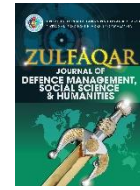




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### VERTICAL SOVEREIGNTY: WHAT MATTERS

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#### ABSTRACT

Numerous academic works have explored the intricate concepts of sovereignty and jurisdiction in relation to territory. However, customary international law recognises that a state's territory comprises land, airspace, and territorial seas, making the topic even more complex. This article investigates the significance of airspace in terms of a state's sovereignty, discussing the legal basis for a state's authority over its airspace to maintain economic and political control, peace, and stability. By examining international conventions, treaties, and cases, this study uses a juridical-normative methodology to comprehend the notion of airspace sovereignty in international law and identify what constitutes and instances of an infringement of a state's airspace sovereignty. Ultimately, this research aims to lay the foundations for insights into what matters for airspace sovereignty. The resolution highlights the significance of diplomacy and international cooperation in addressing issues related to the violation of territorial airspace.

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#### Introduction

The concepts of sovereignty and jurisdiction are crucial to understanding the functioning of states and the exercise of power by governments. Generally, sovereignty refers to the ultimate authority and power a state or government possesses over its people and territory. It is the supreme power that governs a nation and its people and is often associated with the concepts of independence (Island of Palmas Case, 1928), autonomy, self-determination and "the power states do have at any given moment of the development of the international legal system" (Colangelo, 2012). Any state is entitled "to give shape to its sovereignty or *imperium* by adopting a law, to *juris-dicere*, to state what the law is relating to persons, activities or legal interest" (Ryngaert, 2008).

Jurisdiction, on the other hand, refers to the legal authority of a government or court to exercise power over a specific territory, subject matter, or group of people (Beale, 1922). It is the power to make and enforce laws and regulations within a defined area or over a specific group of individuals. Jurisdiction can be territorial, meaning it applies to a specific geographic area, or personal, meaning it applies to a particular individual or group. International law is preoccupied with matters of jurisdiction "when a state, in its eagerness to promote its sovereign interest abroad, adopt a law that governs matters of not purely domestic concern" (Mann, 1964). The relationship, between sovereignty and jurisdiction is quite intricate as these two concepts are closely linked. Sovereignty serves as the basis for a state's authority while jurisdiction acts as the means through which this authority is implemented. A state's sovereignty grants a

state the power to establish and enforce its laws within its borders and jurisdiction allows it to exercise this power over individuals and groups subjected to its authority. Nonetheless, there can be instances where exercising jurisdiction may clash with the sovereignty of other states especially when a state seeks to exert control over individuals or activities beyond its borders. Such situations often give rise to disputes and conflicts among states concerning matters, like extradition, transnational crime and territorial claims.

In light of the preceding, vertical sovereignty in this article is confined to the concept of airspace sovereignty. It is the concept that a state has exclusive authority and control over the airspace above its territory, including the right to regulate air traffic and restrict access to its airspace by foreign aircraft. It is a fundamental aspect of a state's sovereignty and is recognised under international law and a reflection of the maxim of *cujus est solum ejus est usque ad coelom et ad inferos* (LJ, 1961), that is, he who owns the land owns what is above and below it (Abeyratne, 2014) or for whoever owns the soil, it is theirs up to the heaven and down to the hell (Thind, 2012). Countries typically exercise their sovereignty, over airspace by establishing zones that extend vertically from their land and water territories up to the limits of the atmosphere. Within these zones, nations can set rules and regulations governing the use of their airspace. This can include requirements for aircraft to seek permission before entering well as designating specific routes for commercial air traffic. The extent of airspace sovereignty varies depending on a country's laws, regulations and any international agreements or treaties it has entered into. Generally, a country's control over its airspace is considered absolute with exceptions for emergencies or when authorized by international law. Having control over its airspace means that a country has the right to regulate and oversee its airspace ensuring that other countries or foreign aircraft do not enter without authorization. To maintain sovereignty, countries establish regulations governing flight paths, altitudes and procedures for obtaining permission to enter or pass through their airspace. These regulations are enforced by air traffic control agencies and may be enforced by military means if necessary to protect national security. Airspace sovereignty is fundamental to a country's national security and defence.

