

# THE REGULATION OF FOREIGN WARSHIP ACTIVITIES IN THE EXCLUSIVE ECONOMIC ZONE (EEZ) IN ORDER TO PROTECT INDONESIA'S SOVEREIGNTY

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## ABSTRACT

*The activities of foreign warships in the Exclusive Economic Zone (EEZ) are up to now an issue that continues to develop and become a separate discussion, Differences in views from maritime and coastal states can lead to ongoing conflict, in which major maritime nations such as America, Britain, Russia, and China still adhere to the freedom of navigation and the coastal state itself remains firm on its sui generis principle to regulate and limit military activities related to its EEZ. in the Indonesian Exclusive Economic Zone (ZEEI) potential disturbances to maritime security may occur and may threaten state sovereignty. This research was conducted to provide an overview of international and national legal regulations and practices of coastal states regarding the activities of foreign warships in the EEZ and the impact of legal consequences on violations of these foreign warship activities. Researchers use the normative legal research method by examining international and national law on the activities of foreign warships in the EEZ as well as practices from several countries that can be used as customary international law, as well as comprehensively understanding the impact of legal consequences on the activities of these foreign warships. UNCLOS does not regulate in detail foreign military activities in the EEZ, Indonesia regulates its EEZ through Law No. 5 of 1983 concerning ZEEI, but this also does not answer the void in the rules that exist in UNCLOS.*

**Keywords:** Warship Activity, Economic Exclusive Zone, Indonesia.

## 1. INTRODUCTION

Most countries consider foreign military activity in the EEZ as a lawful use of the sea under international law, a right that all countries will enjoy. Some countries seek to expand control of their rights in the EEZ by imposing restrictions on military operations and other activities. These countries include; Bangladesh, Brazil, Burma, Cape Verde, China, India, Indonesia, Iran, Kenya, Malaysia, Maldives, Mauritius, North Korea, Pakistan, Portugal, Thailand, and Uruguay. Such limitations include (1) prior notification or approval prior to undertaking military activities, (2) Application of domestic environmental laws (resource concerns), (3) restrictions on the collection of military marine data (military surveys) and hydrographic surveys, (4) restrictions on non-peaceful purposes, such as intelligence, surveillance and reconnaissance (ISR) operations related to national security issues.

The United States and the Soviet Union saw the zone as part of the high seas where coastal states had some rights to offshore resources. What has been achieved is that the EEZ is considered a separate zone "sui generis" which is neither the high sea nor the territorial sea. There are two views regarding the legitimacy of a country carrying out

military activities within the EEZ, this makes the issue relevant in relations between countries which has always been a debate until now.

With the formulation of Unclos 1982, the EEZ area is subject to a special legal regime or sui generis character which makes the legal status of EEZ located between the territorial sea and the high seas. This sui generis character consists of three important elements: (1) the rights and obligations granted by this Convention (Unclos 1982) to coastal states; (2) rights and obligations granted by the Convention to other countries; (3) the formula established by the Convention to regulate activities that are not regulated by the two categories above. From these characters, a country has the authority to exploit the resources in that zone.

If the coastal state has full sovereignty over the territorial sea, then in the EEZ the coastal state has sovereign rights for the purposes of exploring, exploiting, conserving, and managing natural resources, both living and non-living, from the waters above the seabed and on the seabed and the subsoil and with respect to other activities for the purposes of exploration and economic exploitation of the zone, such as the production of energy from water, currents, and wind.

In the formulation of article 58 UNCLOS 1982 states that all countries have the right to "other internationally legal uses of the sea". This formulation provides space for several countries to utilize the EEZ area in activities that are not regulated in UNCLOS 1982. In general, activities carried out by countries in the EEZ area are related to the utilization of natural resources but are more directed towards the tendency to use the EEZ for military activities. Indonesia has regulated its EEZ through Law No. 5 of 1983 concerning the Indonesian Exclusive Economic Zone (ZEEI Law) to safeguard its national interests, based on data on violations of foreign warship activities in Indonesia's EEZ recorded in 2021 a total of 36 cases, by China, Japan, the US, and Vietnam, this proves that the current national laws are not effective enough in preventing territorial violations. The current ZEEI Law, was drawn up and passed in 1983 and the conditions of the state at that time in formulating legislation still needed improvement. The dynamics of the development of the Indonesian state, where until now there are still many violations against foreign warships in Indonesia's EEZ, requires this country to amend the EEZ Law which has been made to support Indonesia's legal, political, economic, and defense objectives in taking firm steps to uphold law and sovereignty.

