

10-31-2018

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### Recommended Citation

Setiawati, Vera Wheny (2018) "Reclaiming Jakarta North Coast: Perspective from Defense, Security and Constitutional Aspects," *Indonesian Journal of International Law*. Vol. 16 : No. 1 , Article 6.

DOI: 10.17304/ijil.vol16.1.746

Available at: <https://scholarhub.ui.ac.id/ijil/vol16/iss1/6>

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## RECLAIMING JAKARTA'S NORTH COAST: PERSPECTIVES FROM DEFENSE, SECURITY, AND CONSTITUTIONAL ASPECTS

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### Abstract

*Indonesia defines itself as a maritime country, since its territory consists of four-fifth sea and only one-fifth land. Indonesia's sea territory is particularly important in uniting the country, as the sea is a medium for interconnectivity, national integrity, resources, diplomacy, national defense and security. This paper will focus on the sea's significance to Indonesia's national unity in its role as a medium for interconnecting the country's many islands, and the implications thereof to Indonesia's national security and defense. This paper will discuss within this context in particular the reclamation of Jakarta's north coast, the 32-kilometer coastline of Indonesia's capital city. The reclamation project will reclaim a total of 27,000 hectares of land, and privatize the whole extent of Jakarta's coastline, which serves as the city's gateway to the sea. This paper will thus examine how to negotiate the various political, economic, social and cultural interests within the reclamation project, and address issues regarding national defense and security arising from the project. This research applies a normative empirical methodology, and intends to provide a scientific basis for the argument that as Jakarta's coastline is crucial in terms of national defense and security matters, the coastline should therefore be managed by a state agency and remain publicly accessible.*

**Keywords:** *Coastline defense and security; North Jakarta coastline reclamation;<sup>1</sup> Reclamation, defense, and security*

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Submitted : 1 October 2016 | Revised : 5 July 2018 | Accepted : 5 October 2018

## I. INTRODUCTION

Indonesia first proclaimed itself as a maritime state through the Djuanda Declaration on December 13th, 1957, which was then passed into law as Government Regulation-in-lieu-of-Law No. 4 of 1960 on Indonesia's Sea Territory. Indonesia then ratified the 1982 United Nations Convention on the Law of the Sea (UNCLOS) with Law No. 17 of 1985 and amended with Law No. 6 of 1996.

<sup>1</sup> Reclamation is defined in Article 1 paragraph 23 of Law No. 27 of 2007 on the Management of Coastlines and Small Islands, as activities carried out by any person or persons to improve the utility of a land in terms of environmental and socio-economic aspects, by way of infilling or drainage.

The Djuanda Declaration<sup>2</sup>, the UNCLOS ratification, and all the national legal standings affirmed Indonesia as an archipelagic state with a sea territory totaling 5.8 million square-kilometers, consisting of 3.2 million square-kilometers of territorial waters and 200 nm of an Exclusive Economic Zone (EEZ). Indonesia is also acknowledged of comprising 17,504 islands, whose combined coastlines extend up to 95,181 kilometers.<sup>3</sup> As a maritime state, Indonesia has the authority and sovereign rights over all its archipelagic territorial waters. It also has rights to manage all natural resources within and under its EEZ and continental shelf. All of this economic potential within its vast territory means that Indonesia is actually a very wealthy country. Moreover, Indonesia is positioned between the two continents of Asia and Australia, as well as between the Indian and Pacific Ocean. Indonesia, therefore, has a strategic position politically and economically in the region, and even globally.<sup>4</sup>

Indonesia further reasserted itself as a maritime state when the Indonesian government outlined its maritime-oriented strategy through the Bunaken Declaration on September 26th, 1998.<sup>5</sup> The declaration emphasized how Indonesia's national development planning should be oriented towards the sea. All government agencies should focus on developing, utilizing, and preserving Indonesia's maritime potentials. This, however, must always involve public participation, as utilizing and developing the maritime potentials should always be in line with the community's socio-economic and socio-cultural values.

