

CHAPTER ONE

INTRODUCTION

A. Background

Maritime crime poses potential hazards throughout the world. Two notable sub-sets of maritime crime are armed robbery at sea, occurring within a nation's territorial waters, and piracy, which takes places in international waters. Piracy is the greatest security threat to international trade moving through the Southeast Asian region's waterways. In addition, piracy is listed in ASEAN's Declaration on Transnational Crime. Piracy is also on the ASEAN Regional Forum's Agenda with its ARF "Settlement on Corporation against Piracy and other Threats to Security".¹

Based on International Chamber of Commerce's International Maritime Bureau², attacks in Southeast Asia have significantly increased since 2010. In 2014, six out of 10 attacks happened in Southeast Asian waters. Last year, the agency reported that 134 attempted attacks occurred in Indonesian territory, the most of any other country in the region.

Moreover, Indonesia has ratified the Convention on the Law of the Sea (UNCLOS) through Law No. 17 of 1985 on the Ratification of the United

¹ Donald E. Weatherbee, 2009, *International Relations in Southeast Asia: The Struggle for Autonomy*, United States of America: Rowman & Littlefield Publishers, Inc., p. 180

² The Jakarta Post, "Indonesia Needs Stronger Laws to Fight Piracy, Hijacking", available at <http://www.thejakartapost.com/news/2016/07/29/indonesia-needs-stronger-laws-fight-piracy-hijacking.html>, accessed on Friday, November 4th, 2016, at 5.30 p. m.

Nations Convention on the Law of the Sea (UNCLOS 1985) since 1985. With the ratification, Indonesia should follow up the various rights and obligations which are derived from UNCLOS 1985 because Indonesia is a part of the convention. Thus, the sovereignty, the sovereign rights, and jurisdiction of the Republic of Indonesia on the water chamber and all natural resources contained in the surface of the sea and the air above it, in the water column, at the seabed and the land under it has been recognized by international law. Therefore, there are opportunities as possible to be used for improving the welfare of all the people of Indonesia.³

Most threats occurring in the maritime domain involve multiple nations and the international response to piracy has also spawned “whole of world” initiatives at the United Nations and the International Maritime Organization (IMO) to enhance operational antipiracy collaboration. Earlier in the decade, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) entered into force. ReCAAP was the first treaty dedicated solely to combating piracy, and it established the Information Sharing Centre (ISC) in Singapore. The ISC compiles and disseminates piracy-related information among member states.⁴

The legal action in the form of ratification of the UNCLOS 1982 is

³ A group of Academic Manuscript Preparation Draft of Indonesia Basic Continent, 2012, Academic Manuscript Draft of Law on amendment of Law No. 1 of 1973 on Indonesia Basic Continent, Jakarta: National Legal Counseling Body, Law and Human Rights Ministry of Republic of Indonesia, p.1

⁴ James Kraska, 2011, *Contemporary Maritime Piracy: International Law, Strategy, and Diplomacy at Sea*, California: Praeger, p. 12

not yet supported by significant efforts in other areas to protect national waters as well as the potential for enormous natural wealth. This case still requires the development of national laws to support the existence of the Republic of Indonesia in the sea, especially in the Continental Shelf. Development of national law is needed so that the national law in Indonesia Continental Shelf in accordance with the development of international maritime law as well as the development of science and technology. After more than two decades ratified UNCLOS in 1982, there are still many provisions of national law which have not been adjusted to the UNCLOS 1982 or made up measures in the form of national legislation.⁵

Law enforcement at sea is expensive. There are huge sea areas that must be protected. It requires boats well equipped with radar, communications and most importantly, well-trained and honest crews who have sound knowledge of the local waters and weather. It also requires shore-based command and control facilities with access to dependable information about ship movements and cargoes, and reliable intelligence about pirate activity. To be truly effective, surface search and interdiction also need air support for surveillance and also if necessary, the deployment of police or marines.⁶

Indonesia has not specific regulation which ruled about piracy.

⁵ A group of Academic Manuscript Preparation Draft of Indonesia Basic Continent, 2012, *op. cit.*, p.1

⁶ Martin N. Murphy, 2007, *Contemporary Piracy and Maritime Terrorism: The Threat to International Security*, USA and Canada: Routledge, p. 15

There is another international convention which is important to be ratified. That is The Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP). ReCAAP has resulted in a number of positive benefits. It has helped to foster better interagency cooperation within member countries as it requires dealing with maritime issue such as piracy. Cooperative agreements with government agencies, NGOs, commercial interests, and international organizations have held to improve the coordination of regional capacity building and information sharing.⁷

B. Research Question

Based on the background, it can be formulated that the research question is “what is the urgency of the ratification of Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia to Indonesia?”

C. Objectives of Research

To analyze the issue of the piracy that conducted in Indonesian waters. It learns more about the reasons why Indonesia Government should ratify the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

D. Benefit of Research

⁷ Andrew T H Tan, 2011, *Security Strategies in The Asia-Pacific: The United States “Second Front” in Southeast Asia*, New York, Palgrave Macmillan, p. 122

There are some benefits of research, namely:

1. Theoretical Benefit

This research gives benefits to know deeply about the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) and the reasons why Indonesia has to ratify it.

2. Practical Benefit

The research gives the benefits on more understanding about the importance to ratify law which concern about the implementation of Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) relating against piracy which takes place in Indonesian waters. In addition, the research provides understanding more on the reasons why does Indonesia need to ratify the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

E. Overview of Chapters

This research consists of five chapters, namely Chapter I: Introduction. Chapter II: Literature Review. Chapter III: Research Methods. Chapter IV: Result and Discussion, and lastly, Chapter V: Conclusion and Suggestion.

The Chapter I constitutes the Introduction. This elaborates general matters, such as background, research question, research objective, research

benefits, and overview of the chapters. The background contains the current condition of piracy in Indonesia and how the Indonesia Governments responds towards the piracy condition in Indonesia. And problems of the topic are the reasons why does Indonesia need to ratify the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) relating against piracy.

The second is Chapter II, Literature Review, in which author discusses each variable on this undergraduate thesis. This chapter includes the definition of piracy based on the International Perspective, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP).

The third is Chapter III, Research Methodology. Here author shows the research method used on this undergraduate thesis. In this chapter, the researcher also talks about the type of research, legal material, method of collecting data and method of data analysis.

The fourth is Chapter IV, Research and Analysis. The chapter elaborates the case with the normative legal research, with case approach. The focus of this research is on the reasons why Indonesia needs to ratify the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) on combating piracy. The chapter describes more about advantages and disadvantages of Indonesia in ratifying the Convention or not.

The last is Chapter V, Closing. Contain of the conclusions and the suggestion from the author toward all of the result of the research.