



# Legal Liability for Commercial Drone Operations: A Future for Domestic UAV Regulation in Indonesia

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# Outline

- Objective
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# Objective

- Examining 3 Different kinds of liability for the misuse or maloperation of UAV as part of the effort to integrate UAV regulation to general civil aviation
- Examining the type of penalty/compensation on each liability regimes
- Suggesting changes on the current regimes



# Problems in terminology

- UAV (Unmanned Aerial Vehicle)/UAS (Unmanned Aircraft Systems)
  - Remotely piloted / autonomous
- RPAS (Remotely Piloted Aircraft Systems)
  - “pilotless” on board
- Drones (popular term)



# Criminal Liability

- Attribution to person piloting the UAV (remote pilot/registered operator)
- Attribution to certain areas of the airspace (prohibited or restricted area)
- How to enforce
  - Controlled Airspace: ATC monitor, law enforcement agency act
  - Uncontrolled Airspace?
- Types of punishment
  - Imprisonment
  - fines



# Civil Liability

- Second Party Damages
  - Compensation for damaged goods during transportation (only on transportations done by undertakings for monetary rewards)
  - Montreal Convention 1999 (specific reference on liability for damages against cargo)
  - Strict liability, unless the carrier/undertaking can prove inherent defect on the cargo itself
- Third Party Damages
  - Compensation for surface damages to people (Rome Convention 1952) or goods resulting from accident/incident only. Mere passage not included. (Question, environmental damages caused during UAV operation?)
  - Compensation for damages caused by in-air collision to other UAV/airspace users



# Administrative Liability

- Liability regime for small infringement against UAV regulations
- UAV pilot license/operating license revocation or suspension; blacklisting after a criminal offense.



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# State Practices: The United States

- FAA Reauthorization Act
  - UAV pilot is criminally liable for interference or disruptions to safety of other aircrafts carrying more than one person, or operating in close proximity to airports.
  - Operator also criminally liable to unauthorized operations in close proximity to emergency services or law enforcement
  - Punishment: Imprisonment and fines
  - Administrative liability: license revocation/suspension or blacklisting
  - Civil Liability: No stipulations, but tort claims may be put to trial





# State Practices: EU and Its Member States

- EU Regulation 2019/947 (as amended with Regulations 2020/639 and 2020/746)
  - Legal definitions
  - EASA certification process for the UAV
  - UAV remote pilot licensing
  - No liability regimes
- Member States:
  - Second Party Civil Liability only
  - Third Party: Italy



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# State Practices: Indonesia

- Law No. 1 /2009 on Aviation
  - Criminal Liability for airspace area violations
  - Civil liability for damages to second party (passenger, baggage, cargo)
- MoT Regulation No. 180/2015
  - Administrative liability in the form of license suspension or revocation
  - Criminal liability in accordance to Law No. 1 of 2009 on Aviation
- MoT Regulation No. 47/2016
  - Penalty points to be added to license
- MoT Regulation No. 37/2020
  - Criminal Liability in accordance with Law No. 1 of 2009
  - Administrative Liability similar to Regulation 180/2015
  - Other necessary measures: frequency jamming, interception, or forced landing



# Conclusion & The Way Forward

- In terms of criminal or administrative liability, States have already established uniform practices – with different standards
- Civil Liability is underdeveloped in most States, as it still focuses on second party liability. Internationally, Warsaw and Montreal Convention regime already provides for ample second party liability regime, but an interpretational documents expanding the definition of carrier to include UAV operator is needed. There is also a need to develop a third party liability regimes that covers surface damages (to person or goods), and to other UAV/civil aircraft in operation.