

Reformulation of Regulations in the Context of Structuring the Indonesian Maritime Security Regime

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Abstract

This article discusses the reformulation of regulations in the context of structuring the Indonesian maritime security regime. The research employs a qualitative method using secondary data sources obtained through a literature review. The specific background of problems addressed in this research includes issues related to IUU fishing and other maritime security threats faced by Indonesia. The main problem addressed is the lack of cross-sectoral coordination and frequent differences in perception of authority among law enforcement agencies at sea. The research objective is to examine how restructuring Indonesia's maritime security regime can be achieved through reformulation of overlapping regulations and harmonization of authority among maritime security agencies. The article concludes that the restructuring of Indonesia's maritime security regime can be achieved through these measures.

Keywords: *reformulation, regulations, Indonesian maritime security regime.*

INTRODUCTION

Indonesia, as the largest archipelagic country in the world with extensive maritime territories and potential, faces various challenges in maintaining its maritime security. One of these challenges is the rampant illegal, unreported, and unregulated (IUU) fishing. In addition to IUU fishing, Indonesia also faces other maritime security threats such as piracy, human smuggling, drug smuggling, environmental pollution, accidents at sea, natural disasters, interstate disputes, maritime terrorism, and weapon proliferation. These issues require serious attention from Indonesia to realize national and regional stability. However, the handling of maritime law enforcement is still constrained by the lack of cross-sectoral coordination and frequent differences in the perception of authority among law enforcement agencies at sea. This situation makes it highly possible for miscoordination and disharmony to occur, causing security and law enforcement at sea to be ineffective and inefficient.

This research aims to examine the reformulation of regulations in the context of structuring the Indonesian maritime security regime. The study employs a qualitative method using secondary data sources obtained through a literature review. The focus of the discussion is directed towards a general overview of the urgency of reformulating regulations that serve as the legal basis in the implementation of the maritime security regime in Indonesia. The specific background of problems addressed in this research includes issues related to IUU fishing and other maritime security threats faced by Indonesia. The main problem addressed is the lack of cross-sectoral coordination and frequent differences in perception of authority among law enforcement agencies at sea. The research objective is to examine how restructuring Indonesia's maritime security regime can be achieved through reformulation of overlapping regulations and harmonization of authority among maritime security agencies.

The theoretical basis for this research is derived from various sources related to maritime security and law enforcement. Maritime security is a small part of national security, so a country's national security practices will determine how maritime security is implemented in national policy. The concept of maritime security itself started to surface in conjunction with the terrorist attacks of September 11, 2001 (commonly known as 9/11) in New York, United States. As a follow-up, the United States Government formulated the Maritime Security Policy in 2004 as a consequence of the growing global concerns about maritime terrorism. In conclusion, this research provides a comprehensive analysis of the reformulation of regulations in the context of structuring the Indonesian maritime security regime. By examining various aspects related to maritime security and law enforcement, this research provides valuable insights into how Indonesia can effectively address its maritime security challenges.

RESEARCH METHODS

The research method used in this study is a qualitative method, which is a research approach aimed at understanding phenomena experienced by research subjects, such as behavior, perceptions, motivations, actions, and others, holistically and through descriptive language in the form of words within a specific natural context, utilizing various scientific methods. The data sources in this study use secondary data sources, which indirectly provide data to the data collector, for example, through other people or documents. Secondary data sources are obtained through a literature review of books, journals, cooperation documents, news from print and electronic media, focusing on discussions related to the governance of the maritime security regime in Indonesia, security theory, and the concept of maritime security, as well as laws and regulations as a form of government policy related to the focus of the research discussion. The data analysis techniques used are data display, data reduction, and finally conclusions. Based on the secondary data sources obtained, the focus of the discussion is directed towards a general overview of the urgency of reformulating regulations that serve as the legal basis in the implementation of the maritime security regime in Indonesia.

RESULT AND DISCUSSION

Maritime Security Concept And Maritime Security Regime

The emergence of maritime security discourse began with the understanding of the increasingly strategic role of maritime areas for the interests of nations worldwide. The concept of maritime security itself started to surface in conjunction with the terrorist attacks of September 11, 2001 (commonly known as 9/11) in New York, United States. As a follow-up, the United States Government formulated the Maritime Security Policy in 2004 as a consequence of the growing global concerns about maritime terrorism (Nurdiansyah, 2019). The increasing recognition of maritime security was also supported by the rise in piracy activities off the coast of Somalia between 2008 and 2015. The escalation of piracy in international Sea Lines of Communication (SLOC) posed risks to the smooth flow of global trade, with 90% of supplies transported via sea routes (Tobing, 2020). The popularity of the maritime security concept was further driven by tensions in the South China Sea (SCS) and East China Sea regions. Countries surrounding these waters began to enhance their naval capabilities to defend their respective territorial claims, raising concerns about the security of SLOC usage in both strategic maritime regions (Mulyadi, 2021).