Several problems related to foreign military activities in ZEEI have the potential to disrupt sea security and can threaten the sovereignty of a country, including aviation and aerial reconnaissance by military aircraft, hydrographic surveys and gathering of military intelligence when sailing in the ZEE, carrying out military exercises in other countries' ZEE, and placement of detection devices or other military equipment on the continental shelf. If this problem is not resolved immediately, it can develop into a bigger conflict. Formulation of regulations by including restrictions on foreign warship activities needs to be included in efforts to safeguard national interests so that foreign military activities can be regulated clearly so that law enforcement by the authorities can be carried out appropriately and proportionately. Based on The background of the vacuum of international and national rules that regulate the activities of warships in the EEZ in detail, gives rise to different perspectives from each country. The author conducts qualitative research related to laws and regulations, the practice of a country, violations that have occurred, and the possible legal consequences so that they can be used as input for better policymaking.

## 2. LITERATURE REVIEW

### 2.1 Exclusive Economic Zone (EEZ)

Developing countries with seashores have long felt that freedom at sea, which is always touted by major maritime countries, is only to defend the

interests of these countries. If all this time, under the pretext of freedom at sea, the fishing vessels of the major maritime countries sailed all the seas and oceans and carried out activities in the sea close to the national waters of the coastal countries, then these coastal countries, because they felt they had more rights than other countries have decided to reserve the marine resources adjacent to their waters for the welfare of their people.

The encouragement of developing countries with coasts to be able to meet the needs of their people has been realized by these countries in various unilateral statements both in the form of widening the territorial sea and in the form of controlling other sea zones. The concept of sovereignty over marine resources outside the territorial sea was originally developed in Latin American countries. The Montevideo Declaration of 8 May 1970 began containing principles for extending the sovereignty of signatory states or their exclusive jurisdictional rights over the zone adjacent to the coast, seabed, and subsoil to a distance of 200 miles.

### 2.2. Rights of Coastal States and Users in UNCLOS for Military Ships

The State of Indonesia prohibits foreign countries from carrying out military training activities in Indonesia's EEZ because:

- a. It has no legal basis either international law or national law.

In the UN Convention on the Law of the Sea 1982 (UNCLOS 1982), there is not a single article/provision that allows or prohibits other countries from carrying out military training activities in coastal countries. Because there are no articles/provisions that allow in the 1982 UNCLOS, it means that these activities cannot be carried out, because in article 58 of the 1982 UNCLOS other countries in the EEZ of the coastal state only have the freedom of shipping and freedom of flight over the EEZ and the freedom to lay submarine cables and pipes. so-called freedoms, such as the use of the sea in connection with the operation of ships, aircraft, and the laying of cables and pipelines under the sea, consistent with the other provisions of this Convention.

- b. Can interfere with sovereign rights and hinder other activities at sea, especially in Indonesia's EEZ.

In its development, foreign military training activities in the territories of other coastal countries/states are increasing. In principle, Indonesia's stance does not approve of foreign military activities in Indonesia's EEZ, the Ministry of Foreign Affairs of the Republic of Indonesia in this case does not approve of foreign military training except as the result of an agreement between Indonesia and other countries. Considering that military exercises arise because of an agreement between a country and another country, military

exercises in Indonesia's EEZ should not be carried out because Indonesia's EEZ is not another country's maritime area to show off its military prowess. Internally in Indonesia, there has been no designation of which Ministry/Institution/Institution has the authority to respond to foreign military training activities in Indonesia's EEZ, for this reason, effective and efficient coordination is needed between related Ministries/Institutions.

