The Role of the Navy in Dealing with Maritime Threats in the Natuna Sea

M. Imam Chadafi, Zenaal Fanani, Setyo Widagdo, Adi Kusumaningrum

Abstract — Nine-dash line claims which carried out by China in the South China Sea in the territorial waters of Indonesia (the Continental Base and the Indonesian Exclusive Economic Zone) in the North Natuna Sea fall within the scope of these claims and are referred to as "traditional fishing ground". There is no agreement on the boundaries of the Exclusive Economic Zone between Indonesia and Vietnam, causing the rise to an "undeclared area". Illegal activities carried out by foreign warships and foreign government vessels in the jurisdiction of Indonesia must be a particular concern to the government so that they can take firm action on this as a form of upholding sovereignty in the territorial waters of Indonesian jurisdiction. This study uses a descriptive method with a qualitative approach to understanding existing social realities. The purpose of this research is to analyze threats that exist in the North Natuna Sea and analyze the role of the Navy in dealing with maritime threats in the North Natuna Sea. The results of this study are illegal fishing activities that occur within North Natuna have become a threat to maritime security because it has caused huge losses for Indonesia. In order to deal with this threat, the Indonesian Navy has carried out JARKAPLID action to eradicate illegal fishing activities that occur in the North Natuna Sea.

Index Term — Role of the Navy, Maritime Resilience, North Natuna Sea.

I. Introduction

Indonesia, with its geographical conditions and the potential of its natural resources, has been recognized as an archipelagic and maritime nation. This condition places Indonesia as the Center of Gravity (CoG) and The Global Supply Chain System. These conditions also cause Indonesia to get some threats, disruptions and obstacles that have implications for the country's maritime security. This position must be supported by a strong defense and security system and change the pattern of national development that is not only oriented to the terrestrial dimension but also to the sea dimension. This has brought logical consequences regarding the defense and security of the country at sea, namely the emergence of threats and disturbances that affect the concept and strategy of national defense. Indonesia's potential can be both strength and challenge with a high level of vulnerability and can disrupt security stability that can threaten the integrity of the Unitary State of the Republic of Indonesia (NKRI). Indonesia's position indirectly provides opportunities for other countries to enter Indonesian territory by sea and carry out activities in the territory of Indonesia with various impacts, so it needs to be considered again for maritime security conditions.

The Government of Indonesia realizes the form of state defense in Act of the Republic of Indonesia Number 3 of 2002 concerning State Defense (State Gazette of the Republic of Indonesia Number 4169 as the additional to the State Gazette of the Republic of Indonesia Number 4169) which hereinafter referred to as Law Number 3 of 2002 concerning Defense Country. This is one of the efforts to support national resilience that has been prepared in the concept of Indonesia's geostategic. In the Law of the Republic of Indonesia number 3 of 2002 concerning national defense, it is explained that national defense is all efforts to maintain national sovereignty, the territorial integrity of the Unitary Republic of Indonesia and the safety of all nations from threats and disturbances to the integrity of the nation and state. Whereas national defense efforts are carried out by developing, maintaining, developing and using the strength of national defense based on the principles of democracy, human rights, general welfare, the environment, the provisions of national law, international law and customs also the principle of peaceful coexistence. Furthermore, Article 7 explains that national defense is prepared early by the government with a national defense system to deal with military threats, which places the Indonesian National Army (TNI) as the main component supported by the reserve and supporting components. Whereas in the face of non-military threats, the government places government institutions outside the field of defense as the main element, in accordance with the form and nature of the threats faced and supported by other elements of the nation's power.

Comprehensively, the role of the Indonesian National Army (TNI) as a defense shield for the Unitary State of the Republic of Indonesia is regulated in the Law of the Republic of Indonesia Number 34 of 2004 concerning the Indonesian National Army (State Gazette of the Republic of Indonesia of 2004 Number 127, additional to the State Gazette of the Republic of Indonesia Number 4439. Article 3 explains that in the deployment and use of military force, the TNI is structured under the President. Then in defense policy and strategy and administrative support, the TNI is under the coordination of the Ministry of Defense. Then in Article 5 it is explained that the TNI plays a role as a state tool in the field of defense in carrying out its duties based on state policy and political decisions. Furthermore, in Article 7, it is explained that the TNI has the main duty to uphold state sovereignty, maintain the territorial integrity of the Unitary State of the Republic of Indonesia based on the Pancasila and the 1945 Constitution of the Republic of Indonesia, as well as protect the entire nation and all Indonesian bloodspots from threats and disturbances towards the integrity of the nation and state. The main task in
question is to carry out Military War Operations (OMP) and Military Operations Other Than War (OMSP). The problem of borders and outer islands is a complex and dynamic problem. Threats to the Indonesian maritime region can be classified in 4 (four) forms, which are:

1) The violence threat is a threat which uses organized armed forces, such as piracy, robbery and acts of terror.
2) Threats to marine resources (natural resources tribulation), is the threat in the form of pollution and destruction to marine ecosystems and conflicts in the management of marine resources which are politicized and followed by the deployment of military power.
3) Threats of violation of the law (law transgression threat), which is not complying with national laws or international laws that apply in the waters, such as illegal fishing, illegal logging and smuggling.
4) Threat of navigation (navigational hazard), is a threat that arises from maritime and hydrographic geographical conditions due to inadequate navigation aids so that they can endanger the safety of shipping.