Maritime zones have become the primary center of international economic interaction, making maritime security issues crucial for many countries worldwide. Maritime security

stability is essential for all nations to protect their national interests, which will inevitably impact their national development (Susanto & Munaf, 2014). A case example in Kenya demonstrates how disrupted maritime security can significantly affect a nation's economy and development. Between 2008 and 2020, Kenya faced various maritime security threats. Piracy alone caused a significant decline in cruise ship visits to Kenyan waters, dropping from 35 visits in 2008 to zero visits in 2012. This loss severely impacted Kenya's economy, amounting to around USD 400 million for cruise tourism and USD 15 million for cruise ship transit annually (Charo, 2021).

Maritime security is a small part of national security, so a country's national security practices will determine how maritime security is implemented in national policy (Octavian & Yulianto, 2014). Although maritime security issues are currently a hotly debated topic, no party has proposed a comprehensive definition of maritime security because the subject is considered too sensitive, especially concerning a country's maritime boundaries. According to Feldt, et al. (2013), although the concept of maritime security is not yet well-established, it is essential to differentiate between maritime security and maritime safety. Maritime security concerns preventive and responsive measures to protect a nation's maritime domain from security threats and other legal violations, while maritime safety focuses on efforts to prevent or at least minimize the impacts of maritime incidents and natural disasters. Furthermore, they argue that maritime security is the responsibility borne by the government through actions taken or policies formulated in the interest of the state to achieve its national aspirations and objectives (Feldt, et al., in Sitorus, 2021).

Bueger (2014) refers to maritime security as a sort of "buzzword" due to many parties inadequately explaining the meaning and purpose of the term. The terminology of maritime security provides diverse meanings for individuals or organizations, depending on organizational interests or political and ideological biases. Bueger proposes three crucial frameworks for formulating the concept of maritime security, namely: the maritime security matrix, the securitization framework, and security practice and communities of practice. Through the maritime security matrix, entities can map how to formulate their maritime security in four dimensions, namely national security, economic security, human security, and the marine environment.

While the maritime security regime is defined as a "group of states and/or organizations that cooperate by following a framework of agreed-upon rules and procedures to ensure security in the maritime domain" (Levien et al., 2012). This statement is reinforced by Muhibat (2020), who asserts that "maritime safety has long been governed by maritime security regimes through a set of rules, norms, principles, and procedures. The international maritime security regime integrates various international maritime safety practices, establishes global expectations, and firmly regulates them." The maritime security regime comprises a series of regulations, institutions, or governance that includes "principles," "norms," "rules," and "joint decision-making procedures" within formal or informal, explicit or implicit organizations or institutions, aiming to control the behavior of regime member states concerning the maritime domain to meet their expectations in achieving maritime security and safety interests. Principles represent shared beliefs among regime members about the truth, facts, and/or causes of an issue or problem. Norms are standards of behavior elaborated based on the rights and obligations of regime members in addressing a problem. Rules are defined as specific provisions concerning obligations or prohibitions that govern the behavior of regime members bound by norms. Decision-making procedures become the common practice of regime members in making and implementing joint decisions on agreed-upon principles, norms, and rules.

Indonesia's Maritime Security Problem And Its Maritime Law Enforcement

One of the challenges faced by Indonesia is the rampant illegal, unreported, and unregulated (IUU) fishing. Recently, a foreign vessel flying the Vietnamese flag, operating without official permission using tiger fishing nets, was apprehended by the PSDKP Patrol Vessel, Ministry of Maritime Affairs and Fisheries in the Indonesian Exclusive Economic Zone (ZEEI) of the North Natuna Sea on March 27, 2023 (Hamapu, 2023). IUU Fishing perpetrators employ various methods in carrying out their criminal activities, such as 1) forging documents; 2) using dual flags and dual registration; 3) fishing without permission; 4) employing foreign captains and crew members; 5) registering foreign Pump Boats as Indonesian vessels and forging crew documents; 6) falsifying catch reports; 7) using prohibited fishing gear, and more. These crimes can be committed individually or in combination. The Task Force for the Eradication and Capture of Illegal Fishing 115 (Task Force 115) in the 2021 BPS states that IUU Fishing crimes are often related to other crimes such as 1) illegal fuel transactions at sea; 2) immigration violations; 3) customs offenses; 4) money laundering; 5) tax offenses; 6) corruption; 7) slavery and human trafficking; 8) smuggling and drug trafficking; 9) labor-related offenses. These crimes not only cover civil matters but also criminal ones (Santosa, 2019).

Hasanah & Ade (2018) point out that there is still much work to be done for national maritime affairs, including the management of small islands which remains minimal, with 34 small Indonesian islands being managed by foreigners; rampant illegal fishing by foreign vessels. However, these crimes have been followed up firmly by sinking 488 foreign vessels from 2014 to 2018, with 276 illegal Vietnamese vessels dominating; marine pollution, such as 37 oil spill cases that occurred from 1998-2017 and a total of 9 million tons of waste ending up in the sea per year; the negotiation process for maritime boundaries with nine neighboring countries that is difficult to resolve even though discussions have been ongoing for over 30 years; and international island disputes, where 60% of the islands in Indonesia are vulnerable to foreign theft, and four islands are claimed by other countries and have disappeared from the map.

