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Topic: *Strengthening Legal Frameworks for Combating Human Trafficking and Enhancing Protection of Women and Children*

Analysis of the Study of Law Enforcement Challenges from the Perspective of International Marine Law Towards Human Trafficking in Maritime Areas

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Abstract. *Human trafficking in maritime areas constitutes a form of transnational organized crime that has become increasingly complex due to intensified cross-border mobility and the use of maritime routes as relatively difficult-to-monitor spaces for criminal activities. Although international maritime law provides principles of governing jurisdiction, inter-state cooperation, and law enforcement at sea, its implementation still faces significant challenges, including limited state authority in certain maritime zones, weak cross-jurisdictional coordination, and divergences in national legal systems. This study aims to analyze the challenges of law enforcement under international maritime law in addressing human trafficking in maritime areas and to examine the effectiveness of international cooperation mechanisms in combating such crimes. The research employs a normative legal method with statutory, conceptual, comparative, and case approaches. Data are collected through library research involving international maritime legal instruments, national legislation, legal literature, academic journals, and reports from international organizations. The findings indicate a gap between international maritime legal norms and their practical enforcement, particularly in relation to jurisdictional issues, inter-state coordination, and cross-border crime handling. Therefore, strengthening international cooperation frameworks and harmonizing national and international legal systems are essential to enhance the effectiveness of law enforcement against human trafficking in maritime areas.*

Keywords: *Human Trafficking; International Maritime Law; Law Enforcement; Maritime Areas; Transnational Crime.*



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1. Introduction

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Article 25A of the 1945 Constitution of the Republic of Indonesia (UUD 1945) states that "The Unitary State of the Republic of Indonesia is an archipelagic state with archipelagic characteristics with territories whose boundaries and rights are determined by law."¹The drafters of the Constitution gave special characteristics to the concept of the Indonesian archipelagic state, namely those with archipelagic characteristics.²The addition of this clause can be interpreted to mean that the concept of the Indonesian archipelagic state is not only limited to that in the 1982 Law of the Sea Convention, but there is a derivation in the form of the uniqueness of the archipelago.³The term "archipelago" itself comes from the Italian word "archipelagus," where "archi" means important, and "pelagus" means sea. So, literally, it means "an important sea."⁴Based on the constitutional basis which Hans Kelsen calls the norm that tops the hierarchy of statutory regulations,⁵The formulation of national policies, particularly Indonesian maritime policies, in maritime development must reflect a commitment to the wider community. Furthermore, the realization of Indonesia's national interests is paramount.

Therefore, the public needs to understand the geopolitics, geostrategy, and geoeconomics of leaders in managing and realizing national interests through government policies related to the development of the maritime sector since the reign of President Soekarno to the current administration of President Joko Widodo (Jokowi).⁶

The idea of a global maritime axis was put forward by presidential candidate Jokowi in the third presidential debate on June 22, 2014.⁷The maritime axis strengthens Indonesia as an archipelagic nation whose territory is actually two-thirds water, maritime "awareness" within the Indonesian people is still very lacking or can be said to be weak and marginalized. This occurs despite efforts to direct the development of the maritime sector has been pioneered since the election of President Jokowi. Therefore, a paradigm has emerged that national development carried out so far is still oriented towards land and far from the maritime orientation to become a global maritime axis is to build Indonesia as a large, strong, and prosperous maritime nation through Indonesia's identity as a maritime nation, maritime security and safety, empowerment of all maritime potential for the prosperity of the nation, equitable distribution of the Indonesian economy through the sea toll, return and implement maritime diplomacy in Indonesia's foreign policy for the next five years. Therefore, we can understand that the journey towards a global maritime axis will include maritime development practices and processes in various aspects of life (static and dynamic aspects) such as geography, demography and natural resources, law, ideology, politics, economics, social, culture, defense, and security.⁸

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The international community has recognized Indonesia as an archipelagic state with the signing of the United Nations Convention on the Law of the Sea (UNCLOS) in Montego Bay, Jamaica on December 10, 1982.¹⁰ As a follow-up to UNCLOS, Indonesia has ratified this convention with Law No. 17 of 1985.⁹ This convention was signed by 117 countries and came into effect on November 16, 1994. Thus, the geographical area of the Unitary State of the Republic of Indonesia (NKRI) has increased.¹⁰

Maritime policy is not specifically regulated in the law, but is included in various other laws and regulations, for example regarding shipping,¹¹ fisheries, state territory, mining, tourism, maritime affairs, ports, and various other laws and regulations related to maritime law.¹² These various laws and regulations have become the foundation for maritime development policy, but they are partial and sectoral in nature. The desired maritime policy addresses several issues related to the economic interests of the maritime sector, the integrity and sovereignty of the nation's territory, the sustainability of resources and the environment, and the resolution of social conflicts arising from the use of the same maritime space for differing interests. Addressing these issues requires a clear and precise territorial policy.¹³

2. Research Methods

1. Types of research

This research is a normative legal research which is combined with limited empirical elements (normative-analytical) or can also be categorized as prescriptive-evaluative normative legal research.

2. Research Approach

This research uses an extended normative legal approach (normative legal research) with a combination of several analytical approaches, namely:

⁹Dhiana Puspitawati, *International Maritime Law* (Jakarta: Kencana Prenada Media Group, 2023), 32.

¹⁰Ida Kurnia, "National Legislation Related to the Determination of Indonesia as an Archipelagic State," *Prioris Law Journal* 2, no. 4 (2010): 256–262.

¹¹Atika Thahira et.al, *Outside Of Port Limit Area: As an Effort to Overcome Marine Pollution Due to Oil Sludge Impacting Coastal Areas* (Depok: PT Rajagrafindo Persada, 2023), 124-127.

