



**TECHNIUM**  
**SOCIAL SCIENCES JOURNAL**

**Vol. 19, 2021**

**A new decade  
for social changes**

[www.techniumscience.com](http://www.techniumscience.com)

ISSN 2668-7798



9 772668 779000

## **The importance of determining the contiguous zone related to the authority of Indonesian Navy**

**Sirodjuddin<sup>1</sup>, Made Warka<sup>2</sup>, Slamet Suhartono<sup>3</sup>, Sri Setyadji<sup>4</sup>**

<sup>1 2 3 4</sup> Faculty of Law, Universitas 17 Agustus 1945 Surabaya, Indonesia

[sirodjuddin174@gmail.com](mailto:sirodjuddin174@gmail.com)

**Abstract.** This study uses normative research, using several approaches to statutory regulations, philosophical approaches and conceptual approaches. The contiguous zone doesn't exceed 24 nautical miles from the baseline of the measured territorial sea width and the zone directly adjacent to the territorial sea of the country. This zone of the coastal state doesn't have sovereignty as well as the territorial sea and the state can exercise certain powers. However, this zonal route is considered important as a transition between the two parts of the sea. The authority of the coastal state can carry out the necessary oversight to protect violations of customs, fiscal, immigration of sanitary regulations within the territorial sea or the territorial sea and punish violations of these laws and regulations over its territory or territorial sea. The legal urgency of the contiguous zone regime, as stipulated in Article 33 UNCLOS 1982 states a demand for the state's needs as the basis for law enforcement to see the benefits and strategic and economic value for the state. The consequence of ratifying UNCLOS 1982 means that the state submits itself to the provisions and obligations to follow up the various provisions contained therein. Manifesting in the form of national legislation as a measure to protect various interests of the state and guidance in law enforcement.

**Keywords.** authority contiguous zone, sea

### **Introduction**

The State of Indonesia has ratified the (United Nations Convention on Law of the Sea /UNCLOS 1982), the consequence of the ratification is to submit to this provision. One fact that makes the problem is that the outer boundaries of the territorial waters and jurisdiction of the sea and their rights haven't been stipulated by law, need to get attention and make the government a priority in drafting national legislation.(1)

The contiguous zone doesn't exceed 24 nautical miles from the baseline of the measured territorial sea width and the zone directly adjacent to the territorial sea of the country. This zone of the coastal state doesn't have sovereignty as well as the territorial sea and the state can exercise certain powers. However, this zonal route is considered important as a transition between the two parts of the sea.(2) The authority of the coastal state can carry out the necessary oversight to protect violations of customs, fiscal, immigration of sanitary regulations within the territorial sea or the territorial sea and punish violations of these laws and regulations over its territory or territorial sea.

Protecting the sovereign rights of wealth and the implementation of Indonesia's national jurisdiction at sea, thus the important position of the contiguous zone, requires a regulation in

order to guarantee legal certainty for law enforcers, which is an urgent need. The form of surveillance(3) in this zone can be complemented by eradication measures and the coastal state can punish the violators of these laws. As far as the contiguous zone regime is concerned, the Indonesian state has not announced it in the form of legislation. Contiguous zone along the boundaries of the contiguous zone, there is no single limit that has been determined. The need for harmonious and integrated legislation in the contiguous zone is very much needed, in order to create order, guarantee legal certainty and protection.(4)

Article 14 paragraph (1) of Law of the Republic of Indonesia Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone (Law No. 5-1983) states that law enforcement officers in the Indonesian exclusive economic zone are Indonesian National Army Officers appointed by the Army Commander Indonesian National. Law enforcement against offenders by arresting ships and / or people suspected of committing violations by stopping and checking. Where the contiguous zone is in the exclusive economic zone outside(5) and adjacent to the territorial sea, the supervisory function is in accordance with Article 33 UNCLOS 1982. The provisions of the contiguous zone regime for law enforcement by the Indonesian National Army, the Navy and other officers aren't stated in detail and clearly in the regulations special laws or other related regulations.

