brought Indonesia to pursue democracy in carrying out the country. Democracy is a government system where political authority is vested in the people. This is reflected by how Indonesia carries out the government is the same as the character of the democracy: regular election, freedom of speech and assembly, and checks and balances. This character of democracy is also legally reflected in several foreign relations practices in Indonesia. This can be examined in Article 9 (2) of Law 24/2000 which says International Treaty can be ratified with the Act and Presidential Regulation[38]. The

[35] Article 1(2) and (3), Article 3(1), (3), and (4), Article 6(1) and (2), Article 6A(1), (2), (3), and (5), Article 7A, Article 7B(1), (2), (3), (4), (5), (6), and (7), Article 7C, Article 8(1) and (2), Article 11(2) and (3), Article 17(4), BAB VIIIA, Article 22C(1), (2), (3), and (4), Article 22D(1), (2), (3), and (4), BAB VIIB, Article 22E(1), (2), (3), (4), (5), and (6), Article 23(1), (2), and (3), Article 23A, Article 23C, BAB VIIIA, Article 22E(1), (2), and (3), Article 23F(1) and (2), Article 23G(1) and (2), Article 24(1) and (2), Article 24A(1), (2), (3), (4), and (5), Article 24B(1), (2), (3), and (4), Article 24C(1), (2), (3), (4), (5), and (6) of Indonesia Constitution Amandement III

[36] Article 2(1), Article 6A(4), Article 8(3), Article 11(1), Article 16, Article 23B, Article 23D, Article 24(3), BAB XIII, Article 31(1), (2), (3), (4), and (5), Article 32(1), (2), (3), and (4), BAB IV, Article 33(4) and (5), Article 34(1), (2), (3), and (4), Article 37(1), (2), (3), and (4) of Indonesia Constitution Amandement IV

[37] Sonia Ivana Barus, *Loc. Cit. 59*

[38] Article 100 of Law of Republic of Indonesia No. 12 of 2011 on Legislation says that all the Presidential Decree that regulating. including Ratification of International Treaty, is considered as the Presidential Regulation.

democracy is reflected because according to the Law No. 12 of 2011 on Legislation Making (Law 12/2011), the Act and Presidential Regulations are part of the legislation. Furthermore, Law 12/2011 regulates public participation in the legislation-making process and the provision of the judicial review of the legislation. Hence, there is a space for public participation, including the DPR, and the judicial authority, which reflects the check and balance on it.

The framework of the check and balance in the ratification of the international treaty can be examined from the Putusan Mahkamah No. 33/PUU-IX/2011 (Decision 33/2011) on Constitutional Review on Law No. 38 of 2008 on Ratification of Charter of The Association of Southeast Asian Nations (Law 38/2008). In this case, groups of Indonesian farmers and non-government organizations claimed the Law 38/2008. They claimed that the act of ratification has disadvantaged the business of Indonesian farmers because the government does not provide any legal framework or business development for Indonesian farmers to compete fairly with farmers from other ASEAN countries. The applicant claims that Law 38/2008 is unconstitutional and has no binding legal force. Concerning the claim, the judge in the Decision rejected all the claims for several reasons. First, the ASEAN Charter has through consideration, including the DPR as the public's representative, concluded that the ASEAN Charter will bring more advantages to Indonesia and, hence needs to be ratified. Moreover, the norm in the ASEAN Charter is considered as the macro policies in the trade sector which may be detrimental to certain sectors but beneficial to other sectors.

The way the Constitutional Judicial makes the decision reflects how judicial authority can be conducted in the ratification of international treaties. The check and balance in the ratification of international treaties is guaranteed by law.

The Decision which did not reject to review the ratification of the international treaty gives the understanding that the ratification of the international treaty is a part of legislation. This case talks about the effectiveness of the ratification of the international treaty.

However, there are two dissenting opinions in Decision 33/2011. The first opinion explains that referring to the law-making process, the material content, and the implementation of the law of ratification of an international treaty is different from the law in general. Hence, the law of international law does not automatically impact the public. The second opinion explains that the law of ratification is not in the same position as law in general in Article 7 of Law 12/2011. This opinion explains that the ratification of the international treaty is only a legislative endorsement for the government's legal action. The legal binding of the international treaty is only binding to the governments who bind themselves with other countries based on *pacta sunt servanda.* Both strong dissenting opinions show the fact that even judicial authority views the ratification of international treaties is varied because there is no specific legal norm and legal framework for judicial authority to capture the ratification of international law in the Indonesian legal system.