Discussing national security in Indonesia cannot be separated from maritime security. This is because maritime security is a small part of national security, and a country's national security practices determine its maritime security within national policies (Octavian & Yulianto, 2014). From the perspective of maritime security in the region, Indonesia's strategic position, combined with its status as the largest archipelagic country in the world with extensive maritime territories and potential, requires Indonesia to pay serious attention to maritime security issues, particularly maritime security in the region. This attention needs to be given seriously because it is related to national interests, namely the creation of national security stability and regional security, especially in the Southeast Asian region, so that Indonesia can continue its national development without being disrupted by an unfavorable regional security situation (Khanisa & Farhana, 2018)

Table 1. Types of Maritime Threats

No.	Type of Threat	Intensity	Form	Origin
1.	IUUF	H	P, Ec, En	F, D
2.	Human Smuggling	H	P, Ec	F, D
3.	Drug Smuggling	H	P, Ec	F, D
4.	Piracy	H	M, Ec	F, D

5.	Environmental Pollution	H	Ec, En	F, D
6.	Accident at Sea	H	Ec	F, D
7.	Natural Disasters	H	Ec, En	D
8.	Inter-state Disputes	M	M, P, Ec	F
9.	Maritime Terrorism	M	M, P, Ec	F, D
10.	Weapon Proliferation	L	M, P, Ec	F, D

Source: adapted from Jurnal Pertahanan, Vol 6, No. 2, Year 2020 (Unhan RI, 2020)

Intensity: H = High, M = Medium, L = Low

Form: P = Political, Ec = Economic, M = Military, En = Environmental

Origin: F = Foreign, D = Domestic

Various maritime security issues certainly require Indonesia's attention as part of the countries in the region, in its interest to realize national and regional stability. Indonesia's geographic position, located in the middle of the Southeast Asian region, and its position within ASEAN as *primus inter pares*, make Indonesia's policies and responses to maritime security issues highly anticipated. Moreover, Indonesia holds the chairmanship of ASEAN in 2023. On the other hand, Indonesia's strategic position also makes it a country contested for influence by major powers. In such a situation, Indonesia is often perceived as being caught between the interests of major regional powers competing to increase their influence. This could also mean that Indonesia, which covers two-thirds of the Southeast Asian region, is a key stabilizer for the region. Therefore, the maritime security situation in Indonesia's jurisdictional waters serves as a barometer for the maritime security situation in the region, particularly Southeast Asia (Ali, 2014).

As a country whose maritime territories border the Indian Ocean, the Pacific Ocean, and the South China Sea, it is not an exaggeration to say that Indonesia's waters are an essential part of the world's maritime transit routes, especially as international communication and trade routes, as its territory constitutes the majority of the region. Geopolitically, Indonesia's position as an archipelagic country located in such a strategic location must accommodate international interests through the three Indonesian Archipelagic Sea Lanes (ALKI) and four Choke Points that must not be disrupted, as Indonesia's territory covers two-thirds of the Southeast Asian region. This means that Indonesia has an obligation to provide part of its maritime territory for international navigation interests based on the peaceful passage, transit passage, and archipelagic sea lane passage regimes according to the United Nations Convention on the Law of the Sea (UNCLOS) 1982 (Buntoro, 2012).

Indonesia has numerous legal policies in place to protect maritime security. At least 24 (twenty-four) Laws and 2 (two) sectoral Government Regulations (PP) have been identified relating to maritime issues (Adyatama & Chairunnisa, 2020). However, the abundance of existing legal policies does not guarantee a reduction in the number of maritime crime cases. This is because some of the policies in the form of Laws and PPs overlap or intersect in their implementation. In efforts to enforce the law at sea, Indonesia has government agencies responsible for regulating and ensuring maritime security and enforcing the law based on existing legislation. There are thirteen (13) government agencies related to these responsibilities. This number is quite large compared to other countries. These thirteen agencies are divided into two groups: the first group has patrol units at sea, and the second group does not. The agencies with sea patrol units include the Indonesian Navy (TNI AL); the Directorate of Marine Police (Indonesian National Police); the Directorate General of Sea Transportation (Ministry of Transportation of the Republic of Indonesia); the Directorate

General of Marine Resources and Fisheries Surveillance (Ministry of Maritime Affairs and Fisheries of the Republic of Indonesia); the Directorate General of Customs and Excise (Ministry of Finance of the Republic of Indonesia), and the Indonesian Maritime Security Agency (Bakamla). The seven agencies without sea patrol units include the Directorate General of Forest Resources Control and Conservation (Ministry of Environment and Forestry of the Republic of Indonesia); the Directorate General of Immigration (Ministry of Law and Human Rights of the Republic of Indonesia); the Ministry of Agriculture of the Republic of Indonesia; the Ministry of Energy and Mineral Resources of the Republic of Indonesia; the Ministry of Health of the Republic of Indonesia; the Attorney General's Office of the Republic of Indonesia, and the Judiciary (Dahuri, 2022).