Law enforcement in the contiguous zone has no specific and detailed legal provisions on the regime as stipulated in the convention, so there is a legal vacuum. Legal provisions are needed as guidelines for law enforcement in the contiguous zone regime so that it meets legal certainty. The formulation of the problem is the legal urgency of the contiguous zone regime for Indonesia related to law enforcement of the Indonesian Navy.

### **Research Method**

This study uses normative research, using several approaches to statutory regulations, philosophical approaches and conceptual approaches.(6)

### **Research Results and Discussion**

#### **The Legal Urgency of the Contiguous Zone Regime for Indonesia**

Ratifying the convention is an important step in defending the sovereignty, sovereign rights and jurisdiction of the state in the maritime zone(7) and the air space above it. With regard to the water regime, the exclusive economic zone and the continental shelf, the Indonesian state has enacted it. However, Indonesia has not yet enacted it in the contiguous zone regime even though legal claims to the zone have been made through Law of the Republic of Indonesia Number 32 of 2014 concerning Maritime Affairs (Law No. 32-2014). The meaning of ratifying is accepting the provisions and implementing the stipulated provisions as stated in the regulation.(8)

India's claim is in accordance with the provisions of Article 33 UNCLOS 1982, India's authority regarding immigration, fiscal, customs and quarantine crimes. This regulation contains India's authority in enforcing the law "the security of India". Other countries that have implemented contiguous zone arrangements are the United States, on September 2 1999, and the People's Republic of China established contiguous zone regime rules in The Law on The Territorial Sea and Contiguous Zone, February 25, 1992. The State of Australia establishes in Maritime Legislation Amendment Act 1994, is an amendment of Sea and Submerged Land Act has enacted laws and regulations regarding waters, exclusive economic zones and continental shelf. Regarding the contiguous zone regime, the Indonesian state has not announced it which has an impact on the number of violations or criminal acts in customs, fiscal, immigration or sanitary by sea and the authority to control the circulation of archaeological

objects and historical objects found on the seabed of the contiguous zone. The state has an interest in safeguarding national marine assets and resources as a support for the national economy which is supported by the utilization(9) and optimization of means of defense and security.

The urgency of setting a contiguous zone for Indonesia because it's located adjacent to the territorial sea with strategic and economic value. This zone contains elements of the scope of authority or sovereign rights relating to the rights and obligations of the state. Protection of economic state interests becomes a priority, especially safeguarding marine resources from offenders who can threaten them. So important is the contiguous zone regime law as a foothold for law enforcement and the basis for other regulations relating to state authority or jurisdiction. Considering that regulations related to other marine jurisdictions have been enacted or other countries have enacted them.

### **The Authority of the Indonesian Navy to Implement Law Enforcement in the Contiguous Zone**

Article 33 UNCLOS 1982, contains the formulation of the contiguous zone regarding the elements of location and territorial boundaries, elements of the scope of authority, and the rights and obligations of the state. This regime of the coastal state has the authority to prevent violations or customs, fiscal, immigration or sanitary violations. It is also in the interest of protecting against the efforts of other countries to carry out activities to lift valuable objects from sinking ships, especially archaeological objects and historical values from the seabed bordering the territorial sea. Against violations, the rights of the coastal state can carry out hot pursuit that occurs in the territorial sea.(10) Such rights are recognized by international customary law, as long as they are carried out using warships and official government vessels and are armed to carry out the task. In general, a violation of the contiguous zone regime is a violation of the provisions of the new criminal law and is related to certain state administrative matters regulated in a special law.(11)

Sovereignty is absolute power over the area of its jurisdiction.(12) This power is the basis for the formation of the state and the formation of law as the basis for law enforcement. Law enforcement and supervision of compliance with statutory provisions related to the authority or jurisdiction of the state at sea, the need for clear regulations of harmonizing existing regulations as guidelines. The Indonesian Navy carries out law enforcement based on Article 14 paragraph (1) of Law no. 5-1983, mentions that law enforcement officers in Indonesia's exclusive economic zone are Indonesian National Armed Forces Officers appointed by the Commander of the Indonesian National Army.