Since 2009 there have been tensions in the South China Sea (LCS) which cause the disruption of regional maritime security stability. This condition occurs because of the nine-dash line map published by China as a form of claim from China's territory. The action has caused criticism from the international community, especially from countries that also claim (claimant state) part of the LCS region. Claims carried out by China are only based on historical claims and are not in accordance with international sea law rules UNCLOS 1982. China makes the LCS area within the nine-dash line as a traditional fishing ground or what is referred to as "traditional fishing ground" which is claimed to have lasted thousands of years since before Christ. The statement from the Chinese government raises questions and rejections from many countries, including Indonesia because of the term "traditional fishing ground" is not known in UNCLOS 1982. China has also confirmed the nine-dash line claim by carrying out positive occupation through positive fishing activities in LCS waters, until entering the Indonesian Exclusive Economic Zone (EEZ) in the waters of the Natuna Islands. Based on the existing legal perspective, the activities carried out by China are categorized as Illegal, Unreported and Unregulated Fishing (IUU Fishing), known as illegal fishing. Illegal fishing is categorized as a non-traditional threat, which is a threat that is not a dimension of military attack but the scale is a violation of sovereignty by non-state actors.

Related to fisheries issues, the issuance of nine-dash line maps, up to the "traditional fishing ground" has made the Indonesian Government take diplomatic channels to manage bilateral relations between Indonesia and China. Diplomatic efforts are utilized by the Government of Indonesia in the event of a conflict that arises in the aspect of national interest in relations between the two countries. The granting of a protest note is a form of bilateral diplomacy undertaken by the Government of Indonesia as a form of rejection of the nine-dash line claim and protest against territorial violations and fish theft committed by KIA China since 2008. But the protest note given by the Government of Indonesia has not been responded to properly and has not sufficient to strengthen Indonesia's position in guaranteeing maritime security interests at ZEEI because the Chinese government also sent a protest related to the detention of the Chinese KIA crew in Indonesia and stated that the point of incident (ZEEI area of Natuna islands waters) is part of the "traditional fishing ground" of China.

According on the obtained data, the problem of territorial violations and illegal fishing does not only involve China, but also Vietnam. The incomplete issue of the border of the Exclusive Economic Zone between Indonesia and Vietnam is the cause of regional violations and illegal fishing. The determination of maritime boundaries also serves as an affirmation of ownership of the outer islands of the Republic of Indonesia because Indonesia uses the outer islands (in this case the leading islands in the territory of the Unitary State of the Republic of Indonesia) as the determination of territorial sea boundaries, Exclusive Economic Zones and the Indonesian Continental Shelf. Based on available data up to June 2010 there were 120 Vietnamese MCHs arrested for carrying out fish theft in Indonesian waters. These ships weigh more than 70 tons. In 2016 to 2019, it was discovered that KIA Vietnam carried out fishing in ZEEI. From the perspective of the Vietnamese state, the region is part of Vietnamese waters, but from the perspective of the Indonesian state based on the rules of international sea law (UNCLOS 1982) the region is EEZ.

So that the Indonesian government assesses the activities carried out by KIA Vietnam as illegal fishing. Based on these explanations, the researcher is interested in analyzing more comprehensively and in order to be able to know the role of the Navy in dealing with threats and disturbances in the North Natuna Sea, so that several problem formulations are established, which are:

1) What is the current maritime threat in the North Natuna Sea?
2) What is the role of the Navy in dealing with maritime threats in the North Natuna Sea?

II. MATERIAL AND METHODS

A. Legal Material

1. UNCLOS 1982

Problems that occur in the North Natuna Sea have involved 2 (two) countries that have different perspectives or points of view related to understanding boundaries that have been explained in detail in UNCLOS 1982. In Article 55 concerning the special legal regime of the Exclusive Economic Zone it is explained that the Exclusive Economic Zone is an area outside and adjacent to the territorial sea which is subject to a legal regime determined based on the rights and jurisdiction of the coastal states and the rights and freedoms of other countries. Article 56 explains the rights, jurisdiction and obligations of coastal states in the Exclusive Economic Zone, are:

1) In an Exclusive Economic Zone, a coastal country has sovereign rights for the purposes of exploration and exploitation, conservation and management of natural
resources, both biological and non-biological, from waters on the seabed and from the seabed and the land beneath and in connection with other activities for the purposes of exploration and exploitation of these economic zones, such as energy products from water, currents and wind.

2) Jurisdiction as specified in connection with:

3) In exercising their rights and fulfilling their obligations based on conventions in an exclusive economic zone, coastal states must pay due attention to the rights and obligations of other countries and must act in a manner consistent with this convention.

4) The rights contained in this article with regard to the seabed and the land under it must be exercised in accordance with Chapter VI.

Article 57 explains that the width of the exclusive economic zone must not exceed 200 nautical miles from the baseline from which the width of the territorial sea is measured. Then, Article 58 explained about the rights and obligations of other countries in the exclusive economic zone, which are:

1) In an exclusive economic zone, all countries, both coastal and non-coastal countries, enjoy subject to the provisions relevant to this convention. Freedoms for shipping, flying and laying underwater cables and pipes referred to as these freedoms, such as the use of the sea relating to the operation of ships, aircraft and cables and pipes under the sea in line with other provisions in this convention.

