



# Sovereignty on Seas: The Making of the Declaration of Djuanda 1957

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**Abstract.** A notion to integrate all areas in Indonesian territory, which consisted of islands and waters (seas), in the midst of domestic upheavals and foreign interventions, particularly in relation to the West Irian (West Guinea) dispute, motivated the government to make a declaration known as the Djuanda Declaration on December 13, 1957. This declaration had a major significance, as a foundation for territorial integration in the security context, and a basis for national development towards achieving public welfare. This unilateral declaration implicated a complex and complicated diplomacy in international forums as it touched the interests of so many countries that were at the time developing their maritime power. Even today, Indonesia's struggle in the maritime sector is not over yet and is still relevant as well as significant to its progress and strategic role in the international arena. Also, this event can be categorized as a modern reform to global maritime rules that brings a great impact to international maritime borders and interactions. The courageous initiative was a step ahead beyond the ages. This work based on the historical methodology that dealt with documents to be compiled, criticized, analyzed and interpreted before arriving at the meaningful findings and conclusions.

**Keywords:** Sovereignty · the Declaration of Djuanda · Maritime · Integration · Diplomacy

## 1 Introduction

Post Dutch decolonization, the struggle for the Proclamation of Indonesian Independence continued to concern itself with border issues and territorial unification. Under the Ordinance of 1939, which was a colonial law, Indonesia's territory was limited to islands and waters 3 miles away from the shoreline, segregating each area from the other. A notion to integrate all areas in Indonesian territory, which consisted of islands and waters (seas), in the midst of domestic upheavals and foreign interventions, particularly in relation to the West Irian (West Guinea) dispute, motivated the government to make a declaration known as the Djuanda Declaration on December 13, 1957.

Indonesia's characteristics as an archipelago hold a special meaning to its seas and waters. From geographical point of view, these waters divide and connect those large islands to small islands and among themselves, as well as within a national network

(internal) and an international network (external). Therefore, the waters hold a critical function in the interaction between places, particularly in an archipelagic state. In the interisland traffic and interaction dynamics, the seas are no longer a divider but a means of unity. However, seafaring has its own challenges, threats and risks, especially overseas travel.

International developments placed the freedom of the seas as the key principle in overseas shipping which required a ship to pass through several countries and colonies, especially archipelagos. The international convention recognized 3 miles stretch from the shoreline as a jurisdiction of a state. This convention was written in a law called the *Territoriale Zee en Maritieme Kringen Ordonnantie of 1939* (Ordinance on the Territorial Sea and Maritime Circles) published in the *Staatsblad* (State Gazette) no. 442 of 1939.

The background of this law rooted from the interests of colonialist countries. The concerns and efforts to enforce the colonial sovereignty were clearly visible at the end of the 19th century when Australian pearl hunters successfully trespassed the border in the midst of vulnerable monitoring of territorial sea jurisdiction in the shipping lanes. Prior to this, the Dutch East Indies government abolished statements and regulations of several kingdoms in the Archipelago related to the control over the waters. For example, a regulation of the Ternate and Tidore Kingdom on the ownership of marine products such as sea cucumber, clam, etc. in specific waters, and the claims of the kings in the East Sumatera and Riau Lingga coasts that the surrounding waters were their territories. This kind of authority was not recognized by the Dutch East Indies government. The exploitation of marine resources by the kings in the Archipelago, however, was still allowed.

## 2 Prelude to the Declaration of Djuanda

A number of works about the background and the launching process of the Declaration of Djuanda involve the Indonesia's struggles in claiming West Irian territory from the colonial Dutch. Since 1945, Indonesia had been fought against the Dutch in order to prevent them to reclaim the colonial power. This resulted in wars and conflicts in many areas, including West Irian (now Papua). However, according to the Dutch-Indonesia Round Table Conference in 1949, which was held in the Netherlands to solve the conflicts between the two, the Indonesia was recognized without the inclusion of West Irian area, since there had been a deadlock in the discussion on the said territory. Nevertheless, following the recognition of Indonesia's sovereignty, the Indonesian Government still fight to free the territory, as a part of the country which had declared its independence on August 17, 1945.

