

Legal Analysis of the Authority of Law Enforcement Agencies in Marine and Coastal Areas

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Abstract. *Indonesia adheres to the concept of multi-agency single task in law enforcement in maritime and coastal areas. This is evident from the existence of 14 (fourteen) ministries/state institutions that have the authority to enforce the law in maritime and coastal areas as a result of the delegation of 18 (eighteen) laws related to maritime areas. The large number of ministries/state institutions involved in law enforcement makes the implementation of law enforcement ineffective due to the widespread overlapping authority regarding which institution has the authority to enforce the law if a violation occurs in Indonesian maritime and coastal areas. In addition, the problem of the large number of institutions authorized to enforce the law in maritime and coastal areas has a domino effect in the form of insufficient budget allocation for law enforcement, a shortage of the number and quality of investigative officers, and a lack of supporting facilities and infrastructure. This study aims to analyze the current regulation of law enforcement authority in maritime and coastal areas. To analyze the weaknesses and solutions in the implementation of law enforcement in maritime and coastal areas today. The research used in this thesis is normative legal. Normative legal research is usually "simply" a documentary study, using legal sources such as legislation, court decisions/rules, contracts/agreements/contracts, legal theories, and scholarly opinions. Another name for normative legal research is doctrinal legal research, also referred to as library research or document study. Based on the research conducted, it is known that the implementation of law enforcement in maritime and coastal areas is characterized by overlapping authority among 14 (fourteen) ministries/state institutions mandated by 18 (eighteen) laws as law enforcement officers in maritime and coastal areas. This overlapping authority is characterized by the existence of similar authority to carry out surveillance, pursuit, and investigation in maritime areas and Indonesian jurisdiction. This condition is particularly experienced by The Indonesian Navy is based on Article 14 paragraph (1) of Law No. 5 of 1983 concerning the EEZ, Article 9 of Law No. 34 of 2004 concerning the Indonesian National Armed Forces, and Article 10 of Law No. 3 of 2002 concerning National Defense.*

In addition, there is also an overlap with the authority of the KPLP as regulated in Article 276-Article 278 of Law No. 17 of 2008 concerning Shipping.

Keywords: Authority; Enforcement; Law.

1. Introduction

Indonesia is a country that holds a variety of potential and natural resources. This is demonstrated by the fact that the State of Indonesia has a strategic position, namely located between two oceans, namely the Indian Ocean and the Pacific Ocean and between two continents, the Australian Continent and the Asian Continent. This results in Indonesia having a vast sea area and coastline as well as large marine biological and non-biological natural resources where the biological natural resources consist of high fishery products and non-biological consists of large maritime mining. This description is also in line with Plato's view of the characteristics of the glorious State of Atlantis, Plato conveyed in his dialogue contained in his work entitled Timeaus and Critias, that tens of thousands of years ago there were simultaneous volcanic eruptions in a region along with earthquakes and melting ice in the world that led to flooding problems.¹

This resulted in the sinking of part of the land, the part of the lost land was later called Atlantis by Plato.²Based on Plato's explanation, it can be concluded that the characteristics of the continent of Atlantis are similar to those of Indonesia. This view of the similarities between Atlantis and Indonesia is also supported by Aryso Santos's opinion, which, through 30 years of research, states that Atlantis is Indonesia.³The views of Plato and Santos cannot be completely proven in their development, however, it can be seen that Indonesia is a country that has rich natural resources and a very advantageous location in various aspects.

Indonesia's wealth also includes vast marine areas. This is evidenced by the many islands recorded in Indonesia, reaching 17,499 islands. This number consists of 13,446 islands that have names and only 6,000 islands that are inhabited. Although currently, re-registration is still needed due to the reduction in the number of islands caused by the ebb and flow of sea water. In addition to being an archipelagic country, Indonesia also has quite unique marine characteristics that are used as international transportation routes, supported by its geostrategic position. Due to these advantages, Indonesia deserves to be the world's maritime axis.

¹Ahmad Y. Samanto, Atlantis Nusantara, Various Spectacular Discoveries That Increase Belief in Its Existence, Sembilan Cahaya Abadi, Jakarta, 2015, p. 5

²Loc, cit

³Loc, cit

This situation has significant positive and negative impacts on Indonesia's international relations. One positive impact is the enormous economic potential generated by international trade through Indonesia's three archipelagic sea lanes (ALKI).⁴ Meanwhile, one of the negative impacts that often occurs is the loss of marine resources as a result of the low ability to provide protection and security from foreign parties.⁵

As an archipelagic country, the sea in Indonesia has a very important function for the Republic of Indonesia, namely the sea as a unifying medium for the nation, a medium of transportation, a resource medium, a medium of defense and security, and a medium of diplomacy, so that the life of the nation and state, the sea also has an important meaning, namely as a sovereign territory of the state, maritime industrial space, Sea Lane on Communication (SLOC), and as an ecosystem.⁶

