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The Importance of Law Acknowledgment for Archipelagic Province toward the Authority Equilibrium in Managing the Natural Resources in Maritime Territory of Autonomous Region

Hendrik Salmon

Faculty of Law, University of Pattimura Ambon - Indonesia

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Abstract

Philosophically, discussion on archipelagic province should be preceded by philosophical system of Pancasila by positioning archipelagic province into the Unitary Republic of the Indonesia and the concept of Archipelagic State Principles. Treatment to be done by the Unitary Republic of the Indonesia toward archipelagic province is balanced equitable treatment; it means that the treatment to the land and water area of archipelagic province should be similar to the land area of non-archipelagic province. Based on the valid regulation, the treatments for archipelagic province all this time are unfair due to unimplemented of balanced equitable treatment, thus it affects to government condition.

Keywords: Archipelagic Province, Authority Equilibrium

1. Introduction

Essentially, ocean has a lot of functions such as food sources for human being, channels of commerce, means of conquest, place for battle, recreational sites or unifying means of the nation. By the development of science and technology, function of the ocean increases due to the invention of mines and minerals in the sea floor as well as its effort to take the materials from the ocean water and the sea floor (Djalal, 1979).

In the Djuanda Declaration, Indonesian government asserts that "the Archipelagic State Principles" consider the water and land area as an integral part corresponded to the "motherland" philosophy. Consideration which encourage the Republic Government to issue Djuanda Declaration are: (1) that geographical form of the Republic of the Indonesia as an archipelagic country consisting of thousands islands has separated characteristics and patterns which needs separated management; (2) for an integral territory of the Republic of the Indonesia, all of the islands along with the ocean among them have to be considered as a unified entity; (3) that the border determination of territorial ocean is inherited from the colonial government as recorded in *"Territoriale Zee en Maritime Kringen Ordonantie 1939,* Article 1 paragraph (1) it is no longer appropriate with the interest of safety and security of the Republic of the Indonesia; and (4) that the sovereign states/countries have the rights and duties to take the necessary actions to protect its states integrity and safety (Kusumaatmadja, 1978).

Then, the 1957 Djuanda Declaration is reinforced by Laws Number 4/Prp of 1960 on Indonesian Waters containing of: (1) Indonesian Waters is the water area of Indonesia along with Indonesian inland waters; (2) Water area of Indonesia is the sea route by 12 sea miles width with the outward line which is measured perpendicularly above the bottom line or above the spot at the bottom line consisting of straight lines. They connect the outward spots at the low loadline from the islands or the outer island's parts in Indonesian territory under provision that if there is a strain with less than 24 sea miles and Indonesia is not the only state edge, boundary lines of Indonesian territory are drawn at the center of the strain; (3) Inland waters of Indonesia are all of the waters laid inside the bottom line; (4) Amicable traffic in the inland waters of Indonesia is open for foreign ships (Mauna, 2003).

Article 25 A to the 1945 Constitution of the Republic of Indonesia asserts that "the Unitary Republic of the Indonesia is an archipelagic country which is characterized as an archipelagic state with the determined territory borders and rights in the Laws". As a unitary state with archipelagic characteristics, Indonesia complies with the decentralization principles for its government operations by giving a chance and freedom to the local government to operate the regional autonomy (Bratakusumah and Solihin, 2001). According to Nasution (2000), decentralization is defined as "a delegated authority and responsibility in planning and implementing the policy to the local government as well as transferring political functions and administration from the central government to the local level in purpose to increase the participation and efficiency more".

Laws Number 32 of 2004 on Local Government formulates decentralization as "delegation of government authority from the government to the autonomous region to manage and to

arrange government affairs in the Unitary Republic of the Indonesian system". This formulation is more emphasized in the decentralization function of government, while the government territory is unimportant in this delegation of government affairs. As the consequence of this authority delegation from the local government to the autonomous region upon water area, this formulation does not reflect territorial integrity (land, water and air) as an integral part.

