

## ***STRENGTHENING THE MARITIME SECURITY SYSTEM IN REALIZING INDONESIA AS THE GLOBAL MARITIME FULCRUM***

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### **Abstract**

*The realization of Indonesia's vision to become the Global Maritime Fulcrum depends on eradicating illegal fishing, reducing overfishing, and rehabilitating damaged marine and coastal environments. However, there are still frequent violations, and exploration in Indonesian waters has not been maximized, so the desire to realize Indonesia as the Global Maritime Fulcrum will be difficult to achieve. This study intends to examine how to strengthen the maritime security legal system to realize Indonesia as the Global Maritime Fulcrum. The research approach used is normative juridical. The author uses a qualitative approach to secondary legal data. The data is in the form of interviews related to the efforts made by stakeholders towards strengthening the maritime security system and realizing the vision of the Global Maritime Fulcrum. This study indicates that to realize Indonesia as the Global Maritime Fulcrum is to strengthen its maritime security system. There are three indicators based on legal system theory, namely optimal maritime security institutions, especially Indonesia Coast Guard, strengthening legal products related to eradicating illegal fishing, improving maritime security infrastructure, and creating new branding to continue to remind the public that Indonesia is a maritime state.*

**Keywords:** *Maritime Security; Global Maritime Fulcrum; Legal System*

### **INTRODUCTION**

Geographically, Indonesia is strategically situated between two continents, Asia and Australia; and two oceans, the Pacific Ocean and the Indian Ocean. It covers a land area of approximately two million square kilometers, and a maritime area of approximately 7.9 million square kilometers, with these waters forming approximately two-thirds of its area. In addition, it comprises more than 17,508 islands, of which 6,000 are inhabited and 1,000 are permanently settled, making it the largest archipelagic state in the world. This unique geography drives the Indonesian Government's determination to implement a maritime-oriented development agenda by forming a Global Maritime Fulcrum.<sup>1</sup>

The sea is a base that must be maintained to increase the power of a country. Mahan stated that "oceans unite and lands divide", a land is a separate place, but the sea is the unifier of the earth's entire surface. In order to secure and control the sea and prevent other countries from exploiting or destroying it, the country

<sup>1</sup> Muhar Junef, Implementasi Poros Maritim Dalam Prespektif Kebijakan. Jurnal Penelitian Hukum DE JURE, vol. 19 no. 3 edition of September 2019, pg. 305

can use sea power. The concept of sea power was introduced by Mahan, where Mahan stated the need for six essential elements to build a great sea power, namely geographical territory, physical conformation, extent of territory, character of the people, number of populations, and character of the government. A country conducts security and control of the sea because whoever controls the sea will rule the world.<sup>2</sup>

However, the utilization of the potential of marine resources in Indonesia is still hampered by overlapping regulations and regulations and has not been fully coordinated. This has resulted in sectoral egos and mutual claims to manage maritime affairs, starting from the Ministry of Defense, Ministry of Maritime Affairs and Fisheries, Ministry of Transportation, Indonesian National Armed Forces Navy, Maritime Security Agency, National Police of the Republic of Indonesia, and other agencies. For this reason, the Government should immediately determine who will be given the authority as the “maritime governance authority,” this will also be in line with the mandate of Law Number 32 of 2014 concerning Marine Affairs.

Regarding maritime security, national interest is a fundamental concept of international relations. The relationship with sovereignty is very close, that if the goal of a state is to protect its people from external threats, then the state must be sovereign. No higher legal authority can limit sovereignty to protect its state. Security at maritime borders control over islands, coastal areas, and maritime space is significant for the coastal state due to its strategic location.<sup>3</sup>

Based on these advantages, the Joko Widodo Government initiated the concept of the Global Maritime Fulcrum by making the maritime sector a development goal. Furthermore, the Global Maritime Fulcrum concept is outlined in Presidential Regulation Number 2 of 2015 concerning the 2015-2019 National Medium-Term Development Plan (RPJMN). Indonesia, as the Global Maritime Fulcrum, is supported by five main pillars: first, rebuilding Indonesian maritime culture; second, the commitment to maintain and manage marine resources with a focus on building seafood sovereignty through the development of the fishing industry by placing fishers as the central pillar; third, the commitment to encourage the development of maritime infrastructure and connectivity by building sea highways, seaports, logistics, and shipping industries, as well as maritime tourism; fourth, maritime diplomacy that invites all international community to work together in the maritime sector; and fifth, building a maritime defense force.<sup>4</sup> Global Maritime Fulcrum is to make Indonesia a solid and prosperous maritime country through restoring Indonesia’s identity as a maritime nation, securing maritime interests and security, empowering all maritime potentials for the prosperity of the nation, equitable distribution of the Indonesian economy through the sea highway, and maritime diplomacy in Indonesia’s foreign policy.

