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The Development of International and National Sovereignty of the Law of the Sea in the Perspective of Philosophical Analysis

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ABSTRAK

International law of the sea is one of the branches of international law that has experienced significant development in the last 50 years and will always develop dynamically from time to time. This research uses doctrinal legal methods, data analysis techniques are carried out qualitatively with deductive thinking patterns. Data processing begins with editing, classification, verification, analysis, and conclusions. The results of this research explain the development of the sovereignty of the provisions of international law of the sea began in 1930 when developed countries began to have the ability to explore and exploit natural resources, especially oil in the sea. Before the holding of the International Law of the Sea Conference or commonly called the First United Nations Conference on the Law of the Sea (UNCLOS I) in 1958, the use of the sea was regulated by international customary law. Furthermore, UNCLOS II in 1960 formulated a resolution on the need for certain technical methods in terms of fisheries, and the proliferation of sovereignty claims over sea areas submitted by new countries, regulating sea-bed with the concept of common heritage of mandkind and the decision to hold UNCLOS III in 1974-1982, UNCLOS 1982 regulates the division of maritime zones with their respective legal regimes and, which is very revolutionary in the development of international law of the sea is the recognition of the concept of island states in Chapter IV of UNCLOS 1982. The development of international maritime law sovereignty greatly influenced national maritime law policy, Indonesia poured the Juanda Declaration into the form of regulations, namely Law No. 4 / Prp / 1960 concerning Indonesian Waters also emphasizes economic factors and the need to preserve biological and non-biological natural resources. other laws and regulations that support the Indonesian water system Law No.4 / Prp / 1960. include Government Regulation No. 8/1962 (PP 8/1962) concerning the right of peaceful passage and Law no. 1/1973 (Law 1/1973) concerning the continental shelf. This forces foreign vessels to notify the Indonesian government of their presence. Border agreements with neighboring countries indirectly support the 'archipelagic state concept' proposed by Indonesia. This will strengthen the existence of the 'archipelagic state concept'

1. Introduction

International law is unique compared to other areas of law. This is because international law is based on the existence and sovereignty of a state which is the supreme power. (Alvito Baylon Patrisius Bagus. 2021) In other words, international law is based on the equality of states. International law of the sea is one of the branches of international law that has experienced significant development in at least the last 50 years and will always develop dynamically from time to time. (Ester Nataliana. 2022)

Prior to the First United Nations Conference on the Law of the Sea (UNCLOS I) in 1958, the use of the sea was governed by customary international law. (Faudzan Farhana. 2014) (Ftmawati, dkk. 2019) However, along with the development of marine technology and the ability of countries to conduct exploration and exploitation of marine resources, especially oil, interest in marine areas became a trend in the 1930s. Thus, the international community decided to codify the international law of the sea and it took almost 30 years to codify the provisions of the international law of the sea. (Wulan Pri Handini. 2019)

The development of international maritime law sovereignty can be understood when it began in 1958 when UNCLOS I was held, continued with the International Law of the Sea Conference II (UNCLOS II) in 1960, and then the International Law of the Sea Conference III (UNCLOS III) which began in 1973 and ended in 1982, when the adoption of the International Convention on the Law of the Sea (KHL 1982) or commonly known as the United Nations Convention on the Law of the Sea (UNCLOS 1982). (Hendro Antoni. 2022)

The development of international maritime law sovereignty greatly influences national maritime law policies, Political conditions greatly affect public policies issued by Indonesia, especially those related to ocean utilization, Since the proclamation of independence in 1945, Indonesia has experienced several changes in the government system. These changes have greatly influenced Indonesia's policies on ocean utilization, which will specifically affect the development of national marine law. Prior to the proclamation of independence, Indonesia's claim to the sea area was still regulated based on legal rules made by the Dutch government, namely the Territoriale zee en Maritieme Kringen Ordonantie 1939 (TZMKO 1939). Article 1 paragraph 1 of TZMKO 1939 states that the sovereignty of the Indonesian state is extended to a sea area three nautical miles wide measured from the lowest low-water mark. With this provision, each island in Indonesia has its own sea area and consequently there will be free seas around or between Indonesian islands, so that the islands in Indonesia seem to be separated by the sea. Based on the above background, the focus of this research is a philosophical analysis of the development of international and national law of the sea.

