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ยุคหลังประธานาธิบดีซูฮาร์โต: การวิเคราะห์นโยบายและยุทธศาสตร์

Maritime Security Management in Practice in Indonesia

Post President Suharto Era: An Analysis of Existing Policies and Strategies

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บทคัดย่อ

บทความแสดงให้เห็นนโยบายและยุทธศาสตร์ทางทะเลของประเทศอินโดนีเซียหลังสิ้นสุดยุคประธานาธิบดี ซูฮาร์โต ซึ่งมีวัตถุประสงค์ในการพัฒนานโยบายทางทะเลที่พึงพาได้และสอดคล้องกับความสำคัญด้านความมั่นคงทางน้ำของประเทศอินโดนีเซีย บทความยังวิเคราะห์แนวทางที่รัฐบาลใช้บริหารจัดการความมั่นคงทางทะเล รวมถึงการนำนโยบายไปปฏิบัติให้สอดคล้องกับเครื่องมือในระดับองค์กรระหว่างประเทศ บทความยังศึกษาถึงบทบาทขององค์กรภาครัฐที่มีหน้าที่บังคับใช้กฎหมายทางทะเล ผู้เขียนใช้วิธีการวิจัยเชิงคุณภาพเพื่อศึกษาทำความเข้าใจความมั่นคงทางทะเลของอินโดนีเซียจากสภาพความเป็นจริงผ่านผู้เกี่ยวข้องที่สำคัญ เช่น กองทัพเรืออินโดนีเซียและมหาวิทยาลัยป้องกันประเทศ ซึ่งเป็นเวลาว่าง 20 ปี หลังจากสิ้นสุดการปกครองของประธานาธิบดีซูฮาร์โต และการพัฒนาประเทศที่มุ่งเน้นเฉพาะการพัฒนา

ประเทศทางบกเป็นหลักโดยละเลยความสำคัญของการพัฒนาพื้นที่ทางทะเล ประเด็นสำคัญคือการที่ประธานาธิบดีในแต่ละยุคสมัยจัดลำดับความสำคัญการพัฒนาประเทศและพัฒนานโยบายของชาติผ่านการบังคับใช้กฎหมายที่สอดคล้องกับกระทรวงและองค์กรที่เกี่ยวข้อง กฎหมายและบทบัญญัติที่สอดคล้องกับท้องทะเลและความมั่นคงทางทะเลต้องให้ความสำคัญสูงสุดในการวิเคราะห์ งานวิจัยฉบับนี้ยังแสดงให้เห็นนโยบายของชาติที่นำไปสู่ยุทธศาสตร์ด้านความมั่นคงทางทะเลในยุคหลังการบริหารงานของประธานาธิบดีซูฮาร์โต งานวิจัยได้วิเคราะห์ผู้มีส่วนเกี่ยวข้องในทุกระดับงานความมั่นคง กฎหมายทุกฉบับการนำไปสู่การบังคับใช้ข้อบังคับต่างๆ การศึกษาเชิงเพ่งเล็งไปที่การนำนโยบายไปสู่การปฏิบัติ 6 ข้อซึ่งเป็นไปตามทฤษฎีของ แวน มิเตอร์ และ แวน ฮอร์น ในการวิเคราะห์จำนวนนโยบายและยุทธศาสตร์ที่นำไปใช้ งานวิจัยชี้ให้เห็น 13 องค์กรของรัฐที่เกี่ยวข้องกับภัยคุกคามทางทะเลของอินโดนีเซีย ทั้งนี้ ด้วยการขาดนโยบายความมั่นคงทางทะเลที่เป็นทางการ รัฐบาลอินโดนีเซียและหน่วยงานที่เกี่ยวข้องจึงต้องยกระดับความพยายามในการรักษาความมั่นคงทางทะเล ต้องมีการประสานงานกับหน่วยงานบังคับใช้กฎหมายที่หลากหลายด้วยความท้าทายในการบริหารจัดการพื้นที่ทางทะเลอันกว้างใหญ่ภายใต้อำนาจทางกฎหมายของอินโดนีเซีย และเป็นเรื่องสำคัญที่จะกำหนดนโยบายในระดับกระทรวงที่จะปกป้องและสร้างความมั่นใจในการรักษาทรัพยากรและเครื่องมือที่ตอบสนองต่อความต้องการของประเทศ เพื่อทำความเข้าใจจุดยืนของรัฐบาลในเรื่องการสร้างการรับรู้ด้านความมั่นคงทางทะเล จึงจำเป็นต้องวิเคราะห์ถึงกฎหมายและข้อบังคับที่สอดคล้องกับบริบททางทะเลของประธานาธิบดีอีก 5 คน ที่ดำรงตำแหน่งต่อจากประธานาธิบดีซูฮาร์โตอีกด้วย ได้แก่ บี.เจ.ฮาร์บีบี, อับดุลเราะฮ์มัน วาฮิด, เมกาวาตี ซูการ์โน บุตรี, ซูซีโล บัมบัง ยูโดโยโน และ โจโค วิโดโด อันเนื่องด้วยประธานาธิบดีแต่ละท่าน ก็มีการกำหนดนโยบายทางทะเลและนโยบายความมั่นคงทางทะเลที่ต่างกัน ซึ่งบทความฉบับนี้ได้รวบรวม วิเคราะห์ และสรุปไว้เรียบร้อยแล้ว

คำสำคัญ : การจัดการความมั่นคงทางทะเล, การวิเคราะห์นโยบายและยุทธศาสตร์

Abstract

The paper thoroughly examines Indonesia's maritime policies and strategies in the post-Suharto era. Its ultimate objective is to develop a dependable Maritime Policy that prioritizes the security of Indonesian waters. This paper analyzes how the Indonesian government maintains maritime security, including policy implementation and adoption of international instruments. It also studies the roles of major government agencies in maritime law enforcement. The author utilizes qualitative research to understand maritime security practices in this study, with esteemed participants like the Indonesian Navy and Defense University. It has been two decades since President Suharto's administration fell, and the nation's development has been primarily land-focused, neglecting the importance of developing the maritime space.

