

THE POSITION OF THE ARCHIPELAGIC SEA LANES IN THE MAKASSAR STRAIT INTERREGIONAL ZONING PLAN POLICY

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ABSTRACT

Objective: This study aims to analyze the position of archipelagic sea lanes in the Makassar Strait RZKAW.

Theoretical Framework: Archipelagic sea lanes are waters that exist only in island states and are used for ship transport. Island countries that have ratified UNCLOS 1982 are required to implement their archipelagic sea lanes in legislation in order to determine the sea lanes that ships can pass through and flight routes over the sea by determining the axes to be included on maps and reported to the International Maritime Organization, so that they can be used for ships passing through the country's jurisdiction. The RZKAW is used to create plans for the use of marine space in inter-regional areas.

Methods: This study uses a qualitative approach and emphasizes more on normative and empirical aspects.

Results and Conclusion: The results of the study show that the responsibility of the State of Indonesia in utilizing archipelagic sea lanes with the existence of RZKAW refers to the provisions of previous legislation. RZKAW will provide space for the community to access state assets based on permits granted by the government and synchronized with development. In the future it will become an important water area, due to the high level of space utilization and multisectoral interests. There are different interests in the Makassar Strait, the regulations used for sea space are different. Similarly, agencies that conduct surveillance on marine space are also different. In order to anticipate conflicts of authority and disharmony in marine space regulations at RZKAW, the Maritime Security Agency (Bakamla) can take on the role of coordinator of security and safety patrols at sea. The study recommends integrated supervision in the utilization of archipelagic sea lanes in Indonesia's Makassar Strait.

Implication of the research: If Indonesia's capital city moves to East Kalimantan, the Makassar Strait will become an important water area, with higher space utilization and more multi-sectoral interests, necessitating effective and efficient supervision of AIKI II.

Keywords: archipelagic sea lanes, interregional zoning plan, the responsibility of the Island State.

Received: 04/09/2023

Accepted: 04/12/2023

DOI: <https://doi.org/10.55908/sdgs.v1i12.1934>

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A POSIÇÃO DAS VIAS MARÍTIMAS ARQUIPELÁGICAS NA POLÍTICA DO PLANO DE ZONEAMENTO INTER-REGIONAL DO ESTREITO DE MAKASSAR

RESUMO

Objetivo: Este estudo tem como objetivo analisar a posição das vias marítimas arquipelágicas no estreito de Makassar RZKAW.

Estrutura teórica: As vias marítimas arquipelágicas são águas que existem apenas em Estados insulares e são usadas para o transporte de navios. Os países insulares que ratificaram a CNUDM 1982 são obrigados a implementar as suas rotas marítimas arquipelágicas na legislação, a fim de determinar as rotas marítimas que os navios podem atravessar e as rotas de voo sobre o mar, determinando os eixos a serem incluídos nos mapas e comunicados à Organização Marítima Internacional, para que possam ser utilizados para os navios que atravessam a jurisdição do país. O RZKAW é usado para criar planos para o uso do espaço marinho em áreas inter-regionais.

Métodos: Este estudo utiliza uma abordagem qualitativa e enfatiza mais aspectos normativos e empíricos.

Resultados e Conclusão: Os resultados do estudo mostram que a responsabilidade do Estado da Indonésia na utilização de rotas marítimas arquipelágicas com a existência de RZKAW se refere às disposições da legislação anterior. A RZKAW fornecerá espaço para que a comunidade acesse ativos estaduais com base em autorizações concedidas pelo governo e sincronizadas com o desenvolvimento. No futuro, tornar-se-á uma importante zona hídrica, devido ao elevado nível de utilização do espaço e aos interesses multissetoriais. Há diferentes interesses no Estreito de Makassar, as regras utilizadas para o espaço marítimo são diferentes. Da mesma forma, as agências que fazem vigilância no espaço marinho também são diferentes. A fim de antecipar conflitos de autoridade e desarmonia na regulamentação do espaço marinho em RZKAW, a Agência de Segurança Marítima (Bakamla) pode assumir o papel de coordenador de patrulhas de segurança e proteção no mar. O estudo recomenda supervisão integrada na utilização de rotas marítimas arquipelágicas no Estreito de Makassar, na Indonésia.

Implicação da pesquisa: Se a capital da Indonésia se mudar para Kalimantan Oriental, o Estreito de Makassar se tornará uma importante área de água, com maior utilização de espaço e mais interesses multissetoriais, necessitando de supervisão eficaz e eficiente de ALKI II.

Palavras-chave: vias marítimas arquipelágicas, plano de zoneamento inter-regional, responsabilidade do Estado da Ilha.