2. Method

This research uses doctrinal legal methods with secondary data, which data collection methods are carried out by means of literature study (bibliography study), document study (document study), and archive study (file of record study). Legal dogmatics is intended regarding the interpretation of positive law on the sovereignty of international and national maritime law. Data analysis techniques are carried out

qualitatively with deductive thinking patterns, namely the analysis process that departs from the development of sovereignty of marine law which is general in nature or thinking patterns that are taken based on general data and then applied to specific conclusions after categorization. Data processing begins with editing, classification, verification, analysis, and conclusions.

3. Results dan Discussion

a. The evelopment of Sovereignty in the International Law of the Sea

The sea has two main functions, namely as a means of transportation and the largest provider of natural resources in the world. regulation of the use of the sea is so dynamic that it requires the continuous development of the rule of law, especially the international law of the sea.

The international law of the sea as it is known today dates back to ancient Roman times. The first official document of international law of the sea can be found in the Digest of Justinian in the manuscript of a jurist Marcianus, stating that the oceans and coasts are common to all men. Subsequently, a doctrine of 'the common right of all men to a free use of the sea' was adopted in the Roman Empire.

Therefore, the Romans made no claim to sea territory. Although the rule of law was codified in the 6th century, "the principle of the free use of the sea was not a recognized formal international law." This was because there were no independent states in the Mediterranean during the ancient Roman Empire, so the Mediterranean was entirely controlled by Rome. This is because there were no independent states in the Mediterranean during the ancient Roman Empire, so the Mediterranean was entirely controlled by Rome. However, since the collapse of Rome, newly independent states have competed for control over each other, including the desire to control the use of the sea. In the 15th century, the Portuguese under Prince Henry began their expedition to the west coast of Africa. As a result, The Bull Romanus Pontifex was issued by Pope Nicholas V, granting the Portuguese an exclusive and permanent dominion over Africa and its entire coast.

Fourteen years later, in the Bull of Inter Caetera of May 3, 1493, Pope Alexander VI declared that "Spain shall have the exclusive right to all newly discovered lands not possessed by a Christian king prior to December 24, 1492, that lay west of a demarcation line drawn from the North Pole to the South Pole, one hundred leagues west of the Azores and the Cape Verde islands."

It also prohibits anyone from traveling/sailing west of the demarcation line without permission from Spain. In response to this unilateral claim, in June 1494 Spain and Portugal signed the Treaty of Tordesilas" in which the boundary line between Portugal and Spain was shifted to the west of the Cape Verde islands. It was agreed that all land and sea east of the line belonged to the Portuguese, while west of the line belonged to Spain. Thus, Portugal claimed sovereignty over the entire Indian Ocean and parts of the Atlantic Ocean, while Spain declared sovereignty over the Pacific Ocean and the Gulf of Mexico. The claim drew controversy. Grotius, in his book Mare Liberum, challenged the claims of sovereignty over sea areas made by the Portuguese and Spanish. Grotius argued that a country's sovereignty over sea territory through the method of occupation is not correct, "because in fact all countries in the world have the same

rights over the oceans, as written: "The sea is common to all, because it is so limitless that it cannot become a possession of any one, and because it is adapted for the use of all, whether we consider it from the point of view of navigation or of fisheries." Grotius thus states that the regime of the oceans is 'res gentium' and 'res extra commercium'.

Contrary to Grotius, Selden, in his book Mare Clausum, said that a state has the right to exercise exclusive jurisdiction over the sea around and beyond its land territory." However, Selden rejected Portuguese and Spanish claims to sea territory on the grounds that these claims had no legal basis or clear title and that these countries did not have sufficient naval fleets to enforce their jurisdiction over vast areas of sea.