The involvement of numerous agencies in maintaining maritime security often confuses maritime service users, such as commercial vessel operators, especially in enforcing the law due to bureaucratic complexities when handling legal violations at sea. They often complain about the numerous inspection procedures by officers from various maritime law enforcement institutions their commercial vessels must undergo. These inspections often result in vessel detentions (Sari, 2019). For commercial vessel operators, vessel detentions at sea can be categorized as navigation security hazards because they result in significant losses and risk of large claims, including 1) substantial ship delay costs borne by the ship owner; 2) relatively complicated and convoluted cargo owner claim procedures; 3) increased consumable costs (crew or ship logistics) borne by the ship owner during vessel detention; 4) reduced or damaged cargo quality during vessel detention; and 5) a high risk of defaulting on bank payments due to the vessel's inability to obtain freight or cargo transport services (Samad, 2023).

This situation has arisen because, before the Law Number 32 of 2014 on Maritime Affairs was enacted, jurisdiction for handling legal violations in the legal area was fragmented across various agencies. On the other hand, there is an agency mandated to coordinate among these institutions, Bakamla, based on Law Number 6 of 1996 on Indonesian Waters, which has been declared inapplicable since the enactment of Law Number 32 of 2014 on Maritime Affairs (Nurdin, 2022). The absence of a single, specialized agency authorized for maritime law enforcement, as seen in other countries, results in the handling of maritime legal violations in Indonesia sometimes requiring lengthy and convoluted procedures. Other countries, such as the United States, Japan, South Korea, Malaysia, and many others worldwide, have a single agency called the Coast Guard or Coast Maritime with full authority in maritime law enforcement.

Indonesia actually has an institution similar to the Coast Guard or Coast Maritime found in other countries, namely the Indonesian Maritime Security Agency or more commonly known as Bakamla. However, in its implementation, Bakamla still faces limitations in addressing maritime issues. This is due to Law Number 32 of 2014 on Maritime Affairs and Presidential Regulation Number 178 of 2014 on the Maritime Security Agency, which grant the agency only three authorities: to conduct immediate pursuit; to stop, inspect, arrest, transport, and hand over ships to relevant authorized agencies for further legal proceedings; and to integrate the information system on security and safety in Indonesian waters and jurisdictional areas. The three authorities given to Bakamla are considered weak because the important role expected by the government for Bakamla to achieve synergy and interagency coordination remains unfulfilled. The fact that Bakamla's scope of duties is extensive but does not match its authorities also poses a problem. Additional authorities should be granted to Bakamla, such as direct access to the highest decision-makers in the government, i.e., the President, enabling effective and efficient coordination across various sectors. Moreover,

Bakamla should be granted clear authority in formulating policies and carrying out other tasks (Azis et al., 2016).

However, when mentioning the term Coast Guard, there is an institution established under Law Number 17 of 2008 on Shipping, Articles 276 through 281, called the Sea and Coast Guard (PLP) and currently known as the Sea and Coast Guard Unit (KPLP). The existence of this institution, which falls under the Directorate General of Sea Transportation, Ministry of Transportation of the Republic of Indonesia, and has been designated as a Coast Guard before the establishment of Bakamla, cannot be ignored. It should be noted that before the enactment of Law Number 17 of 2008 on Shipping, the KPLP had already existed since 1942 and was internationally recognized as the sole institution in Indonesia responsible for enforcing laws related to security and safety in Indonesian waters, particularly in the field of shipping (Puspitawati, 2020). As of 2023, the KPLP has 9,000 personnel, 369 patrol ships comprising 7 Class I (60-meter) ships, 15 Class II (42-meter) ships, 51 Class III (28-meter) ships, 53 Class IV (17-meter) ships, and 243 Class V (12-meter) ships. Included among them are 39 ships stationed at 5 Sea and Coast Guard Bases (PPLP) spread across the country, namely Class I Tanjung Priok PLP, Class II Tanjung Uban PLP, Class II Surabaya PLP, Class II Bitung PLP, and Class II Tual PLP. The 39 ships owned by the 5 PLP Bases are specifically assigned to patrol and enforce maritime laws, both concerning Indonesian-flagged ships and foreign ships operating in Indonesian waters (Oswaldo, 2023).

On March 27, 2023, the Indonesian Government and the House of Representatives agreed on the Continental Shelf Bill (previously included in the National Legislation Program in 2021) and will bring it to the Plenary Session for approval as a Law. This step is an adjustment to the developments in international maritime law, UNCLOS 1982, ratified through Law Number 17 of 1985 on the Ratification of the United Nations Convention on the Law of the Sea (UNCLOS) and national development needs. This development will mark a new chapter in the management of marine and fisheries resources and governance of the maritime zone on Indonesia's continental shelf, which will extend beyond 200 nautical miles but not exceeding 350 nautical miles, in accordance with the limits set by UNCLOS 1982 (Setjen Kemhan, 2023). Undoubtedly, Bakamla will be involved in ensuring security and surveillance of activities on the continental shelf in the future.

In a formal legal context, KPLP is considered to have a broader scope of duties and functions than Bakamla. This can be seen in Law Number 17 of 2008 on Shipping, Article 277 paragraph (1), which outlines the duties of KPLP, including: a) monitoring the safety and security of shipping; b) overseeing, preventing, and combating pollution at sea; c) supervising and regulating ship activities and traffic; d) overseeing and regulating salvage operations, underwater work, as well as the exploration and exploitation of marine resources; e) securing aids to navigation; and f) supporting search and rescue operations at sea. A crucial point is that, according to Law Number 17 of 2008 on Shipping, Article 278 paragraph (1) letter d, in carrying out the duties outlined in Article 277, the KPLP has the authority to conduct investigations. This authority is not explicitly granted to Bakamla in Law Number 32 of 2014 on Maritime Affairs, Article 63, which regulates Bakamla's jurisdiction.

