


The Importance of Institutional Arrangement to Safeguard Maritime Security and Safety in Indonesia: The Case of Marine Security and Safety Agency

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Abstract

Introduction: Multiple agencies approach has been adopted by the Indonesian government to ensure maritime security and safety. The involvement of multiple actors potentially leads to overlapping authorities and an uncoordinated operation. For stakeholders at sea, such approach is inefficient, ineffective and creates confusion. The situation needs to be addressed to make more a coordinated, efficient, and effective method. This paper tries to address such an issue through institutional law lens.

Purposes of the Research: This paper aims to answer three important questions (1) How is the enforcement of security and safety at sea so far? (2) What are the implications as the many institutions involved in the enforcement of safety and security at sea? and (3) What kind of institutional arrangements to be made in the future so that law enforcement at sea becomes effective and efficient?.

Methods of the Research: This study utilizes a normative legal approach. It exercises legal doctrines, relevant laws and regulations. It is also supplemented by relevant literatures, books, journals, and media coverages.

Results of the Research: This paper finds that the enforcement of security and safety at sea adopts multi agencies where many institutions involved in maintaining security and safety at sea. The fact that multiple institutions simultaneously participate in law enforcement at sea, potentially create overlapping and lack of coordination among them. This also creates confusion and disadvantage to the stakeholders. Therefore, it is necessary to reorganize the current institutional arrangements to minimize the problems on the ground.

Keywords: Institutional Arrangement; Safeguard; Indonesian Coast Guard.

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INTRODUCTION

Existing literatures provide different approaches in securing maritime. A study by Suk Kyuoon Kim indicates that there are different types of coast guard.¹ For Kim, the tasks and the authority of coast guard is heavily dependent on the mandate given by the laws and regulations. The models depend on multiple factors including historical background, judicial system, military structure, law enforcement, security situation and priority. Kim further explain some important characteristics of a coast guard such as the institutional arrangement, authorities, missions, weapons and its relation with military and other law enforcement. Kim's typology of coast guard indicates there are six different types of coast guard. These include coast guard originally from military force, paramilitary forces, police

¹ Suk Kyuoon Kim, *The Expansion of and Changes to the National Coast Guards in East Asia*, Ocean Development & International Law, Vol 49, 2018 Issue 4 pp 313-334.

force, civil service, volunteer force and not separate coast guard. Kim's finding helps to map the various models of coast guard particularly in East Asia. A more recent study by Evan A. Laksmana² suggests Indonesia coast guard move from division of labor to unified command. This helps in building a more coordinated and solid institution. Rika Kurniaty et al investigates the roles of marine security agency (Bakamla) in Indonesia Water Jurisdiction. This study indicates that Bakamla's existence is not necessary mean exclude the other institutions. Bakamla's role is to synergize with other relevant institutions to secure and safe the Indonesian waters.³

Lyle J. Morris and Giacomo Persi Paoli⁴ study found that Indonesia faces threats on maritime security. The study found that eleven state institutions play a role in addressing maritime threats to Indonesia. Coordinating various institutions remains a significant challenge in maintaining maritime security. Multiple institutions often raise problems of culture, coordination among relevant institutions, overlapping authority of different authorities. This situation creates a serious challenge for Indonesia to have strong and solid in maritime safe and security. A study by Muhammad Arif shows similar tendency where multiple agencies constantly a challenge for maritime and sea security.⁵

In Maritime Security Agencies in Indonesia: More Not Merries by Ristian Atriandi and Siswandi Rusdi,⁶ multiples actors may lead to inter-agency competition, uncoordinated and ineffective operation. This finding is similar to the study by Gita Prissandi et al regarding the need to reformulate Regulations in the context of structuring the Indonesian maritime security Regime.⁷ Suparto and Admiral in the Overplay Functions and Authority of the Sea Security Board (Bakamla) and the Sea and Coast Guard in Keeping Marine Security in Indonesia suggests that there is a confusion whether Bakamla is part of military force or civil service. This is because the personel of Bakamla often from the Indonesian Navy but the workd of Bakamla may also close to ministry of transportation and other relevan ministries. This study suggests that the revision of relevan laws is necessary.⁸ This complex situation is also amplified by Dhiana Puspitawati, Shinta Hadiyantina, Fransisca Ayulistya Susanto and Nurul Appriyanti in Law Enforcement at Indonesian waters: Bakamla vs. Coast Guard.⁹ In comparative perspective, an article written by Yetty Komalasari Dewi, Arie Afriansyah and Aristyo Rizka Darmawan entitled Comparative Law Enforcement Model at Sea: Lesson Learned for Indonesia, examine the law enforcement model in comparison with other countries including the US, Australia, India Malaysia, and New Zealand. The article

² Evan A. Laksmana, *Remodelling Indonesia's Maritime Law Enforcement Architecture*, Contemporary Southeast Asia, APR 2022, Vol. 44, No. 1 (APR 2022) pp. 122-149.

³ Rika Kurniaty, Herman Suryokumoro, Setyo Widagdo, The Roles of Marine Security Agency (BAKAMLA) As Sea and Coast Guards in Indonesian Water Jurisdiction, *Fiat Justisia Jurnal Ilmu Hukum*, Vol 15 No. 3 July September 2021 pp. 221-232. <https://jurnal.fh.unila.ac.id/index.php/fiat/article/view/2017/1755>

⁴ Lyle J Morris and Giacomo Persi Paoli, *A Preliminary Assessment of Indonesia's Maritime Security Threats and Capabilities* (RAND Cambridge, 2018).

⁵ Muhamad Arif, "Inward-Looking and Expanding Bakamla: The Indonesian Case of 48 Navy-Coastguard Nexus," in *Navies, Coast Guards, The Maritime Community and International Stability*, 2017., 48

⁶ Siswanto Rusdi Ristian Atriandi Supriyanto, "Maritime Security Agencies in Indonesia : More Not Merrier," *Applied Physics Letters* 80, no. 13 (2002): 2296-98, <https://dr.ntu.edu.sg/bitstream/handle/10220/11900/RSIS0012013.pdf?sequence=1&isAllowed=y>.