Based on this understanding of the function and importance of the Indonesian seas, it is understandable that various interests exist at sea, which may synergize or even compete with each other. This situation will directly and indirectly impact law enforcement and maritime security efforts. The multiplicity of interests at sea creates problems in handling maritime crimes such as smuggling, transnational crime, piracy, armed foreign fishermen, natural resource destruction, natural resource theft, and navigational safety.⁷ Therefore, it is important to enforce the law against crimes in coastal and maritime areas. In law enforcement and security efforts at sea, if reviewed from the Laws and Regulations, it has been regulated in 17 (seventeen) national Laws and Regulations. Likewise, if reviewed from the institutional perspective, the number of maritime institutions or agencies has 13 (thirteen) law enforcement agencies at sea. Of these, 6 (six) institutions have patrol task forces at sea and 7 (seven) other law enforcement agencies do not have patrol task forces at sea. Law enforcement agencies that have patrol task forces at sea are: TNI-AL, POLRI/Directorate of Water Police, Ministry of Transportation-Director General of Sea Transportation, Ministry of Maritime Affairs and Fisheries-Director General of PSDKP, Ministry of Finance-Director General of Customs and Excise and BAKAMLA. These six law enforcement agencies carry out patrols related to security at sea sectorally in accordance with the authority they have based on their respective Laws and Regulations. Meanwhile, law enforcement agencies that do not have maritime patrol task forces are: the Ministry of Tourism, the Ministry of Health, the Ministry of Environment, the Ministry of Forestry, the Ministry of Energy and Mineral Resources, the National Narcotics Agency, and Regional Governments. In many laws that regulate maritime law enforcement among

⁴Geograph88.blogspot.com, Indonesia as an Archipelagic Country, Downloaded on February 11, 2020.

⁵Budi Winarno, *Dynamics of Contemporary Global Issues*, Center of Academic Publishing Service, Yogyakarta, 2014, p. 25.

⁶media.neliti.com, Coastal and Marine Area Management, Accessed on January 23, 2025.

⁷Budi Winarno, *op.*, cit.

multiple institutions, there is the potential for overlapping authority and differing perceptions of authority that tend to lead to institutional egos. These differences greatly increase the possibility of a lack of synchronization in terms of performance coordination and authority, which ultimately results in inefficiency and ineffectiveness in guarding and enforcing law at sea and on the coast.⁸

Furthermore, with the enactment of Law Number 17 of 2008 concerning Shipping, the government is mandated to form the Indonesian Sea and Coast Guard. Article 281 of Law Number 17 of 2008 concerning Shipping stipulates that: "Further provisions regarding the formation, organization and working procedures of sea and coast guards as referred to in Article 276 are regulated by Government Regulation." and Article 352 which states that: "Sea and Coast Guard must be formed no later than 3 (three) years since this Law comes into effect. However, until now the Draft Government Regulation on Guards and Law Enforcement at Sea and Coast has not been ratified."⁹

The next development, the Government tried to optimize law enforcement at sea, by perfecting BAKORKAMLA to become BAKAMLA. The replacement was carried out because BAKORKAMLA was deemed to be no longer able to adapt to environmental needs over time. The legal basis for the establishment of BAKAMLA is Law Number 32 of 2014 concerning Maritime Affairs and Presidential Regulation Number 178 of 2014 concerning BAKAMLA. BAKAMLA is an agency that has the task of guarding security and safety in Indonesian waters, then to create its own existence in international relations, BAKAMLA uses the name Indonesia Coast Guard (ICG), so that BAKAMLA is mandated as Coast Guard. Whereas the Coast Guard was previously held by the Sea and Coast Guard Unit (KPLP).¹⁰

The improvement of BAKORKAMLA to BAKAMLA is a completely new organization; in accordance with the needs of the Indonesian archipelago; has one command with multi-function maritime security, law enforcement of marine and fisheries resources, shipping, customs, construction, SAR, and so on; and the working area covers all territorial waters, islands, and inland waters. The organizational structure of BAKAMLA is an agency or institution that is domiciled and directly responsible to the President and funds BAKAMLA's operations through the State Budget (ABPN). In Article 4 of Presidential Regulation Number 178 of 2014 concerning BAKAMLA, it is determined that BAKAMLA's authority includes conducting hot pursuits; stopping, inspecting, arresting, bringing, and handing over ships to the relevant authorized agencies for further legal proceedings; and integrating security and safety information systems in Indonesian waters and

⁸law.ui.ac.id, Law Enforcement in Indonesian Maritime Areas, Accessed on February 14, 2025.

⁹Loc.Cit.

¹⁰Loc.Cit.

Indonesian jurisdictional areas. These authorities are carried out by command by BAKAMLA.¹¹

The change from BAKORKAMLA to BAKAMLA is a form of Indonesia's seriousness in realizing the world's maritime axis and guaranteed maritime safety and security. The existence of BAKAMLA is the command holder, which can direct the 12 stakeholder agencies to achieve common goals. In addition, BAKAMLA is the budget regulator of the 12 stakeholder agencies, so it can be ensured that with BAKAMLA, the state budget can save up to 50%. Not only that, BAKAMLA has also implemented an Early Warning System (SPD) which is much needed by the State of Indonesia which is geographically and climatologically has the potential to cause (natural) disasters. The implementation of this Early Warning System (SPD) is what led to BAKAMLA being named the Coast Guard.