Universally, the Indonesian Navy has a military, diplomatic and police role. The role of the constabulary is the role of the Indonesian National Armed Forces in helping the government carry out national development in the field of law enforcement in realizing order at sea, carrying out security and law enforcement in marine waters of national jurisdiction.(13) Law enforcement in the waters of national jurisdiction is the task as well as the role of the Indonesian Navy stipulated in legislation. Law enforcement in national jurisdiction seas is carried out in collaboration with related maritime agencies with a comprehensive approach to management of marine security in national jurisdictions.

The presence of the Indonesian Navy is expected to maintain maritime security conditions,(14) as a manifestation of law enforcement and sovereignty that is free from threats of marine resources in the form of pollution and destruction of marine ecosystems as well as conflicts in managing marine resources.

Law enforcement and enforcement of sovereignty have different meanings, state institutions in carrying out their main duties and functions have different roles. The practice of law enforcement and enforcement of sovereignty by the Indonesian Navy is carried out simultaneously and simultaneously, and cannot be separated like two sides of a coin. Both are one unit, one side is the enforcement of sovereignty as a function of defending the territorial integrity of the country, on the other hand as law enforcement (police/constabulary) and law enforcement is an inseparable unit of action.(15)

The provisions of the regulation of Indonesia's exclusive economic zone, law enforcement is carried out by Officers of the Indonesian Navy. The contiguous zone is in an exclusive economic zone adjacent to the territorial sea with a supervisory function in accordance with Article 33 UNCLOS 1982. Law enforcement and supervision of compliance with the provisions of the convention, the need for clear and detailed regulations or harmonizing existing regulations as guidelines for law enforcement officials. Indonesia has not stipulated any rules or laws related to the contiguous zone and has not specifically regulated the state's authority and in detail the enforcement of its jurisdiction. Indonesia needs to prepare statutory provisions,(16) the contiguous zone regime is regulated separately and includes state authority in law enforcement for violations of customs, immigration, fiscal and sanitation.

### **Conclusion**

The legal urgency of the contiguous zone regime, as stipulated in Article 33 UNCLOS 1982 states a demand for the state's needs as the basis for law enforcement to see the benefits and strategic and economic value for the state. The consequence of ratifying UNCLOS 1982 means that the state submits itself to the provisions and obligations to follow up the various provisions contained therein. Manifesting in the form of national legislation as a measure to protect various interests of the state and guidance in law enforcement.

The authority of the Indonesian Navy to carry out law enforcement in the contiguous zone based on Article 14 paragraph (1) of Law no.5-1983. The implementation of state jurisdiction in the contiguous zone requires specific regulations in detail in national legislation or synchronization related to the provisions of the convention. On the basis of statutory regulations, the Indonesian Navy and other law enforcement officers at sea can enforce law in the contiguous zone on the basis of legal certainty.

To the House of Representatives of the Republic of Indonesia, following up on the provisions of Article 33 UNCLOS 1982 through national contiguous zone laws and regulations, in detail and harmonized with the relevant existing regulations, because the provisions of the contiguous zone regime are regulated by only a few articles in the convention. Establishment of regulations is very important because there is a vacuum in the national law and can fulfill legal certainty for law enforcement in Indonesia.

The House of Representatives of the Republic of Indonesia conducted a study regarding the contiguous zone arrangement that is aligned with national laws governing the use and enforcement of the law. To fulfill legal certainty, the provisions of Article 33 UNCLOS 1982 need to be elaborated in national legislation. Thus the Indonesian Navy as law enforcers in the contiguous zone and other law enforcement officers can enforce law according to the provisions mandated by the state.

