

The Role of Bakamla in Law Enforcement in Indonesian Waters and Indonesian Jurisdiction

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Abstract—Indonesia is a "paradise" for international shipping, Indonesia is at the crossroads for ships from west to east and vice versa. Indonesia also has several strategic Choke Points (crossing points) for international shipping lines such as the Malacca Strait, the Makassar Strait, and the Lombok Strait. The most important thing in the use of the sea is the problem of law enforcement; which in practice often finds obstacles, one of which is the number of laws and regulations that are owned by law enforcement agencies authorized by the sea. There are approximately 17 pieces of legislation governing the authority at sea, with 13 institutions / ministries as law enforcement in the sea, as a result there is often overlapping in law enforcement at sea. Such conditions are difficult to synergize because each institution has a strategy / policy, related to equipment / facilities, different human resources. With the promulgation of Law No. 32 of 2014 concerning Marine Affairs, a new institution called the Marine Security Agency (BAKAMLA), as a substitute for Bakorkamla; has more authority than Bakorkamla; namely conducting security and safety patrols in the territorial waters of Indonesia and Indonesia's jurisdiction, regulated Act. No. 32/2014 on Marine Affairs, especially in the implementation of the Early Warning System that is very much needed by Indonesia as a disaster-prone country. The problem arises as to how the role of Bakamla is in law enforcement at sea, and whether there is no overlapping of authority with other agencies, considering that the Navy also has the same authority. The research method used is normative juridical method, which only examines the rules of the law. Conclusion, in terms of law enforcement at sea, in Article 63, Paragraph (1) Bakamla has the authority to conduct instant chase; dismiss, inspect, arrest, carry and deliver the ship to the relevant agency authorized to carry out further legal proceedings; and integrating security and safety information systems in the territorial waters of Indonesia and Indonesia's jurisdiction. (2) The authority referred to in paragraph (1) is carried out in an integrated and integrated manner in a single command and control unit.

Keywords—*the marine security agency; law enforcement; indonesian waters*

I. INTRODUCTION

As the largest archipelagic country in the world, with 17,504 islands, with a coastline of 95,181 km, [1] and is located in a very strategic position (between the Continent of Asia and Australia and the Indian Ocean and Pacific). Susanto D.R. Munaf, stating Indonesia's strategic position has a very

important role to stabilize, especially the economic and military fields [2], making Indonesia a paradise for foreign ships, Indonesia's potential for sustainable fisheries 6.4 million tons / year [1].

In the shipping sector, Indonesia is a strategic Choke Points for international shipping lanes such as the Malacca Strait, the Makassar Strait and the Lombok Strait [3]. This situation has the potential to be a threat to the security and sovereignty of the Indonesian people [1].

Therefore, we need strict law enforcement by the authorities. Law enforcement is important, given the large losses that might result from crimes or violations that occur; such as piracy, sea and armed robbery, illegal fishing, logging, mining, illegal oil.

Indonesian Maritime Security Agency; have formed as mandated by Article 61 of Act no. 32/2014 on Marine. The Task of Bakamla is Conduct patrols and safety in the territorial waters of Indonesia and the jurisdiction of Indonesia; With very wide authority in terms of law enforcement, (as a Law Enforcement Agency). When compared with the authority that is in the institution before Bakamla; which is called Bakorkamla, which is only a Coordination Body.

Bakamla authority that is regulated Article 63, of Act 32 of 2014 concerning The Marine, coinciding with the authority that is also owned by other Agencies in terms of law enforcement at sea; as TNI-Al (Indonesian National Army-Navy), *Pol Airud* (Air and Air Police), PPNS (Civil Servant Investigators), *Bea Cukai* (Customs), KPLP (Sea and Coast Guard Units).

From the things described above, several problems can be identified, namely;

- How the role of Bakamla is in law enforcement at sea?
- Is there no overlapping of authority with other agencies, considering that the Navy also has the same authority?

II. METHOD

This study uses a type of normative research, namely research that uses secondary data, including official documents, books, journals and others.

Secondary data referred to consists of:

- Act No. 17 of 1985 on the Indonesian Ratification Act on UNCLOS III / 1982.
- Act No. 6 of 1996 on Indonesian waters;
- Act No. 31 of 2004 Jo Act No. 45 of 2009 on Fisheries.
- Act No. 32 of 2014 on Maritime Affairs.
- Act No. 5 of 1983 on ZEEI.
- Act No. 17 of 2008 on Shipping.
- Act No. 1 of 2014 on Management of Coastal Areas and Small Islands.
- Government Regulations No. 81 of 2005 on the Establishment of Maritime Security Coordination Agency. (Bakorkamla)
- Presidential Regulation No. 178 of 2014 on Indonesian Maritime Security Agency (Bakamla).
- Criminal Code (KUHP) and Criminal Procedure Code (KUHAP).

III. RESULTS AND DISCUSSION

A. *Position and Authority of BAKAMLA/Indonesian Maritime Security Agency*

Indonesia as the largest archipelagic country in the world consisting of more than 17,504 large and small islands [1]; with a coastline of 95,181 km and is located in a very strategic position between the Continent of Asia and Australia and the Indian Ocean and Pacific.

The area of the sea is around 5.8 million km (75.7%), which consists of 2,012,392 km of inland water, 0.3 million km of territorial sea, and 2.7 million km of exclusive economic zone (EEZ). With the width of the sea. 6 million km, which contains abundant natural resources, especially fisheries. The maritime and marine sector is very strategic in terms of economic and environmental, socio-cultural, legal and security aspects [1].