The theory of sovereignty encompasses both land and sea borders between one country and another. According to the Mare Liberum Theory, a state's sovereignty is synonymous with sovereignty over and excluding its maritime territory. Thus, a country's borders are only land borders. This would be appropriate if applied to land-locked states. Meanwhile, if this theory is applied to coastal states that are economically dependent on the use of the sea as a provider of natural resources and a medium of trade, there will be protests. Subsequently, the Mare Clausum theory will be able to accommodate the interests of both land-locked states and coastal states. However, it should be kept in mind that the sovereignty that can be upheld by a state is only sovereignty over the sea area around and around its land area, not over the entire ocean area as claimed by Portugal and Spain.

Along with the development of marine science and technology, a country's sovereignty over the sea area to regulate the use of the sea is very important. If a coastal state is entitled to the sea area around and surrounding its land territory (this sea area is then referred to as the territorial sea), then how wide can the sea area be? Byn Kershoek, with the canon-ball theory, proved that the width of the sea that a coastal state can have is three nautical miles measured from the lowest point of low-water line. This distance was measured by testing how far a cannon shot from the shoreline. In the 20th century, although Bynkershoek's theory was not accepted as formal customary international law, many states adopted it to determine the width of their seas. In the face of uncertainty, the international community agreed to codify the different provisions of the law of the sea in practice by formulating an international convention on the use of the sea.

Pre-UNCLOS I

Efforts to codify the provisions of international law of the sea began in 1930 when developed countries, especially the United States, began to have the ability to explore and exploit natural resources, especially oil at sea." Beginning with the Hague Conference 1930, "efforts to codify provisions on freedom of shipping, navigation, fisheries as well as the laying of submarine cables and pipes and aviation regimes in the free sea began to be formulated. However, these efforts failed to reach an agreement, so no legal product was created.

In 1945, the President of the United States, Harry S. Truman, continuing the proposal of the previous president, Roosevelt on fisheries and the continental shelf, proclaimed the Proclamations on "Coastal Fisheries in Certain Ares of the High Seas", and the "Natural Resources of the Subsoil and Sea-bed of the Continental Shelf" (hereafter

known as the Truman Proclamation). In his proclamation on "Coastal Fisheries in Certain Ares of the High Seas", Truman emphasized the importance of establishing conservation zones to protect fisheries resources from massive destructive exploration and exploitation. Furthermore, in his proclamation on "Natural Resources of the Subsoil and Sea bed of the Continental Shelf", it was said that: "The government regards the natural resources of the subsoil and seabed of the continental shelf beneath the high seas but contiguous to the coast...(to be) subject to its jurisdiction and control." Many countries followed the Truman Proclamation, such as Argentina and Chile who made claims of extended sovereignty beyond their territorial seas, especially the sea-bed. By 1958 at least 20 countries had made claims to the sea-bed.

UNCLOS I 1958

Although at that time there were many international conventions governing activities at sea, such as the safety of life at sea or commonly known as SOLAS and the international convention on ship collision, there was no international convention that comprehensively regulated the use of the sea, especially with regard to public interests. Such arrangements are still in the form of customary international law.

Therefore, in 1949 the International Law Co mission (ILC), one of the UN organs tasked with formulating legal instruments, advised the UN General Assembly to convene an international conference to codify the provisions of the international law of the sea. In 1958, based on UN General Assembly Resolution 1105 (XI) of February 21, 1957, the First United Nations Convention on the Law of the Sea (UNCLOS I) was held on February 24, April 27, 1957.

UNCLOS I was attended by 86 countries23, and resulted in four international conventions, which include:

- The High Seas Convention (entered into force on September 30, 1962);

- The Continental Shelf Convention (entered into force on June 10, 1964);

- The Territorial Sea and the Contiguous Zone Convention (entered into force on September 10, 1965);

- The Fishing and Conservation of the Living Resources of the High Seas Convention (entered into force on March 20, 1966).