In terms of naval activity, the impact of foreign military exercises in Indonesia's EEZ will certainly hinder the movement of ships, ship traffic, fishing, exploration and development of marine natural resources, and other activities that do not dare to approach around the practice area. Ships, especially foreign and Indonesian civilian ships, will be afraid of being attacked by warships in training. Due to the small number of vessels carrying out fishing, sea transportation, and crossing activities, it is natural that it is difficult for cargo and passengers to enter and exit, and for activities such as collecting marine products to be difficult. The income from the maritime sector that hinders the economic development/progress of coastal countries is Indonesia. In the exclusive economic zone of a coastal state, all or any other nation is free to sail, fly, and lay submarine cables and pipelines under the sea. In the case of other countries, in addition to agreements and other international laws, regulations issued by river countries must be obeyed as long as they do not conflict with the agreement.

c. Can Disturb Indonesia's National Security and Defense.

Several coastal states noted that "uninvited military training activities in their exclusive economic zone can threaten national security and disrupt economic activity. To anticipate this condition, the issues raised are in the form of environmental protection, illegal activities, and interference with the management of natural resources and military interests of the coastal state, and dealing with these problems requires synergy in the field, especially cooperation, and coordination with other ministries and agencies such as Task Force 115, surveillance, communications and satellites as well as encouraging the establishment of an integrated maritime information center. In addition, strategic operations are required in the form of international cooperation, shadowing, and marking which are manifested in roll-out operations such as Marine Combat Alert, Operation Ambalat, ALKI Security, and Coordinated Patrol. Based on the dynamics of the strategic environment, EEZ in UNCLOS can be interpreted in two versions, the first views EEZ as the legal status of the territorial sea. The state has control over activities that are not only related to natural resources but include military activities such as China, India, Malaysia, and Vietnam and the second EEZ is an area of utilization of economic activities and natural resources and is treated as

"high seas". conducting military activities, such as the US, Australia, and the North Atlantic Treaty Organization (NATO).

d. Can damage the marine environment and its ecosystem.

The impact of foreign military exercises in Indonesia's EEZ can certainly damage the marine environment and its ecosystem due to rocket fire, harpoons and yakhoons which eventually fall into the sea so that they can damage and cause noise and kill marine biota. According to Hashim, the phenomenon of whales entering the sea in Aceh in November 2017 was reported to have occurred due to sonar interference installed on the seabed by individuals with an interest in the Indonesian Sea. However, there is no evidence that this phenomenon is due to underwater equipment. It was placed in Indonesian waters by another country. Indonesia must be able to protect its sea area from all disturbances, including disturbances by organisms that pass-through Indonesia's sea area. Noisy ocean waters negatively impact whales, affecting issues such as finding mates, finding food and potentially driving whales from their primary habitat.

### 2.3. Trinity Theory

There are 3 roles of a navy to use the sea and maintain maritime affairs. These roles will then be translated into a maritime power capable of operating up to deep waters in the open sea and being able to carry out power projections far from the home base. The following are the 3 roles of the Navy based on Ken Booth:

a. Military Role: Optimal use in the context of enhancing the sovereignty of the country at sea using national defense and deterrence through the preparation of forces for war, counteracting any military threats through the sea, maintaining the stability of the maritime region, protecting and protecting the sea borders with neighboring countries.

b. Constabulary Role: Optimal use in the context of enforcing laws at sea, protecting national marine resources and wealth, maintaining order at sea, and supporting national development in contributing to national stability and development.

c. Diplomacy Role: The use of naval power as a means of diplomacy in supporting the government's foreign policy and is designed to influence the leadership of a country or countries in a state of peace or hostile situations.



Figure 1. Trinity Roles

#### 2.4. National Security Theory

According to the book *National Security*, published by the Secretariat General of the National Defense Council, national security can be interpreted properly as a condition and function. As a function, national security will produce and create a sense of security in a broad sense which includes a sense of comfort, peace, security, and order. This kind of security condition is a basic human need.

Understanding the meaning and substance contained therein will vary depending on values, perceptions, and interests. This is also the same as explained by Barry Buzan (Buzan, 1991) in his book entitled "People, State, and Fear: An Agenda for International Security Studies in the Post-Cold War Era", that the implementation of a country's security strategy always takes into account aspects of the country's threats and vulnerabilities.