<sup>2</sup> Joseph Tertia dan Anak Agung Banyu Perwita, *Maritime Security in Indo-Pacific: Issues, Challenges, and Prospects*. *Jurnal Ilmiah Hubungan Internasional*, vol. 14 no. 1 edition of 2018, pg. 79.

<sup>3</sup> Lando, *Judicial Uncertainties Concerning Territorial Sea Delimitation under Article 15 of the United Nations Convention on the Law of the Sea*. *International and Comparative Law Quarterly*, vol. 66 no. 3 edition of 2017, pg. 589.

<sup>4</sup> Safril Hidayat dan Ridwan, *Kebijakan Poros Maritim Dan Keamanan Nasional Indonesia: Tantangan Dan Harapan*. *Jurnal Pertahanan & Bela Negara*, vol. 7 no. 3 edition of 2017, pg. 109.

Realization of the Global Maritime Fulcrum will depend on eradicating illegal fishing, reducing overfishing, and rehabilitating damaged marine and coastal environments. Consequently, the development of the Indonesian Navy's National Armed Forces strength to guard the Global Maritime Fulcrum doctrine and become a respected regional maritime power is necessary, apart from the use of unmanned defense equipment. On the other hand, it is necessary to expand marine aquaculture by using the EEZ more optimally, which is assisted by the development of modern fish markets and fish processing industries, and coastal shipping activities.<sup>5</sup>

However, maritime security in Indonesia is still vulnerable due to the high level of violations at sea such as illegal fishing, as well as various threats and other problems as a consequence of the country having diverse natural resources, allowing entry of foreign parties to the territorial waters and jurisdiction of Indonesia to take advantage of it illegally. As stated in the Indonesia Marine Policy Track Record 2021 & Projection 2022 report published by The Indonesia Ocean Justice Initiative (IOJI), these threats potentially hamper national efforts to provide effective protection to biodiversity, critical habitats and restore ocean health. A healthy and well-protected ocean is a prerequisite for the sustainable production of the ocean and equitable prosperity. Throughout 2021, IOJI detected incursions of foreign fishing vessels into Indonesia's maritime territory, particularly the North Natuna Sea (Fisheries Management Area/FMA 711), Malacca Straits (FMA 571), Indian Ocean west of Sumatra (FMA 572) and Sulawesi Sea (FMA 715). Of those areas, North Natuna Sea is most vulnerable to the illegal fishing of foreign fishing vessels, particularly from Vietnam.

The other maritime sector lagging far behind is the inadequacy of infrastructure connecting marine transportation. As an archipelagic region, the existence of a well-established sea distribution route is very vital. However, the still centralized logistics source in western Indonesia causes high shipping costs to and from eastern Indonesia because deliveries are generally carried out in one direction where the ship has to sail again but with minimal cargo.<sup>6</sup>

Other challenges that still occur are in the context of marine and fishery resource management, including: (1) optimization of the Fisheries Management Area (WPP) institution; (2) harmonization of marine space and land space for strengthening through alignment of Spatial Plans (RTR) according to their classification with the Zoning Plan for Coastal Zone and Small Islands (RZWP3K), National Strategic Area Zoning Plan (RZ KSN), National Strategic Area Zoning Plan Certain (RZ KSNT), Interregional Zone Zoning Plan (RZ KAW), and Marine Spatial Plan (RTRL); (3) Acceleration of control over the utilization of marine space and PPK as well as the surrounding waters; (4) the practice of IUU fishing and destructive fishing is still occurring, and (5) the synergy of stakeholders in the management of marine and fishery resources.

<sup>5</sup> Poltak Partogi Nainggolan, 2015, *Agenda Poros Maritim Dunia dan Perubahan Lingkungan Strategis*, P3DI Setjen DPR RI dan Azza Grafika, Jakarta, pg. xxiii.

<sup>6</sup> Khanisa dan Lidya C Sinaga, Menakar Keberlanjutan Visi Poros Maritim Dunia di Tengah Agenda Pembangunan Maritim Regional. *Jurnal Penelitian Politik*, vol. 17 no. 1 edition of June 2020, pg. 107.

Resources in the fisheries sector are a critical resource for the community's livelihood and can be used as the main driver of the national economy. This is based on the fact that first, Indonesia has extensive fishery resources both in terms of quantity and diversity; second, the industry in the fisheries sector has linkages with other sectors; and third, Indonesia has a high advantage in the fisheries sector, as reflected in the potential of existing resources.<sup>7</sup>

There are still frequent violations, and exploration in Indonesian waters has not been maximized, so the desire to realize Indonesia as the Global Maritime Fulcrum will be difficult to achieve. The conditions above can describe how strong sea power Indonesia currently has. In addition, without a policy concept and a solid legal, political foundation in a long-term maritime development policy, determining to build Indonesia as the Global Maritime Fulcrum is considered not to give concrete hope by various parties.<sup>8</sup>

Based on these problems, this article examines how the maritime security system should be implemented in Indonesia to realize the Global Maritime Fulcrum. This article is expected to provide a solution to strengthen Indonesia's maritime security system. This article will provide a concept of reasonable efforts that stakeholders can carry out. The depiction of an appropriate concept of efforts related to strengthening the maritime security system can be used for the Government of Indonesia to protect sovereignty in Indonesian waters to realize the Global Maritime Fulcrum.