¹²Nurdin et.al, *Fisheries Law* (Malang: UB Press, 2017), 12.

¹³Mochtar Kusumaatmadja, *International Maritime Law* (Bandung: Bina Cipta, 1978), 187.



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1) Statute Approach

This approach is used to examine legal norms that regulate:

- a) International law of the sea
- b) Law enforcement in maritime areas
- c) The crime of human trafficking

The main instruments analyzed include:

- a) United Nations Convention on the Law of the Sea
- b) Protocol to Prevent, Suppress and Punish Trafficking in Persons (Palermo Protocol)
- c) National regulations regarding maritime law and human trafficking

The aim is to assess the suitability, strength and limitations of applicable legal norms.

3. Data source

- a. Primary Legal Materials
 - 1) United Nations Convention on the Law of the Sea as the primary basis for international maritime law
 - 2) Protocol to Prevent, Suppress and Punish Trafficking in Persons (Protocol to the UNTOC)
 - 3) United Nations Convention against Transnational Organized Crime
 - 4) International Maritime Organization (IMO) conventions related to maritime safety and security (SOLAS, SAR, etc.).
- b. Secondary Legal Materials
 - 1) Literature and Law Books

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2) Scientific work

3) Expert Opinion

4. Analysis Method

This research uses qualitative legal analysis with a normative-analytical approach combined with socio-legal analysis (normative-empirical), which is evaluative, interpretative, and prescriptive-reconstructive.

3. Results and Discussion

In the context of the rule of law, Pancasila has a position as a legal ideal which according to Bernard Arif Shidarta is an idea, intention, creation and thought regarding law or perception of the meaning of law which contains three basic foundations, namely justice, effectiveness and legal certainty. Bernard Arif Shidarta explains that the core of the legal ideal of Pancasila as the legal ideal of the Indonesian nation has core values, namely the one and only God, respect for human dignity, national insight and archipelago insight, equality and appropriateness, social justice, noble morals and character and participation and transparency in public decision making.¹⁴

As a developing country, Indonesia will geopolitically face the interests of neighboring countries in its concentric circles, such as the member countries of Southeast Asia (ASEAN) and the Asia Pacific. In addition, countries with interests in natural resources (SDA) and natural wealth (SKA) including fisheries, oil, and natural gas owned by Indonesia will also mobilize all resources and efforts to achieve their respective interests. Therefore, concrete steps are needed from stakeholders (ministries/institutions), both central and regional governments, synergizing cross-sectoral understanding to realize national maritime security within the framework of national development. To realize this, a common paradigm for managing Indonesia's maritime capabilities and strength is needed in the form of comprehensive, integral, and holistic control and control of the sea through a credible national maritime policy with the achievement of national maritime security stability.

In carrying out their respective roles, duties, and functions, these maritime security institutions still operate on a sectoral basis. As a result, Indonesia lags far

¹⁴Bernard Arif Shidarta, *Indonesian Legal Science: Efforts to Develop Systemic Legal Science that is Responsive to Changes in Society* (Yogyakarta: GENTA Publishing, 2013), 96-99.

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behind several other countries, including those with much smaller geographical dimensions. This situation has prevented Indonesia from doing much to safeguard national interests, including efforts to enforce maritime sovereignty and law. Furthermore, Indonesia has struggled to compete and become a major player in addressing maritime developments at the regional and global levels.

In light of this, the government is expected to develop comprehensive, integrative, and holistic national policies. These national policies are expected to be formulated and implemented in various policies oriented toward national and internal maritime historical experiences and guided by several existing maritime theories. Therefore, this sub-chapter will discuss steps that can be taken to strengthen and support the development of Indonesia's maritime sector.¹⁵

The problem that must be addressed by lawmakers and policy makers in anticipating various issues that arise in the maritime domain today is the absence of a comprehensive and integrative strategy to realize synergy across sectors in the field of maritime security and safety.¹⁶ The absolute strategic concept is realized in an effort to synergize cross-sector paradigms in the field of maritime security and safety as an anticipatory step to implement the government's vision and mission in national development in the maritime sector, namely through coordination, cooperation, and synergy in the implementation of enforcement of sovereignty and maritime law in Indonesian waters and jurisdiction.

4. Conclusion

The large number of institutions authorized to secure and enforce maritime law can lead to potential friction between one institution and another. Therefore, this study provides a concept of a maritime security and law enforcement institution that will be productive and effective and efficient if it is in accordance with Pancasila. The conclusions of this study: First, the steps to realize a maritime security and law enforcement institution based on the legal ideals of Pancasila are to improve the understanding and application of Indonesian maritime geopolitics to all maritime security and law enforcement institutions; and to establish a non-military civilian institution with the authority to enforce law at sea. The arrangement of maritime security and law enforcement institutions based on the

¹⁵Shanti Dwi Kartika, "Maritime Security from the Aspect of Regulation and Law Enforcement," *Journal of State Law* 5, no. 2 (2014): 157–158.

¹⁶Harun Umar, *The Politics of Maritime Axis Policy* (Jakarta: National University Publishing Institute (LPU-UNAS), 2020), 15

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ideals of Pancasila law is carried out through: To realize the paradigm of maritime security and law enforcement, it is necessary to make the following efforts:

- 1) policy arrangement to increase awareness and understanding of the Indonesian archipelago perspective for all maritime security and law enforcement agencies;
- 2) comprehensive, integral and holistic national maritime policy arrangement;
- 3) arranging national maritime security stability to support national development;
- 4) structuring non-military civil institutions and revising the multi-agency single function policy into a single agency with multi-functions that has the authority to enforce maritime law;
- 5) Optimization of Bakamla as a national maritime security information center for security stability.

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