Threats and vulnerabilities, according to Barry Buzan, are different concepts but have close links to the realization of national security. A threat to preventable National security will reduce the degree of a country's vulnerability to national security. Both aspects of national security are largely determined by the capabilities of the country. The role of the Navy according to Ken Booth (Booth, 1977) has also a strong connection to security that the Navy has its duty and role in maintaining and creating national security.

### 3. RESEARCH METHOD

This research is a descriptive study using qualitative methods, where data and information related to research problems obtained through literature studies and field interviews are analyzed qualitatively, and then interpreted according to the meaning contained in the data and information. Data collection techniques are carried out through library research and in-depth interviews with parties who are considered competent and have information and data related to research problems.

In this thesis research, the type of research used by the author is a type of normative legal research, this type or type of research is intended to be able to study and apply laws or types of legislation regarding rules in international and national law, related to law enforcement against ship activities foreign war in the EEZ.

There are two approaches to the problem used in this thesis research, the two approaches are the approach to legislation (one approach) and the approach to concepts (conceptual approach).

The first approach (statute approach) is intended to study and understand the various existing legal regulations relating to the activities of foreign warships in the EEZ and the practices of several countries related to their EEZ arrangements. The second approach (conceptual approach) is intended to be able to understand comprehensively the legal impacts of foreign warship activities on ZEEI.

## 4. DISCUSSION AND RESULTS

### 4.1. Regulation of Foreign Warship Activities in The Zee in The Law and Practice Of a Country

The Exclusive Economic Zone (EEZ) is a maritime zone with a width of 200 nautical miles from the baseline where the width of the territorial sea is measured, the coastal state has sovereign rights for the purposes of exploration and exploitation, conservation and management of natural resources and similar jurisdictions. In the EEZ a country has sovereign rights and special jurisdiction in utilizing the natural wealth in that lane, including the seabed and subsoil. The implementation of these rights and jurisdictions must be balanced with the obligation to pay proper attention to the rights and obligations of other countries in accordance with the provisions of the convention contained in Articles 88 to 115 UNCLOS 82.

In Article 55 it can be said as an intermediate provision, that the EEZ as a concept that is sui generis is far different from the conception of the territorial sea and the high seas. The coastal state in exercising its sovereign rights is limited to matters relating to the economic utilization of that part of the sea with activities including exploration, exploitation, conservation and management of natural resources. In the EEZ the coastal state has sovereign rights to carry out certain economic activities, such as energy production from water, currents and wind; and jurisdiction for the creation and use of artificial islands, installations and structures, marine scientific research, and the protection and preservation of the marine environment. In the EEZ, other countries also have the freedom to sail and fly over it, as well as to lay cables and pipes on the seabed.

The EEZ concept can be said to be an example of a compromise between a coastal state,

which has an interest in extending its jurisdiction, and a land-locked state, which considers the concept of an archipelagic state to reduce the free sea area that is open to all countries. Therefore, it is not an obligation for a coastal country to submit a claim on its EEZ area. In this case, the coastal state has a choice in determining the management of its EEZ concept while taking into account the rights of other countries that are not on the coast.

The EEZ concept as a whole has changed the legal order of the world's oceans which has formed new relations between countries in the use of marine natural resources, marine scientific research, and prevention of pollution of the maritime environment. The EEZ regime is a new arrangement that creates fundamental changes in the law of the sea and in the traditional division between the territorial sea which is the sovereign zone of the coastal state and the high seas which are open to all countries. One of the issues in the EEZ is related to residual rights, namely rights that are not explicitly granted either to the coastal state or to other countries. This is related to the creeping jurisdiction of the coastal state over the rights and jurisdiction granted by UNCLOS 82 when compared to the rights of other countries in the EEZ. The legal status of the EEZ regime itself is put forward into three opinions; namely as part of the high seas, as a zone of national jurisdiction, and as a *sui generis* zone.

In accordance with international law both in UNCLOS 82 and the San Remo Manual, there are several aspects to the definition of warships, namely having special markings, being under command of an officer, being registered on a military register, and being manned by the armed forces. Some experts argue that warships themselves are a political tool of a country, which has influence on a country's policies in influencing foreign policy. In several articles related to the position, actions and powers of the warships themselves, some of them already exist, but the activities of foreign warships have not been regulated in detail.