Decentralization principles are implemented in form of Regional Autonomy which is meant as the rights to manage their household (Yani, 2002). Laws Number 32 of 2004 asserts that the meaning of regional autonomy is "the rights, authorities and responsibilities of the autonomous region to manage and to arrange their own government affairs and their local community's interest in accordance with the laws and regulations (Article 1 Number 5). The main purpose of regional autonomy is to bring decision making process nearer to the lowest community by considering cultural distinctive features and local environment, thus public policy will be more accepted and will be productive to meet the needs and justice sense of the people (Manuputty, 2007). Therefore, water area for an autonomous region is an area functioned as connecting areas as well as an integral part of the land in regional autonomy operation.

Regional autonomy operation is conducted simultaneously with the village autonomy operation especially for customary law civic organization. Autonomy for the customary law civic organization is an innate autonomy where the water area comes from petuanan (ulayat) territory and becomes an integral part with the intended customary law civic organization.

The Law of the Sea Convention 1982 had been ratified by Indonesia by issuing Laws Number 17 of 1985 on Legalization of International Convention on the Law of the Sea 1982. Under decision of Laws Number 17 of 1985, UNCLOS have become Indonesian National Laws and tied the entire Indonesian nation not only the government but also the people. Acceptance follow-up from the Law of the Sea Convention 1982 as Indonesian national law is realized through decision of Laws Number 6 of 1996 on Indonesian Waters where the three principles of baseline drawing in The Law of the Sea Convention 1982 gets the arrangement by the necessary changes that have been made in this laws (see Article 5). Article 5 paragraph (1) of Laws Number 6 of 1996 asserts that "The baseline of Indonesian islands is drawn using the straight line of the islands". If the islands straight baseline as intended in paragraph (1) cannot be used, the normal baseline or the straight baseline will be used. In this case, by grounding on opinion of Etty R. Agoes, the main choice lies in the drawing of archipelagic straight baseline which has main position if it is compared with the normal baseline and straight baseline toward an alternative position for archipelagic state.

The Archipelagic State Principles as intended in UNCLOS led by Indonesia by means of the Djuanda Declaration 1957 have not been adopted well as proved by various issued regulations which have not accommodated this Archipelagic State Principles. It seems conspicuous in Laws Number 32 of 2004 on Local Government, especially if it is related to authority decision on natural resources management by local government in water area.

Article 18 of Laws Number 32 of 2004 asserts that a region with water area has an authority

to manage its resources in water area (paragraph 1). Local authority to manage resources in water area consists of (a) exploration, exploitation, conservation and management over the marine wealth; (b) administrative arrangement; (c) spatial arrangement; (d) law enforcement toward the issued regulations from the local government or the delegated authority from the government; (e) participation in safeguard; and (f) participation in the state sovereignty defense (paragraph 3).

Authority confirmation of autonomous region in management and utilization of natural resources in water area is an attribution authority due to the occurrence of new government authority delegation based on the rules in laws and regulations (Indroharto, 1993). In this case, meaning of authority in legal use is different from power *(macht)*. Power only depicts the rights to do or not to do something. In the law, authority means rights and duties all at once *(rechten an plichten)*. Related to regional autonomy, rights that contain of power means power to arrange itself *(zelfregelen)* and manage itself *(zelfbesturen)*. Horizontally, duty means a power to operate the government as appropriate, while vertically, it means a power to operate the government in the entire bonding state governance (Manan, 2000).

Authority of local government has rights to manage resources in water area with the furthest distance of 12 (twelve) sea miles as measured from the shoreline to the high seas and/or to the islands waters for a province and 1/3 (one third) of the provincial authority territory for a regency/city (paragraph 4). If water area between 2 (two) provinces is less than 24 (twenty four) miles, authority to manage resources in this area is divided by the distance or measured based on center line principle from territory between the 2 (two) provinces, while for regency/city authority, it gets 1/3 (one third) of the intended provincial authority territory (paragraph 5). Provisions as intended in paragraph (4) and (5) are not applied toward fishing by minor fisherman (paragraph 6).