One agency that has the same duties as BAKAMLA is KPLP. KPLP is internationally recognized as the sole law enforcer in terms of maintaining security and safety in Indonesian waters, particularly in the field of international shipping. The legal basis of KPLP is Law Number 17 of 2008 concerning Shipping. Before the establishment of Law Number 17 of 2008 concerning Shipping, KPLP had actually existed since 1942 and was internationally recognized as the only institution in Indonesia tasked with enforcing law in terms of maintaining security and safety in Indonesian waters, particularly in the field of shipping. KPLP is internationally known as the Indonesia Sea and Coast Guard (ISCG).¹²

The most prominent difference between BAKAMLA and KPLP is that BAKAMLA is not a law enforcement agency, as BAKAMLA is not mandated as an investigator by Law Number 32 of 2014 concerning Maritime Affairs. This is different from KPLP, which is mandated by Law Number 17 of 2008 concerning Shipping as an investigator. The formation of BAKAMLA has resulted in Indonesia having two agencies tasked with maintaining security and safety in Indonesian waters. With the existence of two agencies with the same duties, it is possible that overlapping authorities will occur, which will also result in less than optimal benefits resulting from the formation of the two agencies. Until now, Indonesia has not had an agency with dimensional or comprehensive functions that include law enforcement, security and safety at sea, whose duties consist of aspects of early warning information system services, law enforcement at sea, customs, security and safety of shipping, control of living and non-living natural resources in the marine environment, search and rescue at sea, and national defense in times of war.¹³

¹¹Loc.Cit.

¹²Eko Ismadi, *Bakamla in the Notes of Indonesian History and Nationalism*, Accessed via jurnalpatrolinews.com, on January 12, 2025.

¹³Loc.Cit.

2. Research Methods

The research used in this paper is normative legal. Normative legal research is usually "only" a documentary study, using legal sources in the form of statutory regulations, court decisions, contracts, agreements/contracts, legal theories, and scholarly opinions. Another name for normative legal research is doctrinal legal research, also known as library research or document study. It is called doctrinal legal research because this research is conducted or directed only at written regulations or legal materials. It is called library research or document study because this research is mostly conducted on secondary data found in libraries.¹⁴The approach used is a statutory approach. The legal approach is carried out by examining all laws and regulations related to legal issues¹⁵regarding the institutions and authority to maintain and enforce the law at sea and on the coast. The legal issue regarding the overlapping of guarding and law enforcement at sea and on the coast is central to the research. By managing the legal issue which is central to identifying the reasons for the overlapping guarding and law enforcement at sea and on the coast, and then generating an argument that can resolve the legal issue.¹⁶

3. Results and Discussion

3.1. Current Regulations on Law Enforcement Authority in Marine and Coastal Areas

1) Law Enforcement Instruments in Maritime and Coastal Areas

Law enforcement is the process of making efforts to uphold or function legal norms in real terms as guidelines for behavior in traffic or legal relations in social and state life.¹⁷Law enforcement functions to guarantee legal certainty, order, and legal protection in the era of modernization and globalization which is aimed at achieving harmony, balance, and compatibility between civil morality based on actual values in a civilized society.¹⁸

In this case, law enforcement refers to the process by which authorized institutions ensure the functioning of legal norms governing maritime and coastal areas to maintain maritime security and stability against various criminal acts occurring in these areas. This is due to the numerous maritime interests that create problems in handling crimes such as smuggling, transnational crime, piracy,

¹⁴Bambang Waluyo, *Legal Research in Practice*, Sinar Grafika, Jakarta, 1996, p. 13.

¹⁵Peter Mahmud Marzuki. 2007. *Legal Research*. Jakarta: Prenada Media Group, p. 93

¹⁶Johnny Ibrahim, *Normative Legal Research Theory and Methods*, Bayumedia, Malang, 2005, p. 249.

¹⁷Jimmy Asshiddiqie, *Law Enforcement*, p. 1 accessed via http://www.jimly.com/makalah/namafile/56/Penegakan_Hukum.pdf on June 21, 2025 at 11:30 WIB.

¹⁸Barda Nawawi Arief, *Criminal Law Policy*, (Bandung: PT. Citra Aditya Bakti, 2002), pp. 109-110.

armed foreign fishermen, illegal fishing, destruction of marine and surrounding natural resources, theft of marine natural resources, navigational safety, and human trafficking.¹⁹

Law enforcement against various criminal acts must be carried out within the framework of three law enforcement concepts which are described as follows:²⁰

- a. The total enforcement concept demands that all values behind legal norms be enforced without exception.
- b. The concept of full law enforcement (full enforcement concept) which recognizes that the total concept needs to be limited by procedural law and so on for the sake of protecting individual interests.
- c. The concept of actual law enforcement emerged after it was believed that there was discretion in law enforcement due to limitations, both related to infrastructure, the quality of human resources, the quality of legislation and the lack of public participation.

Referring to the three conceptual frameworks of law enforcement mentioned above, the scope of regulation and implementation of law enforcement in maritime and coastal areas needs to accommodate these three forms of law enforcement through adjustments. This means that the total enforcement concept is intended to symbolize the idealism of safeguarding maritime and coastal areas in their entirety. In this context, this concept serves as the foundation for developing the material substance of maritime and coastal law enforcement.

Full enforcement concept, is intended to develop the substance of proceedings or rules of procedure for trials to resolve violations occurring in maritime and coastal areas. This concept refers to the concrete implementation of law enforcement by developing procedural (formal) rules to maintain the substance of law enforcement. This concept is upheld and implemented by law enforcement institutions such as the police, prosecutors, civil servant investigators, and courts.