It is crucial that each president prioritizes national development and creates a National Policy as a law to be implemented by the relevant ministries and stakeholders. The laws and regulations related to maritime and maritime security must be analyzed with utmost importance. This research thoroughly examines the national policies that led to maritime security strategies post-President Suharto's administration. The analysis encompasses all stakeholders relevant to maritime security and the number of laws and regulations implemented. The study will focus on the six variables of the Policy Implementation Theory introduced by Van Meter and Van Horn to analyze the number of policies and strategies implemented. This research highlights thirteen state actors dealing with maritime threats to Indonesia. Despite lacking an official national maritime security policy, the Indonesian government and relevant agencies have made commendable efforts to secure its waters. Coordinating multiple maritime law enforcement entities remains a major challenge as they operate across a large area under Indonesia's jurisdiction. It is also important for them to align policies at the ministerial level to prevent duplication of efforts and ensure that resources and assets meet the demands. To understand the government's stance on maritime security awareness, it is important to analyze the laws and regulations related to maritime affairs issued by the five Presidents who succeeded the Suharto government - BJ Habibie, Abdurrahman Wahid, Megawati Sukarno Putri, Susilo Bambang Yudhoyono, and Joko Widodo. Despite differing priorities, each President has committed to developing the maritime sector and ensuring maritime security. This research has collected and analyzed all relevant laws and regulations to draw this conclusion.

Keywords: Maritime security management, Policy and strategies analysis

Introduction

Background

Indonesia is the world's largest archipelagic state, boasting over 18,000 islands and over 7.9 million square kilometers of seawater. It is between the Pacific and Indian Oceans and connects the Asian and Australian continents, hosting four of the world's seven major maritime choke points. (Cribb, R. and Ford, M., 2009) The marine frontier provides economic benefits and poses political and strategic challenges for the nation. A nation's strategic culture comprises several factors, including geography, resources, history, experience, society, and political structure. (Alan G. Stolberg, 2012) It has been over 20 years since President Suharto's administration ended, and while Indonesia has maintained its territorial sovereignty, the country has not given enough attention to developing its maritime space as part of its national policy. This

land-based development has resulted in a greater emphasis on land-based integration, and the country's defense forces prioritize a larger and more powerful army over its navy. * This could potentially leave Indonesian waters vulnerable to maritime security threats.

It is worth noting that the previous government did not prioritize the development of the maritime sector in its national policies. However, Joko Widodo, also known as Jokowi, has boldly announced his vision of transforming Indonesia into a 'Global Maritime Fulcrum' (poros maritim dunia). (Joko Widodo, 2014) This concept gained significant international exposure during Jokowi's attendance at the East Asia Summit in Naypyidaw in November 2014, and it is a crucial strategy for developing Indonesia's maritime economy.

Indonesia, being the largest archipelagic state, must prioritize the maritime domain. The sea significantly impacts the country's political, socio-cultural, defense, and security aspects. Therefore, a concrete maritime policy is essential. The government should take the lead in establishing a national maritime policy to maximize the potential of the sea for the nation's prosperity and protect national interests. This will also contribute to the revival of Indonesia's maritime culture and strengthen its control over its maritime jurisdiction, ultimately boosting national pride.

Indonesia needs a robust Maritime Policy to protect its vast waters and resources. Despite lacking an official policy, the government's efforts to maintain security are commendable. To ensure that trade, transportation, and navigation in the Indonesian maritime region remain safe and secure, it is essential that global and domestic sectors, as well as public and private entities, work together. While risks include piracy, trafficking, and terrorism, prioritizing maritime security can help minimize these challenges and promote economic growth. Therefore, this study aims to analyze the policy implementation, key organization roles, and strategies for establishing a maritime security center of excellence in Indonesia.

Maritime security encompasses both traditional and non-traditional threats that need to be addressed. Traditional threats involve protecting a country's borders from armed attack or any other type of force against another country's interests. Non-traditional threats include ensuring safe navigation, protecting ocean resources, and preventing terrorism, drug trafficking, piracy, environmental damage, and illegal migration. For the shipping industry, maritime security means ensuring that freight shipments are secure and free from criminal interference.

Although there are no specific international conventions concerning maritime security, (Christian Bueger, 2015) Indonesia is actively involved in international and regional cooperation addressing maritime

* Integration in Southeast Asia: Trajectories of Inclusion, Dynamics of Exclusion (SEATIDE)

security threats. Despite the lack of explicit national legal instruments governing maritime security, Indonesia has several laws relevant to maritime security and law enforcement, which present some challenging difficulties. For instance, it has the Indonesian Chief of Navy Regulation Number 32/2009 which regulates law enforcement and national security within Indonesian waters. This regulation is based on Article 9 of the Indonesian Act Number 34/2004, which pertains to the Indonesian Armed Forces. However, it only serves as guidance for the Indonesian Navy and does not apply to other law enforcement agencies.