## A. RESEARCH AIM AND OBJECTIVES

Within this context of Indonesia as a maritime state, and in light of the reclamation project on Jakarta's north coast, many activists have raised concerns over the project. The concerns have mainly been around

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<sup>2</sup> Continental Shelf Submission of Indonesia, Partial Submission in respect of the area of North West of Sumatra, of Government of Republic of Indonesia, 2008, [http://www.un.org/depts/los/clcs\\_new/submissions\\_files/idn08/Executive20Summary.pdf](http://www.un.org/depts/los/clcs_new/submissions_files/idn08/Executive20Summary.pdf).

<sup>3</sup> <http://www.marineregions.org/documents/indonesiafinal.pdf>.

<sup>4</sup> Dennis Rumley, Sanjay Chaturvedi, Mat Taib, *The Security of Sea Lanes of Communication in the Indian Ocean Region*, Routledge Revivals, p. 57.

<sup>5</sup> Bilveer Singh, *Succession Politics in Indonesia: The 1998 Presidential Elections and the fall of Suharto*, Palgrave Macmillan, p. 242.

environmental issues and the issuance of permits for the reclamation project. Issues regarding national defense and security in relation to the project, however, have yet been thoroughly discussed. The author of this research considers such issues of defense and security as much as an importance to be examined, since Jakarta is Indonesia's capital city and a vital province, of which more special protection of its territory are needed.

The aim of this research is therefore providing a scientific-based argument on the importance of the capital city's coastal areas for Indonesia's national defense and security.

## **B. RESEARCH QUESTIONS**

This research will thus attempt to address the following issues:

1. How should the State manage Indonesia's coastal and marine areas?
2. Is the reclamation of Jakarta's North Coast in accordance with national and international laws?
3. What are the impacts of the reclamation project to Indonesia's security and defense?

## **C. RESEARCH METHODOLOGY**

This research will apply a normative empirical methodology in its examination of the issues. The author of this research conducted field observations at the reclamation sites in North Jakarta. The observations included interviews with several activists who have been supporting the cause for fishermen at the reclamation sites, as well as interviews with the fishermen themselves. Continuous literary research in keeping up to date with issues regarding the reclamation project was also carried out.

Several problems regarding the reclamation project were then identified, mainly concerning the central government's policies when deciding on the reclamation. This research specifically looks into the problem of how the government should address defense and security concerns relating to the reclamation project, and whether national and international laws were applied in the project.

## **II. DISCUSSION**

## A. RECLAMATION ACCORDING TO THE INDONESIAN LAW

According to Article 25A of the 1945 Constitution, Indonesia is a unitary state characterized by an archipelagic setting of which boundaries and rights are defined by law. Meanwhile, Article 33 paragraph (2) stipulates that the State should oversee strategic activities that will potentially affect the lives of many.

The Constitution also stipulates that the State holds authority and management of coastal areas and small islands of which utilization should be used for the prosperity of the nation. In its management of those areas, the State should weigh in and balance economic interest of all stakeholders, as well as defense and security issues. None should outweigh the other, but the priority will be higher to maintain security of the nation.

By nature, Indonesia's territories possess a wealth of resources which should be managed from socioeconomic, cultural, environmental and economic aspects. The State manages them for the interest of public benefits. Public benefits mean the interest of many stakeholders. Moreover, the seas are a medium for national unity because they link the terrestrial area, the islands. Indonesia's unity is also defined by its seas and coastal area which serve as the State's geographical boundaries. The State should guard these boundaries as national interest.

The Indonesian Government manages the State based on the mandate of the 1945 Constitution in managing small islands and coastal areas. Each of its decision should not go beyond that mandate and should try to best balance economic interests of all stakeholders, as well as protect national security. In the events of a clash between economic interest and national security, the latter should be of highest priority. This applies for any policies made upon management of small islands and coastal areas. Initiated by the Jakarta provincial government, the North Jakarta Coastline Reclamation project involves the construction of 17 man-made islands, with a projected total area of 2,700 hectares, approximately the size of neighboring city Bogor. The private sector will carry out the construction of these man-made islands.<sup>6</sup>

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<sup>6</sup> <https://www.indymedia.org.uk/en/2006/09/351953.html>.