⁷ Gita Prissandi, Surya Wiranto, Budiman Djoko Said, Pujo Widodo, Herlina Juni Risma Saragih and Panji Suwarno, *Reformulation of Regulations in the Context of Structuring the Indonesian Maritime Security Regime*, *International Journal of Humanities Education and Social Sciences (IJHESS)*, Vol. 2 No. 6 (2023) pp. 1969-1983 <https://doi.org/10.55227/ijhess.v2i6.533>

⁸ Suparto, Suparto and Admiral, Admiral (2022) *The Overplay Functions and Authority of the Sea Security Board (bakamla) and the Sea and Coast Guard in Keeping Marine Security in Indonesia*. *Jurnal IUS Kajian Hukum dan Keadilan*, 10 (2). pp. 436-447. ISSN 2303-3827

⁹ Dhiana Puspitawati, Shinta Hadiyantina, Fransisca Ayulistya Susanto and Nurul Appriyanti, *Law Enforcement at Indonesia Waters: Bakamla vs. Sea and Coast Guard*, *Indonesian Journal of International Law*, Vol17 No 4 25th UNCLOS Anniversary, 2020 pp. 495-518. <https://scholarhub.ui.ac.id/cgi/viewcontent.cgi?article=1053&context=ijil>

concludes that the Indonesian model closely resembles Australia where there are multiple agencies with similar mandate to secure and safe Indonesian waters.¹⁰ Lyle J. Morris in Blunt defenders of sovereignty: the rise of coast guards in East and Southeast Asia, indicates the increased roles of coast guards in East and Southeast Asia. Other than securing and saving maritime, coast guard also plays important roles in defending territorial disputes which often the mandate of Navy.¹¹ The abovementioned articles show how complicated to coordinate multiple actors effectively. Most of the abovementioned works discuss the challenges of having multiple institutions with similar mandate to maintain safety and security at sea. This paper is different from the existing literatures because it updates the information regarding the challenge of having multiple institutions by including the new institution namely Bakamla. It also provides possible solutions to overcome this challenge. In short, it is expected to fill the literatures gap by updating the most recent situation and offering possible solution to address this complex condition.

As one of the largest archipelagic countries in the world, maritime security and safety are two important aspects that need to get priority by Indonesia. The length of coastlines and width of the sea can be a challenge for Indonesia specifically in monitoring activities on the sea. Therefore, it is necessary to have strong institution which is able to provide security and safety on the sea. Normatively, the territory of Indonesia is an archipelago with the *Nusantara*¹² characteristics.¹³ This can be seen in Article 25 of the 1945 constitution which states, ““The Unitary State of the Republic of Indonesia is an archipelagic country with Nusantara feature, its borders and all rights are stipulated by Laws.” This demands further regulation specifically on the border and rights. The intended law is Law 23/2014 on Maritime. The Law aims to: a) confirming Indonesian as an archipelagic country as well as maritime country; b) Utilizing maritime resources and / or activities on the sea in line with all legislation and international maritime laws for the sake of nation and state prosperity; c) Realizing a sustainable and secure seas for Indonesia nation; d) Responsibly utilizing maritime resources for the greatest of the current generation without sacrificing future generation interests; e) Advancing culture and maritime knowledge for society; f) Developing professional, etichal, dedicated human resources who are abke to advance national interests in supporting an integrated and optimum maritime; g) Providing legal certainty and benefits for the whole nation as an archipelagic nation; and h) Developing the roles of the Unitary State of the Republic of Indonesia in Global Maritime world in line with international maritime laws for the saje if national interests. The scope of the 2014 Law is to regulate an integrated and sustainable maritime in Indonesia to develop nationa prosperity. The scope of the Law include: a) Sea territory; b) Maritime development; c) Maritime Management; d) Sea management and sea environment protection; e) defense security lawenforcement and safety on the sea; and f) Governance and institutional stucture.

Indonesia owns significant natural resources with sea territory approximately 3.110.000 km², with the width of Indonesian territorial sea around 290.000 km², the additional zone of Indonesia 270.000 km² with ZEE (Economic Exclusive Zone) 3.000.000 km², the width of

¹⁰ Yetty Komalasari Dewi, Arie Afriansyah, Aristyo Rizka Darmawan, *Comparative Law Enforcement Model at Sea: Lesson Learned for Indonesia*, Indonesian Journal of International Law Vol 18 No. 1, the 25th Anniversary of UNCLOS II, 2020, pp 83-104.

¹¹ Lyle J. Morris, Blun defenders of sovereignty: the rise of coast guards in East and Southeast Asia, spring 2017 US Naval War colleges Review Vol 70 issue 2.

¹² Nusantara consists of two words “nusa” and “antara” which literally means “island” and “between”. It can be interpreted as

¹³ Article 25 of the 1945 Constitution: Negara Kesatuan Republik Indonesia adalah sebuah negara kepulauan yang berciri nusantara dengan wilayah yang batas-batas dan hak-haknya ditetapkan dengan undang-undang.”

Indonesia's continent roughly 2.800.000 km². Indonesia's water in total is 6.400.000 km² with the length of shoreline approximately 108.000 km and around 17.504 islands. This geographical condition poses challenges in managing waters in Indonesia. This coupled by the Indonesian geographical location which is located between Asia and Australia and two oceans Pacific and Indian ocean. This poses Indonesian in the most dynamic areas in the world. These unique characteristics i.e. geographical location, natural resources indeed are beneficial for Indonesia's sustainability. The Indonesian seas contain significant economic potential and has strategic values however it also poses threats. There are many violation and crimes in the sea such as illegal fishing, illegal mining, illegal logging, illegal transfer oil, smuggling (weapons or narcotics) human trafficking, transnational crimes, piracy, and sabotages of vital objects on the seas, the use of explosive and water pollution. To tackle the abovementioned threats, it is necessary to have systematic, integrated, and comprehensive policies. In general, the law enforcement on the sea might be influenced by legal culture, legal substances and legal structures.

The Government has issued various policies to manage law enforcement on the sea. Law 17/2008 on Pelayaran (Cruise), Law 32/2014 on Kelautan (Maritime) are two examples of the government policies concerning sea. With regard to legal structure, there are many institutions participated in law enforcement on the sea. There are at least 6 different institutions involved in maritime governance. These include: The Indonesian Navy (TNI AL), The Indonesian Police (Polirud Polri), Customs (Ditjen Bea Cukai), The Ministry of Maritime and Fishery (Ditjen PSDKP KKP), Ministry of Transportation (Dit KPLP Ditjen Hubla Kemenhub) dan the Indonesian Coast Guard (Bakamla RI). Considering many institutions involved in maritime governance, sectoral approach is adopted by the relevant institutions. This approach is utilized in line with their specific mandates. It means each and every institution carries out its duties and responsibilities based on their competence as delegated by laws and regulations. This approach requires synergy and good coordination among law enforcers in carrying out their duties as they all operated on the sea. Unfortunately, these two important aspects are often absent. Coordinating among law enforcers with different tasks and responsibilities frequently becomes the primary challenges. This situation getting difficult because all the relevant institutions are equal. They are not superior-inferior relation rather they are all in the same equal status. This study therefore aims to understand the situation and how to harmonize all relevant institutions responsible for security and safety on the sea. This study believes that it is important to organize or reorganize all relevant institutions so that the law enforcement on the sea can be improved. This is because law enforcement on the sea involves many institutions which potentially create disharmony among relevant institutions if it is not properly managed. This study aims to answer three important questions i.e: (1) How is the development of institutions and the mechanisms to enforce security and safety on the sea so far? (2) What are the consequences of having many institutions involved in enforcing safety and security on the sea? (3) What would be the good formula to organize and manage institutions in the future so that the law enforcement on the sea is more effective and efficient?.