Article 58 paragraph 3 of the 1982 UNCLOS can be the basis for Indonesia in prohibiting foreign

military activity in ZEEI as Indonesia's ratification of the 1982 UNCLOS is evidenced by the issuance of Law no.17 of 1985, but Indonesia must first make national policies or regulations regarding military activity foreigners in the EEZ. With the establishment of a national policy or regulation regarding military activities in the EEZ, Indonesia on behalf of its interests in the EEZ may prohibit other countries from carrying out military activities in the EEZ in accordance with the mandate contained in UNCLOS 1982 article 58 paragraph 3 which states that every country may carry out activities in the EEZ of the coastal state but must respect the national regulations of the coastal state. Indonesia must continue to try to invite other countries to negotiate on the issue of foreign military activity in the EEZ, as has been done before which gave birth to the EEZ Group 21 guidelines.

Several countries in the Asia-Pacific region submitted a proposal document named "Guidelines for Navigation and Overflight in the Exclusive Economic Zone (EEZ)" from 2002 to 2005. This document is non-binding and provides a basis for understanding and a common approach to issues arising from the implementation of the EEZ regime, particularly in the Asia-Pacific region. The principles are based on UNCLOS 82, country practice and national laws. Misconceptions regarding foreign military activities in the EEZ have become common. Major incidents include a March 2001 confrontation between the US Navy survey ship Bowditch and a Chinese frigate in China's EEZ; the April 2001 collision between a US EP3 surveillance plane and a Chinese fighter jet in China's EEZ; December 2001 Japanese Coast Guard pursued and fired on North Korean spy boats in its and China's EEZ; and Vietnam's protest against China's live fire drills in Vietnam's claimed EEZ. Navies are developing and technology is advancing while coastal states are increasingly concerned with control over their EEZs. This opposite trend will result in a higher frequency and intensity of incidents.

**Table 1.** Several Countries Determine Policies and Limits on Foreign Military Activities in their EEZ

Nation	Legislation	Provision
Bangladesh	Declaration upon LOSC ratification, July 1995	Require prior approval for the conduct of military activities in their EEZ.
Brazil	Law No.8617 of 4 January 1993	
Cape Verde	Declaration upon LOSC ratification August 1987	
India	-Declaration upon LOSC ratification, June 1995 -Act No.80 of 28 May 1976 (establishment of fairway sea lanes, traffic separation scheme)	

<b>Malaysia</b>	Act N0.311 of 1984 Declaration upon LOSC ratification October 1996	
<b>Pakistan</b>	-Declaration upon LOSC ratification, February 1997 -Act of 22 December 1976 (establishment of fairway sea lanes, traffic separation scheme)	
<b>Uruguay</b>	Act 17.033 of 20 Nov 1998	
<b>Iran</b>	Act on the Marine Area, 1993	Larangan kegiatan dan praktik militer asing, pengumpulan informasi dan kegiatan lain yang tidak sesuai dengan hak dan kepentingannya
<b>China</b>	Surveying and Mapping Law of the People's Republic of China (Order of the President No.75 Article 7)	Prohibition of foreign military activities and practices, information gathering and other activities that are inconsistent with their rights and interests
<b>North Korea</b>	Decree of 21 June 1977	Establishment of a 50 Nm military zone in which foreign military ships and aircraft are prohibited.
<b>Maldives</b>	Maritime zones of Maldives Act No.6/96	Prior authorization for foreign ships entering their EEZ.
<b>Samoa</b>	Act No.18 of 25 August 1999	The right to regulate navigation in its EEZ.
<b>Belize</b>	Maritime areas Act of 24 January 1992	Claiming sovereign rights for navigational purposes in relation to fishing.
<b>Romania</b>	Decree No.142 of 25 April 1986	Jurisdictional claims for the safety of navigation in the EEZ.
<b>Guyana</b>	Act No.10 of 30 June 1977	Formation of fairway sea lanes, traffic separation scheme
<b>Poland</b>	Act of 21 March 1991	The right to designate an unsafe zone for navigation.