1 INTRODUCTION

The sea area of Indonesia is 6.4 million square kilometers, with a coastline of 180,000 kilometers. This sea area will be divided into 20 inter-regional areas. The determination of inter-regional areas is based on data published in the standard rules. The Makassar Strait, which connects Kalimantan and Sulawesi islands, has been designated as the Makassar Strait Interregional Area Zoning Plan (RZKAW) by Presidential Regulation No.80 of 2020. One of the government's 12 RZKAW targets until 2024. The Makassar Strait's utilization includes the archipelagic sea lanes, fisheries management areas, and other marine spaces. Archipelagic sea lanes are waters that exist only in



archipelagic countries and are used as shipping routes, and their natural resources are the archipelagic state's to explore and exploit. Archipelagic sea lanes are used for sea transportation and are one of the most important international activities. They are a right of passage granted by the archipelagic state³. The countries' agreement contained in the 1982 United Nations Convention on the Law of the Sea (UNCLOS) does not clearly regulate the procedure for designating archipelagic sea lanes. UNCLOS 1982 only stipulates that if an archipelagic state wishes to establish an archipelagic sea lane, it must refer to the proposal of the International Maritime Organization (IMO)⁴, because to regulate the issue of sea use UNCLOS 1982 will give the role to the authorized organization⁵. In addition to being an archipelago sea lane, the Makassar Strait is one of the Republic of Indonesia Fisheries Management Areas (WPPRI) 713 out of eleven WPPRIs in Indonesia, which include Makassar Strait waters, Bone Bay, the Flores Sea, and the Bali Sea⁶. According to KP Ministerial Decree NUMBER 19 YEAR 2022, the utilization rate and status of fish resources in WPPRI 713 for several groups of large pelagics and small pelagics is 1.3 and 0.4 with fully exploited status, respectively, while for demersal fish and lobsters the utilization rate is 1.1 and 0.5 with overfishing status. According to data from the Republic of Indonesia's Ministry of Maritime Affairs and Fisheries, 117 vessels were apprehended in 2021, including 78 Indonesian fishing vessels and 39 foreign-flagged vessels. The Makassar Strait is one of the places where fishing violations occur⁷. Illegal fishing in protected waters has a negative impact on conservation goals⁸ which are to protect the sustainability of species and ecosystems, preserve biodiversity, and prevent potential conflicts between users by regulating permitted activities⁹. Thus, archipelagic waters have the rights of the archipelagic state and the rights of other states.

³ Maria Maya Lestari, 'What Is the Right, Archipelagic Sea Lanes and Passage? (According To Unclos 1982 and Practice)', *Indonesian Journal of International Law*, 18.2 (2021), 209–28 <<https://doi.org/10.17304/ijil.vol18.2.809>>.

⁴ Dina Sunyowati, 'Designation of Archipelagic Sea Lanes According To the United Nations Convention on the Law of the Sea 1982 (Indonesia Archipelagic Sea Lanes', 10.4 (2016), 48–54.

⁵ Etty R Agoes, 'Upaya Diplomatik Indonesia Dalam Penetapan Alur-Alur Laut Kepulauan Indonesia (ALKI)', 6.3 (2009) <<https://doi.org/10.17304/ijil.vol6.3.207>>.

⁶ Kementerian Kelautan dan Perikanan Republik Indonesia, 'Peraturan Menteri Kelautan Dan Perikanan Republik Indonesia Nomor 22 Tahun 2021 Tentang Penyusunan Rencana Pengelolaan Perikanan Dan Lembaga Pengelolaan Perikanan Di Wilayah Pengelolaan Perikanan Negara Republik Indonesia', *Kementerian Kelautan Dan Perikanan Republik Indonesia*, 2021, 1–29 <<https://jdih.kkp.go.id/peraturan/1457d-permen-kp-22-tahun-2021.pdf>>.

⁷ Kementerian Kelautan dan Perikanan Republik Indonesia.

⁸ David Harasti Id and others, 'Illegal Recreational Fishing Causes a Decline in a Fishery Targeted Species (Snapper : *Chrysophrys Auratus*) within a Remote No-Take Marine Protected Area', 2019, 1–20.

⁹ keyuan zou and yen-chiang chang, *preserving community interests in ocean governance towards sustainability, preserving community interests in ocean governance towards sustainability*, 2022 <<https://doi.org/10.3390/books978-3-0365-2830-4>>.



An archipelagic State's sovereignty extends to the waters bounded by the archipelagic baselines drawn in accordance with article 47 of the UN Convention on the Law of the Sea 1982, which are referred to as archipelagic waters, regardless of their depth or distance from the coast, and this sovereignty extends to the airspace above the archipelagic waters, as well as the seabed and land beneath it, and the wealth contained therein.¹⁰ The state's sovereign status over its territory must be declared¹¹. Although the state has complete control over its natural resources, it cannot exercise that control as it sees fit. Relationships between countries frequently result in conflicts that can harm other countries, which can lead to liability if international agreements are violated. The Indonesian Archipelagic Sea Lane (ALKI II) includes the Sulawesi Sea, Makassar Strait, Lombok Strait, and Lombok Sea, connecting water traffic and international trade from Africa to Southeast Asia and Japan, as well as Australia to Singapore, China, and Japan, and vice versa. The polemics that arose as a result of the establishment of the archipelagic sea lanes led to the perception that ALKI was reducing Indonesia's sovereignty and imposing obligations and burdens on Indonesia¹². to provide a sense of security for foreign ships passing through. Foreign vessels, on the other hand, are required to pass through the strait without taking its fish resources. Violation of another state's rights or obligations can result in liability for the loss or damage suffered under international treaties agreed upon by the states. So effective action is needed to resolve disputes (Rochmani, 2023)¹³ As a result, island states must ensure the security and orderliness of their waters in order for foreign vessels to pass through.

