

IMPLEMENTATION OF THE SAN REMO MANUAL AS A STRATEGY FOR THE RULE OF WAR IN THE INDONESIAN MARINE TERRITORY

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Abstract:

In 1994, a regulation on sea warfare was made, which could be used by countries conducting sea wars. This regulation is called the San Remo Manual, with changes to make various adjustments related to the conduct of war at sea. Indonesia is in an important strategic area both in the sea and air zones, this makes Indonesia a strategic area both regionally and globally. This research aims to provide practical guidelines for countries in applying international law in times of armed conflict at sea and to find out how the law is applied in Indonesia. This study uses a qualitative method. Qualitative research tries to identify various phenomena ideographically. The theory of development and development can be formed empirically through various phenomena or cases studied. The result of this is to become a guideline for countries in conducting wars at sea, armed conflicts at sea, parties involved in the conflict, actions that are permitted and which are not permitted during conflicts, protection of injured ships and people who are injured or captured, as well as actions taken can be taken by countries outside the conflict.

Keywords: The San Remo Manual, Strategy, Marine Territory, War. Competence,

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INTRODUCTION

Indonesia is an archipelagic country that is geographically positioned at the crossroads between the Indian and Pacific Oceans, and is located between the Asian and Australian continents. 4 million km², and ZEE 2.7 million km². The length of the coastline is 81,000 km² with 17,499 islands. The continental shelf area is 0.8 million km², while the land area is 19 million km². (Putra, I. N., & Hakim, A. 2016).

Indonesia's maritime territory is traversed by various types of ships daily, ranging from oil tankers, ships transporting nuclear and other dangerous materials, military fleets, ships, and submarines, and other Indonesian transport ships traversed by commercial and military flight routes. The world has four and nine choke points, which are in the three Indonesian Archipelagic Sea Lanes (ALKI) (Putra et al., A. 2016). These factors cause Indonesia to be in an important strategic area in the maritime and air zones. It makes Indonesia a strategic area both regionally and globally. Mahmahit (2015) mentions Indonesia's four strategic positions as a strategic junction for international shipping, a strategic fishing ground, a potential strategic business, and a strategic key player for big countries.

If then a threat arises against its citizens. The obligation to protect the interests of its citizens encourages the attitude of the government whose people are disadvantaged to show a disapproving reaction to the policies of the Indonesian Government, both indirectly and directly. (Nainggolan, P. P. 2016). Consequently, this issue has developed into a sentiment of national sovereignty and national honor, which in the ASEAN environment is still very sensitive. Developments like this pose complications to the prospects for regional development in the future, especially in international regulations (Nainggolan, P. P. 2016).

International law is divided into two: one in times of peace and one in times of war. The law that applies in peacetime consists of various branches of international law, for example, international law of the sea, diplomatic and consular law, international trade law, environmental law, air law, and space law. Meanwhile, only one law applies at the time of war, namely international humanitarian law. According to the definition formulated by the International Committee of the Red Cross (ICRC), International Humanitarian Law contains a set of rules which include all international provisions derived from treaties and international customs; which is intended to address all humanitarian problems that arise during international and non-international armed conflicts; these provisions limit, on humanitarian grounds, the rights of parties involved in an armed conflict to use certain weapons and methods of warfare; or those affected by armed conflict protect persons who are victims or property affected by armed conflict.

METHODS

This research was designed as a descriptive qualitative study. A descriptive qualitative study is a type of research that describes a phenomenon, population, or situation being researched. A descriptive study focuses on answering the what, when, where, and who questions of the research problem (Kim et al., 2017).

This study uses qualitative methods. Qualitative research seeks to identify various phenomena and social realities ideographically. Theory development and development can be empirically formed through various phenomena or case studies. This the resulting theory gains a firm footing in reality and is contextual and historical (Somantri et al., 2005). Qualitative research methods open up sufficient space for scientific dialogue in different contexts, primarily if understood in depth and "correctly." In this regard, a series of characters, a qualitative approach is a research procedure that produces descriptive writing in the form of observations. The data used in this study is from the results of library studies such as journals, books, and website pages.

RESULT AND DISCUSSION

Based on data analysis, it was found that two factors influence student demotivation, external and internal factors. External factors include teacher factors, attitudes towards peers, negative attitudes towards the target language and everything related to the target language, the target language as a compulsory subject, and textbooks and teaching materials. As for internal factors, there is low self-esteem and a lack of self-confidence and interest. The finding is illustrated in Table 2.

Defense is a joint force (civil and military) organized by a country to guarantee its territorial integrity, protect people, and protect its interests from threats from other countries, actors, and non-state actors (Prasetyo, 2021). National defense is an essential aspect of the sustainability of a country (Bakrie et al., 2007). National defense aims to protect the country from threats that come from outside, such as military attacks or mergers with other countries. It is essential to ensure that the country remains independent and is not affiliated with other countries. The country's defense also

aims to protect the people from threats from outside the country. It could include military or terrorist attacks that threaten the security of the people.