In addition to the KPLP, another institution with investigative authority at sea is the Indonesian Navy (TNI AL). Law Number 34 of 2004 on the Indonesian National Armed Forces, Article 6, stipulates that the TNI functions as a deterrent and enforcer against all forms of military threats and armed threats, as well as a restorer of national security resulting from security turmoil. Article 9 states, among other tasks of the TNI AL, is to enforce the law and maintain security in national jurisdictional waters in accordance with national and international laws that have been ratified (Ikhsanudin, 2017). Meanwhile, the explanation for Article 9 (b) reads:

"What is meant by enforcing the law and maintaining security are all forms of activities related to law enforcement at sea in accordance with the authority of the TNI AL (constabulary function) that applies universally and in accordance with the applicable laws and regulations to address threats of violence, navigation threats, and legal violations in national jurisdictional waters. Law enforcement carried out by the TNI AL at sea is limited to pursuit, arrest, investigation, and inquiry of cases that are subsequently handed over to the Prosecutor's Office; the TNI AL does not conduct courts".

The issues faced are not unrelated to the role of the TNI in relation to other law enforcement institutions. In the context of law enforcement, the TNI should ideally serve as a complementary system in terms of mobilizing forces, considering the TNI's superior physical capabilities. One essential function of Bakamla in this regard should be to facilitate the mobilization of TNI forces. This role is similar to the TNI's function under the control of the National Disaster Management Agency (BNPB) in disaster management. Meanwhile, the intellectual role in supervision and law enforcement, which is inseparable from the justification of violations based on certain standards, remains the responsibility of sectoral institutions with the authority and capabilities in law enforcement. Thus, the main authority, which is the mandate of the laws for these institutions, is primarily carried out by the institutions themselves. However, if coordination with other institutions, including the mobilization of TNI forces, is needed, such coordination can be carried out through Bakamla. In this context of law enforcement, TNI forces should be subject to Bakamla's command (Ikhsanudin, 2017).

More specifically, in Article 7, paragraph (2), point 14, it is mentioned that one of the primary tasks of the TNI is *"to assist the Government in securing shipping and aviation against piracy, robbery, and smuggling"*. To date, in addition to its defense role, the TNI AL also performs a security role in maritime areas. These two functions result in deviations in the professionalism and combat readiness of the TNI AL. Factors such as the lack of facilities, infrastructure, and human resources in Bakamla cause the TNI AL to become the driving force in maritime security efforts. The word *"assist"* in Article 7, paragraph (2), point 14 could mean that maritime security is not the primary task of the TNI AL, as one prerequisite for a professional military is to perform defense functions only. This implies that when the civilian institutions responsible for maritime security are prepared, the Government must restore the TNI AL's function as a defense institution at sea.

It can be seen that Bakamla is more advantaged than its predecessor, Bakorkamla. However, when Bakamla is compared to the KPLP, which also bears the Coast Guard title, the establishment of Bakamla seems futile because Bakamla does not have the extensive tasks, functions, and authorities possessed by the KPLP. The most contrasting aspect is that Bakamla is not a law enforcement agency, as it is not mandated as an investigator by Law Number 32 of 2014 on Maritime Affairs and Presidential Regulation Number 178 of 2014 on the Maritime Security Agency as its derivative. In contrast, the KPLP is explicitly mandated as an investigator by its legislation. Thus, if a suspect initiates a pretrial process, it is unlikely that cases handled by the KPLP would be dismissed by a judge. This basis favors the KPLP as a Coast Guard over Bakamla (Azis, et al., 2016).

Furthermore, the Ministry of Transportation, through the Directorate General of Sea Transportation, has been designated as Indonesia's Maritime Administration, representing the country in the International Maritime Organization (IMO). The KPLP, which falls under the Directorate General of Sea Transportation, plays a significant role in this international maritime organization, particularly in the areas of safety, shipping security, and maritime environmental protection. The appointment of the Directorate General of Sea Transportation as the Maritime Administration in the IMO is stipulated in the Presidential Regulation of the Republic of Indonesia Number 40 of 2015 on the Ministry of Transportation, Article 44 paragraph (1),

which assigns the Directorate General of Sea Transportation as the responsible party for the implementation of government activities and administration in the International Maritime Organization and/or other International Shipping Institutions, in accordance with the laws and regulations. Internationally, the KPLP is known as the Indonesia Sea and Coast Guard. The existence of two agencies acting as Coast Guard opens the possibility of conflicts or friction between the interests of these two institutions.

However, great hope emerged from President Joko Widodo during the inauguration of Rear Admiral TNI Aan Kurnia as the Head of Bakamla RI on February 12, 2020. On that occasion, President Joko Widodo firmly stated in his direction:

"In the future, Bakamla will become the embryo of Indonesia's Coast Guard, so that other institutions will return to their respective institutions. And at sea, Bakamla alone is granted authority. So, Bakamla will be like the Indonesia Coast Guard."