The Government of Indonesia issued Presidential Regulation No.83 of 2020 concerning the Makassar Strait Interregional Zoning Plan in the hope that it would provide space for the community and bring about changes in marine spatial planning that would be synchronized with the development of the Makassar Strait area. Furthermore, as a reference for issuing business licenses. The Makassar Strait's location is currently very strategic for people traveling to East Kalimantan's National Capital City (IKN), and it is becoming increasingly congested by ships. If not taken into account, the use of the

¹⁰ yulia, siti zubaidah, and hastrie ainun, 'illegal fishing by foreign vessels against fish resources in sulawesi sea waters, indonesia', *top conference series: earth and environmental science*, 860.1 (2021) <<https://doi.org/10.1088/1755-1315/860/1/012095>>.

¹¹ alina miron, 'the archipelagic status reconsidered in light of the south china sea and düzgit integrity awards', *indonesian journal of international law*, 15.3 (2018) <<https://doi.org/10.17304/ijil.vol15.3.729>>.

¹² maria maya lestari, 'study of the right of foreign ship against state sovereignty (case study indonesia)', *indonesian journal of international law*, 14.4 (2017) <<https://doi.org/10.17304/ijil.vol14.4.704>>.

¹³ wenny megawati, adi suliantoro, and dyah listyarini, 'deep – ecology approach to environmental protection and saving through environmental case settlement in economia ambiental através de resolução de casos', 2023, 1–26.



Makassar Strait as ALKI II will cause controversy because Indonesia must be able to provide security guarantees in ALKI, and other options may invite foreign involvement. Se Furthermore, environmental and political issues pose a threat to some Makassar Strait islands because they are contested and privatized. This is because it has not become a priority program in the marine and fisheries sector as a result of poor administrative oversight.¹⁴ As a result of the high level of space utilization and multisectoral interests, the Makassar Strait as RZKAW will be an important water area.

Based on the background, the title of this study is The Position of the Archipelagic Sea Lanes in the Makassar Strait Interregional Zoning Plan Policy. The issues that arise are as follows: a) What is the State of Indonesia's responsibility in the use of archipelagic sea lanes? b) How is the utilization of archipelagic sea lanes in the Makassar Strait RZKAW?

2 THEORITICAL FRAMEWORK

Archipelagic sea lanes are waters that exist only in island countries and are used for ship transport. Aside from that, fishing is done to fulfill people's needs. Maritime transport and fishing are two of the most important international activities for island nations¹⁵. As a ratifying country of the 1982 Convention on the Law of the Sea, Indonesia has implemented the Convention in Law Number 6 Year 1996 on Indonesian Waters. One of the substances is that Indonesia must determine the sea lanes, including flight routes on them, that are suitable for implementing the crossing of the archipelagic sea lanes by determining their axes, which are included in the announced sea map. Government Regulation No. 37 of 2002 on the Rights and Obligations of Foreign Vessels and Aircraft in Exercising the Right to Cross the Archipelagic Sea Route through the Established Archipelagic Sea Route is a follow-up to the preceding law. According to Article 11 of Government Regulation Number 37 of 2002, there are three ALKI routes in Indonesian waters, one of which is ALKI II, which passes through the Makassar Strait. The ALKI II route is as follows: The shipping route from the Sulawesi Sea to the Indian Ocean via the Makassar, Flores, and Lombok Straits. As a result, the archipelagic country has an archipelagic sea route. As a result of the international community's recognition of

¹⁴ Tentang Kami, 'Beranda Unit Kerja Informasi Publik Publikasi Peraturan Pembahasan Kunjungan Kerja Ke Kepulauan Balabakang'.

¹⁵ Lalu Tri Wijaya Nata Kusuma and Fu Shiang Tseng, 'Analysis of the Impact of the "Sea Toll" Program for Seaports: Resilience and Competitiveness', *Applied Sciences (Switzerland)*, 9.16 (2019) <<https://doi.org/10.3390/app9163407>>.



the archipelagic state principle, the archipelagic state must allow foreign ships to pass through its archipelagic waters because the route was a traditional route used in international shipping in the past. Previous research has discovered that the establishment of archipelagic sea lanes has economic, environmental, social, legal, political, and security implications. As a result, the legal and engineering aspects of the sea require improvement¹⁶. Meanwhile, St. Fatmawati L et al. state that while the rights and obligations of foreign vessels passing through the archipelagic sea lanes have been regulated in international and national law, the high intensity of foreign vessels passing through the ALKI has not been resolved by existing regulations because existing regulations are inadequate and ineffective in solving problems in the ALKI¹⁷.