Identified Problems and Research Objectives

Having such a strategic setting and massive waters within Indonesia's jurisdiction has allowed the nation to bear the weighty responsibility to protect its sovereignty. Consequently, maritime security would be demanded when confronted with numerous maritime threats, such as maritime terrorism, piracy, armed robbery, trafficking of narcotics, people, and illicit goods, including maritime inter-state disputes. (Christian Bueger, 2015) Concerning the complexity of maritime security governance in Indonesia's water as described above, three key issues have been preliminarily identified. They have been identified through the observation

1. The growing threats to maritime security (both traditional and non-traditional) in Indonesia's waters contest Indonesian maritime security assets

2. The call for regional and international maritime security cooperation in Indonesia's maritime jurisdiction in order to strengthen efforts to tackle maritime threat within the region challenges Indonesian maritime sovereignty

3. The absence of Indonesian National Policy or Strategy relevant to maritime security for decades.

Having observed the three critical issues in Indonesian waters related to maritime security, the primary aim of this study is to analyze the effectiveness of implementing various forms of national policy in Indonesia that are relevant to maritime security. To brace the achievement of the aim, particular objectives have also been outlined, which are:

1. To describe and critically analyze the Indonesian government policies that have been taken (post-Suharto's presidency) relevant to maintaining maritime security in Indonesian waters, specifically at the policy implementation phase.

2. To analyze the adoption of International maritime security instruments to Indonesian legal and institutional framework in order to mitigate the maritime threat.

3. To study the roles of major Indonesian government agencies in maritime law enforcement in Indonesia: the Indonesian Navy, Indonesia Maritime Security Agency, and Indonesia Water Police.

Research Methodology

Frameworks

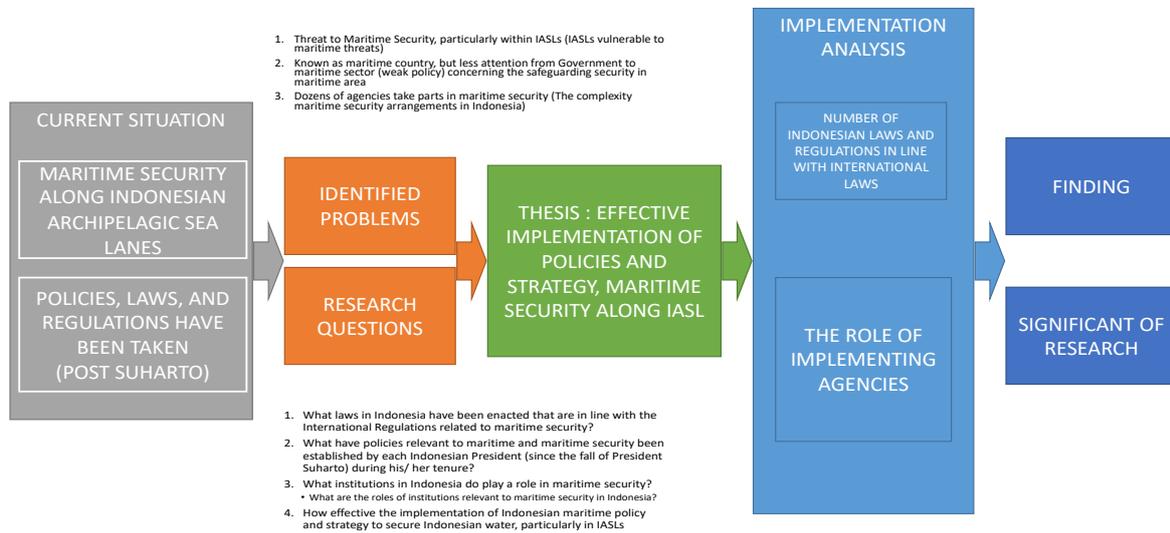
The interpretive and qualitative frameworks will be employed to design the study by presenting some theoretical and empirical evidence to respond to the stated research question. It will be more descriptive and narrative than a scientific report to describe a situation and gain insight into particular practices linked with the maritime security strategy.

This study examines maritime security practices in Indonesia through three different aspects: Grand Theory, Legal Basis, and Strategic Aspects Global. Specifically, we will analyze the policy-making process in Indonesia, current policies and strategies relevant to maritime security, and the adoption of international legal frameworks related to maritime security (such as UNCLOS) into Indonesian law.

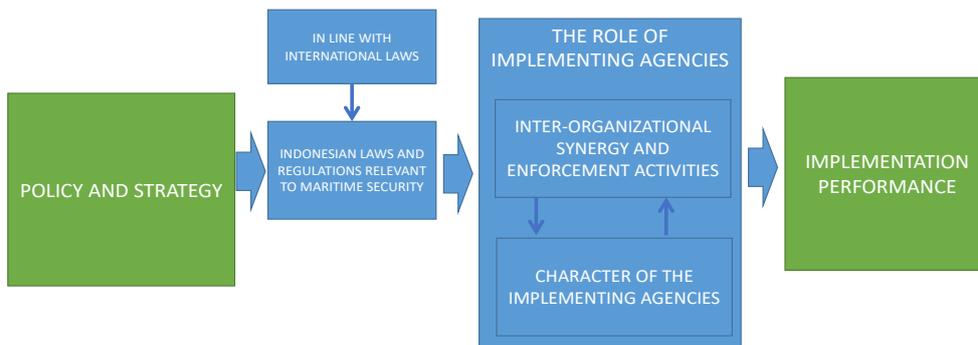
Referring to the previous chapter regarding the scope and limitation of the study, the object or data taken about existing policies and strategies relevant to maritime security in Indonesia is in the period after the fall of President Suharto's era. The division of the period is as follows:

- a. BJ Habibie: 21 May 1998 - 20 October 1999
 - b. Abdurrahman Wahid: 20 October 1999 - 23 July 2001
 - c. Megawati Sukarno Putri: 23 July 2001 - 20 October 2004
 - d. Susilo Bambang Yudhoyono: 20 October 2004 - 20 October 2014
- Joko Widodo: 20 October 2014 – current of time

Below is the presented conceptual framework.