If it is analyzed deeply, provision in Article 18 of Laws Number 32 of 2004 above shows that in the regional autonomy operation, the state gives authority to the local government to manage natural resources that exist in their water area. Regional authority to manage natural resources in water area by 12 (twelve) sea miles width is measured from the shoreline to the high seas and/or to the islands waters for provincial region, while regency/city has an authority to manage them by 1/3 (one third) of provincial authority. It shows that Laws Number 32 of 2004 applies normal baseline drawing principle, thus it ignores the straight baseline principle and archipelagic straight baseline principle. Indeed, it emerges injustice in regional autonomy operation in Indonesia by considering that there are differences on regional characteristics.

2. Meaning of Regional Autonomy in Indonesia.

Article 18 paragraph (1) to the 1945 Constitution of the Republic of Indonesia asserts that "the Unitary Republic of the Indonesia is divided into provincial regions where the provincial regions are divided into regencies and cities. Each provinces, regencies and cities have local government as determined by the Law". Terminology use of "divided into" is intended to assert that relationship between the Central Government and Local Government is hierarchical and vertical characterized (Asshiddiqie, 2002). Provision in Article 18 paragraph

(1) to the 1945 Constitution of the Republic of Indonesia has a strong base to operate regional autonomy by giving wide, real and responsible authorities to the local government.

Regional autonomy is rights, authorities and responsibilities of the autonomous region to manage and to arrange their own government affairs and their local community's interest in accordance with the laws and regulations (Article 1 Number 5 of Law Number 32 of 2004). In this context, regional autonomy through decentralization is not given to the local government or to the Municipal/District/Provincial Regional House of People's Representatives, but it is given to local community. In this context, for the archipelagic province with water area as its most coverage area should be treated based on its regional characteristics by means of authority decision due to the differences of area characteristics from continental areas.

If Law Number 22 of 1999 which had been changed into Law Number 32 of 2004 on Local Government is analyzed, there will be found the basic essences of local governance operation. *First*, the applied philosophy is "Diversity in unitary as the contra-concept of philosophy", a uniformity which is used by Law Number 5 of 1974. By this new philosophy, great freedom is given to the autonomous region to manage and to arrange its local and community interest based on each needs and ability. *Second*, there are four applied paradigms affecting to the content of Law Number 32 of 2004 on the Government, that is: (1) popular sovereignty; (2) democracy; (3) community empowerment based on the needs; (4) each potency or ability. *Third*, delegated authority to the local government especially to regency/city is considered as acknowledgment and it is not an arrangement. *Fourth*, in fact, the Municipal/District/Provincial Regional House of People's Representatives having parallel position and belonging to partner of the head of municipality/vice head of municipality has a stronger position than the head of municipality/vice head of municipality in political manner before the term of its office ends. On the other hand, head of municipality/vice head of municipality cannot liquidate the Municipal/District/Provincial Regional House of People's Representatives which is semi-parliamentary characterized. *Fifth*, Local Government institution is made to be sociable and flexible based on the needs and ability of the intended region. *Sixth*, basic rights which are attributed to the regional autonomy are: (1) rights to vote his own leader in freedom; (2) rights to choose and to manage its own wealth in freedom; (3) rights to arrange its own regional regulations in freedom and (4) employment rights (rights to appoint, to put, to move, to hire and to fire its own employees). *Seventh*, there are efforts on usage implication or operations of local government in form of decentralization principles power and deconcentration principles reduction in regency/city level. Deconcentration principles are only applied in provincial region. *Eight*, there are efforts on arrangement implication about village and ward (Wasistiono, 2002).