The first issue is environmental problem. Both the Indonesian Ministry of Environment and non-governmental environmental organization WALHI raise concern over the impact that land reclamation will have on the gradual decrease of water salinity inside the boundaries of the project, which is essentially turning salt into fresh water. This will have severe impact on the biodiversity of the environment, and more importantly, Jakarta will lose its mangrove forests. Slamet Daroyni, an activist of WALHI, said that the coastal area would lose its ecological functions with the potential loss of Muara Angke natural reserves, the existing coral reefs and seaweeds. In addition to that, the reclamation project will worsen annual flooding and clean water crisis.

Former Minister of Environment, Nabeli Makarim issued Ministerial Decree No. 14 of 2003 to oppose the reclamation project after considering a recommendation issued by the Central Commission of Environmental Assessment, which was tasked to study the environmental impact analysis on the project (AMDAL), based on Article 19 paragraph (2) and Article 22 paragraph (1) of the Government Regulation No. 27 of 1999 regarding AMDAL. The study itself showed that the reclamation will worsen flooding in the city as it would raise water levels in rivers flowing through the metropolitan area by up to 12 centimeters. Reclamation will also negatively impact livelihood of fishermen, destroy marine ecosystem, and also spreading pollution towards the Thousand Islands (Kepulauan Seribu)<sup>7</sup>.

Given that reclamation involves transporting a massive amount of soil from one area to another, the project will also create environmental problem on the soil mining site. The project will need around 330 million cubic meter of soil which is to be mined from Bangka Island, northern coast of West Java, and also West Java inland hills, i.e. Cisadane, Citarum, Parungpanjang, and Jonggol. As a result, the project could also decrease environmental quality of three neighboring provinces of Bangka, West Java, and Banten. Emil Salim<sup>8</sup>, an expert in environmental law and former Minister of Environment, said that the project would be worsening flooding in Jakarta. He also said that it would worsen

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<sup>7</sup> *Ibid.*

<sup>8</sup> Interviewed at the Seminar of The New Geopolitics of Indonesia at Mall of Indonesia, Jaya Suprana School of Performing Art, 7 January 2016, 04.00 PM.

impact of sea level rise due to climate change, which will cause some coastal areas to be completely submerged. The second issue is management authority. Who holds authority over management of these man-made islands? Based on the 1945 Constitution, the Indonesian Government should manage these areas. But, will the private sector who developed these islands provide access to the Government?

In this article, the author is concerned with the third issue: national security, by putting forth the argument that the reclamation project will endanger security defense. By surrendering development and management of coastal area to the private sector, the Government will lose the power to overcome, command, govern, dominate, take control, and possess them. In consequence, if there is an emergency situation such as terrorism and foreign attack from the seas, the Government cannot protect the territory integrity of Jakarta as the capital city of Indonesia.

Who will actually benefit from the project? Private developers is set to host luxurious real estate and golf courses, accessible only for those of higher income as properties are being sold for Rp30 million (US \$ 2.200) per square meter (in 2016). These private developers are:<sup>9</sup>

Table 1

No.	Developers	Development site
1.	PT. Kapuk Naga Indah	1331 Ha (79 Ha in A Island, 380 Ha in B Island, 276 Ha in C Island, 312 HA in D Island, 284 in E Island)
2.	PT. Jakarta Propertindo	190 Ha in F Island
3.	PT. Muara Wisesa Samudra	161 Ha in G Island
4.	PT. Taman Harapan Indah	63 Ha in H Island
5.	PT. Jaladri	405 Ha in I Island (jointly developed with PT. PJA)
6.	PT. Pembangunan Jaya Ancol (PJA)	(316 in J Island, 32 in K Island)
7.	PT. Manggala Krida Yudha (MKY)	447 Ha in L Island (jointly developed with PT. PJA), 587 Ha in M Island (jointly developed with PT. PJA)
8.	PT. Pelindo	379 Ha in N Island
9.	PT. Jakpro	334 Ha in O Island

<sup>9</sup> The Jakarta Post, "Weekly 5: Arguments for, against reclamation", November 6, 2015.