Finally, the actual enforcement concept is the concept of law enforcement in the form of actual realization in the form of taking certain actions to maintain the substance of the law or implement the legal rules, for example by issuing discretionary policies. Referring to the formulation of Article 1 number 9 of Law Number 30 of 2014 concerning Government Administration (Law No. 30 of 2014), what is meant by discretion is decisions and/or actions determined and/or carried out by Government Officials to address concrete problems faced in the

¹⁹Eka Martiana Wulansari, Law Enforcement at Sea with a Single Agency Multi-Task System, Jurnal Rechtsvinding, p. 1

²⁰Mardjono Reksodipuro, Criminology and the Criminal Justice System, Second Book Collection of Essays, (Jakarta: Center for Justice Services and Legal Service, Criminology Institute, University of Indonesia), 1997, p. 44.

administration of government in terms of laws and regulations that provide options, do not regulate, are incomplete or unclear, and/or the existence of government stagnation. This concept of law enforcement is carried out by government officials who lead government institutions.

Security alert system can be done from the navigation bridge and at least from other places on the ship. Regulation XI-2/6 sets out requirements for port facilities, as a guide for governments to assess the level of security of port facilities and port facility security plans have been developed, implemented and reviewed in accordance with the ISPS Code. Other regulations in this chapter cover reporting to the IMO, ship surveillance in port (including delay, detention, prohibition of movement in port or removal of the ship from port), and company responsibilities. Chapter XII – Special provisions for the safety of bulk carriers. This chapter covers the structural requirements for bulk carriers over 150 meters in length.

a. ISPS Code (International Ship and Port Security Code)

The 1974 SOLAS Amendments resulted in significant changes to SOLAS. SOLAS not only addressed safety of life at sea but also focused on maritime security. These amendments resulted in international regulations governing the security of ships and port facilities, known as the International Ship and Port Security Code (ISPS Code).

ISPS Code stands for International Ship and Port Facility Security Code is a code or rule that was recently accepted and ratified at the IMO-Conference forum on December 12, 2002, and became Chapter XI-2 of SOLAS-1974. The acceleration of the implementation of the ISPS Code was triggered by the tragic terrorist incident in New York on September 11, 2001 so that the IMO in November 2001 unanimously approved the development of new measures regarding increased security on ships and ports. Indonesia as an IMO member country has ratified SOLAS 1974 through Presidential Decree No. 65 of 1980.

With the ratification of the ISPS Code, the Indonesian government is obligated to comply with all its provisions. Failure to comply with these provisions risks preventing foreign ports from accepting Indonesian-flagged vessels undertaking international voyages. Furthermore, foreign vessels may be barred from entering Indonesian ports. This situation impacts economic centers, particularly the import-export industry.

b. Law Number 1 of 1973 concerning the Indonesian Contingent Base (State Gazette of the Republic of Indonesia 1973 Number 1, Supplement to the State Gazette Number 2994);

c. Law Number 5 of 1983 concerning the Exclusive Economic Zone of Indonesia, (State Gazette of the Republic of Indonesia of 1983 Number 44, Supplement to the State Institution Number 3260);

- d. Law Number 17 of 1985 Ratification of the United Nations Convention on the Law of the Sea 1982, (State Gazette of the Republic of Indonesia 1985 Number 76, Supplement to the State Gazette of the Republic of Indonesia Number 3319);
- e. Law Number 5 of 1990 concerning Conservation of Biological Natural Resources and their Ecosystems (State Gazette of the Republic of Indonesia 1990 Number 49, Supplement to State Institution Number 3419);
- f. Law Number 6 of 2011 concerning Immigration (State Gazette of the Republic of Indonesia 2011 Number 52, Supplement to State Institutions Number 5216);
- g. Law Number 16 of 1992 concerning Animal, Fish and Plant Quarantine (State Gazette of the Republic of Indonesia 1992 Number 56, Supplement to State Institutions Number 3482);
- h. Law Number 6 of 1996 concerning Indonesian Waters (State Gazette of the Republic of Indonesia 1996 Number 73, Supplement to State Institutions Number 3647);
- i. Law Number 17 of 2006 concerning Amendments to Law Number 10 of 1995 concerning Customs (State Gazette of the Republic of Indonesia 2006 Number 93, Supplement to State Institution Number 4661);
- j. Law Number 32 of 2009 concerning Environmental Protection and Management, (State Gazette of the Republic of Indonesia 2009 Number 140, Supplement to State Institution Number 5059);
- k. Law Number 22 of 2001 concerning Oil and Natural Gas (State Gazette of the Republic of Indonesia 2001 Number 136, Supplement to State Institution Number 4152);
- l. Law Number 2 of 2002 concerning the Republic of Indonesia National Police (State Gazette of the Republic of Indonesia 2002 Number 2, Supplement to State Institutions Number 4168);
- m. Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries, (State Gazette of the Republic of Indonesia 2009 Number 154, Supplement to the State Gazette of the Republic of Indonesia Number 5073);
- n. Law Number 23 of 2014 concerning Regional Government (State Gazette of the Republic of Indonesia 2014 Number 244, Supplement to the State Gazette of the Republic of Indonesia Number 5587);
- o. Law Number 34 of 2004 concerning the Indonesian National Armed Forces (State Gazette of the Republic of Indonesia 2004 Number 127, Supplement to the State Gazette of the Republic of Indonesia Number 4439);

- p. Law Number 26 of 2007 concerning Spatial Planning, (State Gazette of the Republic of Indonesia 2007 Number 68, Supplement to the State Gazette of the Republic of Indonesia Number 4725);
- q. Law Number 1 of 2014 concerning Amendments to Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands, (State Gazette of the Republic of Indonesia of 2014 Number 2, Supplement to the State Gazette of the Republic of Indonesia Number 5490);
- r. Law Number 17 of 2008 concerning Shipping, (State Gazette of the Republic of Indonesia 2008 Number 64, Supplement to the State Gazette of the Republic of Indonesia Number 4849); and
- s. Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries (State Gazette of the Republic of Indonesia 2009 Number 154, Supplement to the State Gazette of the Republic of Indonesia Number 5073).