2) Articles 88 to 115 and other applicable international legal provisions apply to exclusive economic zones as long as they do not conflict with this Chapter.

3) In exercising their rights and fulfilling their obligations under this convention in an exclusive economic zone, States must pay due attention to the rights and obligations of coastal states and must abide by the laws and regulations adopted by the State in accordance with the provisions of the convention and regulations other international law as long as these provisions do not conflict with the provisions of this Chapter.

Whereas the basis for resolving disputes concerning the granting of rights and jurisdiction in exclusive economic zones has been explained in Article 59, namely in cases where this convention does not give rights or jurisdiction to coastal states or to other countries in exclusive economic zones and disputes arise between the interests of coastal states and other countries or any country, the dispute must be resolved based on fairness and consideration of all relevant circumstances, taking into account the respective interests involved for any party for the international community as a whole.

2. Law of the Republic of Indonesia Number 34 Year 2004 concerning the Indonesian National Army

The Indonesian National Army (TNI) is a defense shield of the Unitary Republic of Indonesia whose task is to carry out national defense policies to uphold national sovereignty, maintain territorial integrity and protect national security, carry out military operations for war and military operations other than war and actively participate in peacekeeping tasks regional and international. The TNI was built and developed professionally in accordance with the country's political interests, referring to the values and principles of democracy, civil supremacy, human rights, national legal provisions and international law provisions which have been ratified with the support of the state budget which is managed transparently and accountably.

The national defense system is a universal defense system that involves all citizens, territories and other national resources, maintains the territorial integrity of the Unitary State of the Republic of Indonesia and protects the safety of all nations from any threat. In Article 1 the definition of threat is explained, namely every effort and activity, both from within the country and abroad that is considered to threaten or endanger the country's sovereignty, the territorial integrity of the country and the safety of the whole nation.

In Article 5, it is explained that the TNI plays a role as a state tool in the field of defense in carrying out its duties based on state policy and political decisions. Comprehensively, the function of the TNI as a means of national defense has been explained in Article 6, such as:

1) Antidote to any form of military threat and armed threats from outside and within the country against the sovereignty, territorial integrity and safety of the nation;
2) Acting on every form of threat; and
3) Restorer of state security conditions that are disturbed due to security chaos.

Then in Article 7 the basic tasks of the TNI are explained, such as upholding the country's sovereignty, maintaining the territorial integrity of the Unitary State of the Republic of Indonesia based on the Pancasila and the 1945 Constitution of the Unitary State of the Republic of Indonesia, as well as protecting the entire nation and all of Indonesia's spilled blood from threats and disturbances towards the integrity of the nation and state. Furthermore Article 7 also explains what is meant by the TNI's main duties as follows:

1) Military Operations for War (OMP)
2) Military Operations Other Than War (OMSP), namely to:
   a. Overcoming the armed separatist movement;
   b. Overcoming armed uprisings;
   c. Overcoming acts of terrorism;
   d. Securing the border area;
   e. Securing strategic national vital objects;
   f. Carry out the task of world peace in accordance with foreign policy;
   g. Securing the President and Vice President and their families;
   h. Empowering defense areas and supporting forces early in accordance with the universal defense system;
   i. Assisting the tasks of government in the regions;
   j. Assist the Republic of Indonesia National Police in the framework of security and public order tasks stipulated in the law;
   k. Helping to secure the level of heads of state guests and representatives of foreign governments who are in Indonesia;
1. Helps cope with the consequences of natural disasters, displacement and the provision of humanitarian assistance;
m. Assist in search and rescue in accident (Search and Rescue); and
n. Assist the government in securing shipping and aviation against piracy, piracy and smuggling.
3) These provisions are implemented based on policy and political decisions.

Specifically, the duties of the Navy are explained in Article 9, namely:
1) Carry out the duties of the TNI sea dimension in the field of defense;
2) Uphold the law and maintain security in the sea territories of national jurisdictions in accordance with the provisions of national law and international law which have been ratified;
3) Carry out Navy diplomacy in order to support foreign policy set by the government;
4) Carry out the duties of the TNI in the development and development of the strength of the sea dimension; and Carry out the empowerment of marine defense areas.

B. Results and Discussion
1. The present maritime threat in the North Natuna Sea
If faced with the current problems, the real threat and has become a national and international problem is the nine-dash line claim made unilaterally by China. Ela Riska (2017) explained that since 2009 there had been tension in the South China Sea (LCS) which resulted in the disruption of regional maritime security stability. This condition occurs because of the nine-dash line map published by China as a form of claim from China's territory. In the map there is a dotted line that cuts nearly 90% of the area of the South China Sea (LCS). The action has caused criticism from the international community, especially from countries that also claim (claimant state) part of the LCS region. Claims carried out by China are only based on historical claims and are not in accordance with international sea law rules UNCLOS 1982. China has also confirmed the nine-dash line claim by implementing positive occupation through fishing activities in LCS waters, until entering Indonesia's Exclusive Economic Zone (EEZ) in the Natuna Islands waters, where the water area is included in the nine-dash line claim. Though China should not have the right to carry out exploration and exploitation of the wealth of resources in the Indonesian Exclusive Economic Zone (EEZ), let alone get to the continental shelf.