Nonetheless, not all international treaties can be legally treated as legislation as Law 38/2008 is treated as the Law in Decision 33/2011. Article 9(2) Law 24/2000 says that the International Treaty will only be ratified if the International Treaty requires so. In other words, an International Treaty that does not require to be ratified will be automatically implemented in Indonesia, yet there is no further explanation for the legal status of the international treaty as the law in Indonesia's legal system. If the ratified international treaty does not reflect the check and balance as other legislation is

treated. The unratified international treaty has more lack of effectiveness and a framework of check and balance on it.

Furthermore, the source of international law[39] is not only the international treaty, and is developing in modern diplomacy. United Nations Security Council (UNSC) Resolution[40], a declaration by international organizations and soft law instruments like guidelines and protocols[41] have significantly contributed to international law[42]. Yet, both Law 37/1999 and Law 24/2000 do not have any provisions about how the state should respond to other sources of international law. For instance, in 2018, the Democratic People's Republic of Korea (DPRK) vessel, MV Wise Honest, was detained by the Prosecutor's Office of Indonesia at Lanak Balikpapan for violating Indonesian law. Following the legally binding decision, the DPRK paid the required fine, and Indonesian authorities released the ship.

Subsequently, the United States requested mutual legal assistance to transfer the MV Wise Honest according to the UNSC Resolution No.2371 of 2017. That UNSC Resolution imposed sanctions on the DPRK, individuals, and legal entities due to the proliferation of nuclear, chemical, and biological weapons, which pose a threat to international peace and

[39] Article 38(1) of the Statute of the International Court of Justice says that the primary source of international law is International Convention (Treaties), International Custom, General Principles of Law Recognized by Civilized Nations, and Judicial Decisions and Scholarly Teachings

[40] United Nations Security Council, "The Role of the Security Council in Maintaining International Peace and Security," United Nations, accessed Novermber 12, 2024, https://www.un.org/securitycouncil/content/functions-and-powers.

[41] Malcolm N. Shaw, International Law, 8th ed. (Cambridge: Cambridge University Press, 2017), 45–47

[42] These sources reflect growing complexity and adaptibility in international law, allowing it to address contemporary global challenges in a more coordinated and authoritative manner

security. Underscoring the cooperative multilateral solution to ensure maintaining international peace and security, Indonesia transfer the MV Wise Honest. This action is aligned with international law, yet contradictory to the legally binding decision in Indonesia. The preamble of the Indonesia Constitution declares that Indonesia will protect international peace, but there is no clear legal framework for Indonesian authorities to decide which one needs to be prioritized in what cases.

According to the cases above, the response of the government institution is varied for each case. One institution prioritizes certain things while the other prioritizes is not wrong at all. There is the issue of the effectiveness of the ratification of an international treaty. There are various opinions from the judicial authority to capture the law of ratification of international law as a part of legislation. The absence of check and balance in an international treaty that does not need ratification. The legal vacuum to act aligns with other sources of the international treaty.

The broader field that is impacted by foreign relations and the rise of the non-state actor in foreign relations, which is known as the modern diplomacy pattern, has been very urgent for countries to create laws that regulate foreign relations in their countries. This foreign relations law can be one of the government acts to protect the sovereignty in modern diplomacy. Sovereignty extends beyond mere geographic boundaries; it encompasses the government's ability to maintain state authority even amidst increasing openness to external influences within the country.

National law and international law are different laws that could not be in a hierarchy, but in the era where a state cannot be detached from diplomacy and foreign relations, both of the laws cannot be separated. As a democratic country based on

law, there is a need for a legal framework to examine how national law adopts international law. That legal framework will give effectiveness, legal certainty, and check and balances in conducting foreign relations in Indonesia, because it will give a clear framework for public participation, including DPR authorities, and judicial authorities.

IV. Conclusion

The interactions among the subjects of international law have influenced the complexity of international law and national law. Law-making and law-enforcement of international law based on global interaction triggered the need for the alignment of foreign legal policy before having consent in an international forum. Indonesia, generally acknowledges international law, but to apply in the domestic area needs to be accommodated under the national law.

Referring to the discussion we conclude that there is a legal vacuum of a comprehensive foreign relations law in Indonesia. This legal vacuum has created a significant gap to align international law, which contains Indonesia's international rights and responsibilities, with the democratic principles in Indonesia. Furthermore, this has affected the lack of a specific legal framework guiding the implementation of international law within a democratic context limits the effectiveness, legal certainty, and the frame of check and balance of Indonesia's foreign policy.

To address this, we suggest that Indonesia should consider establishing a structured foreign relations law that clarifies the roles of states in adopting international law in Indonesia's legal system. This law will accommodate democratic participation in foreign policy, both

public/legislative and judicial authority. This will not only enhance democracy in a broader field in Indonesia but also guide the relevant foreign policy-making with Indonesia conditions and enhance the soft power in conducting diplomacy. The foreign relations law will give the legal certainty for the foreign policy in Indonesia.

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