- The Territorial Sea and the Contiguous Zone Convention, the High Seas Convention, and the Continental Shelf Convention were formulated based on customary international law prevailing at the time and were eventually ratified by 50 countries.

- The Convention on Fishing and Conservation of Living Resources of the High Seas, however, was only ratified by 35 countries.

It was in UNCLOS I that the concept of the territorial sea was recognized as the international law of the sea. However, UNCLOS I failed to agree on two things, namely: the width of a country's territorial sea and the width of the fisheries zone. Thus, a follow-up conference was held, UNCLOS II in 1960.

UNCLOS II 1960

The success of UNCLOS I in producing four conventions is proof that it is possible to formulate an international convention that regulates the international law of the sea in a comprehensive manner. As mentioned earlier, there were two issues that failed to reach agreement in UNCLOS I, namely the issue of the width of the territorial sea and the width of the

fisheries zone. Therefore, UNCLOS I, in its eighth resolution, recommended the UN General Assembly to convene a second International Law of the Sea Conference to resolve the two outstanding issues.

In the end, the UN General Assembly with UN Resolution 1307 (XIII) dated December 10, 1958 decided to hold a second conference which became known as The Second United Nations Conference on the Law of the Sea (UNCLOS II) on March 17-26, 1960 in Geneva. Unfortunately, UNCLOS II also failed to produce an agreement on crucial matters that failed to be formulated in UNCLOS. The failure was mainly in the failure to reach an agreement on the proposal submitted by Canada and the United States which proposed 6 nautical miles for the width of the territorial sea plus 6 nautical miles for the fisheries zone. However, UNCLOS II succeeded in formulating a resolution on the need for certain technical methods in fisheries.

UNCLOS III 1974-1982

The desire for a comprehensive general international convention on the utilization of the oceans began with the advancement of marine technology as well as the flurry of sovereignty claims over marine areas by new states. On November 1, 1967, Malta's Ambassador to the UN, I Arvid Pardo, urged the UN to take immediate steps to make the natural resources of the sea-bed a common heritage of mankind and therefore a legal regime governing the utilization of the sea and its resources was needed.

On December 17, 1970, the UN General Assembly passed two resolutions, namely:

- the Declaration of Principles Governing the Seabed and Subsoil thereof beyond the limits of National Jurisdiction, which in principle regulates sea-bed with the concept of common heritage of mankind; and

- the decision to convene the Third United Nations Conference on the Law of the Sea or UNCLOS III (Resolution 2570).

The conference was held in New York in 1973, through 11 sessions and ended nine years later with the adoption of the 1982 United Nations Convention on the Law of the Sea, known as UNCLOS 1982. The Convention consists of XVII parts, 320 articles and IX annexes.

UNCLOS 1982 is an international convention that comprehensively regulates the utilization of the sea including a country's sovereignty over the sea area in order to regulate the distribution of natural resources at sea by both coastal and land-locked states. Therefore, UNCLOS 1982 regulates the division of maritime zones with their respective legal regimes and, which is very revolutionary in the development of international law of the sea, is the recognition of the concept of island states in Chapter IV of UNCLOS 1982.

b. The Development of National Ocean Law Sovereignty

In the period 1956 and 1960, Indonesia realized that the TZMKO 1939 was no longer in accordance with the conditions of Indonesia. Thus, a legal instrument of the sea was needed that could be more favorable to aspects of national security and national unity. The legal instrument is expected to restore the role of the sea for the Indonesian people as the role of the sea in the days when the kingdoms in Indonesia were victorious, such as Sriwijaya and Majapahit, namely as a means of unifying the nation. During this period, Indonesia attempted to introduce to the

international community a 'new concept' in international law of the sea, namely the 'archipelagic state concept' which allows archipelagic states to draw their territorial sea boundaries that bind the entire group of islands in a single bond rather than on each island.