### **References**

- [1] Agusta A. ANALYSIS OF MARINE LAW IN THE AREA EXCLUSIVE ECONOMIC ZONE. *J Geogr Gea.* 2017;17(2).
- [2] Prakoso A. *Dinamika Ekonomi Politik dalam Mewujudkan Kepentingan Nasional di*

- Sektor Migas: Studi Kasus Blok Mahakam. *J Ilm Univ Bakrie*. 2015;
- [3] Lubis GA. Implementasi dan Urgensi Pengaturan Zona Tambahan di Wilayah Perairan Indonesia Berdasarkan United Nations Convention On The Law Of The Sea 1982. *Jurist-Diction*. 2019;2(5).
- [4] Suparman H. Penegakan Hukum terhadap Penyelenggaraan Pelayanan Publik. *J Wawasan Yuridika*. 2013;29(2).
- [5] Hardianto D, Prananingtyas P. ASPEK HUKUM PENANAMAN MODAL PERIKANAN TANGKAP TERPADU ZONA EKONOMI EKSKLUSIF INDONESIA (ZEEI) BERDASARKAN PERMEN KP NO. 30 TAHUN 2012. *LAW REFORM*. 2015;11(2).
- [6] Novianto RD, Firmansyah DA, Pratama NA. PENYELESAIAN SENGKETA DI LAUT NATUNA UTARA. *J Huk Bisnis Bonum Commune*. 2020;
- [7] Aprizal F, Muslimah S. Penegakan Hukum Terhadap Kasus Illegal, Unreported, Dan Unregulated Fishing yang Dilakukan Terhadap Kapal KM BD 95599 TS di Laut Natuna Sesuai Dengan Hukum Internasional. *Belli Ac Pacis*. 2019;5(2).
- [8] Lestari MM. STUDY OF THE RIGHT OF FOREIGN SHIP AGAINST STATE SOVEREIGNTY (CASE STUDY INDONESIA). *Indones J Int Law*. 2017;14(4).
- [9] Marlina M. EKSISTENSI ROADSTEDS DAN PEMANFAATAN HAK EKONOMI DI LAUT. *J Ilm Huk Leg*. 2018;25(1).
- [10] IMPLEMENTASI PEMANFAATAN LAUT LEPAS MENURUT KONVENSI HUKUM LAUT 1982. *LEX Soc*. 2014;2(3).
- [11] Utama OY dan YP. *Sistem Peradilan Pidana*. Surabaya: R.A.De.Rozarie; 2019.
- [12] Riyanto S. KEDAULATAN NEGARA DALAM KERANGKA HUKUM INTERNASIONAL KONTEMPORER. *Yust J Huk*. 2012;1(3).
- [13] KEWENANGAN TNI AL DALAM PEMBERANTASAN TINDAK ILLEGAL FISHING MENURUT PERPRES RI NO. 115 TAHUN 2015 TENTANG SATUAN TUGAS PEMBERANTASAN PENANGKAPAN IKAN SECARA ILEGAL (ILLEGAL FISHING). *LEX Soc*. 2016;4(2.1).
- [14] PENEGAKAN HUKUM TERHADAP KAPAL ASING YANG MELAKUKAN PENCURIAN IKAN DI WILAYAH PERAIRAN INDONESIA BERDASARKAN UNCLOS 1982. *J USU Int Law*. 2020;8(1).
- [15] Jamilah A, Disemadi HS. Penegakan Hukum Illegal Fishing dalam Perspektif UNCLOS 1982. *Mulawarman Law Rev*. 2020;
- [16] Djalal H. MENENTUKAN BATAS NEGARA GUNA MENINGKATKAN PENGAWASAN, PENEGAKAN HUKUM, DAN KEDAULATAN NKRI. *J Pertahanan Bela Negara*. 2018;3(2).