While the analytical framework is as follow:



Data Collection

1. The Roles of Ministries and Institutions to Maritime Security in Indonesia

- a. National Police of the Republic of Indonesia.
- b. Indonesian National Navy
- c. Indonesian Maritime Agency or the Indonesian Coast Guard (Bakamla)

- d. Ministry of Maritime Affairs and Fisheries
- e. Ministry of Transportation
- f. Ministry of Environment and Forestry
- g. Ministry of Education and Culture
- h. Ministry of Finance
- i. Ministry of Law and Human Rights
- j. Ministry of Foreign Affairs
- k. Ministry of Tourism
- l. Ministry of Energy and Mineral Resources
- m. Ministry of Maritime and Investment Coordinator

2. Globe and Domestic Legal Basis Related to Maritime Security in Indonesia

a. Piracy and Armed Robbery against Ships

International, Regional, and National

b. Transnational Organized Crime at Sea

International, Regional, and National

c. Maritime Environmental Crime

International, Regional, and National

d. Illegal, Unreported, and Unregulated (IUU) Fishing

International, Regional, and National

3. Policy and Regulations Relevant to Maritime and Maritime Security have been enacted:

- BJ Habibie
- Abdurrahman Wahid
- Megawati Sukarno Putri
- Susilo Bambang Yudhoyono
- Joko Widodo

Finding and Discussion

Indonesian Policy and Strategy Implementation Relevant to Maritime Security in Indonesian Water

In this section, the facts of the number of policies and strategies that have been taken and implemented will be analysed mainly based on the six variables of Policy implementation theory introduced by Van Meter and Van Horn.

1. The Standard and Objectives of the Policy
2. Availability of Resources and Incentives
3. Quality of Relations among Organisations
4. Characteristics of Implementing Agencies
5. Economic, Social, and Political Environment
6. The Disposition of implementers (Communication between the relevant organization and implementation activities)

The Standard and Objectives of the Policy

Indonesia's status as the largest archipelagic state has significantly impacted the development of its maritime sector. The unique characteristics of Indonesia as an archipelagic nation have been the driving force behind the increasing priority of maritime policy in national development. (Arifin Rudianto, 2002)

After Soeharto stepped down, Indonesia has had five Presidents: Habibie, Abdurrahman Wahid, Megawati, Yudhoyono, and Joko Widodo (also known as Jokowi). Out of all of them, Jokowi is the only one who declared that maritime security would be a primary concern for his administration soon after he was inaugurated on October 20, 2014. In post-authoritarian Indonesia, the general public has begun to exercise its influence in the government's decision-making process. As Chow explains, the Indonesian government's foreign policy decisions could be challenged by the unlocking of the floodgates to expressions of public opinion on foreign and security policies brought by democratization and decentralization in Indonesia. (Chow, Jonathan T., 2005).

Despite the Jokowi administration's emphasis on the importance of maritime security cooperation, the issues of maritime terrorism and armed robbery against ships are not key concerns. The policy programs that followed the maritime axis concept have focused heavily on efforts to address illegal fishing at the national level. During the Jokowi administration, efforts to address illegal fishing have gained momentum.

Availability of Resources and Incentives

The hard facts of Indonesia's maritime geography provide both opportunities and challenges. This maritime landscape has driven policymakers to provide strategic guidelines to empower and leverage Indonesia's maritime economy, as President Joko Widodo (Jokowi) did in 2014 with his Global Maritime Fulcrum (GMF) concept. The GMF sought, among other things, to recast Indonesia as a country whose prosperity derives from and relies upon the maritime arena - namely trade, fishing, and natural resources such as oil and natural gas. President Jokowi's articulation of a maritime strategy was a much-welcomed policy manifestation of the sincere values and identity of the citizens of Indonesia as members of a proud and independent maritime nation. (Lyle Morris, 2018)

Coordination was identified as an issue of concern regarding integrated information and logistics. Subsequently, efficient communications, command, and control between military and civilian Maritime Law Enforcement (MLE) agencies are difficult to perform. For example, the Indonesian Water Police pointed out the need for intelligence fusion with other MLEs, and the 115 Task Force (SATGAS 115) acknowledged a lack of efficient transportation channels. (Suryati, Yuni, 2016) Moreover, Customs officials remarked that port security remains a problem, with many unofficial ports along Indonesia's archipelagos that customs officials cannot regulate. These areas are considered a challenge since the Indonesian economy suffers from weak integration due to poor maritime infrastructure and the high costs of transporting goods among islands. (Suryati, Yuni, 2016) To address the ports infrastructure gap, the Indonesian Government invests and plans to build 24 seaports and deep sea ports, including expanding five existing major ports. (Suryati, Yuni, 2016)

Other maritime security issues are encountering the archipelago, including piracy throughout the vital shipping lanes in the Malacca Strait, the movement of trafficked goods and asylum seekers by boat, and natural disasters. (Ryamizard Ryacudu, 2015) In the previous administration, President Susilo Bambang Yudhoyono commenced a military modernization program, the Minimum Essential Force (MEF), designed to provide the minimum level required to defend Indonesia's strategic interests. MEF also articulated that the TNI requires fighter aircraft, warships, patrol boats, and submarines to adequately patrol and defend the country. It also mentioned that Indonesia must boost its surveillance capabilities. (Natalie Sambhi, 2016)

By law, Bakamla is the institution responsible for coordinating and integrating the functions of all agencies in charge of maritime security and safety under a single command.* However, practically, it is