The research approach used is normative juridical. Juridical normative is research conducted by examining library materials or secondary data as the basis for research by searching for regulations and literature related to the problem under study. This research has a prescriptive nature which means that it aims to get suggestions on what to do to overcome specific problems. Prescriptive research is intended to find out, examine, and assess that the current Indonesian maritime security legal system is less than optimal in order to get advice on what the Indonesian government should do in improving the maritime security legal system related to the realization of the vision of the Global Maritime Fulcrum.

## DISCUSSION

### Maritime Security

Maritime security has become one of the most recent discourses of international relations, which has led state leaders to begin formulating government policies or reframing their work related to maritime security. Maritime security is a term that continues to attract attention, marked by the emergence of new challenges in the maritime sphere, which then require action to overcome them. Maritime security is a

<sup>7</sup> Bernhard Limbong, 2015, *Poros Maritim*, Margaretha Pustaka, Jakarta, pg. 113.

<sup>8</sup> Nurfaika Ishak dan Siti Fatimah, Pengawasan Penangkapan Ikan di Zona Ekonomi Eksklusif Indonesia dalam Membangun Poros Maritim Indonesia. Wacana Hukum, vol. 25 no.1 edition of December 2019, pg. 62

small part of national security, so the practice of a country's national security determines how maritime security and practices are in national policy.<sup>9</sup>

In the perspective of international law, several regulations have relevance to the concept of maritime safety and security, including:

1. *United Nations Convention on the Law of the Sea 1982*
2. *International Convention on Maritime Search and Rescue 1979*
3. *International Convention for the Safety of Life at Sea 1974*
4. *Convention on Facilitation of International Maritime Traffic 1965*
5. *International Convention on Salvage 1983*
6. *United Nations Convention relating to the Status of Refugees 1951*
7. *United Nations Convention against Transnational Organized Crime 2000 dan Protocol against the smuggling of migrants by land, sea and air; and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children*
8. *IMO Resolution A.773 (18) on Enhancement of safety of life at sea by the prevention and suppression of unsafe practices associated with alien smuggling by ships*
9. *IMO Resolution A.871 (20) on Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases*
10. *IMO Resolution A.867 (20) on Combating unsafe practices associated with the trafficking or transport of migrants by sea*

Maritime security is not a strict concept and has become a mutual agreement. It continues to develop and is constructed to become an ideal and universal concept. Maritime security combines preventive and responsive efforts to protect the maritime area from all threats and unlawful acts. Some of the elements that are the focus of the maritime security concept:<sup>10</sup>

1. Guaranteed national and international security and peace
2. Sovereignty, territorial integrity, and political independence
3. International shipping lane security
4. Security protection of safety measures at sea
5. Security of access to resources at sea and the seabed
6. Protection of the environment
7. Safety for sailors and fishermen

The strategic function of the maritime area raises regional security issues that can interfere with the interests of every country, and it is referred to as maritime security, whose impact creates an impetus to strengthen maritime security. The dominance of territorial waters in Indonesia and the Southeast Asian region causes maritime and political security issues to occur more often than other security issues.

Maritime security is a combination of preventive and responsive measures to protect the maritime domain against threats and acts of intentional violation of the law. The term maritime security must be distinguished from the term maritime safety. On the

<sup>9</sup> Kuncoro Arry Prasetyo, Lukman Yudho Prakoso, dan Dohar Sianturi, Strategi Pertahanan Laut Pemerintah Indonesia Dalam Menjaga Keamanan Maritim. *Jurnal Strategi Pertahanan Laut*, vol. 5 no 1 edition of 2019, pg. 32.

<sup>10</sup> Suryo Wibisono, et.al., (ed.): *Mengamankan Laut: Tata Ruang dan Keamanan Maritim*, PT. Elex Media Komputindo, Jakarta, pg. 87



other hand, maritime safety is a combination of preventive and responsive measures intended to protect the upper maritime domain and limit the effects of intentional harm or natural hazards and environmental damage, risk, or loss.