To protect the country and people from the threat of war, namely with a guide that can be used by countries carrying out war at sea. The guideline is called the San Remo Manual on International Law I Applicable to Armed Conflict at Sea or the San Remo Manual, adopted in June 1994 at a meeting held by the International Institute of Humanitarian Law in San Remo, Italy. Since its inception, experts have agreed that San Remo M The manual is not made as an international treaty that binds countries but only in manual form, which will become the guideline for regulating the law of war at sea. The most recent is the San Remo Manual on International Law Applicable to Armed Conflicts at Sea, published in 1994. 448 LEGAL PRACTICE Volume 20, Number 3, October 2008, Pages 411 - 588 This Manual was prepared in 1988 by a group of international legal experts and members of the navy acting in individual capacities in a Round Table initiated by the International Institute of Humanitarian law.

The San Remo Manual on International Law Applicable to Armed Conflicts at Sea is a document published by the International Institute for the Laws of War in San Remo, Italy, which contains the principles of international law applicable to armed conflict at sea. This document forms part of the broader Law of War of the Sea, which sets out the legal principles that apply in war situations at sea. The San Remo Manual contains guidelines on the rights and obligations of states in armed conflicts at sea, including military rights that states may use in wars at sea, as well as how states should treat prisoners of war and hostages at sea. This document also regulates handling issues such as violations of human rights at sea, violence against civilians at sea, and the settlement of disputes at sea through destruction and legal mechanisms. The San Remo Manual is an essential source of law for states involved in armed conflict at sea and is considered the international legal standard in this field.

The San Remo Manual is a unique guideline because it consists of various rules. Not just a compilation. Most of the provisions in this Manual derive from provisions previously regulated in the 1907 Hague Convention, the 1949 Geneva Convention, and Additional Protocol I of 1977; some others are a collection of countries' practices regarding war at sea. It was then made into written form and outlined in the San Remo Manual. It was then added with other new rules, especially regarding war operations, because they had to conform to the 1982 UNCLOS.

The San Remo Manual in Chapter I on General Provisions contains the basic legal principles of sea warfare, including the definition of armed conflict at sea, the rights and obligations of states in the conflict, and the use of force at sea. This chapter is divided into

Five rules, Part I Scope of Application of the Law, Part II Armed conflict and the law of self-defense, Part III Armed conflicts that have been taken action by the Security Council, Part IV Areas of maritime warfare, and Part V Definitions.

San Remo Manual In Chapter II on Areas, 1994 in Article 1, stipulates that Operations, Part I on Waters of the parties involved in the conflict of the Inland, Territorial Sea, and armed waters in the sea-bound by principles and Islands, is governed by the waters of international humanitarian law provisions. Neutral waters comprise the national force from when internal waters, territorial sea, and armed forces were used. Furthermore - if any, the archipelagic waters of the country, the war zone at sea consists of a neutral country. The neutral airspace consists of the following:

1. The territorial sea, the inland waters of the space above neutral waters, and the land areas, exclusive zones, and land areas of neutral States. The continental shelf, and if any, the waters within and over the archipelagic waters of neutral countries, including neutral waters at war.

2. The high seas.
3. The zone within which there are exclusive economic international straits, continental shelves, and waters through which neutral States have the right of passage of sea passages. While archipelagic areas can be carried out, actions prohibited from being used as combat zones by operating forces are the territory of a neutral State.

Article 10 states that one of the permitted war zones is the exclusive economic zone of a neutral country. It is regulated more fully in articles 34 and 35. Suppose a combat action is carried out in the exclusive economic zone or on the continental shelf of a neutral country, in addition to other provisions in force in the law of armed conflict. In that case, the belligerent must adequately respect the rights and obligations coastal state, among others, in exploration and exploitation.

San Remo Manual on Chapter III Basic rules and target discrimination. This chapter contains Part I, Basic Rules; Part II, Countermeasures in Attack; Part III, Freed enemy ships and aircraft from Attack; Part IV, Ships and other enemy Aircraft; Part V, Neutral merchant ships and ud aircraft civil aircraft and Part VI, Precautions relating to civil aircraft.

San Remo Manual On Chapter IV Ways and means of warfare at sea. This chapter contains Part I, Means of war, Part II, Methods of War, and Part III, War Deception and Treason.

San Remo Manual on Chapter V Brief measures of attack: interceptions, visits, searches, diversions, and captures. This chapter contains Part I Determining the Character of enemy ships and Aircraft; Part II, Visits and Searches for merchant ships; Part III, Interception Visits and Search for Civil Aircraft; Part IV, Capture of enemy ships and Goods; Part V Capture of enemy aircraft and civilian goods, Part VI Seizure of neutral ships and merchandise, Part VII Seizure of neutral aircraft and civil goods.