The President's directive indicates that Bakamla as an institution must be strengthened, and this is a task that must be carried out. Failure to execute it will undoubtedly have consequences. Therefore, it is crucial to analyze how the regulatory aspects can enable this directive to be implemented correctly, legitimately, and constitutionally. As a national regulation, Law Number 32 of 2014 on Maritime Affairs represents the latest and most comprehensive legislation. The substantive aspect of this law implies the recognition of the cross-sectoral and complex nature of maritime issues (Afriansyah, 2019). Moreover, during a limited meeting on September 21, 2015, which discussed the optimization of Bakamla, and as stated in the Letter of the Cabinet Secretary Minister Number: B/551/SETKAB/9/2015 dated September 30, 2015, regarding the President's Directive in the Limited Meeting on September 21, 2015, President Jokowi again instructed the relevant parties, in this case, the Coordinating Minister for Political, Legal, and Security Affairs and the Head of Bakamla, to immediately revise Bakamla-related regulations and ensure that every relevant law is reflected in the organization. Moreover, since Bakamla is directed to have Coast Guard authority, the law that mandates Bakamla's establishment can be considered for revision (Sampono, 2022).

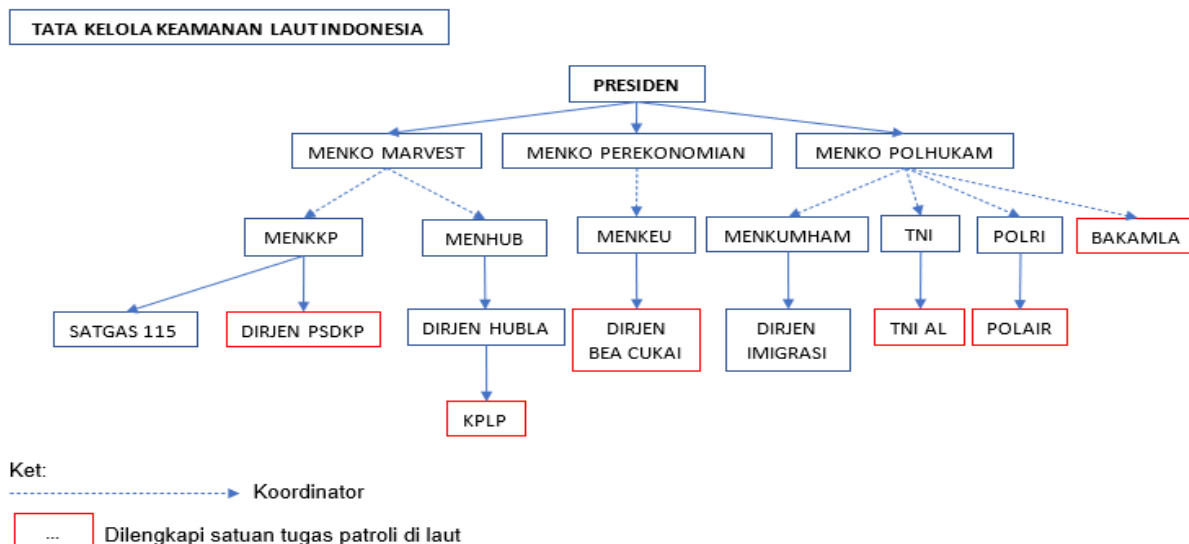


Figure 2. Indonesia's Maritime Security Governance
 Source: Compiled by Researcher

So far, various institutions in carrying out their functions, tasks, and authority have not been integrated into a single body, resulting in suboptimal performance. Existing practices indicate that law enforcement, security, and safety efforts at sea by various patrol units from

different agencies are insufficient to create maritime security in Indonesian waters. This is due to differences in strategies, facilities, and human resources possessed by each agency, as well as the lack of an integrated system and unity of command and control. Consequently, there are often overlapping authorities and friction between agencies, even sectoral egos among institutions or agencies. This system is known as Multi Agency Single Task (MAST). The system considered capable of addressing law enforcement, security, and safety problems at sea is the Single Agency Multi Tasks (SAMT) system. This system is deemed to make significant contributions because it is very different from the MAST system. The MAST system causes difficulties in maritime law enforcement due to non-integrated and sectoral law enforcement agencies, leading to legal problems such as overlapping authority that triggers conflict between law enforcement officers and the absence of unity of command and control (Wulansari, 2014).

Through the SAMT system, these problems can be overcome with the presence of a single, integrative agency or body under one command. In the context of Indonesia, the implementation of the SAMT system can be achieved by optimizing the authority, power, and capabilities of stakeholders synergistically without eliminating existing stakeholders while maintaining their primary functions, authorities, and the laws that grant them authority. The synergy of authority, power, and capabilities must be reflected in the organizational structure, mechanisms, procedures, and other provisions that support the smooth execution of law enforcement, security, and safety tasks at sea. By integrating authority into a single body, coordination and control will be easier, as command and control will be in the same hands (Wulansari, 2014).