The emergence of maritime security issues begins with the increasingly strategic function of territorial waters for the interests of countries in the world. The maritime area has become the main artery for global economic interactions, thus making maritime security a crucial issue for the international community. Maritime security stability is essential for a country to maintain the national interest of the nation, which has an impact on national development.<sup>11</sup>

The concept of maritime security lies between traditional and non-traditional security frameworks. Based on the traditional security framework, violations of maritime security are considered to threaten the sovereignty and identity of the state, while non-traditional frameworks tend to expand the security landscape of the object of reference so that the security issues studied are more than just threats to state sovereignty and identity, such as ethnicity, religion, race, and ethnicity. Intergroup; economy; migration; environment; as well as resources. The focus of handling non-traditional security must be a priority for a country today, such as economic, environmental, political security issues, including maritime security.<sup>12</sup>

The concept of maritime security, according to Buzan, is between two different interactions, between groups that use a traditional perspective on security as de securitization that uses a referent object as its focus, namely sovereignty and national identity whose security landscape is based on problems between countries, and groups that using a non-traditional framework on security as a securitization with an extensive range of security issues on security issues that include intra-state security and transnational security.<sup>13</sup> So, in this case, maritime security is related to protecting ships from unlawful, intentional, or planned actions. Difficulties in formulating the concept of maritime security can be said to occur because of avoiding pre-emptive measures against maritime security forums outside the UN mechanism. The desire to separate the idea of maritime security from maritime safety and a rigid definition of maritime security result in reduced national security authorities in managing maritime security. It means that maritime security does not only focus on military action but also fishing activities, intentional marine pollution, and research or survey activities at sea.

Maritime security is when a country is free from various threats to its interests in maritime aspects. The threat can be military or non-military. Threats that use the sea dimension as a means are transboundary. Therefore, maritime security is the responsibility of every country. The larger the maritime area of a country, the greater the responsibility of the country to secure its territory.<sup>14</sup>

<sup>11</sup> Susanto dan Dicky Munaf, 2015, *Komando dan Pengendalian Keamanan dan Keselamatan Laut: Berbasis Sistem Peringatan Dini*, Gramedia Pustaka Utama, Jakarta, pg. 48

<sup>12</sup> Muhammad Harry Riana Nugraha dan Arfin Sudirman, Maritime Diplomacy sebagai Strategi Pembangunan Keamanan Maritim Indonesia. *Jurnal Wacana Politik*, vol. 1 no. 2 edition of October 2016, pg. 178

<sup>13</sup> Makmur Keliat, Keamanan Maritim dan Implikasi Kebijakannya bagi Indonesia. *Jurnal Ilmu Sosial dan Ilmu Politik*, vol. 13 no. 1 edition of July 2009, pg. 112.

<sup>14</sup> Chapsos dan Malcolm, Maritime security in Indonesia: Towards a comprehensive agenda?. *Marine Policy*, vol. 76 edition of February 2017, pg. 180

Maritime security is a small part of national security, so a country's national security practice determines how maritime security practices in national policy. According to Bueger, maritime security contains 4 (four) security concepts: sea power or naval power, marine safety, blue economy or blue economy, and human security. The concept of sea power explains the role of the navy, namely protecting the country's sustainability, protecting sea transportation routes for trade, and improving the economy. The concept of safety at sea describes the safety of ships and marine installations with the primary objective of protecting professionals and the marine environment. Maritime security is also related to development in the economic field, where the sea plays a significant role in trade and fisheries. The sea contains essential natural resources, such as oil and minerals from the ocean floor. Coastal tourism is also an essential source of economic income. The concept of human security is also related to maritime security, which contains elements such as the availability of food, shelter, sustainable living, and the availability of jobs.<sup>15</sup>

The concept of maritime security lies in the fundamental conception of maritime security through law enforcement and sovereignty enforcement, where the two are interrelated. The above shows that maritime security is a new term whose scope no longer discusses traditional matters such as control and military expeditions at sea but maintains order at sea, a natural resource, means of transportation, and an essential aspect of the environment. Indonesia's marine territory is very influential on the security of land areas. If sea security is strengthened, all illegal activities will be guarded at sea not to enter land areas. This condition also makes it vulnerable to threats from parties who want to take advantage of Indonesia's marine wealth.

### **Global Maritime Fulcrum**

In its development, there are 3 (three) views on the defining concept of the Global Maritime Fulcrum, especially regarding the definition of the phrase "Fulcrum." The first view interprets the term "Fulcrum" as the center or axis, which defines the Global Maritime Fulcrum as a vision to make Indonesia the center of world marine activities. For this first view, the Global Maritime Fulcrum is more likely to be translated into English as the Global Maritime Fulcrum. The second view interprets the fulcrum as alignment, as in the past, there was the Beijing-Pyongyang-Jakarta axis. For the second view, the Global Maritime Fulcrum tends to be translated into English as the Global Maritime Axis. In this view, there is an alignment that Indonesia wants to build with other regional powers that can support Indonesia's strategic position and national interests. In comparison, the third view defines the maritime axis as a maritime shipping lane, so the Global Maritime Fulcrum is meant to be Indonesia's vision to dominate the world's maritime shipping lanes. This group translates the Global Maritime Fulcrum into the Global Maritime Nexus.<sup>16</sup>

<sup>15</sup> Bueger, What is Maritime Security?, Marine Policy Journal, no. 53 edition of 2015, pg. 161.

