

ABSTRAK

Freedom of Navigation Operations (FONOPs) merupakan kebijakan luar negeri Amerika Serikat yang dilaksanakan melalui pelayaran di wilayah laut yang diklaim secara tidak sah menurut Hukum Laut Internasional. Saat ini, Laut Cina Selatan diklaim secara sepihak oleh beberapa negara, termasuk Republik Rakyat Tiongkok sehingga menimbulkan sengketa. Pelaksanaan FONOPs sering diprotes dan bahkan diusir dari Laut Cina Selatan oleh Republik Rakyat Tiongkok karena dianggap mengganggu kedaulatan negaranya. Penelitian ini bertujuan untuk menjawab bagaimana penggunaan hak lintas kapal asing di wilayah laut yang berada di bawah yurisdiksi suatu negara dan bagaimana status hukum tindakan FONOPs oleh Amerika Serikat pada wilayah laut yang diklaim Republik Rakyat Tiongkok di Laut Cina Selatan.

Penulisan Hukum ini diselesaikan dengan metode pendekatan masalah yuridis normatif dan spesifikasi penelitian deskriptif analitis. Data yang digunakan merupakan data sekunder berupa bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier yang dikumpulkan dengan studi kepustakaan. Kemudian, data dianalisis dengan metode analisis kualitatif.

Hasil penelitian menunjukkan bahwa kapal asing dapat melintas di perairan yang berada di bawah yurisdiksi suatu negara dengan melaksanakan hak lintas damai, hak lintas transit, dan hak lintas alur laut kepulauan. Laut Cina Selatan masih belum diakui sebagai perairan yang seluruhnya berada di bawah yurisdiksi negara, sehingga pelaksanaan FONOPs di perairan tersebut legal selama melaksanakan hak lintas damai, lintas transit dan lintas alur laut kepulauan di perairan yang berada di bawah yurisdiksi negara dan hak kebebasan berlayar di wilayah laut lepasnya.

Kata Kunci : Amerika Serikat, *Freedom of Navigation Operations* (FONOPs), Laut Cina Selatan

ABSTRACT

Freedom of Navigation Operations (FONOPs) are United States foreign policy carried out through navigation in the maritime area that is claimed illegally according to the International Law of The Sea. At present, the South China Sea is claimed unilaterally by several countries, including the People's Republic of China, resulting in disputes. The exercises of FONOPs are often protested and even expelled from the South China Sea by the People's Republic of China because it is considered to disturb the sovereignty of the country. This research aims to answer how the use of foreign cross-ship rights in the maritime area which is under the jurisdiction of a country and how the legal status of FONOPs by the United States in the maritime area claimed by the State of the People's Republic of China in the South China Sea.

This research was completed by normative juridical approach method and analytical descriptive research specifications. The data was secondary data consists of primary, secondary, and tertiary legal materials that were collected by library studies. Then, the data was analyzed by qualitative analysis method.

The study shows that foreign vessels can cross the waters which are under the jurisdiction of a state by exercising the rights of innocent passage, transit passage, and archipelagic sea lanes passage. The South China Sea is still not recognized as a maritime waters which are entirely under the jurisdiction of a state, so the exercises of FONOPs in that maritime waters is legal as long as subject to the rights of innocent passage, transit passage and archipelagic sea lanes passage in the maritime waters under the jurisdiction of a state and by exercising freedom of navigation rights in the high seas.

Keywords: *United States, Freedom of Navigation Operations (FONOPs), South China Sea.*