In chapter III of Law Number 5 of 1983 concerning Indonesia's Exclusive Economic Zone (State Gazette of the Republic of Indonesia of 1983 Number 44, Supplement to the State Gazette of the Republic of Indonesia Number 3260), hereinafter referred to as Law on Indonesia's Exclusive Economic Zone, article 4 explains about sovereign rights, other rights, jurisdiction and obligations with the following information:

1) Indonesia's Exclusive Economic Zone, the Republic of Indonesia has and implements:
   a. The sovereign right to explore and exploit, manage and conserve biological and non-biological natural resources from the seabed and underlying land and the water above them and other activities for the exploration and economic exploitation of the zone, such as the generation of water from power currents and wind;
   b. Jurisdiction related to:
      a) Manufacture and use of artificial islands, installations and other buildings;
      b) Scientific research on marine affairs;
      c) Protection and preservation of the marine environment.
      d) Other rights and other obligations based on applicable sea law conventions.

2) As long as they relate to the seabed and the underlying land, sovereign rights, other rights, jurisdictions and obligations of Indonesia as referred to in paragraph (1) are carried out according to the laws of the Indonesian continental shelf, agreements between the Republic of Indonesia and neighboring countries and the provisions of applicable international law.
3) In Indonesia's Exclusive Economic Zone, freedoms of shipping and international aviation as well as the freedom to install underwater cables and pipes are recognized in accordance with applicable international sea law principles.

Whereas in the UNCLOS III convention there is an agreement on the obligations and rights of Indonesia as an archipelagic and sovereign state that has been implemented into the Republic of Indonesia Law Number 6 of 1996.
concerning Indonesian Waters (State Gazette of the Republic of Indonesia of 1996 Number 73. Additional State Gazette of the Republic Indonesia Number 3647), hereinafter referred to as Law Number 6 of 1996 concerning Indonesian Waters, in which Article 24 explains that:

1) Enforcement of sovereignty and law in Indonesian waters, the air space above it, the seabed and the land beneath it including the natural resources contained therein and sanctions for violations, are carried out in accordance with other international legal conventions and applicable laws and regulations;

2) Jurisdiction in upholding the sovereignty and law of foreign vessels crossing the territorial sea and waters of the Indonesian archipelago is carried out in accordance with the provisions of the convention, other international laws and applicable laws and regulations;

3) If necessary, for the implementation of law enforcement as referred to in paragraphs (1) and (2) a coordinating body may be established which is determined by a Presidential decree?

However, it seems that China does not comply with what has been regulated in UNCLOS and holds firmly the opinion that the Nine-dash line is their territory, so they have the right to carry out exploration and exploitation of natural resources in the area that is considered a "traditional fishing ground". Based on the data obtained, it is known that from 2009 to mid-2016 there were 9 (nine) cases of illegal fishing practices conducted by Chinese fishermen in the ZEEI area. Based on the existing legal perspective, the activities carried out by China are categorized as Illegal, Unreported and Unregulated Fishing (IUU Fishing), known as illegal fishing. Illegal fishing is categorized as a non-traditional threat, which is a threat that does not have the dimension of a military attack but the scale is a violation of sovereignty by non-state actors.

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<th>INCIDENT</th>
<th>DESC.</th>
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<tbody>
<tr>
<td>1.</td>
<td>20th of June 2009</td>
<td>112 Km northeast of Sekatung Island</td>
<td>Indonesian Patrol Boat captures 8 Chinese ships and 75 Chinese fishermen</td>
<td>59 of the 75 fishermen were released after pressure from the Chinese government</td>
</tr>
<tr>
<td>2.</td>
<td>15th of May 2010</td>
<td>77 Nm Northeast of PulauLaut</td>
<td>Shark Ships 04 was intimidated by Chinese patrol boats</td>
<td>Two Chinese fishing vessels were released</td>
</tr>
<tr>
<td>3.</td>
<td>22th of June 2010</td>
<td>Natuna waters</td>
<td>Sharks 10 is intimidated by Chinese Patrol Boats</td>
<td>Chinese Patrol Boats are larger in size</td>
</tr>
<tr>
<td>4.</td>
<td>23th of May 2012</td>
<td>Natuna waters</td>
<td>KIA GuiBeiyu was examined by KRI SSA-378</td>
<td>Got provocation from a Chinese Coast Guard ship</td>
</tr>
<tr>
<td>5.</td>
<td>26th of March</td>
<td>Natuna waters</td>
<td>Tiger Sharks Ship 001 stops</td>
<td>Got a provocation</td>
</tr>
</tbody>
</table>

Source: Researcher’s processed data, (2019)