The eighteen laws mentioned above constitute positive law governing law enforcement in maritime and coastal areas, within the scope of their discussion. This number does not include implementing regulations issued as guidelines for law enforcement under the relevant institutions/ministries. Therefore, it is conceivable that law enforcement regulations are outlined in numerous laws and regulations, potentially leading to conflict or overlap.

2) Government Agencies Authorized to Enforce Law in Marine and Coastal Areas

Basically, law enforcement and regulations governing activities in Indonesian sea and coastal waters are carried out by several government agencies jointly. The authorized government agencies following the issuance of Law Number 32 of 2014 concerning Maritime Affairs (Law No. 32 of 2014) include Bakamla (Maritime Security Agency), Indonesian Navy, Indonesian National Police-Directorate of Water Police, Ministry of Transportation-Directorate General of Sea Transportation, Ministry of Maritime Affairs and Fisheries-Directorate General of Marine and Fisheries Resources Supervision (PSDKP), Ministry of Finance-Directorate General of Customs and Excise, and Task Force for Eradication of Illegal Fishing (Task Force 115).²¹All of the government institutions above are responsible for carrying out monitoring, control, surveillance and law enforcement activities against all forms of violations or illegal activities that occur in marine and coastal areas.

Before the enactment of Law No. 32 of 2014, the jurisdiction for handling legal violations in maritime areas was divided among various institutions, including, separately and individually, the Indonesian Navy, the Water Police ("Polair"), the

²¹Accessed via <https://law.ui.ac.id/v3/penegakan-hukum-di-wilayah-laut-indonesia/> on June 21, 2025 at 11:00 WIB.

Directorate General of Customs and Excise (“Ditjen Bea Cukai”), the Attorney General’s Office of the Republic of Indonesia, the Directorate General of Sea Transportation (Armada PLP/KPLP), the Ministry of Environment and Forestry (“KLHK”), the Ministry of Maritime Affairs and Fisheries (“KKP”), the Ministry of Energy and Mineral Resources (“Kementerian ESDM”), the Ministry of Culture and Tourism (“Kemenbudpar”), the Ministry of Law and Human Rights (“Kemenhukham”), the Ministry of Agriculture (“Kementan”) and the Ministry of Health (“Kemenkes”).²²

This composition of government institutions has removed the authority of the Ministry of Forestry from the ranks of law enforcement agencies in marine and coastal areas. In 2007, through the Directorate General of Forest Conservation and Nature Conservation (Ditjen PHKA), the Ministry of Forestry was also responsible for carrying out monitoring and law enforcement activities in marine protected areas in Indonesia. This authority is granted by Law No. 5 of 1990 concerning the Conservation of Biological Natural Resources and their Ecosystems (Law No. 5 of 1990). According to this law, there are four types of marine nature reserves: marine national parks, marine tourism parks, marine nature reserves, and marine and waters conservation/sanctuary areas.²³

In addition to the Ministry of Forestry, the Ministry of Environment also plays a role in law enforcement in marine and coastal areas. Formally, the Ministry of Environment is not directly tasked with patrolling or monitoring marine and coastal areas. This institution focuses on protecting and managing Indonesia's marine and coastal environments. The Ministry of Environment also employs civil servant investigators to oversee and enforce the law in environmental and coastal management.²⁴

Furthermore, in the pre-Law No. 32 of 2014 period, the primary focus of law enforcement was centered on Bakorkamla (Law on Maritime Security), mandated by Law No. 6 of 1996 concerning Indonesian Waters (Law No. 6 of 1996).²⁵ tasked with coordinating between these agencies. Bakorkamla, which was previously established by a Joint Decree of the Minister of Defense and Security/Commander of the Armed Forces, the Minister of Transportation, the Minister of Finance, the

²²Accessed via <http://jurnalmaritim.com/2014/09/sistem-penegakan-hukum-dalam-ruu-kelautan/> on June 21, 2025.

²³Dirhamsyah, *Maritime Law Enforcement in Indonesia*, Oseana, Vol.XXXVII, No.1, 2007, p.3.

²⁴Loc, cit.

²⁵Article 23 paragraph (3) of Law No. 6 of 1996 stipulates: "If necessary, to improve the utilization, management, protection and preservation of the Indonesian water environment as referred to in paragraph (1), a coordinating body may be established by Presidential Decree." See: Indonesian Waters Law, Law No. 6 of 1996, State Gazette No. 73 of 1996, Supplement to the State Gazette No. 3647

Minister of Justice, and the Attorney General,²⁶ has now been officially changed to Bakamla with Presidential Regulation Number 178 of 2014 concerning Bakamla (Presidential Regulation No. 178 of 2014). This change is a mandate from Article 59 paragraph (3) of Law No. 32 of 2014 which states "in the context of law enforcement in waters and jurisdiction areas, particularly in carrying out security and safety patrols in Indonesian waters and jurisdiction areas, a Maritime Security Agency is established."