* Indonesia's Maritime Governance: Law, Institutions and Cooperation, p 35/168; Law No. 32 of 2014 on Ocean Affairs (State Gazette Year 2014 No. 294, Supplementary State Gazette No. 5603) [Ocean Law] arts 61-63.

not easy to do so. When Bakamla was just established in 2014,^{*} Bakamla was only equipped with three vessels. (Halimatus Sa'diyah, Bertugas Jaga Keamanan Laut, Bakamla Hanya Punya Tiga Kapal, edited by Esthi Maharani, republika, 2015) Bakamla had to operate vessels from the Navy and Marine Police to maximize its performance.^{**} Hereafter, the Navy, the Ministry of Marine Affairs and Fisheries (MMAF), and the Coordinating Ministry for Maritime Affairs committed to giving some of their respective vessels to Bakamla,^{***} and in 2016 Bakamla had six vessels.^{****} Besides this lack of assets, Bakamla also experienced a shortage of personnel issues.^{*****} The fact that many of Bakamla's assets are lent or given by some agencies should make Bakamla less authoritative to those agencies. Particularly the Navy, the elder of the Maritime security enforcement agency in Indonesia, is had more extensive resources, making it more capable and powerful than Bakamla.^{*****}

Quality of Relations among Organisations

The hardship in coordinating the existing maritime law enforcement institutions cannot be separated from inter-agency competition that has long been troubling Indonesia's maritime governance. For instance, the Shipping Law governs the Sea and Coast Guard (SCG), which ensures the safety and security

^{*} Indonesia's Maritime Governance: Law, Institutions and Cooperation, p 35/168; Law No. 32 of 2014 on Ocean Affairs (State Gazette Year 2014 No. 294, Supplementary State Gazette No. 5603) [Ocean Law] arts 59(3)

^{**} Indonesia's Maritime Governance: Law, Institutions and Cooperation, p 35/168; Suara Pembaruan, Bakamla Dapat Aset Awal 10 Kapal TNI AL, berita satu (Jan. 10, 2015), available at <http://sp.beritasatu.com/home/bakamla-dapat-aset-awal-10-kapal-tni-al/74599>

^{***} Indonesia's Maritime Governance: Law, Institutions and Cooperation, p 35/168; Suara Pembaruan, Bakamla Dapat Aset Awal 10 Kapal TNI AL, berita satu (Jan. 10, 2015), available at <http://sp.beritasatu.com/home/bakamla-dapat-aset-awal-10-kapal-tni-al/74599>

^{****} Indonesia's Maritime Governance: Law, Institutions and Cooperation, p 35/168; Kristian Erdianto, Kurang Peralatan dan Personel, Bakamla Diminta Tingkatkan Koordinasi dengan TNI AL, kompas.com (Aug. 30, 2016), available at <http://nasional.kompas.com/read/2016/08/30/21275611/read-brandzview.html>

^{*****} Kristian Erdianto, Kurang Peralatan dan Personel, Bakamla Diminta Tingkatkan Koordinasi dengan TNI AL, kompas.com (Aug. 30, 2016), available at <http://nasional.kompas.com/read/2016/08/30/21275611/read-brandzview.html>

^{*****} Indonesia's Maritime Governance: Law, Institutions and Cooperation, p 35/168

of navigation, protects the marine environment, and enforces the Law at sea. * Indonesian Shipping Law was enacted in 2008. Since then, the Indonesian Ministry of Transportation interpreted the provisions regarding the authority of SCG under the Law, which refers to the Directorate of Sea and Coast Guard (DSCG). ** (Ristian Atriandi Supriyanto and Siswanto Rusdi, 2013) Furthermore, Bakamla was established under the Indonesian Law of the Sea (Law of the Republic of Indonesia No. 32 of 2014 regarding the Sea), the Coordinating Minister for Politics, Law, and Security understood that Bakamla was the Sea and Coast Guard (SCG) under the Indonesian Shipping Law. (Tumpang-tindih Aturan Penegakan Hukum Maritim, cnn Indonesia, 2015) This term may be due to similarities between Bakamla's functions and those of the SCG under the Shipping Law. (beritatrans, 2016) On the other hand, Some opine that Indonesia does not have an SCG yet, since neither the DSCG nor Bakamla is the SCG stipulated under the Shipping Law. (Anggi Kusumadewi and Tiara Sutari, 2016)

Merging the DSCG and Bakamla to form SCG has also become a policy option to respond to national maritime security law enforcement laws. * At the same time, the government should further clarify the functions of Bakamla and whether it is represented to be the SCG as articulated by the Shipping Law. Likewise, the tasks and functions of all the agencies responsible for maritime security should also be clarified to eliminate the overlap of powers. The government should express a specific institution that plays the role of maritime security law enforcement.

Characteristics of implementing Agencies

Based on a previous study conducted by Ioannis Chapsos and James A Malcolm, which was also supported by the focus group discussions that had been held involving practitioners in the field of maritime security in Indonesia, several points have partially been taken to support this research. The objective of the focus group discussion was comprehensive, and practitioners were brought together to develop Government policy recommendations to address maritime security issues in the country. The focus group discussion concluded with the most significant recommendations, highlighting the need for capacity-building for maritime law enforcement and other stakeholders and the need to coordinate at a regional and international level on maritime security affairs. (Ioannis Chapsos, James A. Malcolm, 2017)

* Indonesia's Maritime Governance: Law, Institutions and Cooperation, p Shipping Law, Law No. 17 of 2008 on Shipping (State Gazette Year 2008 No. 64, Supplementary State Gazette No. 4849) [Shipping Law], arts. 276–279.