There has been a maritime assumption that Indonesia's ambiguous position regarding the designation of its three archipelagic sea lanes, stating partial designation, has meant that for maritime nations, any route used for international navigation is considered an archipelagic sea lane.¹⁸ As a result of the ineffectiveness of existing regulations, the existence of ALKI continues to cause issues.

Based on Article 1 paragraph (1) of Presidential Regulation No. 83 of 2020, an inter-regional area is a sea area encompassing two or more provinces in the form of bays, straits, and seas. According to Article 30 of Perpres No.83 of 2020, one of the designations of the sea is as a sea route. Furthermore, Article 33 paragraph (1) specifies that the sea lanes will be used as sea shipping lanes, pipelines and submarine cables, and for the migration of marine biota. The sea route has a number of advantages.

3 METHODOLOGY

This study employs a qualitative approach and focuses on normative and empirical aspects. The normative aspect employs descriptive-exploratory secondary data in the form of written data from international agreements such as UNCLOS 1982, IMO, and others that regulate the use of the Makassar Strait, as well as national legal sources in the form of laws and regulations issued by the Government of Indonesia governing waters, marine, fisheries, and others. The empirical aspect employs primary data, with an

¹⁶ Siti Merida Hutagalung, 'Penetapan Alur Laut Kepulauan Indonesia (Alki): Manfaatnya Dan Ancaman Bagi Keamanan Pelayaran Di Wilayah Perairan Indonesia', *Jurnal Asia Pacific Studies*, 1.1 (2017), 75 <<https://doi.org/10.33541/japs.v1i1.502>>.

¹⁷ Faculty Law and Universitas Sulawesi Tenggara, 'RIGHTS AND DUTIES OF FOREIGN SHIPS TO', 08.1 (2023), 25-40.

¹⁸ Kaye, S. B. (2020). Indonesia's Archipelagic Sea Lanes: International Law and Practice. *Australian Naval Review*, 2020 (1), 10-30.



emphasis on in-depth interviews, and the data analysis is qualitative. This study was carried out in the Makassar Strait, one of the archipelagic channels that connect the Sulawesi Sea to the north and the Java Sea to the south. Because there are various interests in the Makassar Strait, different regulations govern the activities of ships, fishermen, and other users

4 RESULT AND DISCUSSION

4.1 RESPONSIBILITY OF THE INDONESIAN STATE IN THE UTILIZATION OF ARCHIPELAGIC SEA LANES

The ratification of UN Convention on the Law of the Sea 1982 strengthens Indonesia's position as an archipelagic state. According to UNCLOS 1982, an archipelagic state is one that consists entirely of one or more islands. An archipelagic state has the ability to draw a straight line around the outermost islands and create new legal rules. The UNCLOS 1982 concept of an archipelagic state is intended to facilitate navigation in maritime countries¹⁹. Furthermore, the legal status of archipelagic waters, including sea lanes, will not be affected by the right of passage of archipelagic sea lanes. UNCLOS 1982 limits a state's sovereignty in its archipelagic waters by imposing obligations and guarantees, as stated in Article 52 paragraph (1), namely that the archipelagic state must respect the right of ships from all countries to pass peacefully through its waters. The obligation, however, is in accordance with the authority granted to the archipelagic state in paragraph (2), which states that the archipelagic state may suspend peaceful passage for foreign vessels in certain parts of its archipelagic waters if the suspension is required for the country's safety, regardless of the flag of the ship. Furthermore, Article 53 paragraph (2) requires island states to respect the right of passage of archipelagic sea lanes for all types of ships and aircraft from other countries through their island waters, as well as flight routes over the sea lanes. According to paragraph (1), the island state has authority over the archipelagic sea lanes and flight routes over the archipelagic sea lanes. According to Article 53 paragraph (12), if the archipelagic state does not determine the archipelagic sea lanes and flight routes, foreign ships and aircraft can still exercise their rights by using international shipping routes. Based on those

¹⁹ Vivien Jane and Evangelio Cay, 'The Maritime Commons : Digital Repository of the World Archipelagic Sea Lanes Passage and Maritime Security in Archipelagic Southeast Asia Republic of the Philippines', 2010.



articles' explanations, island states have the authority to regulate, supervise, protect, and manage the sea in order to protect the country's interests at sea.