It is expected that there will be double profit from the regional autonomy application promoting on decentralization to the region apart from pressures and interventions of the Central Government, thus local initiatives and creativities can be improved. In other words, region will experience significant empowerment process to enable them in facing various regional problems. Delegated authority in managing and arranging its region can trigger it to excavate the existing potency in its territory in order to increase income resources. It can

decrease regional dependence to the Central Government. In the other side, the Central Government is free from unnecessary responsibilities to solve regional affairs, and then they can concentrate to the national macro policies or strategic global policies (Nugroho, 1983).

The broadest autonomous principles state that tasks, authorities, rights and duties are given to the head of municipality in order to handle government affairs which are not handled by the Central Government. It means that the credence on government affairs related to Government function implementation is given to the local government in order to handle and/or to implement its delegated government affairs, thus the content of autonomy will be considered as good based on its amount and types. On the other side, flexibility is given to the local government to handle its delegated government affairs *(Political decentralization)* in order to realize the purpose of region formation and the purpose of regional autonomy delegation, especially to provide services to the society based on the needs and condition as well as their own regional *"characteristics"*.

Autonomous principle of "real" is a principle that in purpose to handle government affairs, tasks, authorities and duties which are truly exist are implemented due to the potency to grow up, to live and to develop based on regional potency and special characteristics. Thereby, contents and types of autonomy in every region are different from others. On the different note, what is meant by responsible autonomous principle is an autonomy where its operation should be authentically applied in line with the purpose and intention of autonomous delegation. They are arranged to empower regional ability including to increase regional welfare and community welfare as a part of the main national purpose (Sarundayang, 2005).

3. Meaning of Local Government Authority

Local Government Authority is a substantial matters in regional autonomy implementation. Local Government Authority becomes an important substance of decentralization principles implementation. This is urgent because decentralization means distribution of authority from the central to the lower organization parts based on territorial, functional, technical and cultural manner. Related to authority implementation of Local Government as delegated authority from the central to local government, it means that they are able to implement positive law, to conduct certain law actions that is the intended actions to emerge law consequence and to cover the emergence and omission of certain law consequence. In the Great Dictionary of the Indonesian Language of the Language Center, word of competence is same as authority which has meaning of rights and power to act, to make decision, to order and to delegate responsibilities to other person/other institution.

Term of authority and competence does not emerge principle differences. According to, term of competence or authority is often parallelized to Dutch *"bevoegdheid"*. In Indonesian law, competence or authority is used as public law concept, while *"bevoegdheid"* is used in public and private law concept. As the public law concept, competence or authority consists of at least three competences that is influence, law basis and law conformity.

In a law based state, government (local) competence comes from the valid legislative regulations. In this context, according to. Huisman, it cannot be considered that government

organ has its own government competence. Authority is only given by the laws. Laws maker can delegate government authority not only to government organ but also to the employees (such as tax inspector, environment inspector, etc.) or to a special institution (such as general election council, special court) or even to private law institution.

According to Manan (2000), meaning of competence in legal use is different from power *(macht).* Power only depicts the rights to do or not to do something. In the law, competence means rights and duties all at once *(rechten an plichten)*. Related to regional autonomy, rights that contain of power means to arrange itself *(zelfregelen)* and manage itself *(zelfbesturen)*. Horizontally, the duty means a power to operate the government as appropriate, while vertically, it means a power to operate the government in the entire bonding state governance.

Theoretically, authority based on legislative regulations is gained from three methods, that is attribution, delegation and mandate According to Indroharto (1993), in attribution, there is a new delegation of government authority based on provision in legislative regulations. In delegation, it occurs delegation of the existing authority by the State Administrative Institution or Position who had government authority attributively to the other State Administrative Institutions or Positions. Thus, a delegation will always be preceded by the presence of authority attribution.

According to fundamentally, attribution relates to a new authority delegation or distribution. In this context, authority which is gained attributively has original characteristics from the law makers. In this model, the competence provider and receiver may arrange a new competence or expand the existing competence. Attribution is a competence to make decision originally from the laws in material meaning. Formation and distribution of competence are determined in laws and regulations.