Indonesia's policy to introduce this 'new concept' was based on strategic reasons to preserve the Indonesian state as a single entity. This 'archipelagic state concept' was outlined in the Juanda Declaration, which was announced by the Indonesian government on December 13, 1957. The two main points set out in the 1957 Juanda Declaration include: (1) that all waters around, between and connecting the islands of Indonesia, regardless of their depth, are included in Indonesia's absolute sovereignty; and that the passage of foreign ships is allowed as long as it does not disturb and endanger the security of Indonesia; (ii) the width of Indonesia's territorial sea is 12 nautical miles measured from a straight baseline connecting the outermost points of Indonesia's outermost islands. the method of drawing a straight baseline as stipulated in the Juanda Declaration can bind the Indonesian islands as a single unit so as to answer Indonesia's concerns over the security and strategic aspects of the nation.

However, in 1957 the concept of an archipelagic state had not been recognized internationally, the Juanda Declaration was only considered a unilateral declaration by Indonesia and had no international legal effect. Thus, Indonesia intended to introduce a new concept to the international community and hoped for international recognition of this concept.

UNCLOS I became very important for Indonesia as a medium for international meetings where Indonesia could introduce the 'archipelagic state concept.' However, UNCLOS I has not been able to recognize the 'archipelagic state concept' on the grounds that no agreement has been reached on the width of the territorial sea and further study is still needed on the criteria of the archipelagic state.

After failing to gain international recognition of the archipelagic state concept at UNCLOS I, Indonesia intended to translate the Juanda Declaration into legislation, namely Law No. 4/Prp/1960 on Indonesian Waters, in the hope that the archipelagic state concept already in the form of national legislation would receive more support and be recognized internationally at UNCLOS II held in 1960.

Law No.4/Prp/1960 includes four basic principles, namely:

(i) the drawing of a straight line connecting the outermost points of the outer islands of Indonesia;

(ii) all waters on the inside of the straight baseline, including the seabed and the land beneath it and the airspace above it, constitute Indonesia's sovereign territory under the legal regime of internal waters;

(iii) the width of the Indonesian territorial sea is 12 nautical miles measured from the straight baseline; and

(iv) the right of peaceful passage of foreign vessels through inland waters is permitted as long as it does not jeopardize Indonesia's national security and interests.

Unlike the Juanda Declaration, Law No. 4/Prp/1960 also emphasized economic factors and the need to conserve biological and non-living natural resources. The drawing of the straight baseline led to an increase in the area of Indonesian waters bounded by a straight baseline

that connects at least 196 base points that form a baseline of 8,069 miles." Indonesia's previous territory of only 2,207,087 km2 became a land and sea area of 5,193,250 km2, and thus increased the territorial sea area by 3,166,163 km2.45

After Law No. 4/Prp/1960 was brought to the UNCLOS II negotiations in 1960, it was said that the method of drawing the base line in the law was contrary to the provisions of the international law of the sea at that time, namely the Convention on Territorial Sea and Contiguous Zone 1958 (CTS CZ 1958), which did not recognize the method of drawing the base line connecting the outermost points on the outer islands of a country, but only recognized the method of drawing normal baselines connecting points at low tide along the coast of a pu lau. Although Indonesia did not ratify the CTS at the time. CZ 1958, Indonesia was bound by the customary international law in force at that time which only recognized the method of drawing normal baselines. Since Indonesian waters are part of the world's ocean structure, Indonesia has an obligation to abide by the provisions of the then prevailing international law of the sea.

Thus, Indonesia's hope to bring the 'archipelagic state concept' that was already in the form of legislation to make it easier to gain international recognition was not realized. Furthermore, in the period 1960-1973 there were practically no developments in international law of the sea. Nevertheless, Indonesia consistently adhered to Law No. 4/Prp/1960 by making other laws and regulations that supported the Indonesian water system as outlined in Law No.4/Prp/1960.