### **Historical evolution and legal basis of the concept of airspace sovereignty**

The concept of airspace sovereignty has emerged in the 20th and 21st centuries as the aviation industry continues to evolve and gain significance in the realms of business, transportation, and national security. With the proliferation and advancement of air travel, governments have progressively acknowledged the imperative of asserting jurisdiction over their airspace. This is done to safeguard the well-being and security of their populace, while also capitalising on economic advantages through the oversight and administration of air traffic. However, the precise scope and nature of airspace sovereignty continue to be debated and refined, as states seek to balance the need for security and control with the principles of freedom of navigation and the common use of airspace. In the early days of aviation, there was little concern about airspace sovereignty because aircraft were relatively low-flying and flew at low speeds. During World War I, the issue of airspace sovereignty became increasingly important as countries sought to defend their territory against enemy air attacks. While neutral countries generally had the right to assert control over their airspace and take measures to prevent violations of their sovereignty, the precise scope and limits of this right were not always clear. A neutral country has entire sovereignty over its airspace and may take any necessary measures, including hostile action, to oppose any breach of its territorial airspace (Phelps II, 1985). Certain neutral countries did engage in hostile actions to protect their airspace. However, this matter was frequently contentious and legally intricate, as it gave rise to inquiries over the entitlement to self-defence, the utilisation of force, and the responsibilities associated with neutrality in accordance with international law. The legal framework pertaining to the sovereignty of airspace and the authorization of the use of force has undergone significant developments since World War 1. Numerous states have embraced more sophisticated and cautious strategies in safeguarding their airspace, aligning with contemporary international legal standards and principles. The dramatic expansion in air power during World War 1 caused concern and scrutiny over international civil and military aviation. Airpower's economic and military benefits became apparent to nations. As the importance of aviation continued to rise, so did the demand for stricter regulations and more precise definitions. In light of this concern, the 1919 Paris Convention (Article 1) recognised that every Power has complete and exclusive sovereignty over the air space over its territory, acknowledging the customary principle then. However, it is crucial to observe that the customary law governing sovereignty did not develop from pre-World War 1 civil aviation practice but rather as a result of how neutral aircraft were treated by belligerent aircraft during the conflict (Phelps II, 1985).

The increasing use of aircraft for military purposes during World War II between the 1930s and 1940s led to the development of national regulations for airspace control and the recognition of states' sovereignty over their airspace. The 1944 Chicago Convention on International Civil Aviation established the principle of sovereignty over airspace, which recognised that a state had complete and exclusive sovereignty over the airspace above its territory. Article 1 recognises that every State has complete and exclusive sovereignty over the airspace above its territory. The Convention marked a major step forward in the development of international air law establishing the framework for regulating civil aviation and recognising states' sovereignty over their airspace. The emergence of jet aircraft and the beginning of commercial air travel between the 1950s and 1960s led to the development of new technologies for air traffic control and the need for international cooperation on airspace regulation. The International Civil Aviation Organization (ICAO) was established in 1947 to promote international cooperation on air navigation and safety, and it developed a series of guidelines and regulations for airspace control and air traffic management. During the Cold War, many countries became more concerned about using airspace for military purposes. Some countries established strict regulations governing the use of their airspace, while others monitored all air traffic entering their territory. With the end of the Cold War, many countries relaxed their restrictions on airspace use. There was a growing recognition that airspace could be used for peaceful purposes, such as commercial air travel, and that strict regulations could impede economic growth. The development of satellite-based navigation systems and the increasing use of unmanned aerial vehicles (UAVs) have further transformed the concept of airspace sovereignty. States have established regulations for the use of UAVs in their airspace, and there is an ongoing debate over the regulation of commercial space travel and the use of airspace beyond the earth's atmosphere. Many countries have established regulations governing the use of drones in their airspace, and some have even shot down drones that they deem a threat to their security.