Delegation relates to delegation of the existing competence given by organ which had gotten the competence attributively to the other organs, thus logically, delegation will be always preceded by an attribution. In delegation, there is no competence formation from one officer to the others or from one administrative institution to the others. Competence delegation has to be conducted by certain legal regulation form. Party who delegates the competence is called *delegans*, while the party who receive the competence is called *delegataris*. If the *delegans* delegate the competence to the *delegataris*, internal and external responsibilities of competence implementation is totally given to the *delegataris*. Some conditions of delegation are, (1) it should be definitive meaning that the delegans cannot use the delegated competence anymore; (2) it should be grounded on provisions of legislative regulations meaning that delegation will be possible if provision on the matters is exist in the legislative regulations; (3) delegation should not be delegated to subordinate officer meaning that in personnel hierarchal relationship, delegation is not allowed; (4) there are duties to inform (to explain) meaning that delegans are in charge to request an explanation on the competence implementation; (5) policy regulations mean that delegans give instruction (guidance) on the competence use.

Basically, mandatory competence acquisition is a competence delegation from the supervisor to the subordinate officer in order to make decision on behalf of the state administrative

officer who give the mandate. It means that the decision made by mandatory receiver is substantially a decision of the state administrative officer who give the mandate. As the consequence, the responsibilities and the accountabilities on the basis of mandatory decision issue remain on the mandatory provider officer. Therefore, it can be concluded that mandate does not concern on competence transfer or competence delegation. There is no any competence changes in formal juridical meaning in mandate. What is exist is only an internal relationship.

4. Problems

Based on the proposed background above, problems which will be discussed in this paper is: "**Can the Law Acknowledgment of Archipelagic Province Warrant Authority Equilibrium in Managing Natural Resources in Water Area of Autonomous Region?"**

5. Discussion

5.1. Characteristics of Archipelagic Region

In general, Archipelagic Province has aquatic terrestrial characteristics which distinguish it to terrestrial province or aquatic terrestrial. In this context, Archipelagic Province characteristics can be seen from, (1) Size of sea area is wider that the land area; (2) From demographic distribution, inhabitants amount of archipelagic area is relatively small with an uneven distribution; (3) From social-cultural aspect, communities in archipelagic region are segregated in the settlements based on territorial of an island, thus it usually affects to the strong sense of belonging to the land (island), lifestyle in small islands living in harmony with the nature (with slow response to an alteration);(4) From natural resources availability aspect, this area is relatively diverse; (5) From living system aspect, it is determined by geographic isolation level and habitat uniqueness (endemic) and biodiversity; (6) From social-economy aspect, economic activities, type and degree of economic dynamics are limited and small size activities in general. They have not supported by sufficient distribution and marketing connection; (7) From environment aspect, this small environment resources are susceptible to changes *(entropy)*, natural disaster (sea waves which are dominated by gravitational waves as emerged by sea breeze; sea current which is caused by two factors, i.e. monsoon and tides); (8) From biographic aspect, there is potency of land and waters biodiversity around the islands (smal islands); (9) It is almost of all Archipelagic Provinces are in frontier area with a lot of outermost islands (Archipelagic Province of Riau has 20 islands, Maluku Province has 18 islands, North Sulawesi Province has 12 islands, East Nusa Tenggara Province has 5 islands, North Maluku Province has 1 island and Bangka Belitung Archipelagic Province has 0 island; Presidential Regulation Number 78 of 2005).

If the size of water area in Province Region with aquatic terrestrial characteristics (archipelagic) is not supported by law rules on unifiable authority, it will emerge imbalance management and utilization of natural resources in water area. In this context, there are some prominent law issues which can affect Local Government authority implementation in water area.