Regarding how to deal with maritime security challenges, the forum also determined five points prioritized by the Indonesian government. These challenges were prioritized: Illegal, Unreported, Unregulated (IUU) fishing, National Maritime policy and strategy, Robust law enforcement to combat corruption, Smuggling in the maritime domain, and Capacity building.

Economic, Social and Political Environment

As the world's largest archipelagic state, Indonesia needs a comprehensive agenda focusing on maritime security. Per strategy introduced emphasizes the maritime sector's significance from economic, political, environmental, and cultural perspectives, including noting various threats associated with maritime security. Maritime security is now about tackling issues such as illegal fishing or smuggling by sea, alongside inter-state naval operations and broader maritime power politics. (Ioannis Chapsos, James A. Malcolm, 2017)

It should be highlighted that some of these priorities were also identified by the previous administration as part of its Masterplan for Acceleration and Expansion of Indonesia Economic Development launched in 2011, designed to transform Indonesia into a developed country by 2025. (Indonesia Investment, Masterplan for Acceleration and Expansion of Indonesia's Economic Development, 2020) The Masterplan also focused on improving logistics and connectivity throughout the archipelago and, due to the country's proximity to the new centre of gravity of the global economy particularly East Asia and Southeast Asia, transforming Indonesia into a center for global logistics by 2025 or earlier.

These ideas found in Jokowi's aims, unified as part of the Global Maritime Fulcrum vision, but they face the same bureaucratic challenges that existed during the Yudhoyono administration. The Masterplan was criticized for moving at slow pace, with seven major projects only kicking off in the dying days of Yudhoyono's second term. There has been early progress on areas of Jokowi's vision, with Coordinating Maritime Affairs Minister Soesilo reporting that construction for four of the planned twenty-four deep sea ports had already commenced. However, ensuring sufficient funds for new construction remains an issue. The Global maritime vision will also be challenged by an economy that has slowed in growth over successive quarters. (The World Bank, 2014)

The Disposition of implementers (Communication between relevant organisation and implementation activities)

It is uncertain what kind of long-term impact having to focus on and invest in domestic security constantly will have in the future. While we might argue that the GMF and its related agenda are languishing, Jokowi's first term saw early gains with the unveiling of the Indonesian Maritime Security Agency (BAKAMLA) and Indonesian Presidential Task Force to Combat Illegal Fishing (SATGAS 115) to prevent the loss of an estimated \$3 billion due to illegal fishing.

However, overlapping authority and lack of coordination between the 11 state bodies responsible for combating maritime threats have hampered efficiency. Multiple clashes with foreign illegal fishing vessels, most notably from China and Vietnam, and Indonesian authorities over the past few years have underscored the ongoing country's vulnerabilities. (Natalie Sambhi, 2019)

Indonesian Maritime Security from the Aspects of Regulation and Law Enforcement Characteristics

With this strategic position, Indonesia faces many factual and potential threats, both from within and outside. Existing resources and infrastructure, including the legal system, do not sustain Indonesia's maritime jurisdiction area, which is vulnerable to various violations and crimes at sea. Subsequently, it illustrates that Indonesia's maritime sector is also significant in defense and security. Despite the government having made legal instruments to maintain state sovereignty and maritime security in a national jurisdiction, Indonesia still experiences threats to maritime security in its maritime domain. This chapter examines the legal issues regulating the management and security of the country's maritime areas and how law enforcement mechanisms of maritime security in Indonesian waters.

Maritime Security from a Regulatory Characteristics

Maritime security is essential to create conditions for Indonesian waters that are safe and secure from threats such as territorial violations, dangers of navigation, exploitation, and illegal exploration of natural resources, including marine and environmental pollution. Maritime security should protect Indonesia from all threats from within and outside the country. The state's goals are stipulated in the constitution: to protect Indonesian soil and nation, promote public welfare, educate the nation's life, and participate in the world order. Thus, the formation of legal instruments, both the formation of institutions and legal basis, is apparent and should consider the aspects of lawmaking, including law enforcement.

Laws and regulations regarding maritime security are closely related to arrangements governing the maritime sector and all related activities. Having laws and regulations is significant since the maritime aspect of Indonesia holds enormous potential. It involves numerous stakeholders who are given authority over the Indonesian maritime sector, and likely its arrangements are dispersed in several laws and regulations. The existing laws are categorized as general laws, in which only some parts regulate maritime affairs and the laws that specifically regulate maritime affairs. To date, the laws enforced in domestic maritime jurisdictions should include:

- a. Law Number 1 of 1973 concerning the Indonesian Continental Shelf;
- b. Law Number 5 of 1983 concerning Indonesia's Exclusive Economic Zone (the EEZ Act);
- c. Law Number 17 of 1985 concerning Ratification of the 1982 United Nations Convention of the Law of the Sea;
- d. Law Number 6 of 8 August 1996 concerning Indonesian Waters (the Water Act);
- e. Law Number 24 of 2000 concerning International Treaties;
- f. Law Number 2 of 2002 concerning the Indonesian National Police;
- g. Law Number 3 of 2002 concerning National Defense;
- h. Law Number 25 of 2004 concerning the National Development System;
- i. Law Number 31 of 2004 concerning Fisheries as amended by Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries;
- j. Law Number 33 of 2004 concerning Financial Balance between the Central Government and Regional Governments;
- k. Law Number 34 of 2004 concerning the Indonesian National Armed Forces;
- l. Law Number 10 of 1995 concerning Customs as amended by Law Number 17 of 2006 concerning Amendment to Law Number 10 of 1995 concerning Customs;
- m. Law Number 11 of 1995 concerning Excise as amended by Law Number 39 of 2007 concerning Amendment to Law Number 11 of 1995 concerning Excise;
- n. Law Number 17 of 2007 concerning the National Long-Term Development Plan of 2005-2025;
- o. Law Number 26 of 2007 concerning Spatial Planning;
- p. Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands as amended by Law Number 1 of 2014 concerning Amendment to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands;