From these data it is known that every time a violation of illegal fishing is found committed by KIA China in Indonesian waters, the security forces who will carry out law enforcement actions in the ZEEI region (Natuna waters) experience obstacles so that they are not optimal. This happened because of the presence of Chinese security forces. The Chinese coast guard often attempts to thwart law enforcement efforts carried out through acts of intimidation and provocation. In fact this is done through physical actions such as pointing weapons and crashing ships. This was considered as an assertive action and put pressure on Indonesia. Real events in the field are a form of seriousness from China to show that the region is their territory so there is no reason and obstacle for China to continue fishing in the area which they consider to be a "traditional fishing ground". Although for Indonesia, this activity is an illegal fishing activity. Unfriendly actions continue to be carried out by China, especially related to the issue of fisheries, the publication of a nine-dash line map, to the "traditional fishing ground" has made the Indonesian Government take diplomatic channels to manage bilateral relations between Indonesia and China. Diplomatic efforts are utilized by the Government of Indonesia in the event of a conflict that arises in the aspect of national interest in relations between the two countries. The granting of a protest note is a form of bilateral diplomacy undertaken by the Government of Indonesia as a form of rejection of the nine-dash line claim and protest against territorial violations and fish theft committed by KIA China since 2008. But the protest note given by the Government of Indonesia has not been responded to properly and has not sufficient to strengthen Indonesia's position in guaranteeing maritime security interests at ZEEI, because the Chinese government also sent a protest related to the detention of the
Chinese KIA crew in Indonesia and stated that the point of incident (ZEEI area of Natuna islands waters) is part of the "traditional fishing ground" of China.

Based on the data obtained, it turns out the problem of territorial violations and illegal fishing not only involves China, but also Vietnam. The incomplete issue of the border of the Exclusive Economic Zone between Indonesia and Vietnam is the cause of regional violations and illegal fishing. Indonesia and Vietnam have tried to build cooperation in overcoming the problem of illegal fishing\(^1\). This was reinforced by a meeting between the Indonesian Minister of Maritime Affairs and Fisheries, Mr. Fadel Muhammad and the Vietnam Ambassador to Indonesia, Nguyen Huu Dzung in Jakarta on September 2010. The two sides discussed plans to develop cooperation in the fisheries sector. Indonesia agreed to cooperate but gave a condition for Vietnam to commit to tackle fish theft in Indonesian waters by stopping illegal MCH from entering Vietnam. Do not stop there, to strengthen cooperation activities in the field of marine and fisheries, the Minister of Maritime Affairs and Fisheries of Indonesia, Mr. Fadel Muhammad and the Minister of Agriculture and Rural Development of Vietnam, Cao Duc Phat has signed a Memorandum of Understanding (MoU) on Marine and Fisheries Cooperation in Hanoi, Vietnam on October 27, 2010. The activity was witnessed by the President of the Republic of Indonesia and the President of the Socialist Republic of Vietnam as part of a series of state visits by the President of the Republic of Indonesia and his attendance at the ASEAN Summit in Hanoi, Vietnam.

This problem can occur because up to now, Indonesia has not set the boundaries of EEZ with other ASEAN countries, both with Thailand, Malaysia, Philippines and with Vietnam\(^2\). The country's border agreement that has been entered into with Vietnam is the Continental Line Boundary Agreement which was implemented in Hanoi, Vietnam on June 26, 2003 and has been ratified by Law Number 18 Year 2007 concerning Ratification of the Agreement Between the Government of the Republic of Indonesia and the Government of the Socialist Republic of Vietnam concerning the Boundary Setting Continental Shelf, 2003 (State Gazette of the Republic of Indonesia of 2003 Number 43. Supplement to the State Gazette of the Republic of Indonesia Number 4708), hereinafter referred to as Law Number 18 of 2007 concerning Ratification of the Agreement Between the Government of the Republic of Indonesia and the Government of the Socialist Republic of Vietnam concerning the Boundary Setting Continental Shelf, 2003 (State Gazette of the Republic of Indonesia of 2003 Number 43. Supplement to the State Gazette of the Republic of Indonesia Number 4708), hereinafter referred to as Law Number 18 of 2007 concerning Ratification of the Agreement Between the Government of the Republic of Indonesia and the Government of the Socialist Republic of Vietnam concerning the Determination of Continental Shelf Limits, 2003. In the Act explained that the determination of maritime boundaries with neighboring countries basically needed to:

1. Provide legal certainty about the area;
2. Sovereignty and sovereign rights of the Republic of Indonesia;
3. Ensuring legal certainty in the activities of utilizing natural resources.

The maritime setting boundaries also functions as an affirmation of ownership of the outer islands of the Republic of Indonesia because Indonesia uses the outer islands (in this case the leading islands in the territory of the Unitary State of the Republic of Indonesia) as the determination of the territorial sea boundaries, the Exclusive Economic Zone and the Indonesian Continental Shelf. Determination of continental shelf boundaries with the Socialist Republic of Vietnam is required by the government of the Republic of Indonesia within the framework of the interests mentioned earlier because the North Natuna Sea in the South China Sea area is a strategic waters and is the entrance to Southeast Asia especially from Japan, China, the Republic of Korea and the Democratic People's Republic of Korea. In addition, the base of the North Natuna Sea contains potential natural resources, especially hydrocarbons. In the region there are also a number of Indonesia's outer islands which have been used as the basis for determining the base point and drawing of the Indonesian Archipelagic Nation of the Republic of Indonesia since 1960. Then it is further explained in Law Number 18 Year 2007 that the establishment of continental shelf boundaries between the Republic of Indonesia and the Republic of Vietnam, which ran from 1978 to 2003, was conducted through difficult negotiations, because basically it has benefited the Republic of Indonesia from several aspects, such as:

1) The existence of clear boundaries and continental shelf areas so as to guarantee legal certainty;
2) There is a fair division of continental shelf territory in accordance with applicable international law;
3) Facilitating efforts to supervise and uphold the country's sovereign rights on the continental shelf;
4) Legal recognition by the Government of Vietnam of the outer islands in the Natuna region which faces the Socialist Republic of Vietnam; and
5) Improve good relations between the two countries.