#### 4.2 Legal Impacts on Foreign Warship Activities In EEZ

The activities of foreign warships in the EEZ are not strictly and comprehensively regulated in UNCLOS. However, there are some restrictions on military activities in waters under the national jurisdiction of the coastal state. Military operations in the EEZ are more complicated and complex and full of ambiguity from a legal perspective when compared to territorial seas, archipelagic waters, and straits. The international community is currently divided into two views regarding military activity in the EEZ issue. First, coastal states intend to limit and/or prohibit foreign military activities in their EEZ because of the impact these activities have on their national security. Second, foreign military activities in the EEZ cannot be limited or limited by the coastal state.

UNCLOS gives the authority of coastal states to limit certain foreign military activities, but this limit is not stated in force in the EEZ. Ships carrying out innocent passage in the territorial sea may not be

involved in certain military activities, as follows: threats or use of force, use of weapons, intelligence gathering), acts of propaganda, launching and landing of aircraft and other military devices, military oceanographic surveys, and intentionally disrupting communication systems. The same restrictions apply in archipelagic waters).

In UNCLOS a coastal state is given the authority to limit certain foreign military activities in its EEZ to protect the national interests of that country, although many countries such as the US and UK often carry out military activities in the EEZ under the pretext of freedom of navigation (FON), but must remain respect national laws or applicable laws and regulations of coastal states.

##### 4.2.1 Environmental/Resource-Related Concern

Some coastal States intend to apply their domestic environmental laws to limit foreign military activities in the EEZ by citing Article 56, which gives exclusive rights and jurisdiction over coastal state resources for the protection of the marine environment. Notwithstanding Article 236, however,

the environmental provisions of the Convention do not apply to any warships, naval auxiliary vessels, and other ships or aircraft owned or operated by a State and used, for the time being, only in government non-commercial service. As such, sovereign ships and aircraft have no legal obligation to comply with domestic environmental regulations. The only requirement is that each State must ensure, by adopting appropriate measures that do not impair the operation or operational capability of ships or aircraft owned or operated by it, that such ships or aircraft act in a manner consistent, to the extent reasonable and practicable by this Convention.

#### 4.2.2 Military Marine Data Collection

Some coastal states argue that all marine data collection in the EEZ is equivalent to Marine Scientific Research (MSR), and therefore is subject to coastal state control under Article 56 of UNCLOS 82. marine data collection (military oceanographic surveys and ISR), these activities are not in accordance with UNCLOS, State practice, and customary international law. UNCLOS clearly distinguishes between MSR, survey, and military activities in various articles, and prohibits vessels making innocent passage from carrying out "research or survey activities."

Likewise, ships carrying out transit crossings and archipelagic sea lanes crossing may not carry out MSR or hydrographic surveys. In contrast, Article 56 and Section XIII only provide for coastal State jurisdiction over MSR, and Article 87 refers only to "scientific research." Thus, while coastal States may administer MSR and surveys in their territorial seas, archipelagic waters, international straits, and archipelagic sea lanes, they may not arrange military hydrographic and oceanographic surveys in the contiguous zones and EEZ.

#### 4.2.3. Non-Peaceful Purpose

Several States have argued that military activity is inconsistent with the peace purposes provisions of UNCLOS, which states that States must "refrain from any threat or use of force against the territorial integrity or political independence of any State." UNCLOS, however, distinguishes between "threats or use of force" on the one hand, and other military-related activities, on the other. Article 19(2)(a) repeats the language of Article 301, which prohibits vessels in the innocent passage from engaging in "any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State." The other seven subparagraphs of Article 19(2) restrict other military activities (e.g., use of weapons, intelligence gathering, aviation operations, etc.) in the territorial sea.

The distinction between "threat or use of force" and other types of military activity in Article 19 clearly shows that UNCLOS does not necessarily equate

the use of force with other military actions. Most experts who have researched the issue agree that the peaceful purposes provision only prohibits military activities that are not in accordance with Article 2(4) of the UN Charter, and therefore all other military activities are permitted in the EEZ.

The UN Security Council also concluded that military activities pursuant to Article 2(4) and Article 51 of the UN Charter are not prohibited by UNCLOS and the International Court of Justice ruled that the US naval maneuvers carried out off the coast of Nicaragua from 1982 -1985 did not constitute a threat or use of force against Nicaragua.