METHODS OF THE RESEARCH

In answering the three questions above, this study utilizes legal normative approach.¹⁴ This approach is implemented by reading and comprehending relevant legal documents including

¹⁴ Soerjono Soekanto, *Pengantar Penelitian Hukum*, Hal.93.36, Jakarta: UI Pres (Jakarta: UI Press, 2007).

relevant laws and regulations,¹⁵ literatures on *coast guard* in various countries and articles focus on the law enforcement on the sea. The relevant laws and regulations, inter alia, the 1945 Constitution, Law on Indonesian Army, law on Custom, Law on State Territory, Law on the Protection and Management of Environment. In addition, relevant literatures such as Maritime Law Enforcement and Compliances in Indonesia: Problems and Recommendations by Dirhamsyah, Keamanan Maritime Dari Aspek Regulasi dan Penegakan Hukum (Maritime Security from the Aspect of Regulation and Law Enforcement by Kartika and an article written by Arif Muhamdad entitled Inward-Looking and Expanding Bakamla: The Indonesian Case of 58 Navy Coastguard Nexus are some of the required literature. To enrich the perspective, this study also learns from news and information available on websites from relevant institutions including the websites of the Indonesian Navy, Customs, Ministry of Transportation, The Indonesian Coast Guard, and Ministry of Maritime and Fishery. All activities abovementioned are carried out in order to obtain comprehensive pictures of the facts so that the problems can be accurately diagnosed and finally can solve the problems effectively

RESULTS AND DISCUSSION

Referring to the abovementioned questions, the study is structured as follows: the discussion begins by explaining how the existing regulations and the practice of law enforcement on the sea in Indonesia so far? This is carried out by tracing all existing relevant laws and regulations. Nexts, the author analyses the consequences and implication of existing practice specifically on the involvement of many institutions in enforcing security and safety in Indonesia's waters. Based on the analysis from the previous parts, the study discusses efforts that need to be carried out so that the security and safety on the sea would be better, more efficient and effective. The final part of the study will draw conclusion and recommendation.

A. The Development of Institutions and the Implementation of Security and Safety on The Indonesian Seas

Before explaining the development of security and safety in the sea, it is necessary to understand various challenges on security and safety on the sea. There are at least six potential threats on the Indonesian waters. These include: (1) *Illegal, unreported, unregulated fishing*, corruption, tax related crimes, money laundering and illegal gasoline. (2) Smuggling (drugs, humans, weapons, counterfeit goods, and commodities). (3) illegal immigration (4) Piracies (5) terrorism and (6) Human rights violation such as child labor, underpaid, and inhumane housings.¹⁶ *Illegal fishing* is identified as major challenges for Indonesia. It is predicted that Indonesia lost 3 billions US Dollars caused by illegal unreported and unregulated fishing (IUU fishing).¹⁷ SATGAS 115 is established in fighting IUU fishing uses all available mechanism including administrative and legal tools.¹⁸ For instance, check and recheck the licenses/permits for fishermen to fishing to use vessel and the regulation on the type of fish that can be caught. A study by Yunus Husein and Muhammad Faiz Aziz conclude that it is important to update Indonesian legal framework to effectively combat Illegal Unreported and Unregulated Fishing (IUU). Such reform includes effectively utilize provisional arrangement to combat IUU fishing, to protect maritime resources and obtain

¹⁵ Peter Mahmud Marzuki, *Penelitian Hukum*, Edisi Revi (Jakarta: Prenada Media, 2017).

¹⁶ Morris and Paoli, *A Preliminary Assessment of Indonesia's Maritime Security Threats and Capabilities*.

¹⁷ Morris and Paoli.

¹⁸ Morris and Paoli.

maritime delimitation.¹⁹ In addition, a consistent and predictable of international tribunals on maritime delimitation indicates another important factor on combating IUU as illustrated by Faudzan Fahana.²⁰

Based on the above illustration, it is important to learn how the regulation concerning security and safety enforcement in the Indonesian waters. If we trace back, the ideas to form a body responsible to monitor Indonesian waters is not a new one. However, its institutional development is very dynamic. In the beginning, the institutions are not single. There are many institutions and ministries involved. It can be seen there are 24 laws and regulations related to maritime security monitoring, including: 1) Law 1/1973 on Indonesian Continent Self; 2) Law 5/1983 on Indonesia Economic Exclusive Zone; 3) Law 17/1985 on the ratification of *United Nations Convention of the Law of the Sea 1982* (UU 17/1985); 4) Law 6/1996 on Indonesian waters; 5) Law 24/ 2000 on International Treaty; 6) Law 2/2002 on the Indonesian Police; 7) Law 3/2002 on National Defense; 8) Law 25/ 2004 on National Development System; 9) Law 31/2004 on Fishery as amended by Law 45/2009; 10) Law 33/2004 on the finance balance between central and local government; 11) Law 34/ 2004 on the Indonesian Army; 12) Law 10/1995 on Customs as amended by law 17/2006; 13) Law 11/1995 Tax (Cukai) as amended by Law 39/2007; 14) Law 17/2007 on Long Term National Development Plan 2005-2025 (RPJPN 2005-2025); 15) Law 26/2007 on Spatial (UU Tata Ruang); 16) Law 27/2007 on Management of Coastal territory and Small Islands as amended by Law 1/2014 (UU PWP3K); 17) Law 17/2008 on Shipping (UU Pelayaran); 18) Law 43/2008 on State Territory (UU Wilayah Negara); 19) Law 4/2009 on Coals and Minerals Mining (UU Minerba); 20) Law 32/2009 on the Protection and Management of Environment (UU LH); 21) Law 10/2009 on Tourism (UU Pariwisata); 22) Law 11/2010 on Cultural Heritages (UU CB); 23) Law 6/2011 on Immigration; dan 24) Law 23/2014 on Local Governance.

Many different of activities carried on the sea resulted in many institutions involved in law enforcement on the sea. It depends on the mandates of each institution. For example, Ministry of Health conducts activities concerning health such as examining and monitoring persons and animals, goods on the ship. Ministry of Agriculture (supervising animals and plans quarantine). Ministry of Forestry and Environment (monitoring illegal logging, deforestation, water quality and mangrove), Ministry of Energy, Natural Resources, and Mining (supervising mining activities and products). No less than 11 ministries and institutions are responsible to supervise and monitor activities on the sea (see table 1). Because many agencies have the mandates and are intensively involved in monitoring activities on the sea, Indonesia adopts multiple agencies approach.