Based on Presidential Decree No. 178 of 2014, Bakamla's functions were expanded and strengthened compared to Bakorkamla's. The goal was for Bakamla to improve the effectiveness and efficiency of maritime law enforcement, particularly as it manages the authority of various related institutions.²⁷

As we know, Bakamla's primary task is to integrate and coordinate related institutions. This situation refers to Bakamla's responsibility to organize and divide tasks and authorities among related institutions. This is due to overlapping tasks and authorities of institutions previously under Bakorkamla's coordination, or vice versa.²⁸ Overlapping authority is an inevitable issue given the numerous institutions involved in law enforcement in Indonesia's territorial waters and jurisdictions, each with a different focus on oversight. This situation results in an unexplored area for law enforcement, leading to a lack of understanding of the patterns of interaction and functional coordination between institutions.

If we look again, among the 14 (fourteen) institutions being compared, there are several specific authorities that are only held by certain institutions. In detail from Table 3 above, the authority for law enforcement such as hot pursuit and stopping ships can only be carried out by Bakamla, TNI-AL, and the Coastal Guard. Meanwhile, the authority in the form of monitoring, supervision (control), surveillance/observation (surveillance), and law enforcement (enforcement) up to the investigation stage can be carried out by all fifteen institutions.

3.2. Implementation of Law Enforcement in Marine and Coastal Areas

What's interesting here is that the fourteen institutions regulated by at least 18 laws above have the potential to create legal issues, particularly overlapping

²⁶The joint decrees were respectively Number: KEP/B/45/XII/1972; SK/901/M/1972; KEP.779/MK/III/12/1972; JS8/72/1; KEP-085/JA/12/1972 concerning the Establishment of the Maritime Security Coordination Agency and the Joint Maritime Security Operations Command. In 2005, Presidential Regulation Number 81 of 2005 concerning the Maritime Security Coordination Agency (BAKORKAMLA) was established which became the legal basis of Bakorkamla until it was replaced by Bakamla in 2014. See: Hukum Online, "President Jokowi Officially Forms Maritime Security Agency," December 15, 2014,

²⁷Usadi in Margaretha Quina and Henri Subagiyo, Review of Law No. 32 of 2014 concerning Maritime Affairs "Law Enforcement at Sea: Opportunities and Challenges", Journal of Environmental Law, Vol.2, No.1, July 2015, p.96.

²⁸Margaretha Quina and Henri Subagiyo, Ibid. p. 97.

authority. This is because several institutions share the same authority in the field, for example, Bakamla, the Indonesian Navy, and the Coastal Guard, are responsible for immediate pursuit. Ideally, these three institutions should be able to conduct patrols together, allowing for joint pursuit. Alternatively, Bakamla, as the coordinator for all of the above institutions, could establish a patrol schedule so that all institutions can carry out their duties according to their respective authorities.

However, in reality, the ideal coordination hoped for has not yet been realized. This is because managing and coordinating various institutions under a single instruction is no easy task. This condition is a result of the shift from the multi-agency single task concept to a single agency multi-task concept. The law enforcement authority held by the 14 institutions mentioned above is being transferred/streamlined to be managed by a single agency or institution that oversees all monitoring, control, surveillance, and law enforcement.

This institution is a single institution that has comprehensive dimensional functions that include law enforcement, security and safety functions at sea, whose duties consist of aspects of early warning information system services, law enforcement at sea, customs, shipping security and safety, control of living and non-living natural resources in the marine environment, search and rescue at sea and national defense in times of war.²⁹In other words, this institution will be the only institution authorized to enforce the law in maritime and coastal areas.

1) Overlapping Authority Between the Indonesian Navy and the Directorate General of Customs and Excise

In addition, the problem of overlapping authority also occurs in the Exclusive Economic Zone area. The EEZ is regulated in Article 14 paragraph (1) of Law Number 5 of 1983 concerning the Exclusive Economic Zone, the EEZ area is the responsibility of the Indonesian National Armed Forces (TNI-AL) navy. In addition, Article 224 of UNCLOS 1982 indirectly determines that the most authorized agency at sea is the armed forces of a country. On that basis, the TNI-AL is responsible for all criminal acts and violations of the law in Indonesian maritime waters. However, at the implementation level, there is a conflict of authority in the EEZ area between the TNI-AL and the Directorate General of Customs and Excise when exercising the authority to carry out legal proceedings against vessels suspected of smuggling. Conflicts also occur between the TNI-AL and the Ministry of Maritime Affairs and Fisheries which conducts patrols at sea for inspections and investigations in the Indonesian EEZ when handling legal proceedings against fishing vessels that commit violations at sea. The conflict occurred due to the unclear regulation of the areas of duty of the Directorate General of Customs and Excise and the Ministry of Maritime Affairs and Fisheries, so that it is not

²⁹Eka Martiana Wulansari, Op.Cit, p.4.

uncommon for there to be clashes between the Indonesian Navy and other agencies in handling cases of violations in Indonesian waters, especially in the EEZ.³⁰ This example is one of the regulatory obstacles to the development of maritime security, because existing regulations provide some power to stakeholders who are authorized and responsible in maritime waters.