A number of multilateral instruments mutually recognize that military activity at sea is lawful and does not, in itself, constitute a "threat or use of force against the sovereignty, territorial integrity or political independence" of any other state.

#### 4.2.4. Restrictions For Intelligence, Surveillance and Reconnaissance Operations (ISR)

The natural argument is that operating a short-range ISR in the EEZ violates the sovereignty of the coastal State and threatens the national security interests of that State. This position is not supported by State practice or a simple reading of UNCLOS, the Chicago Convention, or any other applicable international instrument. UNCLOS addresses intelligence gathering in Article 19(2)(c), and restricts vessels in innocent passage from "gathering information to the detriment of the defense or security of the coastal State." Similar provisions do not appear in Part V of the EEZ Convention. In addition, neither UNCLOS nor the Chicago Convention permits coastal states to direct military aircraft seaward from national airspace. Thus, States may lawfully engage in ISR seaward from the territorial sea or national airspace without giving notification to the coastal state or obtaining its consent.

Within the Exclusive Economic Zone, all countries enjoy the freedom of navigation on the high seas, the placement of submarine cables and pipelines, and all interests permitted by international law regarding these freedoms, such as those relating to the operation of ships, aircraft, and submarine cables and pipelines which compatible with the provisions of the convention. The use of the high seas may be carried out without prior notification to the coastal state.

These military activities include Intelligence, Surveillance, and Reconnaissance (ISR) Operations, Military marine data collection and Naval Oceanographic Survey, War games and military Exercises, bunkering and underway replenishment, testing and use of weapons, aircraft carrier flight operations and submarine operations, acoustic and sonar operations, naval control and protection of shipping, establishment and maintenance of military-related artificial installations, ballistic missile defense



operations and ballistic missile test support, maritime interdiction operations (visit, board, search and seizure), conventional and ballistic missile testing, belligerent rights in naval warfare (rights of visit and search), strategic arms control verification, maritime security operation (counter-terrorism and counter-proliferation), and sea control.

UNCLOS 82 has regulated the management of coastal state resources in the EEZ, but there are no provisions regarding how and what military activities must be carried out in the region. Various countries define what military activity itself looks like, although maritime activities in the military field are

often referred to as military exercises, in some cases military activities in the EEZ, disagreements have arisen with the existence of Surveillance and Research Operations (SROs), Marine Scientific Research (MSR) and Hydrographic Surveys.

Data on violations against foreign warship activities in Indonesian waters recorded in 2021 total of 36 cases, by China, Japan, the US, and Vietnam (China: 25 cases, Japan: 1 case, US: 8 cases, Vietnam: 2 cases), most of these military activities occur in the ZEEI region. The following is data on territorial violations committed by foreign warships in Indonesian waters.