As a consequence of the international community's recognition of the archipelagic state principle, the archipelagic state must provide access for foreign ships that cross its archipelagic waters. As a result, the Indonesian government is obligated to accommodate international shipping interests in three rights, namely the right of peaceful passage, the right of transit passage, and the right to cross the archipelagic sea route. Furthermore, Indonesia's geographic location between the Pacific Ocean, the South China Sea, and the Indian Ocean is a popular sea route for foreign ships²⁰. Furthermore, because it involves the security and order of the Indonesian state, shipping in ALKI requires special attention. According to several cases, transnational crimes, including terrorism, are potential threats to the sea. Terrorist groups use the sea as a platform for their movements, and terrorism hot spots are located near ALKI II. The small islands in the Makassar Strait are ideal for international terrorists to hide and conduct their operations²¹. Also, there is fuel oil smuggling. According to BPH Migas data, there were 3,051 cases of illegal fuel smuggling with 16,747 kilo liters of evidence from January 2013 to August 2018. The estimated state loss is Rp 144.93 billion. This can have a negative impact on the environment and quality of life of marine resources²². In Indonesia's maritime territory, piracy is also a common crime. There were 43 incidents of piracy in 2017. Indonesia holds the top spot in ASEAN²³. Similarly, illegal fishing, smuggling of goods, and drug trafficking have harmed the country in recent years. This is a type of economic crime that occurs in Indonesian waters, reflecting the insecurity of Indonesian seas. To address this, attention is required in a variety of sectors, including through legal instruments and subsystems that are interconnected and work together to combat maritime crime. Repairing the situation as a result of losses caused by wrongdoing can take the form of restitution, compensation, punishment of those who should be held accountable, or apologies and other similar actions²⁴. The state can absolve itself of responsibility by

²⁰ dewi nur aisyah and others, 'a spatial-temporal description of the sarscov-2 infections in indonesia during the first six months of outbreak', *plos one*, 15.12 december (2020), 1–14 <<https://doi.org/10.1371/journal.pone.0243703>>.

²¹ nainggolan poltak partogi, 'kebijakan poros maritim dunia joko widodo dan implikasi internasionalnya', *politica*, 6.2 (2016), 167–90.

²² milad abdelnabi salem, ali alshawtari, and alina shatila, 'sustainable development in gcc (do logistics indicators desenvolvimento sustentável no ceg (os indicadores de logística importam ?)', 2023, 1–27.

²³ bakamla ri, 'peraturan kepala badan keamanan laut republik indonesia nomor 7 tahun tentang rencana strategis badan keamanan laut republik indonesia tahun 2020-2024', 2020, p. 139 <<https://bakamla.go.id/>>.

²⁴ Xhon Skënderi and Sara Vora Hoxha, 'Setting Sail with the Rome I Regulation, Article 5 and Cross-Border Contracts of Carriage', *Lex Portus*, 9.2 (2023), 7–18 <<https://doi.org/10.26886/2524-101X.9.2.2023.1>>.



resolving the situation. State responsibility is divided into two categories: direct responsibility (actions taken by the state) and indirect responsibility (actions taken by the state to prevent its citizens and foreign citizens on its territory from taking actions that could harm the state).²⁵ Thus, ALKI poses a threat to Indonesian waters because it has the potential to disrupt Indonesian territorial security and order.

As a country that has ratified UNCLOS 1982, Indonesia has legal obligations and responsibilities to provide peaceful passage rights, transit rights, and rights to archipelagic sea lanes. The responsibility is a state's obligation to other countries as a result of a violation or negligence that has an impact on other countries, as agreed upon in international treaties²⁶. The provisions of the archipelagic sea lanes regulated in UNCLOS 1982, on the other hand, have been implemented by the Government of Indonesia with Law No.6 of 1996, followed by Government Regulation (PP) No.37 of 2002. In addition to the Indonesian State's obligation to establish the archipelagic sea lane, individuals or legal entities, as well as the flag state of origin of foreign vessels, are liable for loss or damage caused by non-compliance with the provisions of the archipelagic sea lane in Indonesian waters.²⁷ Primary and secondary rules underpin this principle. International treaties or other sources of law that contain the rights and obligations of legal subjects interested in a legal act are examples of primary rules. Meanwhile, secondary rules govern when primary rules are broken. The law of state responsibility classifies secondary rules²⁸. State responsibility is inextricably linked to state jurisdiction. Article 2 of the Responsibility of States for Internationally Wrongful Acts 2001 states that the actions of a state under international law, namely: (a) can be attributed to the state under international law; and (b) is a violation of international legal obligations. Under international law, action or omission are elements of wrongful acts attributable to the state. The Indonesian government's failure to safeguard or maintain the security and safety of its waters may result in liability under international law. Thus, the Indonesian government has granted foreign vessels the right to transit the archipelagic sea lanes and

²⁵Nicholas Tsagourias and Russell Buchan, 'Research Handbook on International Law and Cyberspace', *Research Handbook on International Law and Cyberspace*, 2021, 1–634 <<https://doi.org/10.4337/9781789904253>>.

²⁶Crawford, James. 2010. "State Responsibility: The General Part." *State Responsibility: The General Part*: 1–825.