First; Differential principle in The Law of the Sea Convention 1982 have not been adopted to

meet the reality of Archipelagic Region. The first Archipelagic State Principles is known in international society through the Djuanda Declaration 1957. Furthermore, this declaration is struggled by Indonesia in International Conference on the Law of the Sea in order to make it confessed by international society and included in *International Convention on the Law of The Sea 1982*. Archipelagic State Principles are applied to Archipelagic States which distinguish them to normal baseline and straight baseline principles. In this context, reality on archipelagic region in Archipelagic State of Indonesia have not gotten attention in the efforts of regional authority decision to the marine resources management in autonomy age these days.

Second; Archipelagic Regional Authority in water area does not show an integral part territory (land and ocean) due to an existence of norm conflict on National laws and regulations. Archipelagic State Principles as included in International Convention on the Law of the Sea 1982 are the result of international society agreement, thus Archipelagic State Principles become the law on archipelagic state. Archipelagic State Principles that become archipelagic state law by Indonesian Government have been accepted to be national law through ratification as stated in Laws Number 17 of 1985 on the validation of *International Convention on the Law of The Sea 1982*. Furthermore, Laws Number 6 of 1996 on Indonesian Waters have applied the necessary changes principle in substantial formation related to archipelagic state principles. While in the Laws Number 32 of 2004, there are conflicts on two preceded regulations.

Third; The existence of interest conflict in water area between the Central Government, Province Government, District Government and Customary Law Civic Organization. Regional autonomy implementation is conducted simultaneously with the village autonomy or what is called as Customary Law Civic Organization. The acknowledgment on Customary Law Civic Organizations along with their traditional rights implicates to the existence of acknowledgment on upayat (petuanan) rights for those customary law civic organizations. If the Article 18 paragraph (4) of Laws Number 32 of 2004 insists that Provincial authority borders in the sea by 12 miles are measured by the low water level to the high seas and/or archipelagic waters and regency/city borders by 1/3 (one third) of Provincial borders, emerged problems are which areas belong to customary law civic organizations in the sea?

Fourth; The trend of marine resources management ignoring the fishing rights which are traditionally exist for years emerges national injustice. For the regional autonomy implementation grounded on decentralization principles with natural resources as local potency should be managed and utilized for social welfare in the greatest size. In this case, regional characteristics reflecting on continental and archipelagic characters cannot be treated similarly. Article 18 of Laws Number 32 of 2004 applies equality principles among regions which may emerge national injustice.

5.2. Theoretical Supports

The main theory which should be used relating to the law aspect on Local Government authority to the water area relates to provision adoption in international law (The Law of the Sea Convention 1982) in areas determination of Local Government authority for natural

resources management in water area. In this context, Transformation Theory on International Law becomes National Law as proposed by J.G. Starke. Based on Transformation Theory as proposed by positivism class states that international law provision cannot be directly and "ex proprio vigore" conducted by national courts in national territory. In order to implement this law, international law has to engage specific adoption or specific incorporation into national law (Starke, 1984: 76). This is in accordance with monism considering that all of the laws are an integral part of law regulations which arrange and bind nations, individuals and non-government organizations (Starke, 1984; Kusumaatmadja dan Etty Agoes, 2003).

The adopted international law provisions are international agreement provisions on baseline determination in measuring the size of water area. The use of normal baseline, straight baseline and archipelagic straight baseline as explained above can be used simultaneously by considering regional area characteristics in Indonesia. In this context, (1) for an area with terrestrial characteristics (land) can apply normal baseline; (2) for an area with aquatic terrestrial characteristics can apply straight baseline; while for an area with terrestrial aquatic characteristics with the greater of water area than the land may apply archipelagic straight baseline.

Baseline drawing method to measure the size of water area belongs to Local Government authority which is different from preceded explanation. It aims to emerge territory unity (land and ocean) as unified with Local Government autonomy based on broad, real and responsible autonomy. This is supported by Sphere Theory as proposed by Hans Kelsen. In the broadest implementation of regional autonomy, according to Hans Kelsen, he states that a norm is valid for certain territory meaning that the norm relates to human deeds that exist in the territory. In this case, place of applied law should not be discontinuous and stay as an integral part. If the measurement as stated in Article 18 of Laws Number 32 of 2004 stay implemented, there will be territories that is not belong to Local Government authority in an autonomous region. In the other side, this method will cause national injustice in Indonesia.