These include Government Regulation No. 8/1962 (PP 8/1962) on the right of peaceful passage and Law No. 1/1973 (Law 1/1973) on the continental shelf. PP 8/1962 recognizes the existence of the right of peaceful passage of foreign vessels in Indonesian waters. Thus, the right of peaceful passage of foreign vessels can be exercised in the territorial sea and inland waters. This contradicts the CTSCZ 1958 and what caused a strong international outcry was the vast area of waters claimed by Indonesia as inland waters, where previously freedom of navigation could be exercised. The analysis that can be expressed here is that the strategic purpose of PP 8/1962 is to limit and supervise the voyages of foreign ships, especially Dutch ships, to and from West Irian, which at that time was not yet independent. This can be seen in the regulation of Article 7 paragraph 1 of PP 8/1962 which requires foreign warships and non-commercial foreign government vessels to give prior notification to Indonesia to cross Indonesian waters with the right of peaceful passage, unless the ships sail through designated sea-lanes. However, the sea-lanes in question have never been determined. Thus, this forces the foreign vessels to notify the Indonesian government of their presence.

Furthermore, Indonesia's intention to fulfill the nation's economic needs through the preservation of biological and non-biological natural resources at sea is evidenced in Law 1/1973 which reemphasizes the government's declaration on February 17, 1969 on the Indonesian continental shelf. Law 1/1973 consists of five general principles on the continental shelf which include:

1. The Indonesian continental shelf includes the seabed and the land beneath it beyond the limits of the territorial sea as specified in Law No. 4/Prp/1960 with a depth of up to 200

meters or more where exploration and exploitation of natural resources can be carried out;

2. Indonesia has absolute authority and exclusive rights over the continental shelf;
3. In the event of an overlap between the Indonesian continental shelf and the territorial waters of a neighboring country, the maritime boundary line will be formulated in a bilateral agreement;
4. All exploration and exploitation activities on the Indonesian continental shelf area are regulated in the applicable Indonesian legislation;
5. Whoever explores and exploits natural resources in the sea must take measures to prevent pollution of the waters above the continental shelf.

Indonesia at that time had begun to feel the importance of the availability of natural resources and the third principle in Law 1/1073 can be seen as an attempt by Indonesia to begin to resolve border issues that might arise. The assumption is that a border agreement with a neighboring country indirectly supports the 'archipelagic state concept' proposed by Indonesia. This will strengthen the existence of the 'archipelagic state concept'.

In addition to promulgating laws and regulations, to demonstrate its commitment to the 'archipelagic state concept' Indonesia also incorporated the concept as a national doctrine known as the Archipelago Concept. The Archipelago Concept can be defined as the Indonesian nation's perspective of itself as a unity of territory, nation, politics and economy. It can be said to be Indonesia's real commitment to the 'archipelagic state concept'.

The Archipelago Concept is a political concept that departs from the concept of territory, namely the 'archipelago state concept' Mochtar Kusumaatmadja explained: "Whenever it is asked what is its (Wawasan Nusantara) relationship with the archipelagic state principle which in the international law of the sea exists as a conception of an island state or an archipe lagic state (the Indonesian islands) the answer is that whereas the archipelagic state principle is a concept of national territory the Nusantara concept is a way of looking at the political unity of nation and people that subsumes the national geographic reality of an archipelagic state. It can also be said that the conception of the unity of land and seas contained in the concept of the archiepalgic state constitutes the physical forum for the archipelago's development." Mohammad Sabir further said:

"*The two* conceptions *have strong mutual relations, although they both differ in meaning. If Wawasan Nusantara is a basic doctrine, then the archipelago concept is only one of its aspects. The archipe lago concept is a matter of law of the sea, whereas Wawasan Nusantara is a political matter, in this case a political concept which is linked to the geographical conditions or geopolitics of the Indone sian nation."*

Dr. Nugroho Wisnumurti, Indonesia's representative at the United Nations (UN) at the time said: "The archipelagic state concept therefore reached its ultimate legal form in Law no. 4 of the year 1960 on Indonesian waters, which gives a legal and territorial meaning or framework for the national philosophical outlook of Indonesia known as Wawasan Nusantara, the concept of unity of land, the water and the people... Thus the Wawasan Nusantara is a national philosophical outlook while the

archipelagic state concept or regime is the legal and territorial framework or form of the Wawasan Nusantara."