Even though Law Number 18 Year 2007 and Memorandum of Understanding (MoU) on Marine and Fisheries Cooperation were agreed in 2010 to strengthen cooperation activities in the field of maritime affairs and fisheries, illegal fishing activities carried out by KIA Vietnam in Indonesian waters are still in place. Based on existing data, there are 120 Vietnamese MCH who were arrested for committing theft of fish in Indonesian waters. These ships weigh more than 70 tons. In 2016 to 2019, it was discovered that KIA Vietnam carried out fishing in ZEEI. From the perspective of the Vietnamese state, the region is part of Vietnamese waters, but from the perspective of the Indonesian state based on the rules of international sea law (UNCLOS 1982) the region is EEZ. So that the Indonesian government assesses the activities carried out by KIA Vietnam as illegal fishing. Based on the results of existing reports and data, it is known that Vietnam is increasingly showing its intimidation attitude towards Indonesia. Where at the time law enforcement officers at sea will carry out law enforcement actions in the ZEEI (Natuna waters) region, the Coast Guard

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of Vietnam is ready to thwart law enforcement efforts carried out through acts of intimidation and provocation. The action was demonstrated by maneuvering which endangered Indonesian law enforcement officers. The Republic of Indonesia (KRI) warship often confronts the Vietnam Coast Guard who has been on standby to protect and protect the KIA Vietnam while carrying out fishing activities on the EEZ.

Table 2.
Cases of illegal KIA Vietnam fishing in the Natuna Sea in 2017

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<tr>
<th>No</th>
<th>DATE</th>
<th>LOCATION</th>
<th>INCIDENT</th>
<th>DESC.</th>
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<tbody>
<tr>
<td>1.</td>
<td>21st of May 2017</td>
<td>Indonesian Exclusive Economic Zone (EEZ)</td>
<td>Tiger Shark KKP Patrol, 5 Vietnamese ships along with 11 Vietnamese fishermen</td>
<td>The Vietnam Coast Guard crashed into one of the Vietnamese KIA until it sank, causing 44 fishermen to jump into the sea.</td>
</tr>
<tr>
<td>2.</td>
<td>28th of May 2017</td>
<td>The Indonesian continental shelf waters</td>
<td>MCH Fatahillah-361</td>
<td>KRI Fatahillah-361 succeeded in capturing KIA Vietnam BD 10783 TS along with 6 (six) ABK people and was escorted to Lanal Tarempa for further legal proceedings.</td>
</tr>
<tr>
<td>3.</td>
<td>01st of June 2017</td>
<td>Indonesian Exclusive Economic Zone (EEZ)</td>
<td>More than 30 radar contact spots are in the ZEEI region.</td>
<td>KRI Fatahillah-361 succeeded in capturing KIA Vietnam BV 0114 TS along with 3 (six) crew members. But previously the Vietnam Coast Guard intervened by continuing to carry out shadowing, unfriendly actions (dangerous maneuvers) and debate through the radio communication net.</td>
</tr>
<tr>
<td>4.</td>
<td>28th of June 2017</td>
<td>The Indonesian continental shelf waters</td>
<td>Vietnamese Coast Guards VCG 4034, RIG Ship Deepsea Metro 1, KN 265, KN 260.</td>
<td>KRI Pattimura-371 conducted a patrol then visually detected the Coast Guards Vietnam VCG</td>
</tr>
<tr>
<td>5.</td>
<td>29th of June 2017</td>
<td>The Indonesian continental shelf waters</td>
<td>MCH Vietnam was detected in the waters of the Indonesian continental shelf and the Coast Guard Cangh Sat Dien 600 carried out surveillance.</td>
<td>KRI Pattimura-371 conducted patrols and detected 13 Vietnamese MCHs on the Indonesian Continental Platform. In addition, a Vietnamese KPP ship was found named KN 206 and KN 224. In addition, Coast Guard Cangh Sat Dien 600 loomed over KRI Pattimura-371.</td>
</tr>
</tbody>
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3.2 The role of the Navy in strengthening maritime resilience in Natuna

Actually, all violations committed by China and Vietnam in the North Natuna Sea will not occur if each country implements the rules agreed to in UNCLOS 1982. Indonesia as one of the countries that ratified UNCLOS 1982 tried to obey and implement all the rules set out in UNCLOS 1982. In order to support this, there are 3 (three) elements that affect the effectiveness and success of legal actions, such as:

1) Legal structure (legal structure), the structural system that determines whether or not the law can be implemented properly. The law will not run or upright if there no law enforcement that is credible, competent and independent. Because as good as possible a statutory regulation, if it is not supported by good law enforcement officers, justice will only be a delusion.