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10. PT. Kek Marunda	852 Ha (483 Ha in P Island and 369 Ha in Q Island)
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Picture 1. Map of Northern Jakarta Coast Reclamations Plan Division



Source: The Jakarta Post, November 6, 2015, Weekly 5: Arguments for, against reclamation.

According to Law No. 27 of 2007 about the Management of Coastal Areas and Small Islands Article 17 paragraph (4), the permit to manage the coastal areas and small islands cannot be issued if the location is in the core zone in the conservation area, sea lane, port area and public coast.<sup>10</sup> Moreover, Article 17 paragraph (4) further stated that property developers should not adopt the permit for private sector for reclamation purposes since it will directly interfere with nearby sea lanes. Moreover, at the northern coast of Jakarta, there is main port of Jakarta, and it is public coast. The Ministry of Transportation’s Tanjung Priok Port Authority representative said that the land reclamation would hamper the passage of ships in and out of ports, and there are a number of seaports along the north coast, including Muara Angke, Sunda Kelapa,

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<sup>10</sup> Indonesia, *Management of Coastal Areas and Small Islands Act*, Law No. 27 Year 2007, State Gazette Year 2007 Number 84, Additional State Gazette Number 4739, Art. 17 para (4): “Location of the permission could not be granted in the core zone of conservation region, sea lanes and the port area as well as public beach.”



Tanjung Priok and Marunda<sup>11</sup>.

The Indonesian Association of Sub-marine Communications Cable Systems representative warned that many telecommunications cables were located under a number of the planned islets. An accident could lead to the disruption of communications<sup>12</sup>. There are many vital state objects and there is public port in the North Coast of Jakarta. The 2,700 hectares project is public space; therefore, the Indonesian Government should not privatize the coastal area of Jakarta, as they should first get permission from the public before issuing any permit for the use of public space. The Act mandates that public participation is needed when utilizing coastal resources and small islands resources. The purpose of managing of coastal areas and small islands in order to improve social, economic, and cultural values of the communities<sup>13</sup>. The two-thousand-hectare project will hamper the vital state objects and there is public port in the northern coast of Jakarta.

In addition to that planning, utilizing, surveillance, and controlling the management of coastal and marine areas should be focused on public prosperity and the integrity of the Unitary State of Republic of Indonesia. The provincial government of the Special Capital Region of Jakarta has evicted about 12,000 inhabitants of fishing communities in North Jakarta coast<sup>14</sup>. The people who live in the area should leave the coastal area because the area will be privatized. All the fishermen and low-income inhabitants who lived in Kamal Muara, Muara Baru, Muara Angke, Luar Batang, Marunda, and Ancol, among others are those who would potentially lose their livelihoods. Reclamation project will further marginalize all those people for the increase of land's price in new area without being balanced by the economic capability of previous inhabitants. Even before the project started, there has been an eviction in Ancol Barat (Pademangan) where numerous fishing community inhabitants chose to move, voluntarily, rather than being evicted by force, and later given Rp500,000 per family as compensation.

<sup>11</sup> Devina Heriyanto, "Q & A: The problem with Jakarta's land reclamation," *The Jakarta Post*, April 7<sup>th</sup> 2016.

<sup>12</sup> *Ibid.*

<sup>13</sup> Law No. 27 of 2007, Article 4 para (4).

<sup>14</sup> Luhut Binsar Panjaitan, the Coordinating Minister for Maritime Affairs of Indonesia at the Parliament Complex, Senayan, Jakarta, Wednesday, September 14<sup>th</sup>, 2016.