In 1972 the government established an agency responsible to coordinate safety on the sea (*Badan Koordinasi Keamanan Laut (Bakorkamla)*). The introduction of Bakorkamla was based on the Joint decision of Minister of Defense, Minister of Transportation, Minister of Finance,

¹⁹ Husein, Yunus and Aziz, Muhammad Faiz (2020) "The Necessity To Reform Indonesian Legal Framework On Provisional Arrangement To Combat Iuu Fishing," *Indonesian Journal of International Law*: Vol. 18: No. 1, Article 6. DOI: 10.17304/ijil.vol18.1.805

²⁰ Farhana, Faudzan (2020) "Consistency and Predictability in International Tribunals Decision on Maritime Delimitation Cases From 2009 to 2019," *Indonesian Journal of International Law*: Vol. 18: No. 1, Article 2. DOI: 10.17304/ijil.vol18.1.801

Minister of Justice and Attorney General.²¹ Inline with its name, the Bakamla function is to coordinate all agencies on the sea. It coordinated 12 ministries and agencies in supervising activities on the sea. In 2003, Coordinating Minister on Politics and Security formed Working Group concerning the Plan on the development of Security and Law Enforcement on the sea.²² Thres decades after the issuance of the 1972 Decision, the legal basis was strengthen from ministerial decision to President Regulation 81/2005 concerning Badan Koordinasi Keamanan Laut (An Agency responsible to coordinate the security of the sea). President Regulation 81/2005 added Bakorkamla function into an agency with coordinating function in formulating policies and activities on safety on the sea integratively (Pasal 3 Perpres 81/2005). In 2010, Minister of Maritime and Fishery Fadel Mohammad stated that the government planned to forman independent *coast guard* to ensure the safety international maritime traffics.²³ This is a joint agency consists of ministry of transportation, the Indonesian Police and the Indonesian Army. This idea shifted the approach from multiple agencies to single agency. In Joko Widodo administration, this idea sustained and become one of the primary programs of the government in developing maritime. The government came up with idea that Indonesia shall become World Maritime Axis (Poros Maritim Dunia) and Sea Toll (Tol Laut).²⁴

While in the beginning the introduction of the Bakorkamla aimed to coordinate all relevant agencies on the sea, its name changed into Bakamla in 2014. The primary reason is because it failed to coordinate all relevant institutions in conducting their duties on the sea as their mandates close each other which potentially overlapped if it is not well managed. The establishment of the Bakamla through President Regulation 178/2014 is expected to resolve such problems because the Bakamla is simpler compared to the Bakorkamla as it did not need to involve many different institutions. Unfortunately, so far, the Bakamla is not the one and only agency responsible to ensure security a legal enforcement on the sea. A number of institutions such as Ministry of Maritime and Fishery, the Indonesian Police and Ministry of transportation are invlvoed in law enforcement on the sea. This is because the exsisting laws and regulations still grant authority to ministries and other agencies to carry out their duties on the sea. The state agencies responsibke to conduct law enforcement on the sea, coast and national ports include:²⁵ a) the Indonesian navy responsible to defend the unity and the integrity of the Indonesian territory from internal and external threats; b) the Indonesian Police is responsible to investigate crime happening withing the Indonesian waters; c) The Diretorate General of Customs of the Ministry of Finance is responsible to monitor the violation of exports imports including smuggling; d) Directorate General Sea Transportation and Directorate General Coast Guard and Ministry of Transportation are responsible to carry out legal enforcement on the sea and coast guard; e) Directorate General Maritime Resources and Fishery of Ministry of Maritime and Fishery is responsible to conduct investigation on maritime riches and fishery; f) Minsitry of nergy and Mineral Resources is responsible to monitor mining activities and its products from the sea; g)

²¹ Surat Keputusan Bersama Menhankam/Pangab, Menteri Perhubungan, Menteri Keuangan, Menteri Kehakiman, dan Jaksa Agung Nomor: Kep/B/45/XII/1972, S.K. 901/M/1972, Kep.779/MK/III/12/1972, J.S. 8/72/1, dan Kep.085/J. A/12/1972 Pembentukan Badan Koordinasi Keamanan di Laut dan Komando Pelaksana Operasi Bersama Keamanan di Laut.

²² Keputusan Menteri Koordinator Bidang Politik dan Keamanan, Nomor Kep.05/Menko/Polkam/2/2003

²³ "Indonesia Plans to Establish Independent Coast Guard Fleet," Global Time, 2010, <https://www.globaltimes.cn/content/546309.shtml>.

²⁴ Bambang Prihartono, *Pengembangan Tol Laut Dalam RPJMN 2015-2019 Dan Implementasi 2015*. (Badan Perencanaan Pembangunan Nasional Republik Indonesia, 2015).

²⁵ Shanti Dwi Kartika, "Keamanan Maritim Dari Aspek Regulasi Dan Penegakan Hukum (Maritime Security From The Aspects Of Regulation And Law Enforcement)," *Negara Hukum: Membangun Hukum Untuk Keadilan Dan Kesejahteraan* 5, no. 2 (2016): 143-67.

Creative Economy and Tourism Ministry is responsible to monitor cultural heritage goods and security of tourists, environment including sinking vessels; h) Directorate General of Immigration of Ministry of Law and Human rights responsible to as the supervisor on the investigation on crime related to immigration; i) Attorney General is responsible to prosecute crimes occurred in Indonesia; j) Ministry of Agriculture is responsible to secure a quarantine animals fish and plants; k) Ministry of Environment is responsible for securing environment; l) Directorate General Forest Preservation and Natural Conservation of Ministry of Forestry is responsible for law enforcement in the field of forestry including illegal logging and animal smugglings, m) Ministry of Health is responsible for monitoring and health checking on the ships including sailors, passengers and goods, and n) Relevant Provincial transportation department.

In addition, there are other ministries and other agencies which play significant roles, they are:

Ministries/Agencies	Key Functions
Coordinating Ministry of Maritime Affairs and Investment	Coordinate, synchronize and control the ministries responsible for maritime affairs such as policies, marine infrastructure, development of marine resilience and management of marine resources
Marine and Fisheries Ministry	The main objectives of the Ministry of Maritime Affairs and Fisheries are (1) optimizing the use of marine and fishery resources (2) increasing added value and competitiveness in the field of marine and fishery products (3) supporting and ensuring the environmental quality of marine and fishery resources
Coordinating Ministry for politics, law and security	Plan and coordinate and synchronize policies in the political, legal and security fields.
National Search and Rescue Agency (BASARNAS)	Assisting the president in the field of SAR such as formulating and coordinating public policies and technology in the field of SAR
Director General of Sea Transportation	Ordered sea and coast guard (Sea and Coast Guard Unit (KPLP)
115 Task Force (SATGAS 115)	Eradicating illegal fishing (IUUFishing) with the main focus on law enforcement
BAKAMLA (Indonesian Coast Guard)	Using assets and personnel from other related institutions to perform joint tasks

A study conducted by the ministry of foreign affairs stated that there were at least 16 stakeholders appointed by law to manage maritime security issues, some of which were the Navy, Bakamla, POLRI, Basarnas, Customs and Excise, KKP, Kemkumham, KLHK, Kem ESDM, Kem Agriculture, prosecutors, courts and tourism ministry.²⁶ The large number of agencies involved requires good coordination and communication among related agencies and institutions. This means that if not managed properly, this has the potential to cause

²⁶ Fikry Cassidy, "Diplomasi Pertahanan Maritim: Strategi, Tantangan, Dan Prospek [Maritime Defence Diplomacy: Strategies, Challenges, and Prospects]," Jakarta: Indonesian Ministry of Foreign Affairs and Centre for Strategic and International Studies, 2016.

inefficiency in the management of maritime security, such as delays in communication and information sharing due to an unintegrated system.