From this it can be said that the core substance of Wawasan Nusantara is the 'archipelagic state concept'. Although Wawasan Nusantara is an internal political issue that does not require international recognition, the political credibility of Wawasan Nusantara will be compromised if the underlying territorial concept, the 'archipelagic state concept', does not receive international recognition. Thus the recognition of the 'archipelagic state concept' into formal international law is very important. Indonesia's struggle to gain international recognition of the 'archipelagic state concept' was successful with the adoption of the 'archipelagic state concept' into the UN. CLOS 1982 which resulted from the Third International Law of the Sea Conference (UNCLOS III) held in 1973-1982 Indonesia ratified UNCLOS 1982 through Law No. 17/1985 and consequently Indonesia had to make the necessary changes and adjustments to national legislation in order to conform to UNCLOS 1982. Among others, Indonesia promulgated Law No. 5/1983 (Law 5/1983) on the Exclusive Economic Zone (EEZ) and revised Law No. 4/Prp/1960 with Law No. 6/1996 (Law 6/1996) on Indonesian Waters.

Law 6/1996 adopted the maritime zones from UNCLOS 1982. UNCLOS 1982 UNCLOS 1982 divides the maritime zone of a coastal state into the following divisions: 12 nautical miles wide measured from the baselines is the territorial sea zone; 24 nautical miles from the baselines is the contiguous zone; then 200 nautical miles wide from the baselines is the exclusive economic zone (EEZ); while the seabed beneath the EEZ is 200 nautical miles wide and can be extended to a maximum of 350 nautical miles from the baseline is the continental shelf; after that is the free sea where no state sovereignty can be enforced, but with certain exceptions.

4. Conclusion

The provision of international law of the sea began in 1930 when developed countries began to have the ability to explore and exploit natural resources, especially oil at sea". In 1958 based on UN General Assembly Resolution 1105 (XI) dated 21 February 1957, the First United Nations Convention on the Law of the Sea (UNCLOS I) was held on 24 February 27 April 1957 attended by 86 countries, resulting in The High Seas Convention, The Continental Shelf Convention, The Territorial Sea and the Contiguous Zone Convention, The Fishing and Conservation of the Living Resources of the High Seas Convention, the concept of territorial sea is recognized as international law of the sea, held a follow-up conference UNCLOS II in 1960 formulating a resolution on the need for certain technical methods in terms of fisheries.

UNCLOS III 1982 regulates the division of maritime zones with their respective legal regimes and, what is very revolutionary in the development of international law of the sea is the recognition of the concept of archipelagic states in Chapter IV of UNCLOS 1982. Political conditions greatly influenced the public policies issued by Indonesia, especially those related to the utilization of the sea, TZMKO 1939 was not in accordance with the conditions of Indonesia so that a marine legal instrument was needed that could be more favorable to aspects of national security and national unity.

Indonesia poured the Juanda Declaration into the form of laws and regulations, namely Law No. 4 / Prp / 1960 concerning Indonesian Waters

also emphasizes economic factors and the need to preserve biological and non-biodiversity natural resources. /Government Regulation No. 8/1962 (PP 8/1962) on the right of peaceful passage and Law no. 1/1973 (UU 1/1973) on the continental shelf. this forces foreign vessels to notify the Indonesian government of their presence. border agreements with neighboring countries have indirectly supported the 'archipelagic state concept' proposed by Indonesia. This will strengthen the existence of the 'archipelagic state concept'. Indonesia's struggle to gain international recognition of the 'archipelagic state concept' was successful with the adoption of the 'archipelagic state concept' into the 1982 UNCLOS resulting from the International Law of the Sea Conference III (UNCLOS III) held in 1973-1982 Indonesia ratified the 1982 UNCLOS through Law No. 17/1985 and consequently Indonesia had to make the necessary changes and adjustments to the national legislation in order to conform to the 1982 UNCLOS. Among others, Indonesia promulgated Law No. 5/1983 (Law 5/1983) on the Exclusive Economic Zone (EEZ) and revised Law No. 4/Prp/1960 with Law No. 6/1996 (Law 6/1996) on Indonesian Waters.