West Irian had taken part in the national movement against the colonial power. The 1928 Youth Pledge does not only constitute a form of awareness and determination to unite from the youths of different ethnicities, regions, religions, and groups, but also constitutes the awareness of their sense of belongings towards the territory they called as "*Tanah-Air*" (motherland), which refers to the territory occupied by the Dutch East Indies. This spatial awareness was inseparable from the aim to build a nation based on an identity beyond the primordial boundaries within the concept of Indonesia [1]. In such context, West Irian, which was then known as Dutch West Guinea, constitutes a part of the above-mentioned aim and concept.

During the fight to defend the independence in 1945–1949, the integrity of West Irian had not only been voiced by the Republic of Indonesia, but also by the independence movement of the East Indonesian State, which was often seen as a federal state. West Irian was recognized as a part of the state founded in 1946. When the two different movements united, the territory was never been neglected. In fact, the people of West Irian joined the fights to defend the Independence of Indonesia. Therefore, the fight to liberate West Irian was based on the contribution of the people of Irian, not only from the Jakarta-based Indonesia's declaration of Independence alone. Along with other regions, West Irian became a part of the complete Indonesian sovereignty. Indonesia's effort in pursuing diplomatic ways to continue and resolve the issues which had not been solved in the round-table conference did not get a good response from the Dutch. In fact, the Dutch seemed to stall some time to avoid another diplomacy. Meanwhile, there were several failed cooperation in implementing the provisions set forth in the conference. The transition of the power structure in mid-1950 from the United States of Indonesia (RIS) to the Republic of Indonesia with one presidential system became one factor contributing to the stalemate. Next, in several areas, the Dutch showed their tendency to dominate the cooperation efforts which hampered the progress into the next step. For example, this happened during the short cooperation to jointly establish an airline, which resulted in Indonesian Government to take all of its shares. This was then followed by the nationalization of several banks, such as *Javasche Bank* or Bank of Java which was changed into Bank of Indonesia, *Volkscredietbank* into Bank of Rakyat Indonesia, et cetera. The takeover process became a wide national policy after President Soekarno issued an instruction concerning such matters [2].

The area of sea transportation saw several issues in serving the needs of the government and the citizens. The established national shipping company, *Pelayaran Nasional Indonesia* (PELNI) or Indonesian National Shipping, did not have the adequate capacity and number of fleets, especially to rival the ships owned by the Dutch shipping company, KPM (*Koninklijke Paketvaart Maatschappij*) or Royal Shipping Company, which retained its business activity since the period of Indonesian Independence Revolution. The Dutch company owned more modern fleets with higher quantity which enable them to dominate the shipping network in Indonesian archipelago. The Indonesian Government got an unsatisfactory result while trying to implement the nationalization policy towards this company. The Government could not take over most of its ships since they were out on the sea at the time. Under then prevailing maritime law, such ships were on the high or international seas, which were only 3 miles from the coast boundaries.

In line with the escalating tension between Indonesia and the Dutch in connection with the issue of West Irian, Indonesia waters saw many ships crossing especially those with the Dutch flags. Most of the ships, both commercial and naval ships, sailed onto the disputed areas. In addition, the waters of Indonesia became the cruising and crossing arena for other foreign vessels. The issues of jurisdiction and sovereignty, especially those related to the waters (marine) areas became the concerns of the Indonesian government to find a way out to overcome the risk that were beyond its power and official supervision. The Government wished to see the sea traffic to be under the jurisdiction of a state whose sovereignty had been recognized in the international stage. Moreover, the national maritime power was not yet sufficient to be able to carry out the tasks

related to such wish. Therefore, diplomatic efforts in the international arena to assert sovereignty over the territorial waters became relevant and significant. The initial and implementation process required the proper legal instruments to serve as the juridical basis containing such purpose and objective.

