

ABSTRACT

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JURIDICAL ANALYSIS REGARDING THE STATE PRACTICE OF SINKING FOREIGN FISHING VESSELS IN INDONESIA'S EXCLUSIVE ECONOMIC ZONE PURSUANT TO THE UNCLOS

(xv + 154 pages)

Bestowed with a vast amount of natural marine resources, Indonesia attracts unwanted attention from neighboring countries to exploit Indonesian marine resources, including those in the Exclusive Economic Zone (“EEZ”). Suffering heavy losses from Illegal, Unregulated, and Unreported Fishing (“IUUF”), Indonesia took a proactive stance against anyone conducting IUUF within their waters. Art. 69 verse (4) of Indonesian Law No. 45 Year 2009 regarding the amendment of Law No. 31 Year 2004 regarding Fisheries stipulates the authorization of sinking foreign vessels in Indonesian waters, including the EEZ. The means of sinking foreign vessels can be done through reaching a court verdict or directly sunk by Indonesian law enforcers when presented with sufficient preliminary evidence. The conduct has shown Indonesia's success in protecting its sovereign rights over their waters, receiving appraisals from several internal governmental institutions and even inspired several countries to mimic Indonesia's enforcement mechanism against IUUF in the EEZ. Though such an act provides beneficial outcomes for Indonesia, the issue arises when the extent of international liability of such a conduct is questioned. Under the United Nations Convention on the Law of the Seas (“UNCLOS”), a convention Indonesia has ratified, permits coastal states to enforce law within the EEZ, pursuant to Art. 73 verse (1). Yet, Art. 73 verse (2) of UNCLOS instructs arrested vessels to be promptly release. However, Art. 292 verse (3) of UNCLOS stipulates that the demand for the release of arrested vessels can only be done after a tribunal has assess the merits. Furthermore, the damage arising from IUUF has caused Indonesia to experience the state of necessity, as it threatens Indonesian essential interest from a grave and imminent peril, whilst Indonesia's vessel sinking conduct is the least onerous and most effective means to fight against IUUF. Through the vessel sinking conduct, Indonesia ensures that they do not impair the essential interest of other states, and has not contributed in their own state of necessity. This thesis utilizes the normative-empirical research as it dwells on concepts which are heavily fact based.

Keywords: Exclusive Economic Zone according to UNCLOS, Illegal Unreported Unregulated Fishing, vessel sinking conduct

References: 83 (1945-2021)