### **The elements of airspace sovereignty**

Despite the foregoing, the 1944 Chicago Convention's fundamental tenet of a state's sovereignty over its airspace has endured as a foundational principle of international law and serves as the rationale for controlling the airspace over a state's territory through control of the land and/or sea below. As such, a state may legitimately claim to control the airspace over a particular piece of land or body of water if it also has sovereignty over those areas. Article II of the 1944 Convention stipulates the specific geographical extent of the airspace component of a state's territory as the land areas and territorial waters adjacent thereto under the sovereignty, suzerainty, protection or mandate of such state. The establishment of a direct relationship between the horizontal boundaries of a state - be it on land, water or the sea - and their vertical dimensions marked a significant development. This linkage gained further strength and recognition four decades later with the introduction of the United Nations Convention on the Law of the Sea (UNCLOS) in 1982. According to Article 2 (1) of UNCLOS, the sovereignty of a coastal state expands beyond its land territory and internal waters and, in the case of an archipelagic State, its archipelagic waters, to an adjacent belt of sea, described as the territorial sea. Usually, it shall extend up to 12 nautical miles, measured from baselines miles and this sovereignty extends to the air space over the territorial sea (UNCLOS 1982, Article 2 (2)). Thus, every coastal state enjoys aerial sovereignty up to a distance of 12 miles from its coastline, while for land-locked states, it corresponds to their land boundaries. Additionally, for all states, the vertical extension of sovereignty is not universally defined and may vary depending on the state and the circumstances. The upper limit of a state's airspace sovereignty is generally considered to be the point where outer space begins, which is defined as 100 kilometres above mean sea level according to the Kármán line (Williams, 2010). The International Civil Aviation Organization (ICAO) defines airspace as the portion of the atmosphere above the territory of a state, including its territorial waters, within which the flight of aircraft is permitted in accordance with the regulations of that state. However, ICAO does not specify a specific altitude at which airspace ends and international airspace begins. The provisions of ICAO and UNCLOS dictate that any aircraft seeking to enter and traverse through the airspace of a state above its territorial sea and entire land space must first obtain permission. Infringement of these regulations would therefore constitute a violation of the state's sovereignty (Williams, 2010). The super neighbouring airspace cannot be claimed as sovereign without first establishing land ownership. As a result, the state's horizontal sovereignty over the ground and sea give it vertical sovereignty over the airspace. The sovereignty over airspace is a continuation of the sovereignty over land and sea territory. This is analogous to the principle of land dominating the sea, which states that a coastal state may claim a region of ocean space as its internal waters, territorial sea, EEZ, or continental shelf under its authority or jurisdiction for a specific purpose under the law of the sea (Zou, 2013).

Airspace sovereignty is based on national laws and regulations that define a country's control over its airspace. These laws establish the rules for the use of airspace, including flight paths, altitudes, and requirements for obtaining permission to enter or overfly the airspace. The elements of airspace sovereignty are the various components that make up a country's exclusive control over the airspace above its territory. These elements include:

#### **i. Exclusive control**

A country has the exclusive right to regulate and control the use of its airspace, protect its national security by regulating the use of its airspace and power to deny entry or overflight to aircraft that threaten national security. It can determine who can enter, transit or exit its airspace and under what conditions. No foreign aircraft can enter or overfly the country's airspace without permission violating its regulations. The classic example for Malaysia is the issuance of NOTAM (Notice to Airman) in 2019. Following the dispute over the operation of the Instrument Landing System (ILS) procedure for Seletar Airport by Singapore without consent from Malaysia, the Ministry of Transport, through the Malaysian Civil Aviation Authority (CAAM) issued a Notice to Airmen (NOTAM) to create a Permanent Restricted Area (better-restricted area) or better known as R.A. in the Pasir Gudang, Johor airspace (between 2,000 to 5,000 feet) effective from 2 January 2019 following Article 9 (a) of the 1944 Convention of International Civil Aviation (Chicago Convention), in which, allows a country to declare a *restricted area* or *prohibited area* in its airspace for reasons of military or public safety requirements. This action is consistent with section 240 of the Civil Aviation Act 1969 [Act No. 3], which grants the Chief Executive Officer of the CAAM the authority to issue and publish NOTAMs. Section 240 provides that every notice, circular, directive and information issued under this Act or under any subsidiary legislation made under this Act shall be published by the Director General. By limiting access to the airspace, the declaration of R.A. accomplishes two goals at once: easing restrictions on military operations and protecting national sovereignty. The decision was considered a method for Malaysia to assert its sovereignty and protect its interests in the face of what it saw to be an encroachment by Singapore into Malaysia's airspace (Rozanna Latif & Fathin Ungku, 2018). The dispute continued for several months, with both sides engaging in talks and negotiations to resolve the issue (Karamjit Kaur, 2019). Following the contentious disagreement regarding the implementation of the Instrument Landing System (ILS) procedure for Seletar Airport without the consent of Malaysia, a bilateral agreement was reached between the two nations. Under this agreement, Singapore has committed to withdrawing the ILS procedures for Seletar Airport, while Malaysia has agreed to indefinitely suspend its establishment of a permanent Restricted Area (R.A.) over Pasir Gudang. (Fathin Ungku, 2019). The agreement was seen as a positive development for both countries, as it helped to defuse tensions and strengthen bilateral relations. It was also seen as a demonstration of both countries' commitment to resolving disputes through peaceful means and dialogue (Emir Zainul, 2019). In addition, while military aircraft have the authority to conduct surveillance or take photographs of other states' territories, including their military installations, over international waters, the customary law acknowledges a state's right to establish air defence identification zones over the high seas adjacent to its coastal and territorial sea due to state practice. If an aircraft is heading towards an air defence identification zone, it may be asked to identify itself and could be refused entry unless it can prove that it is merely passing through the zone and has no intention of entering the local airspace. Additionally, military aircraft that invade the local state may be chased out of territorial airspace and any declared air defence identification zones, as long as the pursuing aircraft stays in contact and the intruding aircraft does not enter the airspace of another state unless during a conflict, and that airspace is being utilised as a sanctuary by the adversary's aircraft (C. Green, 1993).

#### **ii. Jurisdiction**

A country has the legal authority to enforce its laws and regulations within its airspace, including those related to flight safety, security, and customs. This includes the power to detain, investigate, and prosecute individuals or entities that violate its regulations. In Malaysia, the Civil Aviation Act of 1969 [Act No. 3] was enacted to make better provision in the law relating to Civil Aviation and for matters connected therewith and ancillary to it. It gave the power to the minister to give effect to the Chicago Convention and regulate civil aviation, including, but not limited to, regulating by establishing a system of licensing, securing the safety, efficiency and regularity of air navigation and

the safety of aircraft as well as prohibiting or restricting aircraft from flying over such areas in Malaysia as may be prescribed (Section 3 (2) (a)-(t), Civil Aviation Act 1969). Section 3 (2) (m) specifically provides that the Minister may make regulations making provision for prohibiting or restricting aircraft from flying over such areas in Malaysia. In addition, a country's aircraft and airspace are considered inviolable, and no other country can claim jurisdiction over them without permission. This is in line with the concept of sovereign immunity.