### 3 Designing an Archipelagic State

The conception of an Archipelagic State could be traced back to the Treaty of Tordesillas in the 15th century. Such treaty served to verify the claims of Spain and Portugal as the European powers triumphant over the oceans which divided the world into two equal hemispheres under the hegemony of the two countries sanctioned by the Pope. The division included the claim over the seas including the waters and shipping lines. Under such a treaty, the two Iberian nations declared that seas or aquatic areas also constituted their territorial waters. Such declaration was implemented in the ban towards ships bearing the flags of other nations to cross the seas included in their territorial waters. In fact, they did not hesitate to attack any ships deemed to ignore such bans. Consequently, sea wars against other European countries denying such claims were common. The Great Britain, followed later by the Netherlands and other countries, constituted the country rejected such claims.

Sea voyages have played important roles in the communication and transportation from one place to another, both interisland and overseas. The sea voyage has become an alternative to reach faraway place in the pre-modern period whenever problems occurred on the Silk Route particularly on the early AD century. It became the preference of the European countries after the end of the Middle Ages, where science and technology, particularly those in the maritime and navigation fields, had undergone significant progress. Such a progress brought them to conduct long-distance voyages crossing the oceans.

In Nusantara, the early name of the Indonesian Archipelago, sea voyages had also played important roles in maintaining communication between islands. Although it is still debatable, the Sriwijaya kingdom is popularly believed to be a major power which ruled over the waters and sea voyages in the 9th until 11th century. Requiring further studies, a number of kingdoms in Nusantara allegedly had their own maritime laws, which later conflicted with the colonial laws. In this context, the Indonesian maritime law, which includes seas or waters in its territory, applicable in post-colonial period does not have anything to do with the colonial laws which applicable for a short time after the recognition of the sovereignty and the transition period into the Unitary State (*Negara Kesatuan*).

The idea and the concept of Indonesia territorial waters were referred by a committee under the cabinet of Ali Sastroamijoyo. As stated earlier, the West Irian factor constituted a major consideration in the establishment of such committee. During the tenure of Burhanuddin Hararap, the conflict resolution over the West Irian shifted from the diplomatic ways into open confrontation. The Government of Indonesia suggested that the Dutch did not have a goodwill and intention to continue finding a solution over such issue. Therefore, the government supported by President Soekarno tried the alternative way, which was using force and violence. The spirit to enforce the independence also affected the decision to take such measures.

The first target was to amend a colonial regulation, namely the Ordinance (*Ordonantie*) 1939. The initiative was taken in 1955 by the Minister of Defence, who sent a letter dated 30 April to the Prime Minister. The initiative which developed into a recommendation contained the awareness and perspective that legal instrument could no longer effective in guaranteeing the security within the Indonesian territory [3]. The opening in the sea areas constituted a threat towards the security in land territory. Such a thought received supports from other ministries, such as the Ministry of Home Affairs, the Ministry of Agricultural Affairs, the Ministry of Maritime Affairs, the Ministry of Finance, the Ministry of Foreign Affairs, and the National Police Department. This made the recommendation to develop further into an instigation. In response to this, Prime Minister Ali Sastroamidjojo expressed his support and issued an instruction to form a cross-ministries committee on October 17, 1956. The instruction was specified in the Decision of the Prime Minister of Indonesia no. 400/PM/1956 dated 17 October 1956 concerning the Interdepartmental Indonesian Maritime Laws Drafting Committee, which was later amended and supplemented under Djuanda terms, in the form of the Decision of Prime Minister dated 1 August 1957 [4]. The main task of the committee was to formulate a draft bill on the Indonesia's territorial waters and maritime environment. It had 13 members who represented some governmental institution. As the chairman concurrently as member, the prime minister appointed the Navy Lieutenant Colonel R.M.S. Pirngadie, who was acted as the Head of the Naval Operation Staff<sup>1</sup>.

