

ABSTRACT

The right of innocent passage to warships in the territorial sea of a country kept on being debated despite the completion of the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982). This is due to the vagueness and ambiguity of UNCLOS 1982 in regulating and accommodating the right of innocent passage of warships which are considered capable of threatening state's security. Various interpretations regarding the possibility of country to impose restrictions in the form of prior notification before a warship uses its right of innocent passage leads to fruitless results. As an archipelagic country, Indonesia's security whose territorial waters were often traversed by foreign warships is at stake. This research was intended to determine and analyze the validity of notification requirements for innocent passage for foreign warships that will cross Indonesian territorial waters based on UNCLOS 1982. The research was conducted using the judicial normative methods with specifications of descriptive analytical research to explain the legality of imposing notification requirements to Innocent Passage for foreign warships based on Indonesian Waters by outlining the provisions of UNCLOS 1982, national laws and regulations, as well as the state practices. The results of this study indicate that the application of notification requirements (prior notification) to innocent passage for foreign warships in Indonesian territorial waters can be carried out and does not violate the UNCLOS 1982 provisions. Noting specifically the Article 21, Article 25 and Article 30 UNCLOS 1982 which gives country the authority to maintain the security of its territory which is also supported by the implementation of several state practices. Therefore, this research recommends that parties of UNCLOS 1982 need to renegotiate the establishment of validity of the innocent passage limitation in the form of notification requirements for warships in the written constitution to prevent non-innocent passage from occurring.

Key words: Innocent Passage, Warships, Notification, Archipelagic State.