Fishermen are worried that if the reclamation project were to be carried out, conflict among fishermen will be difficult to prevent. Conflict will happen when fishermen from Jakarta enter the water of other provinces. Aside from that, thousands of fishermen will lose their occupation from their difficulties on accessing fish in Jakarta's waters. Some of the fishermen firmly rejected the reclamation process in Jakarta's northern coast. Their refusal is based on argument that even before the reclamation process took place, they already have difficulties on accessing fish in Jakarta's water. Those conflicts may potentially hamper the State security especially in Jakarta.

According to the plan, the local government will provide apartments to fishermen, along the reclamation process. In responding to that plan, the fishermen declare that they do not need rented subsidized apartment. Up until the present time, neither the National nor Jakarta Provincial Governments nor the developers have provided any communities with specific proposals for either relocation or compensation for the loss of their homes. It is anticipated that if alternative accommodation is provided it is likely to be located too far away from the foreshore to enable people to continue with their fishing activities.<sup>15</sup>

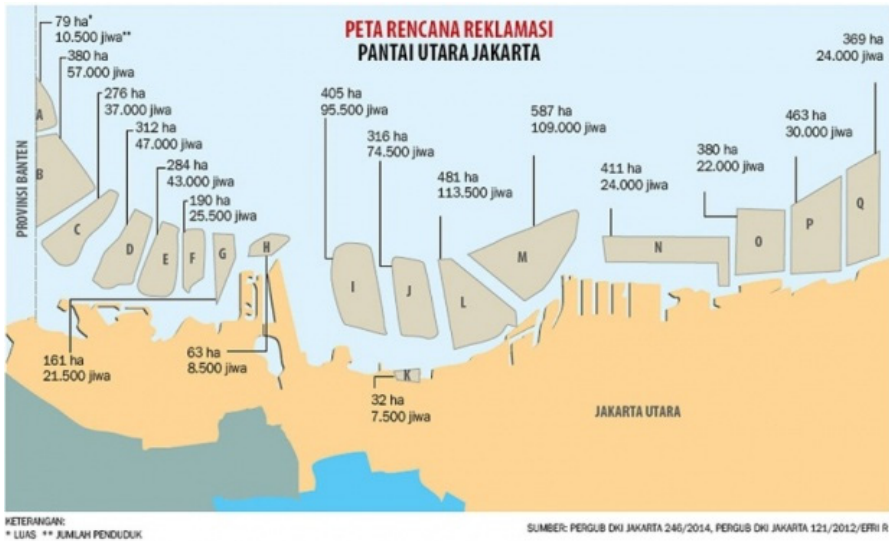
The Government has never conducted public participation when he decided to adopt those solutions and the permit for reclamation in North Jakarta. The citizens of Jakarta have disagreed with the decision. The disagreement of citizens may be seen by the submission of a lawsuit to the Jakarta Administrative Court. The court ruled that the reclamation permit should be annulled since it has not complied with the law and it violates the people's rights, and the permit is not for the prosperity of the people. Only several people who can effort buying the land reclamation will get the benefits. While twelve thousand fishermen may not get the benefits, they should give up their rights to ten private companies. The reclamation projects, however, will continue and "Luhut played down a court verdict that annulled a gubernatorial decree on the development of Island G."<sup>16</sup>

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<sup>15</sup> WitteveenBos, "Stop the Northern Coastal Reclamation Project in Indonesia", 27 September, 2006, <https://www.indymedia.org.uk/en/2006/09/351953.html>, downloaded in 27 September 2016 at 11.36 AM.

<sup>16</sup> <http://jakartaglobe.beritasatu.com/news/decision-continue-in-jakarta-reclamation-project-legally-baseless-lbh/>.

Picture 2. Reclamation Plan of the Jakarta Northern Coast



## B. UNCLOS REGARDING RECLAMATION

The Law of the Sea as stated by UNCLOS 1982 does not specifically rule about reclamation. However, UNCLOS 1982 legislates artificial islands, “installation, and structures. UNCLOS rules that the coastal State have the exclusive right to construct and authorize and regulate the construction, operation and use of artificial islands.”<sup>17</sup> An artificial island or man-made island is an island that has been constructed by people rather than formed by natural means. Land reclamation is the gain of land from the sea or wetlands, or other water bodies, and restoration of productivity or use to lands that have been degraded by human activities or impaired by natural phenomena.