<sup>16</sup> Yanyan M. Yani dan Ian Montratama, Indonesia Sebagai Poros Maritim Dunia: Suatu Tinjauan Geopolitik. Jurnal Pertahanan, vol. 5, no. 2 edition of August 2015, pg. 28

In the context of Indonesia, the Global Maritime Fulcrum is a vision put forward by President Joko Widodo during his campaign as a presidential candidate. Historically, this vision was first heard by the public in the third presidential debate round in 2014. This vision assumes a condition where the geopolitical power of the economy is shifting from the West to Asia, and in this case, Indonesia has the opportunity to improve its global bargaining position. This vision emerged amidst the growing political consensus at home that Indonesia was facing increasingly severe external security threats, especially considering the trend of militarization in both the Indian Ocean and the Pacific Ocean. These disputes occurred between China and several Southeast Asian countries in the China Sea, South, and possible Chinese claims to the waters around the Natuna Islands.

The conception of the Global Maritime Fulcrum is the re-recognition of the strategic value of the Indian Ocean together with the Pacific Ocean as the ocean flanking Indonesia. By promoting the Global Maritime Fulcrum, President Joko Widodo intends to bring the Indian Ocean back into the regional canvas while projecting Indonesia's strength. Thus, this vision can be considered an attempt to translate the current assumption that foreign policy that relies solely on ASEAN no longer has to continue to be an essential basis for foreign policy.<sup>17</sup>

The vision of the Global Maritime Fulcrum is expected to make Indonesia an archipelagic country that will benefit from the changing global constellation today. The maritime development proclaimed in this vision places Indonesia at the center of the dynamics of international relations in the Asia Pacific and recognizes its scientific state as a maritime nation. The emergence of awareness like this can answer the attention of many circles that the development of national power, which only relies on the land dimension, is not following the conditions of Indonesia. Thus, the Global Maritime Fulcrum raises high hopes for a more apparent foreign policy.

The concept of the Global Maritime Fulcrum has the consequence of opening the seas as wide as possible to increase economic advantage and compete with China which has emphasized its efforts to embrace Indonesia. For this reason, the Government of Indonesia has formed the Coordinating Ministry for Maritime Affairs, which is tasked with coordinating strategic priority issues such as the management of oil and gas to mineral resources, development of tourism destinations, implementation of the marine highway program, as well as fisheries regulations which emphasizes re-enforcement of the international law of the sea.<sup>18</sup>

There needs to be a complete understanding of the concept of the Global Maritime Fulcrum. At least Global Maritime Fulcrum can be seen from three perspectives. First, Global Maritime Fulcrum is a vision of Indonesia in the future. In this context, the idea of Global Maritime Fulcrum is a prominent call to the Indonesian people to return to Indonesia's identity as a maritime country. Second, the idea of Global Maritime Fulcrum becomes a doctrine to provide direction towards a common goal. Third, the idea of

<sup>17</sup> Evan A. Laksmana, Iis Gindarsah, dan Andrew W. Mantong, Menerjemahkan Visi Poros Maritim Global ke Dalam kerangka Diplomasi Pertahanan Maritim Dalam Kebijakan Luar Negeri Indonesia di Era Jokowi. CSIS Working Paper Series, vol. 1 edition of 2018, pg. 3.

<sup>18</sup> Probo Darono Yakti dan Joko Susanto, Poros Maritim Dunia Sebagai Pendekatan Strategi Maritim Indonesia: Antara Perubahan atau Kesenambungan Strategi?. *Global & Strategis*, vol. 11 no. 2 edition of 2017, pg. 115



Global Maritime Fulcrum should not stop only at the level of abstraction but should be implemented operationally in concrete national development agendas.

The vision of the Global Maritime Fulcrum also needs to comprehensively pay attention to the constellation of relations between countries in Asia and various initiatives in the region such as the ASEAN Community, One Belt One Road (OBOR) of the People's Republic of China, Act East from India and Re-Balance from America. In this regard, Global Maritime Fulcrum Vision may synergize with these various initiatives by national interests and positively contribute to peace.

Global Maritime Fulcrum vision can be realized if appropriate, effective, and competitive supporting policies and programs. Marine development programs are spread across various ministries. Therefore, it is necessary to prepare a National Document on Indonesian Marine Policy that synergizes and harmonizes all marine development programs so that they are more directed on target, and the achievement of the results can be measured. Efforts to make Indonesia the Global Maritime Fulcrum will undoubtedly change the direction of this nation's development in all aspects, whether political, economic, social, cultural, defense, and legal. In these various aspects, the Global Maritime Fulcrum concept should emphasize the sovereignty of the Republic of Indonesia, where the role of the sea becomes very strategic in realizing the ideals and national goals.