²⁷ Menteri Negara Indonesia, 'Peraturan Pemerintah (PP) No. 37 Tahun 2002 Tentang Hak Dan Kewajiban Kapal Dan Pesawat Udara Asing Dalam Melaksanakan Hak Lintas Alur Laut Kepulauan Melalui Alur Laut Kepulauan Yang Ditetapkan Presiden Republik Indonesia', *Jdih Bpk Ri*, 2002.25 (2002), 2002.

²⁸ Dio Boy Tetelepta, Arman Anwar, and Richard Marsilio Waas, 'Pemindahan Penduduk Secara Paksa Dalam Konflik Bersenjata Di Filipina Dan Akibat Hukumnya Menurut Hukum Humaniter Internasional', *TATOHI: Jurnal Ilmu Hukum*, 2.10 (2022), 987 <<https://doi.org/10.47268/tatohi.v2i10.1438>>.



is obligated to maintain their security and order. In contrast, foreign vessels are obligated to pay for losses caused by noncompliance with the provisions of the archipelagic sea lanes.

4.2 UTILIZATION OF ARCHIPELAGIC SEA LANES IN THE MAKASSAR STRAIT INTERREGIONAL ZONING PLAN

Because of its location between two oceans and two continents, Indonesia's islands and seas have become an inseparable unit in terms of defense, economy, social, and cultural development since the Juanda Declaration on December 13, 1957. Approximately 40% of world trade passes through Indonesian straits, including the Makassar Strait, and 90% of world trade is transported by sea. To make it easier for people and goods to move across continents and around the world by using sea shipping. Marine transportation is part of a larger economic activity cluster that can generate additional economic value. The oceans serve as the primary modes of transportation for global trade. The area along these routes is also not free of potential security threats to the Unitary State of the Republic of Indonesia's sovereignty.²⁹

As shown in shipping data, ships crossing Indonesian waters in 2021 will total 50,659 domestic ship visits and 597 foreign ship visits.³⁰ Ship visits to the Makassar Strait Waters will increase once IKN has relocated to East Kalimantan, which will increase the Indonesian Government's task because it must ensure that its defenses are strong at sea and in the air. In general, enemies will attack from the sea and the air. Ship traffic in the Makassar Strait must be closely monitored. If not foreseen, it may have consequences for state threats and control of marine resources, threatening Indonesia's sovereignty. Illegal fishing activities by foreign vessels and Indonesian Fish Vessels have been detected in Indonesia's fisheries capture and management areas, according to the Indonesia Ocean Justice Initiative.³¹ Furthermore, Indonesia has been a member of the IMO council since 1973, and has ratified international cooperation conventions in the field of maritime safety and security, including marine environmental protection. Transportation security is a major strategic issue for an archipelago with many back doors to secure; both ports

²⁹ Agus Fitriyanto and others, 'Kerjasama Pengamanan Alur Laut Kepulauan Indonesia II (Studi Kasus Sinergi BAKAMLA, TNI Dan Polairud)', *Jurnal Paradigma Polistaat*, 5.1 (2022), 1–15 <<https://doi.org/10.23969/paradigmapolistaat.v5i1.5500>>.

³⁰Badan Pusat Statistik Provinsi Kalimantan Barat, 'Statistik Sosial Dan Kependudukan, Ekonomi Dan Perdagangan 2010-2021', 2021 <<https://kalbar.bps.go.id/>>.

³¹Koran tempo..Illegal Fishing Mararak di Laut Natuna dan Arafura <https://koran.tempo.co/read/info-tempo/475692/illegal-fishing-mararak-di-laut-natuna-dan-arafura>



and shipping lanes are critical for multinational investment activities.³² As a result, the Government of Indonesia must prioritize the defense, security, safety, and protection of the marine environment.

One of RZKAW's functions is to ensure that marine spatial activities run smoothly. The Government of Indonesia's RZKAW is expected to have a significant impact on investment in the marine and fisheries sectors, thereby stimulating economic growth. RZKAW was established by Law No. 32 of 2014. As a result, do not let the Government of Indonesia's zoning plan ignore its responsibility as ALKI II as stipulated in national legislation. The Indonesian government is currently constructing a new capital city in East Kalimantan, which includes parts of Panajam Paser Utara Regency and Kutai Kertanegara Regency. People traveling to IKN will visit the Makassar Strait, which connects East Kalimantan and Sulawesi Island. Thus, it is necessary to plan for defense and security in the face of threats from the sea, air, and land. According to defense observers, IKN security will take the form of Smart Defense and Dual Strategy, as well as a Maritime Virtual Gate in the Makassar Strait. The purpose of this Maritime Virtual Gate is to identify floating and submerged objects in the Makassar Strait that will be transported to IKN.³³ According to data from the Kesyahbandaran and the Port Authority class IV Muara Sabak, up to 36,773 ships of various types pass through the Lombok Strait each year. Because geographically Indonesian waters are open, foreign ships easily escape at the entrance and exit that spread, because the perpetrators of the offense have the opportunity to escape in the sea area bordering other countries or enter the high seas, the existence of the archipelago channel appears to cannot guarantee that the Indonesian State is free from the threat of foreign ships passing through the archipelago sea channel. Indonesia owns 12 sea border areas, including the area around ALKI II, namely Marore Island (Philippines). Therefore, security in the Makassar Strait must be strengthened. Furthermore, the Makassar Strait RZKAW is committed to achieving Certain National Strategic Areas (KSNT) in defense and security. This must be consistent with the Indonesian government's readiness for defense and security in IKN. The implementation is carried out in accordance with Article 10 paragraph (1) of Presidential Regulation No.83 of 2020 concerning the Zoning Plan for the Interregional Area in the Makassar Strait, by effectively managing the Defense Area and paying attention to environmental