In addition, based on Article 14 paragraph (1) of Law No. 5 of 1983, the authority of the Indonesian Navy as an investigator for violations that occur in the EEZ area has also been emphasized. Article 14 paragraph (1) explains that, "Law enforcement officers in the field of investigation in the Indonesian Exclusive Economic Zone are Indonesian Navy National Armed Forces Officers appointed by the Commander of the Armed Forces of the Republic of Indonesia."

2) Overlapping Authority Between Bakamla and the Coast Guard Unit (KPLP)

The issue of disputes resulting from overlapping law enforcement authorities in maritime and coastal areas also occurs at Bakamla and KPLP. Bakamla is an agency mandated by Law No. 32 of 2014 concerning Maritime Affairs and is under the command of the Coordinating Minister for Political, Legal, and Security Affairs. Meanwhile, KPLP is mandated by Law No. 17 of 2008 concerning Shipping and is under the command of the Ministry of Transportation. These two institutions are touted to become a single institution called the Indonesia Coastal Guard to realize the single agency multi-task. Certainly, the above issue is interesting to discuss considering the many pros and cons arguments regarding which institution is considered worthy of the name coastal guard.

Within Bakamla itself, in accordance with the mandate of Presidential Decree 178 of 2014, Article 28, a Legal Enforcement Unit has been established, where the Unit contains representatives of investigators from related agencies who will be able to directly handle arrests or onboard patrol vessels so that there are no regulatory issues or problems that Bakamla investigators are not allowed to arrest, even though the Bakamla patrol vessels themselves already contain investigators from each related agency.³¹

Based on the authority of Bakamla in accordance with Maritime Law No. 32 of 2014 concerning Maritime Affairs, Bakamla can carry out enforcement up to arrests for all forms of criminal acts or violations at sea. With Bakamla's current authority, Bakamla is not sectoral but multi-functional and multi-task. Bakamla's

³⁰Law Enforcement System in the Maritime Bill, <http://jurnalmaritim.com/2014/16/2091/sistem-penegakanhukum-dalam-ruu-kelautan>, accessed June 23, 2025.

³¹Surya Wiranto, Who is more suitable to be the Indonesian Coast Guard?, November 19, 2019, accessed via <http://samudranesia.id/siapa-yang-lebih-tepat-menjadi-coast-guard-indonesia/> on June 23, 2020.

working area is from Indonesian Waters to the Indonesian Jurisdiction Area (From the inland sea to the Continental Shelf).

Furthermore, the duties of the KPLP as regulated in Article 346 of the Regulation of the Minister of Transportation Number KM 60 of 2010 state that, "The Directorate of the Sea and Coast Guard Unit has the task of formulating and implementing policies, standards, norms, guidelines, criteria and procedures, as well as technical guidance, evaluation and reporting in the field of patrol and security, safety supervision and Civil Servant Investigators (PPNS), shipping order, disaster management and underwater work, sea and coast guard facilities and infrastructure."

Hans Nawiasky stated that the legal norms of any country are always layered and hierarchical. Lower norms are derived from and based on higher norms, and higher norms are derived from and based on even higher norms, all the way to the highest norm, called the Basic Norm.³²

Based on the theory above, it can be seen that the problem of ineffectiveness in law enforcement in marine and coastal areas is caused by weaknesses in the form of:

a. Weaknesses in Inter-Institutional Coordination

When analyzed using the theory of Chamblish and Seidman, the role of political and cultural relations plays a significant role in determining harmonious relations and coordination between government institutions. Considering that the structure of authority created is a political product born of the legal system, the role of political and cultural relations refers to the aspect of institutional coordination, both vertically and horizontally, both internally within the institution itself and externally through relationships with other institutions. The main problem with law enforcement in maritime and coastal areas lies in the coordination and synchronization of authority between related institutions. If this synchronization and communication are already effective, logically, the existence of Bakorkamla (Law and Order Agency) does not need to be changed to Bakamla. Bakorkamla's position is established as the primary institution tasked with coordinating other institutions that also have law enforcement authority in maritime and coastal areas.

Furthermore, in policy implementation, bureaucratic weaknesses play an important role in the success of policy implementation. This can be seen from the performance of the bureaucracy, which is full of references: 1) Commitment to agreed-upon socio-political values (public defined societal values) and public goals (public purpose); 2) Implementation of socio-political values based on ethics in the

³²Maria Farida Indrari, *Legal Science: Types, Functions and Content*, (Yogyakarta: Kanisius, 2007), p. 44.

public management system (provide an ethical basis for public management); 3) Realization of socio-political values (exercising socio-political values); 4) Emphasis on public policy work in carrying out the mandate of government; 5) Involvement in public services (involvement overall quality of public services); 6) Working in the context of handling public interests (operate in public interest).³³

b. Political Weaknesses

Political weakness in Chambliss and Seidman's theory is described as a role holder will act as a response to legal regulations is a function of the regulations directed at him, the sanctions, the activities of the implementing institutions and the entire complex of social, political, and other forces concerning him. In addition to role holders, Chambliss and Seidman also explain that the law makers will act as a function of the regulations that regulate their behavior, the sanctions, the entire complex of social, political, ideological, and other forces concerning themselves and the feedback coming from role holders and the bureaucracy.³⁴

The strategic environment influences the existence of a state through both randomness and order. The strategic environment is prone to rapid change and development, which impacts policy output and the orientation of political institutions. Such conditions will have both positive and negative impacts. Positive implications will bring benefits to support political ideals, goals, and interests, while negative implications increase the potential for threats to political continuity. This strategic environment needs to be carefully considered when making political decisions.³⁵

Furthermore, the strategic environment develops from various dimensions, such as security, economic, political, social, technological, and so on. Each of these dimensions competes with the others, necessitating a thorough analysis.

c. Weaknesses of Facilities and Infrastructure

The lack of facilities and infrastructure for law enforcement in maritime and coastal areas is also a weakness that contributes to the ineffectiveness of law enforcement. Facilities and infrastructure serve to provide operational support for law enforcement, especially when working directly in the field. The lack of infrastructure support was conveyed by the Chairman of Bakamla, Desi Albert Mamahit, at the Monitoring and Evaluation Meeting of the National Movement to

³³Tasmin in *ibid.*, p.20.