This happens because maritime security regulations in Indonesia manage various institutions and their roles in enforcing security and safety at sea. For example, Law 34/2004 concerning TNI; Law 2/2002 on Police, Law 45/2009 on Fisheries, Law 17/2008 Shipping, Law 17/2016 Customs, Law 32/2006 Environment, Law 11/2010 Cultural Heritage, Law 41/1999 Forestry; Minerba Law 4/2009 and Oil and Gas Law 22/2001. The lack of integration of various laws and regulations has resulted in a lack of alignment and overlapping between institutions in maintaining maritime security. Several existing regulations need to be harmonized. For example, is there still confusion in the notion that maritime security and maritime security are under the Indonesian Navy or civilian law enforcement institutions? Law enforcement in Indonesian territorial waters according to Law 34/2004, one of its duties is to enforce the law and protect the national sea area (Article 9 letter b), namely to enforce the law and maintain the security of the national sea area in accordance with the provisions of national law and ratified international law. Even though this should have been done by a civil law enforcement agency. The Law on the TNI has reorganized related to law enforcement authority at sea as stated in the Law on Waters, but the Law on the TNI provides the same law enforcement authority to the Navy. From the explanation above, it can be concluded that historically the security and safety enforcement agencies at sea were handled by many institutions (multi agencies). The choice of multi agencies is based on the many and varied activities that can be carried out at sea so that different agencies handle different activities. This in its development led to many obstacles such as lack of coordination, overlapping the implementation of authority in the field. This also has the potential to harm stakeholders at sea. Based on the foregoing, it is necessary to consider reviewing the multi-agency approach to a simpler approach.

B. The Implication Of Multi Agencies Approach In Managing Security And Safety At Sea

Prior to discussing the implication of multiple agencies at sea in Indonesia, it is important to understand the general typology of institution responsible to the safety of sea. In this regard it is important to employ Suk Kyuoon Kim approach. Kim categories coast guard into several categories. Table 1 below illustrates the typology of coast guard worldwide.

Table 1. Typology of coast guards.

Typology	Military force	Paramilitary force	Police force	Civil service	Volunteer force	Not separate coast guard
Country	- United States - India	- Japan - China - Philippine - Indonesia	- Korea - Singapore - Vietnam	- Canada - Malaysia	- U.K - Australia - New Zealand	- Cambodia - Sri Lanka
Feature	- Defense force - Subject to military rules and ethos - Undertake typical coast guard missions in peacetime and assist the navy in wartime - Composed of soldiers assisted by civilian careers	- Civilian service - Armed for self-defense and law enforcement - Undertake constabulary duties and typical coast guard missions - Most common type in East Asia	- Comprehensive judicial authority - Composed of police officers - Focus on law enforcement - Maritime enforcement authority is limited	- Staffed with and administered by civilians - Operational side personnel are armed and uniformed - Judicial powers are very limited	- Rescue services are provided by civilian volunteers - Other missions are carried out by maritime enforcement agencies - Not existing in East Asia	- Small countries do not establish a separate coast guard
Name of Service	Coast Guard (United States, India)	Maritime Safety Agency(Japan) - Zhongguo Haijing(中国海警)(China) - Coast Guard (Philippine) - Maritime Security Agency (Indonesia)	- National Maritime Police Agency (Korea) - Police Coast Guard (Singapore) - Maritime Police (Vietnam)	- Coast Guard (Canada) - Maritime Enforcement Agency (Malaysia)	- Her Majesty's Coast Guard (United Kingdom)	

The above table shows different country may have different institution responsible to guard the coast. Some countries such as the US and India use the term Coast Guard and

they are part of military forces. Japan uses Maritime Safety Agency and they are paramilitary forces. Korea Singapore and Viet Nam name National Maritime Police Agency. This is part of Police force. In Canada and Malaysia they call coast guard and enforcement agency. They are part of civil service. UK, Australia and New Zealand uses Her Majesty's Coast Guard as part of Volunteer force. and Finally Cambodia and Sri Lanka do not separate coast guard. Based on the above typology, the Indonesian coast guard Bakamla fall under paramilitary not military force like in the US. However, it can be said that there is a military culture in it. The ships they use are equipped by weapons for defending and enforcing the law at sea. Within this category, the authority of the Bakamla depending heavily on the existing law and regulation. They carry out several roles as police they deal with criminal cases, but they may also deal with administration violation.

Since the beginning of the formation of law enforcement institutions at sea, it can be said that the institutional design is multi-agency in nature. This means that many agencies/institutions are involved in law enforcement at sea. No less than 11 institutions/agencies and ministries involved in law enforcement at sea. Why is security and safety at sea carried out by many institutions? This is due to the many and varied activities that can be carried out at sea, both legal and illegal. The diversity of illegal acts at sea requires special/specific handling in accordance with the duties of each agency/ministry. Both activities at sea if the activities carried out are closely related to the fisheries and maritime affairs sector, then it becomes the realm of the Ministry of Maritime Affairs and Fisheries, but if it relates to illegally imported goods it is the authority of customs or immigration. This is what causes many entities involved in law enforcement at sea. Of course, it is very good if the handling of special matters is also carried out by special institutions so that the handling is more appropriate in accordance with the expertise and main tasks and functions of each institution with a note that all the institutions involved can be coordinated properly and neatly so that law enforcement is harmonious and integrated at sea. and does not cause overlapping, overlapping authorities in carrying out law enforcement duties at sea. Unfortunately, it is not easy to implement. The formation of a Coordinating Body such as BAKORKAMLA which is expected to be able to orchestrate and harmonize law enforcement at sea cannot optimally carry out coordination tasks. This is due to the limited authority in coordinating between the many institutions involved in security and safety at sea as a result of the variety of activities at sea so that they are multi-dimensional in nature.

Some of the challenges of upholding law enforcement for security and safety at sea by involving many different institutions or what are often referred to as multi agencies are **first**, each law enforcement agent at sea is basically an autonomous entity that behaves individually. An autonomous entity means that each institution has its own organizational system which is very likely to be different from one another. For example, the Ministry of Maritime Affairs and Fisheries and the Ministry of Law and Human Rights through the Director General of Immigration or the Ministry of Transportation through the Director General of Foreign Affairs have their own procedures and SOPs for each ministry/agency. This is very likely to result in actions that are not coordinative and out of sync with one another because the approach is sectoral. This is actually not the right mechanism to adopt a multi-agency perspective; it could even be different or even contradictory to the character of a multi-agency. The character of multi agencies is that their organizational system is heteronomous, not autonomous. This means that within the framework of a multi agency it

is necessary to carry out cooperation and coordination between the institutions involved because the nature and work system of the organization is heteronomous. This is necessary in order to create an integrated and harmonious handling of security and safety at sea.

Second, cultural differences and work systems between organizations. Even though it is in the same field of security and safety at sea, it is very possible for each organization to develop a different style according to the vision of each organization. This certainly has an unfavorable impact, especially for stakeholders in the sea if it is carried out independently and not well coordinated between the various institutions involved in it. Why is that? this is because it is very possible that stakeholders in one trip at sea can be supervised, monitored, and even checked many times by various different institutions. Such situation is indeed very inconvenient and cause inefficiency for sea stakeholders if this condition continues.