³² Rebeca Grynspan, 'See the Review of Maritime Transport 2023', 2023.

³³Ilham Akbar Habibie, *Pembangunan Ibu Kota Baru & Stabilitas Politik Nasional*, 2022.



sustainability. As a result, defense and security in the Makassar Strait must be strengthened because the water area is strategic for ships traveling to IKN.

The concept of archipelagic state, as defined in Article 46 paragraph (1) of the 1982 UN Convention on the Law of the Sea, has been implemented in Article 2 paragraph (1) and (2) of Law No.6 of 1996 Concerning Indonesian Waters, which states that Indonesia is an archipelagic state. Similarly, the rights and obligations of foreign ships and aircraft are governed by Government Regulation No. 37 of 2002 concerning the Rights and Obligations of Foreign Vessels and Aircraft in Carrying Out the Right of Passage through the Archipelagic Sea Route, which is followed by Government Regulation No. 38 of 2002 concerning the List of Geographical Coordinates of the Indonesian Archipelago. Previously, using PP No.38 from 2002, researchers investigated the archipelagic sea lanes. According to the findings, existing regulations do not address the high intensity of ships passing through ALKI. As a result, improvements in the legal and engineering aspects of the sea are required. While this study looks at the rules in the Makassar Strait RZKAW regarding the technical and detailed arrangement of sea space used as a sea lane. RZKAW implements Article 43 paragraph (4) of Law No.32 of 2014 on Maritime Affairs and Article 48 of Law No.32 of 2019 on Marine Spatial Planning. As a result, the permit requirement is a means of allowing activities to use sea space. so far, collisions in the utilization of sea space often occur, such as the breaking of sea cables due to anchoring and fisheries³⁴ The sea channel is one of the regulated marine spaces in the Makassar Strait RZKAW. Parts of ALKI II are used as shipping lanes, including some waters in East Kalimantan Province, Central Sulawesi Province, West Sulawesi Province, and South Sulawesi Province. The utilization of the archipelagic sea lane's sea space is governed by statutory regulations.³⁵ In accordance with this Article, the rights and obligations of foreign ships and aircraft exercising the right to cross the archipelago sea lane continue to be governed by Government Regulation No. 37 of 2002. As a result of being recognized as an archipelagic state, the Indonesian government still guarantees the provision of archipelagic sea lanes. The RZKAW Makassar Strait ensures that all activities in the strait are zone-appropriate. Coastal Waters and Waters Outside Coastal Waters comprise the Makassar Strait RZKAW area. The Coastal Zone and Small Islands Zoning Plan allocates sea space in the form of designations of sea space for General

³⁴ Pengelolaan Ruang and Laut Antarwilayah, 'Pengelolaan Ruang Laut Antarwilayah Ditata', 2023.

³⁵ (Pasal 57 Perpres No.80 tahun 2020)



Utilization Areas, Conservation Areas, sea lanes, and Specific National Strategic Areas. The sea channel in question is a body of water that is used for a variety of purposes, including shipping lanes at sea, underwater pipelines, underwater cable lanes, and marine biota migration lanes. Port Entry Shipping Lanes are at sea shipping lanes. Outside of the Coastal Waters, the Marine Spatial Plan consists of General Utilization Areas, Conservation Areas, and Sea Lanes. While the sea channel in the form of the archipelago sea channel is referred to in the waters outside the coastal waters³⁶. Thus the Makassar Strait RZKAW regulates the archipelagic sea lane while still guided by previous regulations.

The issue of security and order in the archipelagic state, which has been disrupted by the existence of the archipelagic sea route, can be addressed through supervision and law enforcement. It's just that supervision and law enforcement in RZKAW are tailored to the zone's needs. Several agencies and institutions have been assigned to conduct sea space supervision and law enforcement aimed at anyone who violates the rules in the Makassar Strait, and to ensure that the implementation of the Makassar Strait RZKAW does not impede ships' ability to pass through ALKI II. Furthermore, the Indonesian government can use its territorial jurisdiction to protect its archipelagic sea lanes from various types of maritime crimes and to ensure the security and safety of ships passing through its waters. This is a form of direct responsibility of the State of Indonesia in international law stipulated in UNCLOS 1982, and outlined in Article 19 of Law No.6 of 1996 that the government needs to determine the archipelagic sea lane, followed by Government Regulation No.37 of 2002 that contains regulations that must be obeyed and avoided by ships exercising the right to cross the archipelagic lane. Presidential Regulation No.83 of 2020 is a government policy designed to ensure smooth sea transportation, the installation of submarine cables and pipes, and the protection of migratory natural resources. The zoning plan in the Makassar Strait has been in effect for 20 years. The strategy for structuring sea transportation from threats and safety at sea by increasing the effectiveness of guarding and ensuring the security and safety of the archipelagic sea route by paying attention to the marine environment, and ensuring the right to cross the Makassar Strait archipelagic route. The sea area owned is not only for shipping lanes, but also for access to state assets under development. According to the