### **Expected Maritime Security System**

Politically, the sea has a conception of unity inward and outward, as recognized by the United Nations Convention on the Law of the Sea 1982. The sea is also a vital communication. Like the sea, islands within the national jurisdiction, especially those in border areas, also have significant meaning.<sup>19</sup>

The maritime security system is essential for creating conditions for national stability. The maritime security system is all activities of marine patrol elements to ensure the security of Indonesian marine areas and ensure that the management of Indonesian marine resources can be managed to achieve national goals.

One of the indicators as a sovereign state is the ability to maintain, care for, and defend its legal territory and utilize all the potential of its natural resources by relying on one's strengths and abilities as an independent and sovereign state. The ability to protect Indonesia's marine areas from illegal fishing will positively impact Indonesia's authority as a maritime country in maintaining its sovereignty. The importance of eradicating illegal fishing is that eradicating illegal fishing is one of the efforts to save fish resources in the sea.

The lack of effectiveness of maritime security institutions in Indonesia, especially the Indonesia Coast Guard, is that they are not law enforcers, and their personnel are not investigators. The law enforcement for violations of the Maritime Law does not have to be carried out by the Indonesia Coast Guard. Still, other institutions can carry it out as long as the law authorizes them. This can be seen in Article 59, paragraph (2) of the

<sup>19</sup> Muhammad Rafi Darajati dan Muhammad Syafei, Politik Hukum Pembentukan Badan Keamanan Laut Dalam Menjaga Keamanan Maritim Di Indonesia. *Jurnal Era Hukum*, vol. 16 no. 1 edition of June 2018, pg. 116

Maritime Law: Jurisdiction in the enforcement of sovereignty and law against foreign ships crossing the territorial sea and Indonesian archipelagic waters is carried out by the provisions of Indonesian law and international law.

From that article, there is the phrase “by the provisions of Indonesian law and international law” it confirms that the enforcement of sovereignty and law for violations of this law can be carried out by other institutions as long as they are authorized by law.

Another reason maritime security institutions, especially the Indonesia Coast Guard, are not optimal is related to authority. The authority of the Indonesia Coast Guard is regulated in Article 4 of the Presidential Regulation of the Indonesia Coast Guard, which is authorized to carry out an instant chase; stop, inspect, arrest, carry, and hand over the ship to the relevant competent authorities for the implementation of other legal processes; and integrate security and safety information systems in Indonesian waters and Indonesian jurisdictions. As for Article 63 of the Maritime Law, it can be seen that the authority of the Indonesia Coast Guard is to:

1. Hot pursuit;
2. Stop, inspect, arrest, carry, and hand over the ship to the relevant competent authorities for the implementation of further legal processes; and
3. Integrating security and safety information systems in Indonesian waters jurisdiction

It can be compared to the authority of the Indonesian Coast Guard; for example, According to Article 278 paragraph (1) Law Number 17 of 2008 concerning Shipping, the Directorate of Marine and Coastal Guard Units that have the authority to: carry out marine patrols, conduct a hot pursuit, stop and inspect ships at sea, and conduct an investigation.

Based on this comparison, it can be seen that the authority granted by Law Number 17 of 2008 concerning Shipping is apparent that the control of the Directorate of Marine and Coast Guard is greater than that of the Indonesian Coast Guard. The Directorate of Marine and Coastal Guard Units is an investigator, while the Indonesian Coast Guard is not, so the catch vessel must be handed over to the investigator by the violation.

In realizing better maritime security, it is necessary to build a responsive and effective institution to guarantee command and control and maintain the unity of the functions and objectives of the institution. The establishment of a single agency that is given full authority to carry out security and law enforcement in Indonesian marine areas whose legality is recognized by national and international law is necessary, in addition to the existence of the Indonesian Navy, which indeed functions as a defense institution in Indonesian marine areas.

The institution is expected to be effective and efficient. In this context, effective means guarantee security in the Indonesian seas, especially in certain areas that are the center of national and international trade routes, as well as marine areas that have potential natural resources. Meanwhile, efficiency means that the results of law enforcement are much more significant or at least comparable to the budget allocation provided by the government.

The presence of a particular institution such as the Indonesia Coast Guard, which does have full authority in securing Indonesian maritime affairs, must be domiciled independently and report directly to the President. This status in its operations during peacetime can synergize with the Indonesian Navy to create security stability in the Indonesian marine area and support development and a forum for building a multiplier force for the Indonesian Navy. Meanwhile, it is a reliable reserve component in supporting the country's defense at sea during the war period.