This is not to mention the addition, for example, the existence of abuse of authority to the point of dishonorable practices from institutions that are in charge of enforcing the law at sea, let alone being carried out repeatedly by different institutions. It is very burdensome, detrimental and very likely will make the resulting marine products no longer competitive because of the many levies that are very likely to occur repeatedly. This is in line with what was conveyed by Darmansyah Tanamas, Deputy Chairperson III of the DPP Indonesian National Shipowners Association (INSA), who gave an overview of "a coal barge with a transport capacity of 300,000 tons and a cargo of Rp. 1 billion -1.5 billion in operational costs of IDR 20 million per day."²⁷

In INSA's records, there are at least 18 agencies that frequently stop ships in the middle of the sea, including Bakamla, Polair KPLP, the Ministry of Transportation, PSDKP, the Ministry of Maritime Affairs and Fisheries and the Indonesian Navy.²⁸ It can be concluded that in fact there are quite a lot of challenges faced by the current multi-agency model. This can be seen, for example, problems related to coordination difficulties from various and various institutions. The principle of equality and independence of each institution makes coordination a challenge in itself. It is different if there are superior and subordinate strata between institutions, of course it will make it easier to coordinate. Third, the vision, mission and main tasks and functions (tupoksi) are not always the same and tend to vary from each institution involved. The focus of each different institution causes different aspects to be examined when enforcing the law at sea. If this is carried out by various institutions and is carried out repeatedly for trips/activities in the same sea, it will greatly disrupt the smooth running of the activities of stakeholders at sea. In connection with the idea of changing multi agents into single agents in law enforcement at sea, this needs further analysis. If the main problem is proper coordination, will this be resolved by establishing a new institution? Or is it enough to increase the synergy between related agencies and law enforcement at sea?

When viewed from the main duties and functions of each agency, the authority possessed in law enforcement at sea is actually very specific. Of course, this very specific matter needs to be handled by very specific law enforcers as well. However, as mentioned above, the fundamental problem is the lack of coordination between agencies in charge of law enforcement at sea and the high ego of each institution which will ultimately affect the

²⁷ Sri Mas Sari, "Ternyata Ada 18 Instansi Penegakan Hukum Di Laut, INSA : Perlu Badan Tunggal!," *Bisnis.Com*, 2019, <https://ekonomi.bisnis.com/read/20190820/98/1138527/ternyata-ada-18-instansi-penegakan-hukum-di-laut-insa-perlu-badan-tunggal>.

²⁸ Sri Mas Sari.

effectiveness of law enforcement at sea. Sectoral ego also has the potential to hinder efficiency in law enforcement at sea due to the reluctance of each involved entity to share data between institutions in the framework of coordination in law enforcement at sea.

The formation of Bakorkamla is an effort to coordinate these various institutions in law enforcement at sea. In practice, as written by Ristian and Siswanto²⁹, oftentimes the coordinating function of Bakorkamla does not work because it is bypassed because of the interests of the various institutions involved in it. For example, Bakorkamla found difficulties in harmonizing the standard operational procedures (SOP) of the various institutions involved. However, the fact that Bakorkamla was later transformed into Bakamla in 2014 is very likely because the coordinating work carried out by Bakorkamla did not go as planned. This is supported by the fact that Bakorkamla has been working since 2005. This means that nine years Bakorkamla has carried out its mandate and nine years is sufficient time to conduct an assessment of the performance of an institution. The fact that in 2014 a new Bakamla Perpres was issued implies a desire to strengthen Bakamla in authority. Bakamla is a law enforcement institution at sea where coordination is carried out through assignments from several related institutions. In addition, Bakamla also synergizes information from various law enforcement agencies at sea. This causes Bakamla to not have strong enough authority to govern other institutions in order to meet Bakamla's needs in carrying out its mandate. In order to overcome the above, several authors have different views. There are authors who state that if the weakness is coordination then it is coordination that must be improved rather than forming a new institution. Against this argument, it can be said that actually this coordination effort has been carried out for a long time since the formation of Bakorkamla in 1972 which was later enhanced by the legal basis with the issuance of the 2005 Presidential Decree. However, this coordination was not achieved.

Other authors including Eka Martiana Wulansari³⁰, Ristian Atriandi Supriyanto and Siswanto Rusdi³¹ stated that the Institutions dealing with maritime security in Indonesia have coordination problems. The author argues that instead of adding institutions that will oversee the sea, the solution is to combine these institutions in one institution that is supported by strong leadership and significant authority. Eka Martiana Wulandari further explained that as a maritime country, Indonesia does not yet have a solid maritime law enforcer, as only Japan, China, Australia and the United States have one single-roof institution, namely the Coast Guard or Coast Maritime.³² This results in incomplete handling of law violations at sea.

Several fundamental issues related to safety monitoring and law enforcement at sea as written by several researchers including Dirham Dirhamsyah³³ and Shanti Dwi Kartika.³⁴ Dirham Dirhamsyah and Shanti Dwi Kartika, for example, explained that there are six problems covering the implementation of security and safety at sea, namely (1) limited resources for law enforcement including funds, human resources, and facilities (2) laws and

²⁹ Ristian Atriandi Supriyanto and Siswanto Rusdi, "Maritime Security Agencies in Indonesia: More Not Merrier," *RSIS Commentaries*, 2013.

³⁰ Eka Martiana Wulansari, "Penegakan Hukum Di Laut Dengan Sistem Single Agency Multy Tasks," *Media Pembinaan Hukum Nasional*, 2014, 1-6.

³¹ Supriyanto and Rusdi, "Maritime Security Agencies in Indonesia: More Not Merrier."

³² Wulansari, "Penegakan Hukum Di Laut Dengan Sistem Single Agency Multy Tasks."

³³ Dirhamsyah, "Maritime Law Enforcement and Compliance in Indonesia: Problems and Recommendations," *Maritime Studies* 2005, no. 144 (2005): 1-16, <https://doi.org/10.1080/07266472.2005.10878790>.

³⁴ Kartika, "Keamanan Maritim Dari Aspek Regulasi Dan Penegakan Hukum (Maritime Security From The Aspects Of Regulation And Law Enforcement)."

regulations that have not been integrated in regulating maritime resources (3) weak coordination and communication between authorized institutions, (4) lack of awareness of the problems and impacts of illegal and destructive practices for the medium and long term (5) the weakness of the justice system, especially regarding maritime resource issues (6) and the extent Indonesian territory that must be monitored.³⁵ Related to limited resources for law enforcement. It can be said that the total number of HR as of January 2020 is 878 active personnel.³⁶ This number can be said to be far from ideal considering the vast area of Indonesian waters which is the responsibility of Bakamla. As an illustration, when a ship should be manned by 78 people, in practice it is only filled with 16 people.³⁷ This is coupled with the fact that the existing personnel do not always match the required qualifications. In addition, of the total 77 vessels required, Bakamla has 10 vessels. In fact, the former Head of Bakamla, Admiral Taufiqoerachman, stated that Bakamla's strength was 30% of what it should have been.³⁸

Shanti Dwi Kartika³⁹ further explained that although there have been laws and regulations that regulate and give authority to each institution, they have not been well coordinated, overlapping arrangements, overlapping stakeholders' authorities, and overlapping institutions (given the number of authorized institutions). Exemplified for example the potential for overlap to occur in the exclusive economic zone area between the Indonesian Navy and the Director General of Customs and Excise when both of them want to exercise authority to carry out legal proceedings against ships suspected of carrying out smuggling when this happens in the Indonesian EEZ. Or the Indonesian Navy and the Ministry of Maritime Affairs and Fisheries who carry out patrols at sea for inspections and investigations in Indonesia's EEZ when handling legal proceedings for fishing vessels that commit violations at sea. This happened due to the unclear regulation of the task area of the Directorate General of Customs and the Ministry of Maritime Affairs and Fisheries, so it is not uncommon for the Indonesian Navy to intersect with other agencies in dealing with violations in Indonesian territorial waters, especially in the EEZ.