Fundamentally, a rule of law (arranged by Local Government) should maintain the authority equilibrium between the Central Government, Local Government or customary law civic organizations. In this context, applied theory is Interest Equilibrium Theory as proposed by Roscoe Pound. Basically, according to Roscoe Pound, initial condition of society structure will always in imbalance position. There is the dominant societies and the marginalized ones. To realize "a civilized world", structural imbalances should be re-organized in proportional equilibrium pattern. Therefore, it needs progressive method by implementing the law to organize the changes. By this condition, theory of Pound on law as a tool of social engineering is emerged. In this case, what is belong to law in context of *social engineering* is to arrange the existing interests. Local Interests (Province, Regencies/Cities), customary law civic organizations or traditional fishing rights should be arranged well in order to achieve the proportional balance.

6. Conclusion

Broad, real and responsible regional autonomy implementation is essentially assert the existence of regional autonomy in arranging and utilizing the existing natural resources

potency in the area (whether in the land or in the ocean) for regional development in order to realize society welfare whether in regional or national level.

Regional authority in arranging and utilizing the existing natural resources in the area should be considered as an inseparable part between the land and the ocean. This is important by considering that natural resources in this great ocean needs sufficient management and high technology utilization.

Problem on authority determination by Local Government in water area is conducted based on local characteristics, thus the presence of law certainty relates to the arrangement and utilization of natural resources in water area by the local government. This authority determination by Local Government on water area should adopt the arrangement of the Law of the Sea Convention 1982 that applies differential principle based on State territory characteristics.

For terrestrial regions (land), it uses normal baseline. For aquatic terrestrial regions (where the land is greater than the ocean), it uses straight baseline. Next, for aquatic terrestrial region, it should use archipelagic straight baseline that is by connecting the outermost points of the outermost islands or reefs of an area. The use of baseline is nothing other than to distinguish regional characteristics and to insist the unity of land and ocean territory in the framework of permanent national equity. This is important because of equating the regional characteristics reflects the national equity.

References

Agoes, E. R. (2004). *Praktik Negara-Negara Atas Konsepsi Negara Kepulauan*. Jurnal Hukum Internasional, Lembaga Pengkajian Hukum Internasional Fakultas Hukum UI, Jakarta.

Akehurst, M. (1970). *A Modern Intruduction To International Law*. George Allen and Unwin Ltd, London.

Anonimous. (2000). *Wajah Hukum Di Era Reformasi*; Kumpulan Karya Ilmiah Menyambut 70 Tahun Prof.Dr. Satjipto Rahardjo, SH. Citra Aditya Bakti, Bandung.

Assiddiqie, J. (2002). *Konsolidasi Naskah UUD 1945 Setelah Perubahan Keempat*. Pusat Studi Hukum Tata Negara, Fakultas Hukum UI, Jakarta.

Manan, B. (2000). *Wewenang Provinsi, Kabupaten dan Kota Dalam Rangka Otonomi Daerah*. Makalah pada Seminar Nasional, Fakultas Hukum Unpad, Bandung.

Bratakusumah, Supriady. D dan Solihin, D. 2001. *Otonomi Penyelenggaraan Pemerintahan Daerah*. Gramedia Pustaka Utama, Jakarta.

Danusaputro, St. M. (1983). *Wawasan Nusantara Dalam Gejolak Teknologi Dan Konstitusi Laut & Semodera*. Alumni, Bandung.

Djalal, Hasyim. (1979). *Perjuangan Indonesia Di Bidang Hukum Laut*. Binacipta, Bandung.

Hoof, G.J.H. V. (1983). *Rethingking The Sources of International Law.* Kluwer.

Indroharto, (1993). *Usaha Memahami Undang Undang Tentang Peradilan Tata Usaha Negara*. Pustaka Sinar Harapan, Jakarta.