According to UNCLOS 1982, reclamation is the artificial islands. The Government is the one who has the exclusive right to build, operate and use the artificial islands. Consistent with the UNCLOS, the Government shall have exclusive jurisdiction over such artificial islands, installations and structures, including jurisdiction with regards to cus-

<sup>17</sup> *Ibid.*, Article 60 para (1).

toms, fiscal, health, safety and immigration laws and regulations.<sup>18</sup> The Government has the international responsibility to maintain the territory integrity and to fulfill international obligation under the UNCLOS 1982. Accordance with the UNCLOS 1982, artificial island may not be given to private sector to manage, build, operate, and use the artificial island. However, the Government has given the power to private sector to utilize the Northern Coast of Jakarta. The decision of the Government in adopting the reclamation permission in the Northern Coast of Jakarta is not accordance with the UNCLOS 1982.

### C. STATE DEFENSE AND SECURITY

Picture 3 Overview of Jakarta Northern Coast Reclamation Plan



Source: <http://ncicd.com/2014/10/page/3/>

As a huge archipelago State with a special character, Indonesia needs to have ocean policies that will define in detail how to protect marine territory from external attack. Indonesia needs marine policies because the marine is the main gate for archipelagic states such as Indonesia. As the main gate it is important for having comprehensive policies to protect the State territory. Up until now, Indonesia has not established the state policy of defending and securing the State territory integrity.

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<sup>18</sup> *Ibid.*, Article 60 para (2).

According to the suggestion from Indonesian Marine Board in 2011, the description of ocean policies should: (1) adopt or accommodate a variety of the intrinsic uniqueness; (2) facilitate and mediate a critical dialogue between the interests of prosperity and security; (3) have and apply in the future needs; and (4) think that the aims are to build a strong development of marine State. The State should decide which one is the most important between getting high profit in economics and the State security (Indonesian Marine Council, 2011). The Government has not fully succeeded to facilitate and mediate between the interest of prosperity of the people and security for the State. In the case of reclamation in Northern Coast of Jakarta is the best case to illustrate it. In that case, the Government has failed to choose two of them. The welfare of Jakarta society has been sacrificed for the Jakarta's reclamation.

In protecting and maintaining the State defense and security in Jakarta Province is the central government authority. Pursuant to the Law No. 29 of 2007, Article 26, the provincial government of Jakarta does not have the delegation of authority from the central government to maintain national security and defense. In conclusion, the Government should have the competency to authorize which projects may hamper the State security and defense. Considering the geographical position of Indonesia, it has strategic position for world trade line through the sea. Many countries have seen its Indonesian strategic position and they desire to occupy the Indonesian territory. If Indonesia has not had integrated strategies for the State defense and security, the Government may lose the power of the State territory.

### III. CONCLUSION

As Jakarta's population increases, demand for land and public housing in the city has also risen. To fulfill this pressing demand, the government has decided on expanding the city's land mass, by way of reclamation and the construction of seventeen man-made islands in Jakarta's north coast. It should be noted that as Jakarta is the capital city of Indonesia, there are many vital objects located throughout the city. The government's decision to carry out the reclamation project Jakarta's north coast is not in accordance with the laws and policies relating to national defense and security in this matter. In particular, the reclamation proj-

ect's spatial plan to privatize the 27.000 hectares of reclaimed land and the whole extent of Jakarta's north coast shoreline, will make it difficult for the government to maintain authority and control over the areas.

In conclusion, the reclamation project in Jakarta's north coast jeopardizes the national defense and security interest. The reclamation project should therefore be fully managed and owned by the Indonesian government. At least half of the 27.000 hectares of reclaimed land should remain as public space and not be privately owned.

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