In addition to the aforementioned considerations, it is important to note that both international law and state law mandate the registration of an aircraft and the establishment of its nationality. The requirement is centered on guaranteeing that each aircraft possesses a designated state of registration and nationality, hence establishing legal responsibility and supervision. The significance of this procedure is multifaceted, encompassing factors such as the assurance of aviation safety, the maintenance of security measures, and the fulfilment of legal obligations. Article 20 of the Convention on International Civil Aviation 1944 stated that every aircraft engaged in international air navigation shall bear its appropriate nationality and registration marks. Part II of the Malaysian Civil Aviation Regulations 2016 (MCAIR 2016) provides the regulation for aircraft registration. It was further strengthened and ironed out by the Civil Aviation Directive – 7101 (Aircraft Registration) which contains the rules and regulations for aircraft registration. Aircraft, by virtue of their possession of a particular nationality, are considered an integral component of the territorial jurisdiction of the state to which they belong. Nevertheless, in international law, it is necessary to differentiate between three categories of state jurisdiction. These include territorial jurisdiction, which pertains to a state's authority over its national territory, encompassing all individuals and objects within it. Another category is quasi-territorial jurisdiction, which relates to a state's jurisdiction over its national ships and aircraft, along with all individuals and objects on board. Lastly, personal jurisdiction over persons under a state's protection and their property. In situations involving conflict, the principle of territorial jurisdiction takes precedence over both quasi-territorial jurisdiction and personal jurisdiction, whereas quasi-territorial jurisdiction supersedes personal jurisdiction. Nationality and public-law aircraft registration differs from private-law registration. Certain legal systems consider aircraft to be treated as conventional movable property. For sales and other transactions involving aircraft to have legal validity against third parties, they need to be documented and registered in a publicly accessible registry. When aircraft are utilized as collateral for credit or loans, a system is implemented to record the associated rights, which is recognized internationally and offers several advantages (Ayupova & Kussainov, 2019).

### **iii. Enforcement**

A nation has the authority to protect its airspace sovereignty by employing military or other means in the event of violations, such as entry by foreign aircraft. This authority is rooted in the principles of self-defence and a state's right to safeguard its sovereignty and territorial integrity. In accordance with established norms, a state possesses the right to take action against or repel an encroachment into its airspace by an aircraft even if it requires employing force when necessary. Nevertheless, any use of force must be proportionate to the threat presented by the intrusion and conducted in adherence, to recognized legal principles, which include necessity, proportionality and humanity. In addition, the Aviation Offences Act 1984 [Act No 307] gave effect to the enforcement of the Convention on Offences and Certain Other Acts Committed on Board Aircraft signed at Tokyo on 14 September 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft signed at the Hague on 16 December 1970, the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation signed at Montreal on 23 September 1971, and the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, concluded at Montreal on 24 February 1988 (Preamble, Aviation Offences Act 1984).

### **iv. Management and air traffic control**

Every nation has the responsibility of overseeing its airspace, which includes tasks such, as air traffic control, navigation aids and communication systems. Airspace management entails the organization and regulation of air traffic within a country's airspace. This involves setting up air traffic control systems coordinating flight routes and monitoring activities taking place in the airspace. In Malaysia, the authority responsible for regulating and overseeing aviation activities in Malaysia is the Civil

Aviation Authority of Malaysia (CAAM). It was established by the Civil Aviation Authority Act 2017 [Act No 3], responsible for regulating and overseeing all aspects of civil aviation in Malaysia, including air traffic control, airport operations, aircraft maintenance, and pilot licensing. Its jurisdiction covers all civil aviation activities in Malaysian airspace, Malaysian-registered aircraft, and all foreign-registered aircraft operating in Malaysia. CAAM is also responsible for ensuring compliance with international aviation safety standards and regulations set by organisations such as the International Civil Aviation Organization (ICAO). The authority works to promote the safety and security of air travel and ensure the sustainable growth of the aviation industry in Malaysia.

#### **v. Territorial integrity and air defence**

The concept of airspace sovereignty is strongly connected to a nation's integrity encompassing the safeguarding of its land, water and airspace, from external dangers. It is within a nation's rights to protect its airspace against any trespasses or threats. This may involve utilizing measures, like intercepting and disabling aircraft employing military planes, radar systems and ground-based air defence systems to identify and counter potential risks while ensuring the safety of its airspace and national security. Currently, Malaysia is bolstering its Maritime Domain Awareness (MDA). Aerial maritime patrols will be conducted using Maritime Patrol Aircraft (MPAs) and Medium Altitude Long Endurance Unmanned Aerial Systems (MALE UAS). To enhance the capabilities of newer warships, the Malaysian Armed Forces (MAF) will require new Maritime Mission Helicopters before the end of the DWP period. To achieve a greater Maritime Domain Awareness (MDA) in an extended area, the MAF plans to integrate and link all the sensors and communication systems from the warships, MPA, MALE UAV and helicopters with its NCO Centre. The deployment of additional air defence radars will provide complete 24/7 radar coverage and enable effective control and policing of the airspace (Ministry of Defence, 2020).