It can be said that regulations in the marine sector have not been implemented effectively and efficiently. There is no integration between sectoral laws and regulations in the marine sector so that there is a potential for conflicts in the regulation and implementation of authority and responsibility at sea.⁴⁰ Apart from that, there is a lack of integration among stakeholders, limited information systems and infrastructure. There needs to be harmonization between laws and regulations in order to create a harmonized and coherent marine security system. Of the various problems raised above, the issue of coordination becomes important for discussion. Coordination is something that is not easy to do, including in Indonesia. In theory, when Bakorkamla was formed, its main mandate was to

³⁵ Dirhamsyah, "Penegakan Hukum Laut Di Indonesia," *Oseana* XXXII, no. 1 (2007): 1-13, <https://doi.org/hdl:20.500.12690/RIN/1QFXEX>.

³⁶ Badan Keamanan Laut Republik Indonesia Tahun 2020-2024: 40.

³⁷ Gita Irawan, "Minimnya Kualifikasi SDM Dan Alutsista Jadi PR Berat Kepala Bakamla Aan Kurnia," *Tribun News*, 2020, <https://www.tribunnews.com/nasional/2020/02/14/minimnya-kualifikasi-sdm-dan-alutsista-jadi-pr-berat-kepala-bakamla-aan-kurnia>.

³⁸ Irawan.

³⁹ Kartika, "Keamanan Maritim Dari Aspek Regulasi Dan Penegakan Hukum (Maritime Security From The Aspects Of Regulation And Law Enforcement)."

⁴⁰ Fikry Cassidy, *Diplomasi Poros Maritim: Keamanan Maritim Dalam Perspektif Politik Luar Negeri* (Jakarta: Badan Pengkajian dan Pengembangan Kebijakan Kementerian luar Negeri Republik Indonesia, 2016).

create a mechanism to improve coordination among law enforcement agencies. However, this does not occur in practice.

Bakorkamla has not fully operated as expected. This institution cannot respond optimally in law enforcement at sea. Ineffective oversight and law enforcement lead to heavy losses.⁴¹ Ineffectiveness is also affected by the problem of unclear boundaries of duties and authority between institutions. This causes overlapping and duplication in taking actions. The ineffectiveness is also triggered by the unclear distinction between defense (protection of sovereignty) and security (law enforcement) between the Navy and Bakamla.⁴² The formation of Bakamla was actually expected to eliminate this ineffectiveness. However, the Navy still plays an important role in law enforcement at sea. This causes dualism in law enforcement at sea. Finding the right boundary between the roles and functions of both is a challenge in law enforcement and affects the achievement of national interests at sea. On the other hand, if indeed the functions of the two are completely different then it is important to emphasize the difference between the two so that there is no overlapping in implementation in the field.

This is compounded by the fact that there is a lack of awareness of the problems and impacts of illegal and destructive practices for the medium and long term. This can be seen how the theft of fish in several waters in Indonesia has increased. For example, in 2020, according to Bakamla records, more than 1,000 ships are suspected of committing crimes. this has increased compared to 2019. This includes smuggling which is one of the highest vulnerabilities and is almost spread along the coasts of Indonesia.⁴³ This becomes even greater if it is coupled with fishing theft activities carried out by foreign vessels.⁴⁴ It is estimated that fish theft in the Natuna Sea ranges from 50 to 100 units per day.⁴⁵ Ironically, the number of patrol boats is only a dozen, so it will be difficult for them to take action, apart from the unequal number, the distribution of areas for theft of money is also very wide, making it even more difficult to take action.⁴⁶

The weakness of the justice system, especially regarding maritime resource issues. In the course of more than 10 years, there have been many worthy notes on the presence of the Fisheries Law and the Fisheries Court. The number and distribution of fisheries courts are still constrained, for example, there are fisheries courts that are very busy but there are very few cases. In addition, there are areas where there are quite a lot of criminal acts in fisheries, but the fisheries court has not yet presented them.⁴⁷ The limited number of ad hoc judges is the next challenge, especially with regard to resolving fisheries cases. Knowledge and technical understanding in the field of fisheries is an absolute necessity for judges handling fisheries cases.

⁴¹ Dirhamsyah, "Maritime Law Enforcement and Compliance in Indonesia: Problems and Recommendations."

⁴² Arif, "Inward-Looking and Expanding Bakamla: The Indonesian Case of 48 Navy-Coastguard Nexus."

⁴³ Nanda Perdana Putra, "Data Bakamla, Pencurian Ikan Di Selat Malaka-Laut Natuna Utara Meningkatkan Tahun Ini," Merdeka.com, 2012, <https://www.merdeka.com/peristiwa/data-bakamla-pencurian-ikan-di-selat-malaka-laut-natuna-utara-meningkat-tahun-ini.html>.

⁴⁴ Yogi Eka Sahputra, "Kala Kapal Asing Curi Ikan Kian Menggila Di Perairan Natuna Utara," mongabay.co.id, 2021, <https://www.mongabay.co.id/2021/06/04/kala-kapal-asing-curi-ikan-kian-menggila-di-perairan-natuna-utara/>.

⁴⁵ Sahputra.

⁴⁶ Sahputra.

⁴⁷ Khopiatuziadah, "Evaluasi Pengadilan Perikanan Dalam Penegakan Hukum Di Bidang Perikanan Dalam Rangka Perubahan Kedua Undang-Undang Tentang Perikanan," *Legislasi Indonesia* 14, no. 1 (2017): 17-28, <http://ditjenpp.kemkumham.go.id/images/jli/jli14-1-2017.pdf#page=111>.

From a legislative standpoint, a more concrete explanation is needed regarding subjects that can be subject to fishing crimes. Stated in Article 94 of the Fisheries Law, for example, every person who has funds or operates a fishing boat. This is often difficult to use to ensnare capital owners. Next, the procedural law and jurisdiction relating to the fisheries court also need to be clarified and emphasized.