There were many adjustments in the committee memberships due to several reasons. For example, Lt. Col. Widya, a Mid-Rank Officer assigned to Secretary General of the Ministry of Defense, who gave a major contribution to the drafting of the bill was said to be frequently absent in the meetings due to his office works. Then there was H.A. Pandelaki from the Excise and Customs Office, who was temporarily substituted with R.A.E. Djajadiningrat on 16 January 1957 and retained his position on 26 August 1957. On the other hand, Alwi St. Osman acted as the representative of Soedradjat. There was an increase in the number of the members with the appointment of F.J. Kojongian from Maritime Department and Anondo from Directorate of Mining on 16 January 1957. In addition, the positions of secretary and treasurer were taken by Lieutenant Sukiswo as of 8 June 1957 [3].

Nearly one year since its establishment and initial work, the committee had not been able to give any significant result. It was indeed a tedious task for them to finish in a short period of time. They needed time to study and learn the problems incurred by such task. One day, a minister intervened for he wished to immediately solve the problems related to the national water which frequently crossed by foreign ships, especially those of the Dutch against whom they had a conflict related to West Irian. The said minister then met with MochtarKusumaatmadja, a young committee member with vast knowledge on legal affairs. On the memoir of Mochtar related to the event [5], he wrote:

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<sup>1</sup> According to another work, Pirngadie was a Colonel (Sulistyono 2008: 68). In fact, the work of St. MoenadjatDanusaputro which includes the copy of the the Decision of the Prime Minister, the name Col. Pirngadi is written. There is a possibility that Lt.Col. Pirngadi was promoted to Colonel.

“On October 1957, I was visited by Minister Chairul Saleh in my house. He asked me about the progress made by the Drafting Committee for Territorial Water and Maritime Environment Law. In his opinion, the Committee made a very slow progress. I said that we almost finished the draft which would stipulate a territorial sea of 12-miles in width measured from the sea baseline. Suddenly, he said that the thing we needed to do was to close the Java Sea for any foreign ships, including warships!.. At the time, we were involved in a dispute with the Dutch over West Irian, and the Dutch warships were known to sail towards West Irian by crossing the Indonesian water areas outside the three miles boundaries from the coastline. I said to him that was impossible for it was against the then prevailing International Law. My answer made him very angry. He said that despite of my young age, I was not different than any other experts in legal affairs who always said that some things could not be possibly done since they were against the prevailing laws.”

Chairul Saleh’s suggestion and persistence were delivered to the chairman of the committee to be used as the groundwork for the committee. On the 14th month, Pirngadi and others succeeded in completing the draft concept of the Indonesian Territorial Water and Maritime Environment Law. Fundamentally, such a concept was not that different from the provisions stipulated in *Ordonantie* 1939. A slight difference can be found related to the Indonesian territorial sea boundaries, which was changed from the previously 3 miles into 12 miles. Nevertheless, the concept had not explicitly taken the risk that might be incurred in implementing the principle of straight base line or from point to point in relation to the inadequate military power of the Indonesian Navy at that time. The 12 miles sea boundaries were measured from the sea baseline [4], The reason the committee did not use the archipelago principle at that time was that Indonesian Naval force was not yet sufficient to oversee the expansion of the country’s territorial waters.