Kantaatmadja, M. K. dan Eddy D. (1985). *Bahan Pelajaran Hukum Perjanjian Internasional*. Fakultas Hukum UNPAD, Bandung.

Kelsen, H. (2006). *Teori Hukum Murni, Dasar-Dasar Ilmu Hukum Normatif*. Nusamedia dan Nuansa, Bandung.

---------- 2007. *Teori Umum Hukum dan Negara, Dasar-Dasar Ilmu Hukum Normatif Sebagai Ilmu Hukum Deskriptif-Empirik*. Bee Media Indonesia, Jakarta.

Koers, A,W. (1991). *Konvensi Perserikatan Bangsa-Bangsa Tentang Hukum Laut.* Gadjah Mada u niversity Press, Yogyakarta.

Kusumaatmadja, M. (1976). *Hukum Masyarakat Dan Pembangunan Hukum Nasional*. Lembaga Penelitian Hukum dan Kriminologi, Fakultas Hukum UNPAD, Bandung.

---------- 1978. *Bunga Rampai Hukum Laut*; Alumni Bandung.

---------- 1978a. *Fungsi dan Perkembangan Hukum Dalam Pembangunan Nasional*. Lembaga Penelitian Hukum dan Kriminologi, Fakultas Hukum UNPAD, Bandung.

---------- 1986. *Hukum Laut Internasional*. Binacipta Bandung.

Kusumaatmadja, M. dan Etty. R. A. (2003); *Pengantar Hukum Internasional*; Alumni, Bandung.

Leatemia, J. (1993). *Kerjasama Antar Kota Dilihat Dari Perjanjian Internasional (Studi Kasus Kerjasama Ambon – Darwin).* Tesis. Program Pascasarjana UNPAD, Bandung.

Manan, B. (1986). *Kekuasaan Presiden Untuk Membuat, Memasuki dan Mengerahkan Perjanjian/Persetujuan Internasional*. Majalah Padjadjaran Nomor 3-4, Bandung.

Manuputty, A. 2005. *Pengaturan Pengelolaan Perikanan Di Zona Ekonomi Eksklusif Indonesia Dalam Rangka Implementasi Konvensi Hukum Laut PBB 1982* (Ringkasan Disertasi). Program Pascasarjana UNHAS, Makassar.

---------- 2007. *Penegakan Hukum Terhadap Penyelenggaraan Kewenangan Daerah Di Bidang Kelauatan*. Fakultas Hukum UNHAS, Makassar.

Mauna, B. 2003. *Hukum Internasional, Pengertian, Peranan dan Fungsi Dalam Era Dinamika Global*. Alumni, Bandung.

Nasution, M. A. (2000). *Demokrasi dan Problem Otonomi Daerah.* Mandar Maju, Bandung.

Parthiana, W. (1987). *Beberapa Masalah Dalam Hukum Internasional Dan Hukum Nasional Indonesia*. Binacipta, Bandung.

---------- 1990. *Pengantar Hukum Internasional*. Mandor Maju, Bandung.

Sarundayang, S.H. (2005). *Babak Baru Sistem Pemerintahan Daerah*. Kata Hasta, Jakarta.

Starke, J. G. (1984); *An Introduction To International Law*; Butterworths, London.

Ter Haar. (2001). *Asas-Asas Dan Susunan Hukum Adat*. Pradnya Paramita, Jakarta.

Utrecht, E. (1960). *Pengantar Hukum Administrasi Negara Indonesia*. Fakultas Hukum dan Pengetahuan Masyarakat Universitas Negeri Padjadjaran, Bandung.

Wasistiono, S.. (2002). *Kapita Selekta Pemerintahan Daerah*, Alumni, Bandung.

Yani, A. (2002). *Hubungan Keuangan Antara Pemerintah Pusat dan Pemerintah Daerah.* Raja Grafindo Persada, Jakarta. *International Convention on The Law of The Sea 1982.*