- q. Law Number 17 of 2008 concerning Shipping
- r. Law Number 43 of 2008 concerning State Territories;
- s. Law Number 4 of 2009 concerning Mineral and Coal Mining;
- t. Law Number 32 of 2009 concerning Environmental Protection and Management;
- u. Law Number 10 of 2009 concerning Tourism;
- v. Law Number 11 Year 2010 concerning Cultural Heritage;
- w. Law Number 6 of 2011 concerning Immigration; and
- x. Law Number 23 of 2014 concerning Regional Government.
- y. Law Number 32 of 2014 concerning the Sea (Law of the Sea).

Each law gives distinct institutional authority to enforce the law at sea on several agencies following the material content regulated in the law. The law that applies at sea and is relevant to maritime security activities has provided regulations and legal authority for each agency. There are more than 13 ministries and other government agencies authorized therein. However, several problems remain, such as not being well-coordinated, overlapping regulations, stakeholder authorities, or institutional aspects—for example, the overlapping issue in the Indonesian Exclusive Economic Zone (EEZ).

Laws in the maritime sector have not been exercised effectively and efficiently, and there is less synchronization among the laws that govern maritime affairs. This situation has led to a conflict in legal arrangements and institutional authorities responsible for maritime security. Therefore, it is necessary to harmonize the legal system and legislation to perform maritime security in Indonesia's maritime jurisdictions reliably. It should compile and collect existing laws and regulations, then develop a database of laws and regulations that specifically refer to law enforcement at sea relevant to maritime security.

Maritime Security from Law Enforcement Aspects

In essence, the two dimensions of maritime security operations are the enforcement of the country's maritime sovereignty and enforcing interrelated laws in the maritime domain.* Both enforcements must be carried out under national legal instruments relevant to international law. It requires considerable protection from the Navy and other law enforcement institutions in the maritime field.

Enforcing maritime security cannot be separated from enforcing criminal acts (in particular and general terms) that occur in the maritime area. Accordingly, the resolution process involves supervision,

* Pasal 61 dan Pasal 62 UU No. 32 Tahun 2014 tentang Kelautan

investigation, prosecution, and court examination. Law enforcement is needed to implement maritime security in the inland waters, archipelagic waters, Indonesian territorial sea, sea lanes, and straits for international shipping of the Indonesian continental shelf, EEZ, and additional zones.

Every state has sovereign rights and authority in the jurisdictions, including within maritime areas regulated in legislation and international law. In Indonesia, law enforcement at sea cannot be carried out and handled by the Indonesian Navy alone because several laws and regulations applicable in Indonesia also assert authority for exercising law enforcement at sea to other ministries/institutions. State institutions that are given the authority to enforce the law at sea, coast, and national ports, namely:

a. Indonesian Navy has a duty to maintain national defense and security, including the sovereignty of the Republic of Indonesia's territory in the maritime area, from the threat of foreign countries and menaces within the country;

b. Indonesian Water Police, in charge of investigating crimes in the area of Indonesian maritime jurisdiction;

c. The Directorate General of Customs and Excise under the Ministry of Finance is tasked with enforcing laws related to smuggling or violating imported/exported goods' transfer;

d. The Directorate General of Sea Transportation and the Directorate General of Sea and Coast Guard Units under the Ministry of Transportation is in charge of coast guard and law enforcement at sea;

e. The Directorate General of Maritime and Fisheries Resources Supervision under the Ministry of Maritime Affairs and Fisheries has the duty to investigate violations of fisheries exploration and other marine resources;

f. The Ministry of Energy and Mineral Resources is tasked with overseeing the work of mining businesses and mining products from the sea;

g. The Ministry of Tourism and Creative Economy, in charge of supervising cultural heritage objects and safeguarding tourist safety, sustainability, and environmental quality, including cargo objects from sunken ships;

h. The Directorate General of Immigration, under the Ministry of Law and Human Rights, serves as a supervisor, immigration organizer, and investigator of immigration crimes;

i. The Attorney General's Office has the duty to prosecute criminal offenses that occur in all regions of Indonesia;

j. The Ministry of Agriculture, through the Agriculture Quarantine Agency, is responsible for maritime security in the aspect of handling animal, fish, and plant quarantine;

k. The Ministry of Environment and Forestry has a duty in the field of environment in the maritime area, which will be related to maritime security. The Directorate General of Forest Conservation and Nature Conservation at the Ministry of Forestry conducts law enforcement in the forestry sector, including animal smuggling and illegal logging;

l. Ministry of Health, whose duty is to supervise and verify the ships' health, which covers the health of the crew, passengers, goods, and cargo; and

n. The Provincial Transportation Agency is responsible for maritime security within the respective maritime area.

The Roles of Bakamla and Maritime Security Policy

The strategy of national development policy for maritime security and boundary areas is increasing security and safety operations at sea and boundary areas, adding land border security posts, strengthening maritime security institutions, and intensifying joint maritime security operations. Furthermore, in the mid-term national development policy, maritime security and control of maritime resources are targets for accelerating maritime sector development. The focus area of the development is accelerating the formation of institutions that conduct maritime security in an integrated fashion, increasing the scope of control of fishery and marine resources. Moreover, increasing intra-agency coordination in maritime affairs and securing the maritime area from illegal using maritime resources through establishing a maritime security agency (Bakamla), intensifying law enforcement, and controlling maritime activities.