The Committee’s Report which was dated 7 December 1957 summarizes 7 points namely [3]:

1. The name of the Law, which is the Bill Draft (RUU) on the Indonesian Territorial Water and Maritime Environment
2. The territorial water boundaries, which is 12 miles from the sea baseline
3. Provisions on the possibility of territorial water boundaries expansion
4. Authority for the supervision, limitation and prohibition
5. Penalty
6. Prevention of the possibility of the increase in radioactivity
7. Other explanations as Explanatory Memorandum (*Memorie van Toelichting*) for the discussion in the House of the Representatives, were being prepared

However, nearly to the next session for the approval, the political circumstances changed. The prime minister Ali Sastroamidjojo had to resign and return the power to the President who handed it over to DjuandaKartawidjaja. The new prime minister did not originate from political parties. He was a professional with a technical background. Anticipating the growing tension between the Dutch and the Republic of Indonesia, he focused more on finding a good facility to enhance Indonesia’s position against the Dutch which had more armaments. On August, 1st 1957, Mr. MochtarKusumaatmadja was appointed to find such a legal foundation for securing Indonesian national territorial

integrity. Mochtar elaborated an illustration of ‘archipelagic principle’ that stipulated by International Court of Justice in 1951 as was already considered in the previous draft but did not yet have such a courage implementing it for the Indonesian maritime law. As an alternative to the draft, the concept of ‘archipelagic state principle’ was formulated clearly. Referring to the ‘archipelago principle’ as the maritime law foundation, Indonesia took an initiative to declare unilaterally to be an ‘archipelagic state’. This constituted a radical experiment in the global history of maritime and constitutional laws.

In the session held on 13 December 1957, the Council of Ministers took a decision to take the ‘Archipelagic State Principle’ for the constitutional law of Indonesia, by the issuance of ‘Government’s Promulgation on the Territorial Water of the Republic of Indonesia’. The government promulgated that all waters surrounding, between, and interconnecting the islands or parts of islands constituting integral part of the land territory of the Republic of Indonesia, despite of their width and length, is an integral part of the land territory of the Republic of Indonesia and therefore, constitute an integral part of the national waters under the sovereignty of the Republic of Indonesia. The regulation, which is later more popular as the Declaration of Djuanda, was also stipulated that the territorial waters boundaries of Indonesia was extended into 12 miles, from the previously 3 miles, measured from the lines connecting the outer points of the islands of Indonesia during the low tide. At the same time, the issuance automatically rendered the Ordinance 1939 null and void. In addition, it asserted the unity between the islands and the seas interconnecting the islands within the territory of Indonesia. The script of the promulgation was proposed by the Veteran Minister, Chairul Saleh. He was not a member of Pirngadi committee<sup>2</sup>. The script was made by MochtarKusumaatmadja [4].

The complete declaration is as follow<sup>3</sup>:

Cabinet of the Premier  
 Republic of Indonesia  
 Jakarta

Announcement of the Government on the Territorial Waters of the State of the Republic of Indonesia.

The Council of Ministers, at its session of Friday 13th December 1957 discussed the question of the territorial waters of the State of the Republic of Indonesia. The geographic shape of Indonesia is of specific characteristic and pattern. For territorial entirety and for protection of the Indonesian State’s wealth all islands and seas lying in between must be

<sup>2</sup> MochtarKusumaatmaja (1978: 27) stated that: “Although the Government’s declaration on Indonesian Territorial Water was not a product of the said committee, after the declaration the conception, content and material of such declaration was submitted to the committee to be used as a foundation for their future work. The committee themselves had prepared a draft bill on territorial water to expand the boundaries width from 3 miles into 12 miles *measured from the sea baseline*. The Government’s approval towards and issuance of the declaration dated 13 December 1957, the official conception of the committee was automatically relinquished.

<sup>3</sup> See Danusaputro (1974: 86–87). The old-spelling version in Indonesian language can be read in Prodjodikoro (1963: 15). Other reference, see Siahaan&Suhendi (1989: 18–19). On Attachment 1 in Muhjiddin (1993: 286–7) there are some mistypings, such as *Dengan* typed as *Dengan* on the first paragraph, and *Geneva* typed as *Jenewa* in the last paragraph. For another version (translation) in English, see: Leiffer (1978: 201) and Tangkilisan (2017).