³⁴Robert Seidman, *Law and Development: A General Model*, in Satjipto Rahardjo, *Law and Society*, (Bandung: Angkasa, 1979), pp. 26-28.

³⁵*Ibid.*, p. 3.

Save Indonesia's Natural Resources in the Marine Sector for the Provinces of Bali, West Nusa Tenggara, and East Nusa Tenggara in 2015.³⁶

In addition to Bakamla, the Indonesian Air Force (TNI AU) is also facing a lack of infrastructure to conduct aerial maritime surveillance operations. As is known, sea patrols are conducted through shipping and aerial surveillance. This situation results in the majority of law enforcement in the waters being monitored by sea and coastal patrols. Aerial surveillance is only used for safety-at-sea operations, search and rescue (SAR), and hot pursuit operations for pirates and foreign fishermen engaged in illegal fishing.³⁷ Furthermore, the Indonesian National Police (Polri) also highlighted the lack of infrastructure support in handling illegal fishing. This situation has resulted in suboptimal enforcement of illegal fishing laws.³⁸

Furthermore, the Indonesian Navy (TNI AL) faces a similar situation, where it only has 74,000 active personnel to secure Indonesia's 3,544,743.9 square kilometers of maritime territory. The Indonesian Navy's strength, measured by its infrastructure, comprises 221 warships. This includes two submarines, six frigates, ten corvettes, sixteen anti-submarine corvettes, and twenty-one missile boats. Meanwhile, it also has 51 patrol boats, twelve cruisers, and four amphibious transport ships. For underwater surveillance, the TNI AL has two submarines.³⁹

d. Human Resource Weaknesses

If referring to the document Attachment I of the Presidential Regulation of the Republic of Indonesia No. 16 of 2017 concerning Indonesian Maritime Policy, one of the principles, namely the principle of participation, is used as the basis for implementing important maritime policies because: (1) all stakeholders are expected to have a role in planning, implementation, supervision, and control according to their respective roles; (2) have open information to find out government policies and have sufficient access to utilize resources; (3) ensure stakeholder representation in decision-making and participate as actors in identifying threats and opportunities; and (4) utilize resources fairly.

The problems encountered in the investigations described above appear to exacerbate the situation of law enforcement in maritime areas due to the shortage of investigators at the relevant institutions. This situation demonstrates the ego of

³⁶Desi Albert Mamahit, The Role and Efforts of Bakamla in Saving Indonesia's Natural Resources in the Marine Sector, delivered at the Monitoring and Evaluation Meeting of the National Movement to Save Indonesia's Natural Resources in the Marine Sector for the Provinces of Bali, West Nusa Tenggara, and East Nusa Tenggara in Kuta on August 4, 2025, p. 26. Accessed via https://acch.kpk.go.id/images/ragam/gn-sda/denpasar/06-PAPARAN-KEPALA-BAKAMLA-RI_GN-SDA.pdf

³⁷Dirhamsyah, Op.Cit., p.1.

³⁸Accessed via <https://nasional.kompas.com/read/2014/12/26/18454071/Polri.Masih.Kurang.Sarana.dan.Prasarana.untuk.Atasi.Illegal.Fishing>

³⁹I Nengah Putra and Abdul Hakim, Op.Cit., p.14.

each agency, which tends to carry out investigations without regard for the harmony of law enforcement and the adequate capacity of legal investigators.

A possible solution is to clarify which institutions have the authority to enforce the law in maritime and coastal areas in the Maritime Security Bill. The authority of the 14 agencies can certainly be simplified into a single agency (multi-task), involving the roles of all 14 related agencies for greater effectiveness. In this regard, the Maritime Security Bill will grant this authority to Bakamla (Indonesian Coast Guard), the sole agency for safeguarding the sea and coast. In this regard, the Maritime Security Bill needs to clarify the duties, functions, and authorities of this agency to avoid further overlapping law enforcement authorities in maritime and coastal areas.

4. Conclusion

Law enforcement in maritime and coastal areas is characterized by overlapping authority among 14 (fourteen) ministries/state institutions mandated by 18 (eighteen) laws as law enforcement agencies in maritime and coastal areas. This overlapping authority is characterized by the shared authority to carry out surveillance, pursuit, and investigation in maritime areas and within Indonesian jurisdiction. This situation is particularly experienced by The Indonesian Navy is based on Article 14 paragraph (1) of Law No. 5 of 1983 concerning the EEZ, Article 9 of Law No. 34 of 2004 concerning the Indonesian National Armed Forces, and Article 10 of Law No. 3 of 2002 concerning National Defense. In addition, there is also an overlap with the authority of the KPLP as regulated in Article 276-Article 278 of Law No. 17 of 2008 concerning Shipping.

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