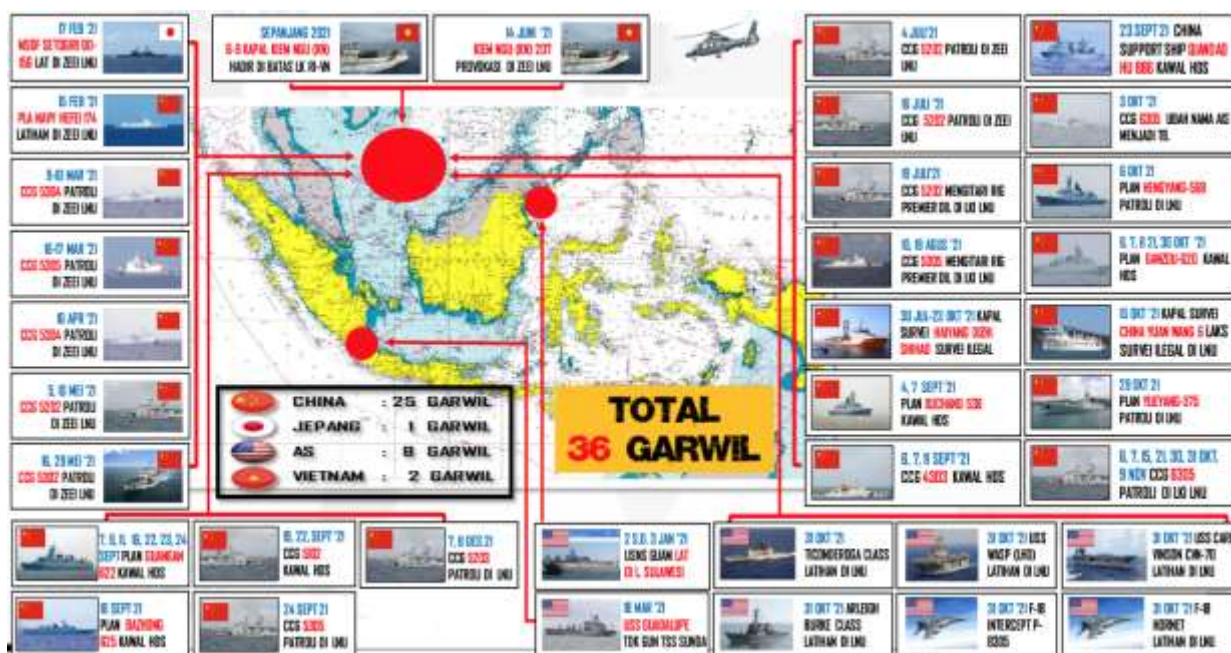


Figure 2. Territorial Violations Committed by Foreign Warships in Indonesian Waters

Warships do have immunity from the jurisdiction of the coastal state, but if military activities carried out in Indonesia's exclusive economic zone (ZEEI) can disrupt interests and threaten maritime security in Indonesia, then there must be preventive action from Indonesia to protect its interests in ZEEI. There is no convention that regulates the provisions that contain things that are permissible and prohibited from foreign military activity in this EEZ. The researcher is very interested in discussing things that may become additional reference material for studies in national and international negotiations with other coastal countries to reach an agreement on the regulation of foreign military activity in the EEZ.

Indonesia's interest in the EEZ is to exploit the natural resources contained in the EEZ by exercising its sovereign rights in the EEZ. The natural resource potentials contained in Indonesia's EEZ in the form of oil, natural gas, coral reefs, and fishery resources have high economic value, if managed properly and efficiently they will greatly

assist Indonesia's economic development from the marine sector.

To protect Indonesia's interests in ZEEI, the Indonesian government must draw up a national regulation regarding the prohibition of foreign military activity in ZEEI. With the existence of a national regulation regarding the prohibition of foreign military activity in ZEEI, Indonesia can refuse foreign military activity in ZEEI by adhering to Article 58 paragraph 3 LOSC 1982. This kind of thing must be avoided in the future because respecting sovereignty and jurisdiction is a basic principle of international law. With a very wide sea area, it is fitting for Indonesia to be able to protect and secure its territory and jurisdiction from all threats, both real and unreal threats.

The research results obtained by researchers through interviews with several informants show that foreign military activity in ZEEI has an impact on maritime security in Indonesia but does not occur directly, but slowly and undetected because foreign military activity in ZEEI takes the form of intelligence data collection which is very difficult to detect and It



is also difficult to prove this activity. Indonesia must be able to take steps to prevent losses in the future due to foreign parties possessing intelligence data regarding Indonesian territorial waters.

## 5. CONCLUSION

Based on the result and discussions, we can take some conclusions are:

a. Based on international law in this case UNCLOS 1982 and the practices of several countries related to the regulation of foreign warship activities in their EEZ, it shows that the regulation and restriction of foreign warships in EEZ can be carried out through national statutory law and international customs of the forms practice of a country. The Indonesian state on behalf of its interests can carry out prohibitions related to the activities of foreign warships in the EEZ.

b. Foreign military activities in ZEEI do not have a direct impact on security and safety, but in the long run indirectly create a threat to security and defense. Various kinds of information and resources contained in ZEEI can be known and used by foreign parties for their interests. Indonesia can invite other countries to be able to continue to carry out negotiations related to the activities of foreign warships in the EEZ as has been done before which gave birth to the EEZ Group 21 Guidelines.

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