#### **vi. International obligations and cooperation**

A country's airspace sovereignty is subject to international agreements and treaties related to air safety, air traffic management, and international air law. These agreements may limit a country's freedom to regulate its airspace in certain circumstances. A country is responsible for cooperating with other countries on matters related to air travel and safety. This includes complying with international agreements and treaties related to air travel and safety, such as the Chicago Convention on International Civil Aviation. Malaysia maintains positive relations with neighbouring countries, establishing rules for using its airspace and negotiating agreements with other countries to ensure the safe and efficient use of shared airspace.

Maintaining control over a nation's airspace is crucial, for supporting its development and safeguarding its integrity and sovereignty. Without control, a country would be susceptible to threats, which would hinder its pursuit of national interests and undermine its authority over the airspace. Having command over its airspace can bring economic benefits to a nation. By managing the airspace, a country can enhance the safety and efficiency of air travel leading to cost savings for airlines and increased demand for flights. Additionally, the country can impose fees on airlines and other aircraft operators utilizing its airspace and air traffic control services. These fees can generate revenue that can be utilized for maintaining and operating the air navigation infrastructure. Countries that exercise control over their airspace can leverage it to promote tourism by attracting airlines and flights to their airports. This boost in tourism activity stimulates growth within the country creating job opportunities, in the tourism and hospitality sectors. All these factors contribute to establishing a country's jurisdiction over its airspace while ensuring the protection of security interests.

#### **Instances of intrusion into Malaysian airspace**

The violation of a state's sovereignty over its airspace transpires when an aircraft or any other airborne vehicle, regardless of whether it is operated by a human or is unmanned, enters the airspace of a state without obtaining prior permission or authorization. The act of incursion can occur either deliberately or inadvertently. Those violations are seen as a breach of established international laws. The specific criteria used to determine whether such an intrusion has occurred may vary depending on the regulations, in the jurisdiction. Various factors, including the location of the aircraft or drone, are often taken into consideration when evaluating if an intrusion has taken place. If an aircraft or drone is found operating

within a nation's airspace, it might be deemed as trespassing. The inclusion of specific heights within a country's airspace is contingent upon the jurisdiction in question. For instance, certain nations may assert their jurisdiction over the airspace within a 12-nautical mile radius from their coastal boundaries, whilst other countries may delineate a wider or narrower extent of airspace under their sovereignty. Moreover, should an aircraft or drone engage in surveillance or intelligence-gathering activities without the explicit consent of the nation in question, it might be deemed as an act of intrusion. If the nation opts to engage in an interception or the use of force against the aircraft or unmanned aerial vehicle, it could be interpreted as an acknowledgement of an incursion. In the event of an intrusion, the state that has been impacted has the option to undertake various measures in order to safeguard its sovereignty. These measures may include interception, forced landing, or other appropriate kinds of retaliation. The appropriate course of action will vary based on the characteristics and extent of the breach, as well as the protocols and guidelines established by the respective jurisdiction.

In recent years, Malaysia has encountered a series of intrusions by foreign aircraft, with a special focus on surrounding nations. The invasions have engendered friction between Malaysia and its neighbouring countries, resulting in diplomatic protests and demands for heightened military presence in the affected regions. In 2018, Malaysia accused Singapore of conducting unauthorized flights in Malaysian airspace. Malaysia claimed that Singapore had made over 100 such flights in the previous two weeks. Singapore denied the allegations and said that it had been operating in accordance with international law (Rozanna Latif & Fathin Ungku, 2018). This incident led to a diplomatic dispute between the two countries. Malaysia claimed that Singaporean military aircraft had flown into Malaysian airspace without permission on several occasions. Singapore denied the accusations, stating that its military aircraft were flying in designated flight information regions and that it had not infringed on Malaysian airspace. The dispute escalated when Malaysia declared that it would reclaim control of its airspace over southern Johor, which Singapore currently manages under a bilateral agreement. Singapore rejected Malaysia's claims, stating that it had been providing air traffic services in the area for decades and that the agreement was in line with international law. The resolution of the disagreement occurred through diplomatic negotiations, culminating in an agreement between the two nations to establish a committee dedicated to deliberating on the management of airspace within the region in question. The group was assigned the responsibility of formulating suggestions aimed at guaranteeing the secure and effective governance of the airspace, while simultaneously upholding the principles of national sovereignty for each respective country. This occurrence underscores the significance of effective communication and compliance with international legal frameworks in the context of airspace governance. The resolution of the issue between both nations was achieved by diplomatic means; yet, had the matter been mishandled, it had the potential to evolve into a more severe conflict.