Maritime law enforcement must be coordinated and integrated following the competence of each authority of civil servant investigators and inspectorates in local government, POLRI investigators, and the Indonesian Navy. Since several criminal acts might be violated in an unlawful act, the settlement of legal threats in maritime security will include investigators from the local government, police, and the TNI-AL, which has been conceptualized from upstream to downstream and leads to the judiciary. This law enforcement process must also proceed highly regarding and uphold human rights.

The transition from Bakorkamla to Bakamla is a manner of Indonesia's seriousness in realizing maritime security. Bakamla's formation is also associated with the mandate of the Indonesian Shipping Law regarding the Sea and Coast Guard. In addition, several international conventions have determined international security, safety, law enforcement, and sovereignty at sea.

The role and authority of Bakamla are intended as a sea and coast guard as mandated in the Shipping Law, having a scope and work area close to the Indonesian Navy, in upholding sovereignty and

law enforcement in Indonesian territorial waters and Indonesian jurisdiction. Based on the Maritime Law, Bakamla's position is under and responsible to the President. Noting that Indonesia is internationally required to guarantee the safety and security of foreign-flagged ships that pass peacefully in Indonesian waters, the formation of Bakamla must also be able to answer these international demands so that the sovereignty and territorial integrity of the country is maintained.

However, conducting a more in-depth study of the Bakamla institution is necessary since Indonesia requires an institution designated as the leading sector responsible for maritime security in Indonesian waters and national jurisdiction. When the existence of Bakamla is engaged with the Navy, there will be a sensitivity in institutional and authority overlaps. It is because some of Bakamla's functions are within the scope of the Indonesian Navy's duties. As the main component of national defense, the Indonesian Navy is responsible for Indonesian territorial waters and jurisdiction defense and security.

Maritime Security of Indonesian Archipelagic Sea Lanes in a Legal Perspective

The maritime security laws and regulations are closely linked to those governing all sea-related activities. Since Indonesia's marine sector has significant potential, many stakeholders have authority over its seas. These provisions are outlined in various laws and regulations. Meanwhile, unfavorable consequences might emerge due to the country's inability to protect or secure foreign vessels when passing the ALKI. Indeed, the increasing maritime security threats include terrorism, drug traffic, piracy and armed piracy at sea, weapons smuggling, people smuggling, human trafficking, and illegal fishing crimes.

The existence of Indonesian Archipelagic Sea Lanes (Alur Laut Kepulauan Indonesia, here is and so forth written ALKI) as an implementation for ratifying the 1982 Convention on the Law of the Sea (UNCLOS 1982) has had a significant impact both positively and negatively on Indonesia in international relations. One of the optimistic impacts is the enormous economic potential of the international trade traffic that passes through the three ALKI. Meanwhile, the unfavorable consequence is increasing maritime security threats and the possible deprivation of marine resources due to the country's inability to provide protection or security for foreign vessels when passing the ALKI.

Conclusion and Suggestion/ Recommendation

Geographical, geopolitical, and geo-economics position and potential, which are oceanic, place Indonesia as an archipelagic and maritime country. This advantageous situation positioned Indonesia as a center of gravity and the global supply chain system. This situation pushes Indonesia to experience threats

and troubles that affect the country's maritime security. As state organizers, the government has attempted to overcome this situation by making a National Maritime Security law product.

Regarding maritime security, law enforcement faces challenges related to conflicts among stakeholders and licensing issues. Many sea-related crimes involve violations of permits, such as fishing, sailing, carrying forest products, searching for valuable objects from sinking ships, catching and transporting protected animals, and other activities in Indonesian waters without official documents or licenses. The division of authority to manage sea areas among provinces, cities/districts, and the central government also poses challenges for licensing.

The law enforcement system and its mechanisms must be clearly and unequivocally accommodated in laws and regulations to create order and order in law enforcement at sea and provide guarantees of protection, legal certainty, and maritime security for Indonesia as a maritime country. This situation will have implications for realizing Indonesia's maritime development so that contrasts do not occur, should boost the economy, and improve people's welfare.

Lawmakers in Indonesia have approved the Maritime Law to synergize laws, regulations, and authorities related to maritime security and law enforcement at sea, which regulates security, safety, and law enforcement in the maritime area, including establishing Bakamla. Bakamla needs to be reviewed so that there is no overlap in authority with the Indonesian Navy as the central component of national defense and is tasked with upholding sovereignty and law enforcement in Indonesian territorial waters and jurisdiction.

Indonesian maritime security operation would be carried out by safeguarding, securing, maintaining, supervising, and protecting the Indonesian maritime area and jurisdiction within the Indonesian EEZ and continental shelf, including natural resources and the marine environment, to realize people's welfare. These maritime security practices should be driven by forming an active Indonesian Coast Guard and increasing defense and security capabilities in the maritime field. Forming an active Indonesian Coast Guard would be realized by implementing several efforts, such as

- a. Indonesian Coast Guard would become a single agency with multi-functional authorization in maritime law enforcement, search and rescue at sea, environment protection, shipping safety, fishery protection, and custom and immigration.

- b. Develop an effective and efficient Indonesian Coast Guard operations management system. The reliable system includes the Indonesian Navy, the National Police, the Ministry of Transportation, the

Ministry of Finance, the Ministry of Maritime Affairs and Fisheries, and the National Search and Rescue Agency.

d. Strengthen and modernize the defense equipment system for maritime power with reliable institutions, including the Ministry of Defence, the Indonesian Navy, and the National Police

e. Develop the Main Base and Advanced Base for a squadron of medium-range maritime reconnaissance aircraft with the responsible institutions, including the Ministry of Defense and the Indonesian Navy.

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