THE SINKING OF SOVEREIGNTY AND SOVEREIGN RIGHTS?
MITIGATING THE IMPACTS OF CLIMATE CHANGE TO MARITIME JURISDICTION AND A PROPOSAL FOR SOLUTIONS

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Abstract

While some still debate whether or not climate change is a reality, one of its impacts, sea level rise, is factual. The cause and the rate of sea level rise might have been inconclusive but its impacts have been clearly felt. Sea level rise can also change the legal status of insular features (small islands/rocks and low tide elevation) that will also affect their capacity in making maritime claim. For an archipelagic State like Indonesia, small outer islands/rocks or low-tide elevation are important for location of basepoints forming the entire system of archipelagic baselines. This paper investigates the impact of sea level rise to the change of baselines and maritime limits a coastal state may claim. On the other hand, there is a need to have fixed maritime limits for better management and to balance rights and duties of coastal to the ocean. This paper provides options on how Indonesia as a coastal and archipelagic State can fix their baselines and or maritime limits in the face of coastal instability due to sea level rise as a consequence of climate change.

Keywords: baselines, climate change, sovereignty, jurisdiction, maritime limits, archipelagic state

I. Introduction

In early 2007, Indonesia’s then Minister of Environment, Rachmat Witoelar, stated that around 2,000 islands of Indonesia were about to sink in 2030. Approaching the United Nations Framework Conference on Climate Change (UNFCCC) di Bali, he made a similar statement was even though not adequately supported by primary data. Even though the statement was not adequately supported by primary data, Witoelar’s statement certainly sparked debate in media up until mid 2008. Other parties such as Ministry of Marine Affairs and Fisheries, Agency for Meteorology and Geophysics also intensively discussed the issue of sinking islands following Witoelar’s statement.

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