2) The contents of the law (legal substance), the system of substance that determines whether or not the law can be implemented. Substance can also be interpreted as a product produced by people who are in the legal system and includes decisions issued as well as new rules drawn up. It was further explained that "there is no criminal
offense that can be punished if there are no rules that govern it”. So it can be concluded that whether or not an action can be subject to legal sanctions if the act has obtained its regulation in the legislation.

3) Legal culture, human attitudes towards law and the legal system of beliefs, values, thoughts and expectations. It can be said that legal culture is an atmosphere of social thought and social force that determines how law is used, avoided or abused. This is very closely related to the legal awareness of the community, where the higher the legal awareness of the community regarding the law, the good legal culture will be created so as to be able to change the mindset of the community regarding the law so far.

The claim of the nine-dash line map issued by China is a proof that China did not implement and heed the rules set out in UNCLOS 1982, even though China is also one of the countries that ratified UNCLOS 1982. Then the second problem is that no agreement has been reached on boundaries ZEE between Indonesia and Vietnam is the biggest mistake that must be resolved jointly between the two countries. Differences in perceptions should be resolved if Vietnam returns to the rules contained in UNCLOS 1982, which have arranged how to determine territorial seas, additional zones, continental shelf and exclusive economic zones by pulling from the baseline. Starting from these two problems, the threat of illegal fishing and disruption in the North Natuna Sea then emerged. The threat should not arise if China and Vietnam have a high level of legal awareness because the actual rules that explain the boundaries of territorial waters have been explained and determined in UNCLOS 1982 and have been ratified by almost all countries in the world, although there are still up to not ratified yet.

From the nine-dash line claim map, ZEE in the North Natuna Sea overlaps with an area considered as a "traditional fishing ground" by China. But that has no basis because it is not in UNCLOS '82 and international law. In addition, China issued a map of the nine-dash line unilaterally and only based on historical reasons. The Indonesian government must not allow this to happen, because if left unchecked, it will be considered as accepting. Then it is considered as customary international law so as if to recognize the existence of nine-dash line claims and "traditional fishing ground" China. In the case of the nine-dash line claim, Indonesia is only a non-state state, but based on the data obtained, it is known that the threat has a negative impact on the country's economy. At least 300 trillion Rupiahs of state wealth evaporates every year due to illegal fishing, illegal logging, illegal mining, smuggling of fuel oil and various other illegal economic activities. In order to face the threat of illegal fishing carried out by KIA China and Vietnam and territorial violations committed by foreign countries in the North Natuna Sea, the Government of Indonesia has implemented several actions to defend its territory. This can be seen where the government has ordered the TNI to implement multi-layered defense which includes a strategy of deterrence, repression and recovery.

1) The deterrence strategy is aimed to realize the preparedness of all the strengths and abilities as well as the title of the TNI which is able to have a psychological impact by creating a strong deterrent effect both inside and out. This is proven by the capture of Chinese and Vietnamese KIA that carry out illegal fishing activities by the Navy for further processing in accordance with national law and international law which has been ratified.

2) Enforcement strategies aim to be able to take action against any threat that disturbs the sovereignty, territorial integrity of the Republic of Indonesia and the safety of the nation carried out in the form of combat operations to destroy the enemy in the country, on the way and who have successfully entered the national territory using a strategy of protracted war. Although the action taken does not use a war strategy at sea, the Indonesian Navy has conducted a maritime security operation aimed at securing Indonesia's territorial waters, both territorial and jurisdictional, from illegal fishing activities and territorial violations. Then the Navy handed over the perpetrators of illegal fishing activities to the authorities to be processed according to applicable national laws and ratified international law. When proven guilty, the MCH captured will be drowned by the Government of Indonesia. The crew of KIA will be returned to their country because they are only non-judicial. Whereas the MCH captain will be sentenced to a criminal sentence if the state or company that employs him is unable or unwilling to pay a fine.

3) Recovery strategy is a strategy that aims to restore the condition of security stability and public trust carried out through guidance, reconstruction and rehabilitation. This is shown by the existence of fostering activities of fishermen in the Natuna Regency by the Navy to assist the Natuna Regency Government. So that local fishermen do not need to be afraid to return to sailing and fishing until ZEEI because the Indonesian Armed Forces will continue to protect the local fishermen.

In addition to carrying out the duties of the Navy, the Navy also seeks to implement selected strategies through pro-active activities to increase national resilience in border areas or regions. The Indonesian Navy has implemented the Navy's universal role by placing elements of the KRI to carry out marine security operations in the North Natuna Sea with the aim of cracking down on KIA carrying out fishing on the EEZ and continental shelf. Where in the operation of the operation is certainly always in collaboration with parties and related stakeholders so that the operation can run effectively and get optimal results. Support from the side unit that provides up-to-date information and tactical depiction of the operation area has a very positive effect on the continuity of the KRI's tasks. In addition, the role of the grassroots unit in supporting logistical needs for KRI is very important to extend the period of KRI's presence in the area of operation. As law enforcement

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5E. Esta Prabowo, “Kebijakan dan Strategi Pertahanan Indonesia (Studi Kasus Konflik di Laut Cina Selatan)”, Jurnal Ketahanan Nasional, nomor XIX (3), hal. 118-129.
officers at sea that uphold the sovereignty of the Unitary Republic of Indonesia in the territorial waters of the national jurisdiction, the Indonesian Navy is given the right to carry out "hot pursuit" or the pursuit of foreign vessels violating provisions in the EEZ.