On the 31st of May 2021, it was reported that a number of Chinese military aircraft had flown in close proximity to Malaysian airspace. (BBC, 2021). The Royal Malaysian Air Force (RMAF) detected "16 Chinese military aircraft flying in a tactical formation over the South China Sea, near the Malaysian state of Sarawak" (Dzirhan Mahadzir, 2021). According to the Malaysian Ministry of Foreign Affairs, the aircraft were identified as "Chinese military transport planes -Ilyushin Il-76 and Xian Y-20 aircraft". It is a "strategic transport aircraft and capable of performing various missions" (CNA, 2021). The RMAF scrambled fighter jets to intercept the Chinese aircraft and attempted to establish radio contact with them. After being warned by Malaysian authorities, the Chinese aircraft reportedly left the area without incident. However, the incident raised concerns about airspace sovereignty and national security and prompted Malaysia to take a more assertive stance in defending its airspace. In response to the incident, the Malaysian government summoned the Chinese ambassador to explain the incident and to express its concern over the violation of Malaysian airspace. The Chinese government responded by stating that the aircraft was conducting routine exercises in international airspace and had not entered Malaysian airspace (Sulhi Khalid, 2021). As a result of the incident, Malaysia has undertaken measures to enhance its air surveillance capabilities and adopt a more proactive approach to safeguarding its airspace. Furthermore, this development has elicited apprehensions regarding China's belligerent behaviour in the South China Sea and its territorial assertions inside the area. In its entirety, the occurrence underscored the significance of maintaining control over airspace and the imperative for nations to collaborate in order to guarantee the tranquil and secure utilization of global airspace. To deter future breaches and safeguard its airspace sovereignty, Malaysia is bolstering its military capabilities.

## Conclusion

The concept of airspace sovereignty has undergone transformation throughout the course of history, primarily influenced by developments in aviation technology and the increasing importance of air travel in areas such as business, transportation, and national security. The geopolitical scene also has evolved in tandem with these shifts. Hence, while the fundamental principle of state sovereignty over airspace has not changed, the regulations governing its use have grown more complex and nuanced. International agreements, national regulations and organizations like ICAO play a role in shaping the development of airspace sovereignty. Incidents of foreign aircraft violating Malaysian airspace serve as a reminder of the importance placed on respecting airspace sovereignty and highlight the need for collaborative efforts among nations to ensure safe and peaceful use of international airspace. Effective communication and cooperation between countries are vital to avoid misunderstandings and prevent conflicts in the skies. These incidents also underscore the significance of diplomacy and international cooperation in resolving matters. In the Malaysian case, the government has firmly asserted its commitment to safeguarding its airspace while urging neighbouring countries to respect its sovereignty. Malaysia should continue investing in its airspace monitoring and defence capabilities to ensure its sovereignty is respected and its airspace remains secure. Malaysia has the potential to enhance its capacity for timely detection of intruding aircraft by investing in advanced radar and surveillance systems. Contemporary technological advancements, shown by the utilization of extended-range radar and satellite-based monitoring systems, have the potential to enhance both the scope and precision of coverage. It is also imperative to foster a sense of civic responsibility among citizens in order for them to promptly report any instances of suspicious behaviour pertaining to aerial incursions to create public understanding and recognition of the criticality of airspace sovereignty.

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