San Remo Manual on Chapter VI Protected persons, medical conveyances, and medical aircraft. This chapter contains General Rules, Part I Protected Persons, Part II Medical Transportation, and Part III Medical Aircraft.

In the San Remo Manual on other Provisions, which is a reaffirmation of the old provisions, is Article 38. This Article contains provisions that say that the parties' use of means and methods of warfare is not unlimited. This provision has been previously regulated in Article 22 of the Hague Regulation, which is an annex to the Fourth Hague Convention on War on Land in 1907. This article says: "In any armed conflict, the right of the Parties to the conflict to choose methods or means of warfare is not unlimited." Besides Article 22 of the Hague Regulation, another article used as a reference is Article 35, paragraph (1) Additional Protocol I of 1977.

Another relevant article for implementing Article 38 of this San Remo Manual is Article 36 of Additional Protocol I of 1977. This article regulates the use of new weapons. Even though these articles apply to wars on land, experts agree that these provisions apply to wars at sea. In addition to the provisions governing the methods and means of warfare, another provision adopted from the old provisions is the principle of distinction regulated in Article 39 of the San Remo Manual. This provision originates from Article 48 of Additional Protocol I of 1977 but with significant additions. The Categories not contained in Article 48 Additional Protocol I of 1977 are military-protected persons and exempt objects.

Furthermore, Article 40, which regulates the limitation of military objectives, is taken from Article 52, paragraph (2) of Additional Protocol I of 1977. The article says that military objectives are limited to objects that, due to their nature, place, designation, or use, effectively contribute to military advantage. The provisions contained in Article 47 of the San Remo Manual, which regulates groups of vessels exempted from attack, originate from the 1949 Geneva Convention II concerning War at Sea, namely articles: 22, 24, 27, 29, 30, 32, 33, 47.

CONCLUSION

San Remo Manual Is the rule of law that applies. Besides that, the purpose of making the San Remo Manual is to harmonize the provisions regarding the law in war at sea. The San Remo Manual is an international provision with a unique structure, but it is difficult to say that it has become a complete source of international law. Several provisions in the San Remo Manual, which restate existing arrangements in the 1907 Hague Convention, have become a source of law because of international treaties and because the Hague Convention has long been customary international law. Other new arrangements countries have implemented have become a source of international law due to customary law processes.

Conclusions describe answers to hypotheses and research objectives or scientific findings obtained. The conclusion does not repeat the results and discussion without displaying research figures but a summary of the findings as expected in the objectives or hypotheses. If necessary, at the end of the conclusion can also be written things that will be done related to the idea of further research. (Font: Book Antiqua, 11, Before, After, 2pt, Line Spacing, Single).

REFERENCES

- Ardi, A. A. Z. H., Siahaan, T., & Jandhana, I. P. (2022). *KEBIJAKAN PUBLIK PERTAHANAN NEGARA INDONESIA*. *Citizen: Jurnal Ilmiah Multidisiplin Indonesia*, 2(1), 81-87.
- Bakrie, C. R. (2007). Pertahanan negara dan postur TNI ideal. Yayasan Obor Indonesia.
- Doswald-Beck, L. (1995). The San Remo manual on international law applies to armed conflicts at sea. *American Journal of International Law*, 89(1), 192-208. <https://doi.org/10.2307/2203907>
- Kusumaatmadja, M., & Agoes, E. R. (2021). *Pengantar hukum internasional*. Penerbit Alumni.
- Putra, I. N., & Hakim, A. (2016). Analisa Peluang Dan Ancaman Keamanan Maritim Indonesia Sebagai Dampak Perkembangan Lingkungan Strategis. *JOURNAL ASRO*, 6, 1-22.
- Prasetyo, K. A., Prakoso, L. Y., & Sianturi, D. (2021). Strategi Pertahanan Laut Pemerintah Indonesia dalam Menjaga Keamanan Maritim. *Strategi Pertahanan Laut*, 5(1).
- Prakoso, L. Y. dkk. (2021). *Kebijakan Pertahanan Laut*. Jakarta: Pustaka Media Guru
- Nainggolan, P. P. (2016). Kebijakan poros maritim dunia Joko Widodo dan implikasi internasionalnya. *Jurnal Politica Dinamika Masalah Politik Dalam Negeri dan Hubungan Internasional*, 6(2).
- Narwati, E. (2008). Aturan perang di laut: San Remo Manual sebagai sumber hukum internasional. *Mimbar Hukum-Fakultas Hukum Universitas Gadjah Mada*. <https://doi.org/10.30742/perspektif.v15i3.57>
- Narwati, E. (2010). Keberadaan San Remo Manual 1994 dalam Kaitannya dengan UNCLOS 1982. *Perspektif*, 15(3), 299-320.
- Somantri, G. R. (2005). Memahami metode kualitatif. *Makara Human Behavior Studies in Asia*, 9(2), 57-65 <https://doi.org/10.7454/mssh.v9i2.122>