On the other hand, there is Law Number 17 of 2008 on Shipping, which serves as the legal basis for the establishment of the Indonesia Sea and Coast Guard. Although the mandate for the establishment of this institution has been in progress for 15 years since the enactment of the Shipping Law, the Indonesia Sea and Coast Guard has not yet been formed due to the absence of implementing regulations governing the formation of the Sea and Coast Guard as mandated in Article 281 regarding the establishment, organization, and work procedures of the Sea and Coast Guard mentioned in Article 276 to be further regulated by Government Regulation. However, Article 352 has already stated that the establishment of the Sea and Coast Guard must be realized within a maximum of 3 (three) years since the enactment of the said Law.

Strategic steps that the government can take in organizing the Indonesian maritime security regime include encouraging the implementation and supervision of the execution of Government Regulation (PP) Number 13 of 2022 on the Administration of Security, Safety, and Law Enforcement in Indonesian Waters and Jurisdictional Areas in the short term by the Executive, as well as undertaking regulatory reformulation by accelerating the formulation of the Omnibus Law in the maritime sector, expediting the discussion of the Maritime Security Bill, or revising in a limited manner Law Number 32 of 2014 on Marine Affairs in the long term by the Legislative (Kurnia, 2022).

Reformulation Of Regulations: Amendment To Law Number 32 Of 2014 Concerning Marine

Law Number 32 of 2014 on Maritime Affairs has made a positive contribution to the development, management, and protection of the maritime sector in Indonesia. This law serves as a reference for Indonesia's maritime policy. Considering the elaboration of the contents of each chapter of Law Number 32 of 2014 on Maritime Affairs, it is appropriate that this law has made a positive contribution to Indonesia's maritime conditions (Kartika, 2014). However, the positive contribution of this instrument has not been followed by the development of maritime law enforcement, in which the handling of maritime law enforcement is still constrained by the

lack of cross-sectoral coordination and frequent differences in the perception of authority among law enforcement agencies at sea, which tend to lead to sectoral ego. This situation makes it highly possible for miscoordination and disharmony to occur, causing security and law enforcement at sea to be ineffective and inefficient (Sitepu, 2022).

In its implementation, Law Number 32 of 2014 on Maritime Affairs is considered to have some shortcomings, which need to be amended. Consequently, the Regional Representative Council (DPD) saw the urgency for updating maritime sector governance, particularly in the aspect of law enforcement. As a result of Decision Number 41/DPDRI/IV/2021-2022 in the Closing Plenary Session of the IV Session Year 2021-2022, it was decided that the Bill on the Amendment of Law Number 32 of 2014 on Maritime Affairs would be an additional initiative of the DPD. Eventually, at the tripartite legislative program (Prolegnas) meeting on December 15, 2022, the DPD officially proposed the Bill on the Amendment of Law Number 32 of 2014 on Maritime Affairs. This legislative package was also given special consideration to be included as a priority DPD proposal in 2022. Thus, the bill proposal for the 2022 legislative program changes increased from 5 (five) to 6 (six) by including the Bill on the Amendment of Law Number 32 of 2014 on Maritime Affairs. This initiative aims to ensure legal certainty in managing maritime law enforcement. In summary, the Bill on the Amendment of Law Number 32 of 2014 on Maritime Affairs redefines the concepts of maritime security (a dynamic condition that ensures governance at sea can be controlled and safely used by users, free from threats to navigation, marine environmental damage, and legal violation threats in order to achieve national development goals), law enforcement (a series of activities aimed at implementing legal provisions, including those of a situational creation, prevention, and enforcement nature, and encompasses all technical and administrative activities carried out by law enforcement officers), and maritime security operations (planned efforts and actions carried out for guarding, monitoring, preventing, and enforcing legal violations, as well as ensuring navigation safety and security for community and government activities in Indonesian waters).