considered as one whole unity. The delimitation of the territorial seas as stipulated in the “Territoriale Zee en Maritime Kringen Ordonantie 1939” (State Gazette 1939 No. 442) article 1 paragraph (1) is no longer in accordance with the considerations mentioned above, because it divides the land area of Indonesia into separate parts with their own respective territories. On the basis of those considerations the Government declares all waters around, between and those connecting the islands as included in the State of Indonesia, irrespective of the mainland of the State of Indonesia, and in that way parts of the wide waters of their breadth are proper parts of the internal or National area which are under the indisputable sovereignty of Indonesia. Innocent passage on these internal waters for foreign ships is guaranteed as long as and as far as it does not contradict/interfere with the sovereignty and safety of the State of Indonesia. The delimitation of the territorial sea (the breadth of which is 12 miles) is measured from the line connecting the outermost points of the islands of the State of Indonesia. The stipulations mentioned above will be regulated by law as soon as possible. This standpoint of the Government will be observed at the international conference on the rights of the seas which will be held in Geneva in the month of February 1958.

Jakarta, 13th December 1957  
The Premier  
Signed  
H. Djuanda

The declaration was published in *Keng Po* newspaper on 14 December 1957 and also reported in *Antara* on 14 December 1957 and in *Suluh Indonesia* on 16 December 1957.

According to MochtarKusumaatmadja [6], the considerations that encouraged the promulgation are that “the geographic shape of the Republic of Indonesia as an archipelagic state consisting of thousands of islands, has characteristics and features requiring its own special regulation; that of the territorial unity of the Republic of Indonesia all of the archipelago and its connecting seas must be considered a unified waters; that the determination of the territorial sea limits inherited from the colonial government as set down in the ‘Territoriale Zee en Maritime Kringen Ordonantie 1939’ Paragraph Iarticle 1, are no longer consistent with the interest of safety and state security of the Republic of Indonesia; that every sovereign state has a right and responsibility to take the measures it regards as necessary to protect the unity and safety of the country.

## 4 Conclusion

The Declaration of Djuanda, officially the Promulgation of the Government on the Territorial Waters of Indonesia, constitutes the fruit of Pirngadi Committee’s work and Chairul Saleh’s initiative. To accepting Mochtar’s idea in his proposed draft on drawing the baseline, the cabinet session decided to not stipulate it in the Law, since it was realized that such would raise objections from international orders. Rather, it was delivered in the form of declaration or promulgation, which implied the reason of the Drafting Committee’s report to not using the baseline principle. It was followed up by the drawing up of a legal instrument, namely the Government Regulation in Lieu of Law, namely Law no. 4/ Prp./1960 dated 18 February 1960 on Indonesian Waters (State Gazette no.



22/1960). This was related to the UN Conference on the Law of the Sea which started on 16 March 1960 in Geneva [7].

The efforts continued to the international forum for the law of the sea. The declaration transformed to such a philosophy of Archipelago Insight (*Wawasan Nusantara*) in 1973. The relentless endeavors resulted in the international recognition on UNCLOS II in New York on 3 April 1982 which gave birth to Convention III of the Law of the Sea signed in Montego Bay, Jamaica on 10 December 1982 [8].

This declaration had a major significance, not only as a foundation for territorial integration in the defense and security context, but also as a basis for national development towards achieving public welfare. This unilateral declaration gave rise to a complex and complicated diplomatic implication in international forums as it touched the interests of so many countries that were at the time developing their maritime power. Even today, Indonesia's struggle in the maritime sector is not over yet and is still relevant as well as significant to its progress and strategic role in the international arena. Also, this event can be categorized as a modern reform to global maritime rules that brings a great impact to international maritime borders. As a closing remark, this is a statement from Hartarto Sastrosoenarto [9], an Indonesian statesman, that sounds: "As a maritime country, Indonesia should maintain and enforce sovereignty over its seas and waters. For it is situated in a strategic location for intercontinental and overseas shipping, the sovereignty is critical."

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