The expected existence of the Indonesia Coast Guard is an institution that has the authority, strength, and capability arranged in a harmonious and responsive organizational structure, mechanism, procedure, and management to be able to carry out its duties and functions optimally in maintaining security, sovereignty, and enforcement law in the Indonesian maritime territory. The addition of authority from the Indonesia Coast Guard does not eliminate the authority of other relevant agencies but will instead improve the performance of these agencies because they are more focused on their core tasks and do not need to carry out security operations.

In terms of security operations in Indonesian waters and jurisdictions, the operational elements will be under the direct command and control of the Indonesia Coast Guard. Meanwhile, handling cases can be resolved directly by the Indonesia Coast Guard, or it can be submitted to each agency/institution that has the authority. Furthermore, the Indonesia Coast Guard can monitor the course of the case, starting from the investigation and prosecution into court decisions. The importance of the sea for Indonesia as described above, the parties with interest in the sea must be coordinated and synergized with each other, because on the other hand, if they are not coordinated properly, they will attract each other's interests. This condition will certainly impact efforts to enforce law and security at sea.

The author tries to compare the existence of the Coast Guard from various countries related to the implementation of maritime security, including: first, the Singapore Police Coast Guard (SPCG), where structurally the SPCG is part of the Singapore Police under the authority of the Ministry of Home Affairs which has a coast guard function in Singapore. SPCG has duties and authorities as law enforcement institutions at sea. In addition to law enforcement duties, this agency has to carry out search and rescue activities;<sup>20</sup> second, the Malaysian Maritime Environment Enforcement Agency (MMEA) is tasked with maintaining Malaysia's maritime area security. This agency functions as the Malaysian Coast Guard and has significant responsibility for law enforcement at sea. MMEA was formed as a one-stop agency in law enforcement at sea. MMEA also has the task of conducting SAR at sea, carrying out surveillance in shipping lanes, and preventing and controlling pollution at sea. Institutional and membership MMEA is part of the civil service of Federal Malaysia and is responsible to the Prime Minister. Although not a military institution, the MMEA can be mobilized and positioned under the command of the Armed Forces in a state of war; the third is the Japan Coast Guard

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<sup>20</sup> Joshua Ho, *Managing the Peace-conflict Continuum: A Coast Guard for Singapore?*. IDSS Commentaries, no. 86 edition of 2005, pg. 2

(JCG). The formation of a Japanese coast guard unit is based on the Coast Guard Law. JCG has the main task of carrying out law enforcement at sea.<sup>21</sup>

For this reason, JCG is given the authority to conduct investigations and make arrests. In addition, JCG also has duties other than law enforcement, among others, for SAR, conducting investigations on marine accidents, hydrographic and oceanographic surveys, port regulation, and shipping regulations. Structurally, JCG itself is under the Ministry of Land, Infrastructure, Transport, and Tourism;<sup>22</sup> fourth is the US Coast Guard (USCG), a law enforcement institution with military characteristics and is one of the five armed forces in the United States. In peacetime, the USCG is under the US Department of Homeland Security structure. In times of war, the USCG can be mobilized by order of the President to be transferred to the US Department of Defense.<sup>23</sup>

The USCG is divided into two main commands, Pacific Command and Atlantic Command, while the fifth is the Indian Coast Guard (ICG) as a coast guard institution in India established in 1978 under the Coast Guard Act 1978. The main task of the ICG is to protect India's national interests in the maritime zone of India. These tasks include: ensuring the safety of artificial islands offshore installations, protecting fishers; maritime environmental protection; customs duty assistance; enforcing the law in the maritime zone; and protecting the safety of life and property at sea and the collection of marine scientific data. From its organizational structure, ICG is under the Ministry of Defense.<sup>24</sup>

In addition, the Government of Indonesia needs to complete the determination of maritime boundaries with neighboring countries immediately. It is essential to obtain legal certainty that can support various activities at sea, including for the nation's benefit from maritime security. Law enforcement and sovereignty cannot be separated from the function of criminal law enforcement against criminal acts that occur at sea, with the settlement process through the stages of supervision, investigation, investigation, prosecution, and examination in court.

The enforcement of sovereignty and law enforcement at sea cannot be separated from Indonesia's maritime policy, which is based on the Presidential Regulation of the Republic of Indonesia Number 16 of 2017 concerning Indonesian Marine Policy. Indonesia's marine policy functions as a guideline for ministries/agencies and local governments to plan, implement, as well as monitor and evaluate marine sector development to realize the World Maritime Axis; and a reference for the community and business actors in participating in implementing the development of the marine sector to realize the World Maritime Axis.