5. Bibliography

Alvito Baylon Patrisius Bagus. Kajian Validitas Klaim China atas Wilayah Laut Cina Selatan Indonesia. Jurnal Kewarganegaraan Vol. 5 No. 2 Desember 2021. https://journal.upy.ac.id/index.php/pkn/article/download/1986/pdf/4871

Ester Nataliana. Filsafat Pancasila sebagai Karakter Bangsa Indonesia dalam Realisasi Poros Maritim Dunia.Jurnal Kewarganegaraan Vol. 6 No. 4 Desember 2022. https://journal.upy.ac.id/index.php/pkn/article/download/4296/2685/10482

Fatmawati, A. dan Elsa Aprina. (2019). Keabsahan Alasan Penolakan Republik Rakyat Tiongkok Terhadap Putusan Permanent Court Arbitration Atas Sengketa Klaim Wilayah Laut Cina Selatan Antara Filipina dan Republik Rakyat Tiongkok Berdasarkan Hukum Internasional. VeJ, 5(1), 105-129. https://journal.unpar.ac.id/index.php/veritas/article/download/3289/2709/8140

Faudzan Farhana, Memahami Perspektif Tiongkok Dalam Upaya Penyelesaian Sengketa Laut Cina Selatan, Jurnal Penelitian Politik, Volume 11 No. 1, 2014. https://ejournal.politik.lipi.go.id/index.php/jpp/article/download/196/80

Hendro Antoni. Pengembangan Pembagunan Industri Perkapalan Nasional dalam Mendukung Keamanan Pertahanan Indonesia untuk menjaga Kedaulatan Perairan di Wilayah Indonesia. Jurnal Maritim Indonesia, Volume 10 Nomor 1, April 2022. https://pusjianmar-seskoal.tnial.mil.id/index.php/IMJ/article/download/105/78

Muhammad Surya Bhaskara. Urgensi Penerapan Kawasan Ekonomi Khusus Dalam Meminimalisir Konflik Horizontal di Laut China Selatan. Jurnal Kewarganegaraan Vol. 7 No. 1 Juni 2023. http://journal.upy.ac.id/index.php/pkn/article/download/4758/2911

Richardus Eko Indrajit. Filsafat Ilmu Pertahanan dan Konstelasinya dalam Kehidupan Berbangsa dan Bernegara. Indonesia: Jurnal Kebangsaan. Volume 1, Issue , pp.42-53 Oktober 2020. https://jurnal.pradita.ac.id/index.php/jk/article/download/106/44

Santoso, T. I. (2020). Aksi Agresivitas Cina Pada Zona Ekonomi Eksklusif Indonesia Laut Natuna Utara: Perspektif Tugas

Pokok TNI. Jurnal Kajian Lemhamnas RI, 41, 35-46. http://jurnal.lemhannas.go.id/index.php/jkl/article/download/302/184/

Sasmini. Meningkatkan Daya Ikat Hukum Internasional: Kajian Filosofis. Palembang: Simbur Cahaya. 2022 http://journal.fh.unsri.ac.id/index.php/simburcahaya/article/download/1804/529

Wulan Pri Handini. Kedaulatan Wilayah Udara di atas Alur Laut Kepulauan Indonesia (ALKI). Volume 8, Nomor 2, Agustus 2019 https://rechtsvinding.bphn.go.id/ejournal/index.php/jrv/article/viewFile/318/218