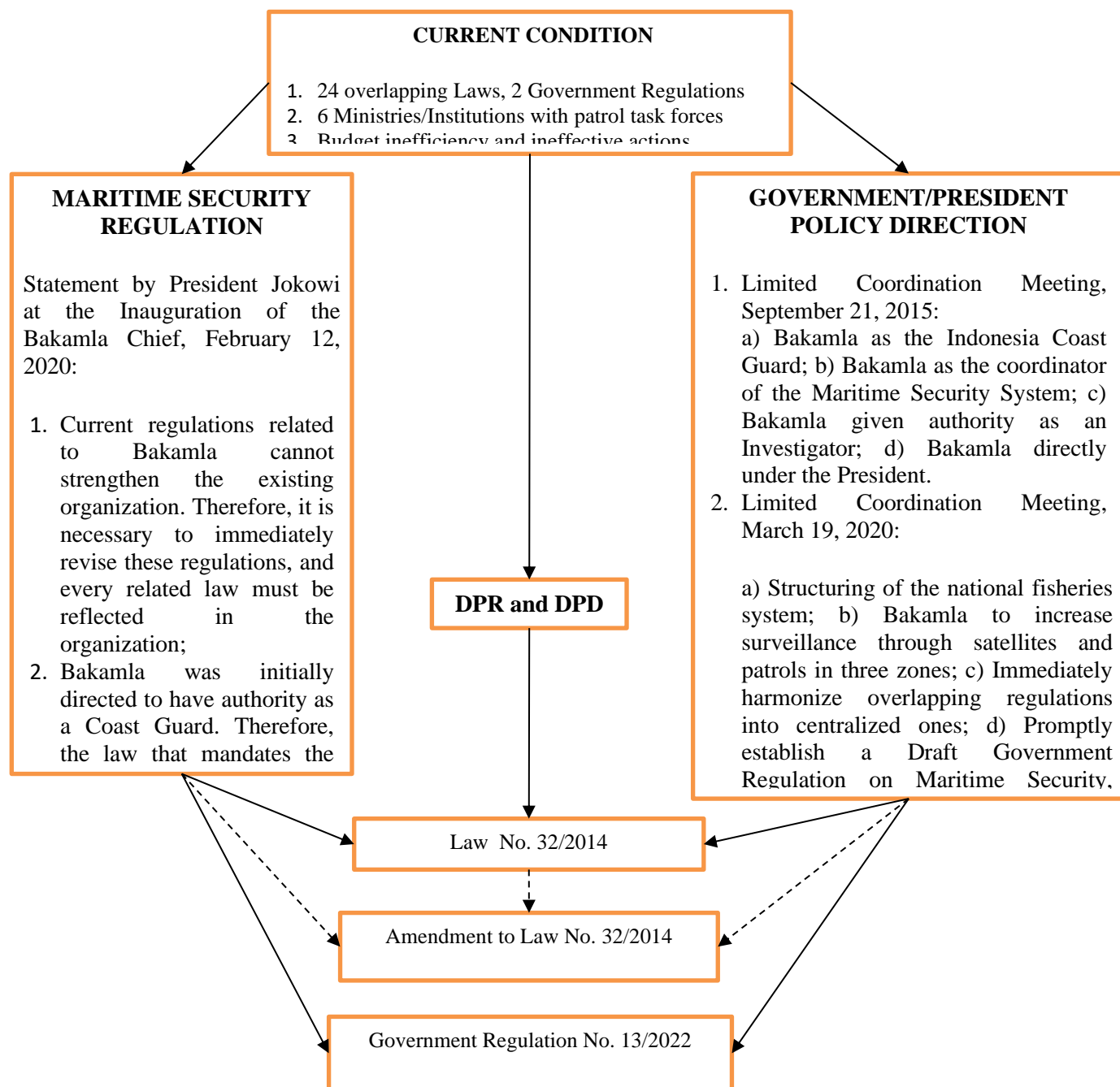


Figure 2. Marine Security System Arrangement Optimization Scheme
 Source: Sampono (2022)

Referring to the gap between the expectation (das sein) of optimal handling in maritime law enforcement that would create good maritime governance and the realization of good order at sea, and the reality (das sollen) that there is still an overlap of authority in law enforcement among institutions related to maritime security, as well as a range of other issues, the involvement of relevant stakeholders, in this case the Government and the Legislative body (the DPR and DPD), in resolving these problems becomes crucial. The establishment of Bakamla is deemed insufficient in providing optimal benefits in maritime law enforcement, as the legal foundation and authority for Bakamla to carry out its functions and duties are still weak compared to the extensive scope of its responsibilities and operational areas. An optimization in the form of institutional strengthening through regulatory reform is necessary

for Bakamla to perform its functions and duties to the fullest extent. This bill contains provisions for the institutional strengthening of Bakamla and the harmonization of overlapping policies in the maritime law enforcement sector by eliminating several articles in Law Number 17 of 2008 on Shipping. Furthermore, the Sea and Coast Guard institutions and the Maritime and Coastal Guard units are merged into the Maritime Security Agency under this law.

CONCLUSION

The restructuring of Indonesia's maritime security regime can be achieved through the reformulation of overlapping regulations and the harmonization of the authority of maritime security agencies. Given the similarities in tasks, functions, and authority between KPLP and Bakamla, as described above, it is essential for Bakamla to have a clear authority regarding the execution of tasks and functions similar to the Sea and Coast Guard institution that has not yet been formed. Other aspects that need clarification in the authority given to Bakamla include follow-ups on inspection findings, cooperation in handling with sectoral agencies, case handover to sectoral agencies, and coordination with law enforcement when dealing with legal violations. Bakamla should increasingly strengthen its institutional position to avoid vulnerability to future changes that could disrupt its stability. Institutional strengthening is an organization's effort to improve the capacity of institutions, systems, and individuals to enhance overall organizational performance. One of the efforts besides strengthening the institution is to clarify the legal policy basis for Bakamla's authority in carrying out its functions and duties as part of the leading institution for safeguarding Indonesia's maritime security. The DPD believes that the institutional strengthening of Bakamla can be achieved through legislative mechanisms by incorporating comprehensive substance and fortification (enrichment) concerning the existence of maritime law enforcement authority. This substance emphasizes the material content that aims to position Bakamla as the Indonesian Sea and Coast Guard, equipped with investigative authority and as a leading sector or coordinator in implementing the coordination and supervision functions of law enforcement, security, and maritime safety in Indonesia. With the regulatory reformulation that ultimately leads to the strengthening of Bakamla, it is expected to accommodate the dynamic governance of the Indonesian maritime security regime, which encompasses the security dimension (marine security system) divided into two aspects, namely security and defense.

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