Finally, it relates to the vast territory of Indonesia that must be monitored. As the largest archipelagic country in the world, Indonesia has 17,504 islands spread from Sabang to Merauke, with a coastline of 99,093 km which ranks fourth in the world after Canada (265,523 km), United States (133,312 km) and Russia (110,310 km).⁴⁸ With such broad and widespread characteristics, the number and quality of institutions responsible for security and safety at sea are very important. Human resources and all other supporting equipment are absolute things that need to exist in order to balance the conditions of Indonesia's waters which are very wide and spread out.

C. Creating Institutional Arrangement For Effective And Efficient Law Enforcement On The Sea

From the various obstacles, barriers and challenges faced by the many institutions involved in enforcing safety and security at sea as described and analyzed in previous chapters, it is important to provide insights on how best future institutional arrangements are related to security and safety at sea. In relation to the matter above Lyle J Morris and Giacomo Persi Paoli⁴⁹ concluded the importance of doing 3 things (1) conducting a thorough assessment of needs (2) developing guidelines that can improve maritime security and (3) giving a greater mandate to Bakamla so that it can carry out tasks optimally.

Besides, marine governance (ocean governance) is one of the most important in anticipating various possible dishonorable practices. Understanding that the management of the sea and the resources it contains is carried out in an integrated manner by setting goals and targets for sustainable development. Development of values and ethics, development of conflict resolution capacity, development of planning capabilities, implementation of synergistic monitoring and evaluation, development of active participation of stakeholders, preparation and harmonization of laws and regulations related to marine management, development of regional and international cooperation based on the principle of equality, strengthening and institutional arrangement.

The same thing is stated in the Strategic Plan for the Maritime Security Agency of the Republic of Indonesia for 2020-2024. In policy direction III from Bakamla it is explained regarding Institutional Strengthening and Effective and Efficient Management of Marine Security and Safety. The strategies that have been formulated include: preparation of draft policy documents and security and safety strategies in Indonesian waters and Indonesian jurisdiction. Increasing the quantity and quality of human resources. Furthermore, in policy direction I, it is expected to strengthen maritime security and safety operations in Indonesian waters and Indonesian jurisdiction. Including by increasing the presence of Maritime Security Agency patrol elements in Indonesian territorial waters and Indonesian jurisdiction areas, especially maritime border areas, vulnerable areas and outer islands on an ongoing basis.

⁴⁸ BPHN, "Laporan Akhir Tim Analisis Dan Evakuasi Hukum Bidang Perikanan," *Kementerian Hukum Dan HAM* (Jakarta, 2015).

⁴⁹ Morris and Paoli, *A Preliminary Assessment of Indonesia's Maritime Security Threats and Capabilities*.

Future institutional arrangements so that law enforcement at sea becomes more effective and efficient will depend on many things. Political will from the government, seriousness and mutually supportive cooperation from the various institutions involved, including the willingness of the relevant institutions to choose a policy that is different from the current one, for example by using a single agency approach.

The choice of whether to maintain the current model, namely multi agencies or make it a single agency, needs to be considered carefully. Carefully considering the current conditions, including considering various matters, especially decades of experience, how these multi agencies face various challenges and obstacles. The many institutions involved in enforcing security and safety at sea have led to overlapping in the implementation of law enforcement at sea. This is also felt to be detrimental to sea stakeholders. The existence of Bakorkamla which later changed to Bakamla was evidently not enough to effectively coordinate the many institutions responsible for security and safety at sea.

The choice of a single agency is also not without challenges. The many and varied activities that can be carried out at sea which are very likely to be cross-sectoral in nature make this institution a very large task burden. Strengthening both human resources and other supporting equipment is very important in order to face this big challenge. The question then needs to be fusion of various institutions that are actually involved and made into one body/institution that is responsible for security and safety at sea.

By looking at the challenges and various potential obstacles from the two approaches, both multi agencies and single agencies, this paper offers another approach, namely few agencies or dual agencies. These dual agencies approach seeks to anticipate various challenges and obstacles from the two previous approaches. Dual agencies can be an option that can provide a middle ground for coordination difficulties that are often encountered in multi-agency approaches. With only two institutions responsible for security and safety at sea, there is overlap, and the problem of difficulty in coordination can be reduced. At least the coordination is only carried out by two institutions. Dual agencies also provide a way out for the challenges faced by single agencies where large responsibilities and very broad areas will place a huge burden on the institution. With the division of authority between the two institutions, there is a burden and responsibility that can be shared between the two. This paper offers dual agencies which include Bakamla and the Indonesian Navy.

The selection of Bakamla and the Indonesian Navy as the institutions responsible for security and safety at sea is not without reason. First, there is a clear distinction between the duties of the Indonesian Navy in the field of defense and Bakamla in the field of safety and security at sea. This minimizes the possibility of overlapping between the two. Of course the question will arise how is it possible for the Indonesian Navy, which is devoted to defense, to participate in maintaining security and safety at sea? It is of course important to finalize whether it is true that the TNI Law explicitly separates this matter, especially the duties of security and enforcement at sea by the Indonesian Navy. If you look at Law 34/2004 concerning the TNI, especially Article 9 letter b, it is stated that the Navy is tasked with upholding the law and maintaining security in the maritime area under national jurisdiction in accordance with the provisions of national law and ratified international law. This means that law enforcement and security at sea is one of the tasks of the Indonesian Navy. It is recommended that Bakamla become a leading sector that has full support from the Indonesian Navy in the context of law enforcement and security at sea so that law

enforcement is carried out primarily by civilian institutions. Second, with at least the entities involved, it will provide convenience for stakeholders at sea when carrying out activities. This is because there will be no more examinations conducted repeatedly by various different institutions.

The Bakamla is a fusion of various institutions that have authority and responsibility for safety and security at sea. So, the components that make up Bakamla are various elements that exist and are actually involved in security and safety at sea to date. This is important not only because of the variety and number and uniqueness of the various activities carried out at sea that require special handling as well. But on the other hand, it also minimizes the potential for coordination problems and the possibility of overlapping.

CONCLUSION

This paper has attempted to answer three important questions namely: first, the development of implementers and implementation of security and safety enforcement at sea; Second implications for the many institutions involved in matters of safety and security enforcement at sea; and third institutional arrangements in the future so that Law enforcement at sea becomes more effective and efficient. Based on the discussion in the previous chapters, this paper concludes that (1) the implementer and implementation of enforcement of security and safety at sea is currently adopting multi-agency where there are many institutions involved in enforcing security and safety at sea. (2) This has implications for the large potential for overlapping and lack of coordination between related agencies which can harm stakeholders at sea and result in inefficiency and ineffectiveness of law enforcement and security at sea. (3) Institutional arrangements need to be reformed so that the current problems can be minimized. Existing literatures explain two main models, namely multi agencies and single agency. Based on the analysis above, this paper does not choose either of them considering there are high potential challenges and obstacles. This paper offers a middle way, namely dual agencies where Bakamla is the leading institution in enforcing security and safety at sea so that the character of the civilian institution is more visible by having the support of the Indonesian Navy. By simplifying the number of institutions actively participate in guaranteeing the security and safety at sea, it is expected that the small number of institutions participating in safety and security at sea will benefit all relevant stakeholders at sea. This simplified model also has the potential to reduce overlapping and lack of coordination between authorized agencies.

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