Provisions regarding law enforcement are regulated in Article 13 and Article 15 of Law Number 5 of 1983 concerning Indonesia's Exclusive Economic Zone. Although in reality on the ground, Indonesia's national legal rules and current international legal rules do not make the KIA of China and Vietnam and their coast guards tremble. Because according to the facts, coast guards of China and Vietnam do not care about the presence of the Navy in the North Natuna Sea and continue to oversee and protect their MCH who are fishing in ZEEI even to enter the Indonesian continental shelf. So that what cannot be avoided is the provocative actions carried out by the coast guards of China and Vietnam because the Navy took firm action by carrying out JARKAPLID (Chasing, arrest and investigation). The Indonesian Navy has permanent procedures (protap) for law enforcement and security in the Indonesian national jurisdiction sea area in accordance with Kasal Regulation Number 32 / V / 2009 dated May 4, 2009. Maritime security (Kamla) procedures are part of the Navy's strategy in the context of law enforcement in and or by sea by carrying out investigation activities in a professional and proportional manner. Law enforcement efforts in and or by sea are carried out in pursuit, arrest and investigation activities or what is often referred to as "JARKAPLID". The explanation of the "JARKAPLID" activity is as follows (ProtapKamla Navy, 2009).

1) Chasing is the process and effort to stop and arrest the perpetrators who are suspected of committing criminal offenses and running away. The actions taken are:
   a. Detection, carrying out surveillance activities in water sectors which are prone to criminal acts based on information obtained through intelligence data, Regional Operations Analysis (ADO), maritime air patrol reports / information, communities and other vessels.
   b. Introduction, if the target is found in patrol activities, an introduction will be carried out using existing facilities.
   c. Evaluation of targets, assessing and determining the type of vessel, vessel identification, vessel activities and other data.

2) Arrest is an act of investigator in the form of a temporary restraint of the freedom of the suspect or the ship if there is sufficient evidence for the interests of the investigation in terms of and according to the method regulated by the Act.

3) Investigation is a series of investigative actions to search for and find an event that is suspected of being a criminal offense in order to determine whether or not an investigation can be conducted in the manner stipulated in the Criminal Procedure Code and certain laws.

After the investigation process carried out by the Navy Base is completed, the decision of guilt or innocence of the KIA is decided by the local district court, where the case was held. As long as the legal process is in progress, the KIA captains are of legal status, to undergo legal proceedings in accordance with the rule of law of the coastal states in this case is Indonesia. So in the decision of the district court or fisheries court, the judicial captain is found guilty by paying a fine. If you cannot pay the fine, you will be replaced with a sentence of imprisonment to take responsibility for violating the law that has been done. While the KIA ABK crew with non-judicial status are not jailed but are secured in a special place in the Lantamal or Lanal area where the MCH is handed over for further legal proceedings. The crew of KIA remained in that place until the deportation process was carried out. In preparing for the implementation of marine security operations in the North Natuna Sea, the Indonesian Navy made a document known as the Operation Plan (RO). The document was formulated through a long process and determined steps. So that RO has become an inherent part of KRI who carry out operations. Different operating areas will also distinguish RO which will be used, because the existing data will be adjusted to the intended operating area. The Operational Plan (RO) can also be referred to as a guide to the overall operation plan, which provides an overview of important information related to operations to be used as a reference and reference for KRI. Whereas JARKAPLIDacts as a strategy for KRI is to carry out executions of perpetrators of violations in the area of operation.

III. Conclusion

1. Based on the analysis conducted by researchers, it can be concluded that in the case of the nine-dash line claim, Indonesia is only a non-state state, but based on the data obtained, it is known that the threat has a negative impact on the country's economy. At least 300 trillion Rupiah of state wealth evaporates every year due to illegal fishing, illegal logging, illegal mining, smuggling of fuel oil and various other illegal economic activities. In order to face the threat of illegal fishing committed by KIA China and Vietnam and territorial violations committed by foreign countries in the North Natuna Sea.

2. The Indonesian Navy takes decisive action by carrying out JARKAPLID (pursuit, arrest and investigation). The Indonesian Navy is also given the right to carry out "hot pursuit" or pursuit of foreign vessels violating provisions in the EEZ. Provisions regarding law enforcement are regulated in Article 13 and Article 15 of Law Number 5 of 1983 concerning Indonesia’s Exclusive Economic Zone.

REFERENCES

[1] ActNo.5 of 1983 about Indonesia Economy Exclusive Zone

202802-7575- IJBAS-IJENS @ April 2020 IJENS
Universitas Indonesia, Fakultas Ilmu Sosial dan Ilmu Politik: Jakarta, 2011.

[6] Law of Republic of Indonesia No. 6 of 1996 about Indonesia Seas

[7] Law of Republic of Indonesia No. 3 of 2002 about Defence


[14] UNCLOS 1982