<sup>21</sup> MMEA's Background, <https://www.mmea.gov.my/eng/index.php/en/aboutusen/mmea-s-background>, accessed on 1 October 2021

<sup>22</sup> Japan Coast Guard, [https://www.nz.emb-japan.go.jp/links/Coast\\_Guard\\_english.pdf](https://www.nz.emb-japan.go.jp/links/Coast_Guard_english.pdf), accessed on 1 October 2021

<sup>23</sup> U.S. Coast Guard Overview, [https://media.defense.gov/2018/Oct/11/2002050118/-1/-1/1/USCG\\_OVERVIEW.PDF](https://media.defense.gov/2018/Oct/11/2002050118/-1/-1/1/USCG_OVERVIEW.PDF), accessed on 1 October 2021

<sup>24</sup> Charter Of Duties, [https://www.indiancoastguard.gov.in/content/287\\_3\\_AreaoofResponsibility.aspx](https://www.indiancoastguard.gov.in/content/287_3_AreaoofResponsibility.aspx), accessed on 1 October 2021

This marine policy is carried out by fostering maritime insight for the community and government so that Indonesia's development is marine-oriented, increasing the capacity of marine-minded human resources through the development of marine science and technology, managing national marine areas to maintain sovereignty and prosperity, and building an integrated marine economy by optimizing the sustainable use of marine resources. One of the elements in the maritime policy is maritime security as part of the defense system and national security stability. To increase the defense capacity and stability of national security, it has targets to be realized, including strengthening maritime security and border areas, by making breakthroughs in the form of increasing the integration of stakeholders in maritime security. For this reason, the direction of development policies in order to achieve the target of strengthening maritime security and border areas is pursued by increasing supervision and guarding as well as law enforcement at sea and border areas, increasing facilities and infrastructure for securing border areas, and increasing synergy in maritime security.

The expected legal product is the existence of a law explicitly regulating maritime security called the Maritime Security Law. This law regulates starting from general provisions or definitions of security systems, objectives, functions, scope, types of threats, implementation, elements, management, overcoming threats in times of peace and in times of war, duties, authorities, coordination and synergy between maritime institutions, international cooperation, supervision, financing, and other matters that can still develop regarding the maritime security system.

The product of this legislation is expected to guide all components of the nation, especially those closely related to maritime security, in their behavior and regulate their pattern of action so as not to deviate from all the rules that have been compiled in it. The basis for forming this law is the condition of the current regulations and legislation, but not because they have not regulated maritime security management as a whole. The presence of this law is also expected to realize Indonesia as a maritime country.

The embodiment of maritime security essentially has two dimensions, the enforcement of sovereignty and interrelated laws. Applicable national and international legal instruments must carry out the enforcement of sovereignty and enforcement of this law. The authority to enforce sovereignty and law is rooted in the sovereignty and jurisdiction of the state and requires considerable security from law enforcement officers at sea. It means that the state's enforcement of law at sea is essentially the enforcement of state sovereignty because the authority and ability to implement law enforcement is based on state sovereignty and the realization of sovereignty itself. Regarding enforcing law and sovereignty in Indonesia's jurisdiction, it is necessary to establish complete maritime boundaries based on the provisions of international law of the sea as regulated in the 1982 Law of the Sea Convention.

Maritime should be interpreted as the geographical spectrum of an archipelagic country and the identity of a nation with a dynamic maritime culture, which can build



its nation on its own feet based on the gift of its resources. If the determination to make Indonesia a World Maritime Axis can be implemented in real terms, this means a strategic breakthrough in national development. It can also be interpreted by reviving the faded mentality of maritime culture in Indonesian society.

Excellence as an archipelagic country must be built and utilized by the competence and superior products in each region and national interest. It is a big challenge because its implementation is not only based on the determination of one party but must also be supported by the political will of all parties. The concept of the world maritime axis must be supported by hard work and ensure that all programs related to the marine sector can be realized. Therefore mental awareness as an archipelagic country needs to be revived. According to the author, a new branding needs to be made to remind the public that Indonesia is a maritime country. The new branding is a maritime-oriented political commitment of national leadership.

## CONCLUSION

The frequent occurrence of illegal acts in Indonesian seas territory indicates the ineffectiveness of Indonesia's maritime security system, causing various negative impacts. This condition is still ongoing because currently, there is no harmonization between agencies that have the authority to manage maritime security, there is no solid legal framework, and the maritime security infrastructure is still not ideal. The widespread illegal fishing practice has made it challenging to realize Indonesia as a sovereign maritime country.

To realize Indonesia as the Global Maritime Fulcrum is to strengthen its maritime security system. There are three indicators based on legal system theory, namely optimal maritime security institutions, especially Bakamla, strengthening legal products related to eradicating illegal fishing, improving maritime security infrastructure, and creating new branding to continue to remind the public that Indonesia is a maritime country.

The strengthening of law enforcement in the maritime security system, which contains these three indicators, is necessary. Relevant stakeholders must be able to unite the view that the threat of illegal fishing is a real threat that must be resolved immediately. The strengthening of law enforcement will make Indonesia the Global Maritime Fulcrum.

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