³⁶ Direktorat Jenderal Pengelolaan Ruang Laut 2020)



findings of the researcher's interview with one of the personnel with authority at sea³⁷: that the responsibility for securing ALKI II involves a large number of personnel from various agencies with authority to secure state assets at sea. As a result of a lack of communication and coordination with various agencies with authority, the security conditions at ALKI II are suboptimal, resulting in overlapping authority. The Navy, Water and Air Police, Ministry of Maritime Affairs and Fisheries, Ministry of Transportation, Director General of Customs, Director General of Immigration, Ministry of Foreign Affairs, National Counter Terrorism Agency, National Border Management Agency of the Republic of Indonesia, and National Disaster Management Agency are the nine agencies in charge of guarding and securing ALKI II. Communication and rule harmonization between agencies and institutions are required for the successful implementation of security and surveillance operations and tasks at ALKI II.

The Marine Security Agency (Bakamla) has been established as the coordinator of security and safety patrols at sea, in accordance with Article 2 of Government Regulation No.13 of 2022 on the Implementation of Security, Safety, and Enforcement in Indonesian Waters and Indonesian Jurisdictional Areas. The above-mentioned Government Regulation aims to provide legal certainty, protect maritime security and safety, and improve the effectiveness and efficiency of patrol implementation. Bakamla's authority is to stop, arrest, examine, and bring and hand over the ship to the appropriate agencies with the authority to carry out the next process. Bakamla is tasked as a coordinator in charge of pursuing, stopping, examining, arresting, and handing over criminals to the appropriate agencies for legal proceedings under Article 4 paragraph (2) of the Government Regulation. According to researchers, Bakamla's duties as a coordinator are appropriate for carrying out coordination tasks in conducting integrated supervision of RZKAW because sea space is not only for sea lanes but also access to state assets in sea development, necessitating collaboration with all agencies. Bakamla, for example, can take action against ships that engage in illegal fishing in the country. As a result, agencies and institutions with authority at sea can collaborate to maintain security and safety in the Makassar Strait as part of an archipelagic state with rights and obligations, as well as the rights and obligations of other countries as stipulated in UNCLOS 1982 and implemented in Indonesian legislation. The presence of security and safety guards at RZKAW in the Makassar Strait helps to secure state assets at sea while

³⁷ Wawancara Personil Dinas Potensi Maritim Pangkalan Utama TNI Angkatan Laut VI, tanggal 22 Juli 2022



also providing a sense of security for passing ships and requires foreign ships to respect the island state's laws and regulations. Violations of the archipelagic state's rights or obligations, as well as foreign vessels, can result in liability for losses or damage based on international agreements reached by the UNCLOS 1982 participating countries. As an archipelagic state, the Government of Indonesia has provided sea lanes in the Makassar Strait RZKAW for foreign ships to pass through, as well as ensuring the security and safety of ships passing through the Makassar Strait through the involvement of agencies and institutions with authority at sea to conduct integrated supervision.

The use of the archipelagic sea lane in the Makassar Strait RZKAW is the responsibility of the Indonesian state, which is an archipelagic state, and continues to be governed by Government Regulation No. 37 of 2002. The sea area in RZKAW is not only for sea lanes, but also for access to state assets in development by not ignoring archipelagic sea lanes, so a permit is required to use sea space in RZKAW. The RZKAW's large amount of sea space can result in overlapping authority when it comes to supervision and law enforcement. As a result, integrated supervision and law enforcement are required to unite the interests of institutions or agencies with authority at sea in order to ensure legal certainty, provide security and safety protection, and implement patrols in an effective and efficient manner.

5 CONCLUSION

The use of the archipelagic sea lane in the Makassar Strait RZKAW is the responsibility of the Indonesian state, which is an archipelagic state, and continues to be governed by Government Regulation No. 37 of 2002. The sea area in RZKAW is not only for sea lanes, but also for access to state assets in development by not ignoring archipelagic sea lanes, so a permit is required to use sea space in RZKAW. The RZKAW's large amount of sea space can result in overlapping authority when it comes to supervision and law enforcement. As a result, integrated supervision and law enforcement are required to unite the interests of institutions or agencies with authority at sea in order to ensure legal certainty, provide securit



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