Indonesia is a "paradise" for international shipping lines; in the form of an intersection for ships from the west who want to go east and east world ships that want to go west. Indonesia also has several strategic Choke Points for international shipping lanes such as the Malacca Strait, the Makassar Strait and the Lombok Strait. This situation makes Indonesia very vulnerable to maritime crime [3].

Even maritime crime has become an international conversation, because this crime involves many countries or transnational crimes. The perpetrators are organized, including groups consisting of more than one country. Their sea is used as a means and infrastructure for Maritime crime.

Another thing that is very important in the vast utilization of the sea is the problem of law enforcement in the sea. considering the huge losses that can be experienced by the state as a result of various legal violations such as piracy, piracy (sea

and armed robbery), smuggling (weapons, ammunition and narcotics), theft of natural wealth (illegal fishing, logging, mining, illegal oil), pollution of the marine environment, disposal of hazardous and toxic waste, sabotage of vital objects at sea, and accidents or disasters in the sea [4].

Maritime Security Coordination Agency (Bakorkamla), has changed to the Indonesian Maritime Security Agency, since legislation on passed of Act No. 32 Year 2014 on Marine Affairs, with the Single Agency Multy Tasks system as a change in the position and authority of Indonesian Maritime Security Agency (Bakamla). Then strengthened by the issuance of Presidential Regulation No. 178 Year 2014 on Indonesian Maritime Security Agency (Bakamla) [5].

Changes in the paradigm of governance and strategic environmental development since the legislation of Act no. 32 Year 2014, concerning Marine; namely the Multy Agency Single Tasks system, adopted in Maritime Security Coordination Agency Bakorkamla, changed to the Single Agency Multy Tasks system in Indonesian Maritime Security Agency Bakamla [6]; which means that the authority that exists in Bakamla is carried out in synergy between related institutions in an integrated manner, integrated in one commando unit.

Bakorkamla changed to Bakamla not just a change of name, and a legal basis, but accompanied by changes in authority; that Bakamla is also a law enforcement agency in the sea, especially towards fisheries crime; illegal fishing. These changes also occur in terms of:

- Position, initially non-structural institutions (independent institutions) turned into non-ministerial institutions [7].
- Tasks, initially only to coordinate policy making and sea security operations, change, conduct security patrols and safety in the territorial waters of Indonesia and Indonesia's jurisdiction.
- Function, function becomes more widespread; as an organizer Early Warning System which is very much needed by Indonesia as a country that is prone to natural disasters.

B. *Bakamla's Role in Law Enforcement at Sea*

In general, law enforcement is a series of activities in an effort to implement applicable legal provisions, both those that are technical and administrative in nature carried out by law enforcement agencies, so that a safe, peaceful and orderly atmosphere can be created for legal certainty in society.

Law enforcement is a process for the upholding or functioning of legal norms in a real way as a guideline for behavior in legal relations in public and state life [8].

Law enforcement is an effort to realize ideas of justice, legal certainty and social benefits into reality. Law enforcement, is the process of manifesting ideas. The process of realizing these ideas is the essence of law enforcement [8].

Article 61 of Act No. 32 of 2014 states that Bakamla's task is to conduct security and safety patrols in Indonesian waters and Indonesian jurisdictions. If viewed from the extent of the area, the Bakamla's duties are very broad; security and safety patrols in Indonesian waters and Indonesian jurisdiction.

Indonesian territorial waters include, 1) Territorial sea, 2) Islands waters, 3) Inland waters. Whereas Indonesia's jurisdiction includes: 1) Contiguous zone waters. 2) Exclusive economic zone waters, 3) Continental Shelf [9,10].

In accordance with Article 4, Presidential Regulation Number 178 of 2014, clearly regulates Bakamla's authority; do instant chase; dismiss, inspect, arrest, carry and deliver the ship to the relevant agency authorized to carry out further legal proceedings; and integrating security and safety information systems in the territorial waters of Indonesia and Indonesia's jurisdiction.

From the sound of the Article above, it is clear that the authority of the Bakamla in terms of law enforcement is limited to doing an immediate pursuit; dismiss, inspect, arrest, carry and deliver the ship to the relevant agency authorized to carry out further legal proceedings, So the boundary of Bakamla's authority in law enforcement at sea is to hand over the captured vessels to the relevant agencies to carry out further legal proceedings.

In the next paragraph, the authority was carried out in command by Bakamla (Article 63 Paragraph 2). It is intended that, to anticipate the occurrence of overlapping between the institutions holding authority for law enforcement in the sea, Dan Bakamla is the holder of the command for the implementation of law enforcement at sea.

Furthermore Article 59 states, the enforcement of sovereignty and law in Indonesian waters, the seabed, and the land beneath it, including the natural wealth contained in it and sanctions for violations carried out in accordance with the provisions of laws and international law (Paragraph 1) Jurisdiction in enforcement of sovereignty and law on foreign vessels that are crossing the territorial sea and Indonesian archipelagic waters is carried out in accordance with the provisions of laws and international law [2].

IV. CONCLUSION

Act No. 32 of 2014 on Marine, which gives a very broad authority to the sea security agency (Bakamla). The Indonesian Maritime Security Agency, however, did not abolish the authority possessed by other sea law enforcement agencies that had been stipulated in the previous law and the potential for overlapping.

Changes in the Paradigm of governance and strategic environment development 'from the Multy Agency Single Tasks to the Single Agency Multy Tasks in the security and safety system at sea; in the form of optimizing all the authorities, strengths and abilities of stakeholders in law enforcement in the sea in a synergistic manner.

By uniting / integrating authority on one body it will be easier to coordinate and control because command and control are in one hand (not sectoral).

In the case of Law enforcement of the Bakamla, it is authorized; (a). Instant Chase; (b). dismiss, inspect, capture, carry, and hand over the ship to the relevant agency authorized for further legal proceedings.

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