



## The Significance of the San Remo Manual to Protect the Sea Defense of Indonesia

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### Abstract

In 1994, the San Remo Manual was established as a regulation governing sea warfare, providing guidelines for countries engaged in conflicts at sea. As Indonesia holds a crucial strategic position in both regional and global sea and air zones, understanding and adhering to international law during armed conflicts at sea is of paramount importance. This research aims to offer practical guidance on the significant role of the San Remo Manual, in applying international law during sea warfare and examines its application in Indonesia. The study employs a qualitative method, which seeks to identify and understand various phenomena in-depth. By analyzing different cases and phenomena, empirical insights on the development and application of the law can be derived. The research results show a comprehensive guide for countries involved in sea conflicts, detailing permissible actions, involvement of parties, protection of injured vessels and personnel, and actions taken by non-conflicting nations. For the Indonesian Navy, implementing the San Remo Manual is vital since they operate in waters that may be prone to armed conflicts. Adhering to this manual can help regulate the conduct of naval personnel during military operations at sea, with a strong emphasis on upholding human rights and justice in the use of military force.

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### INTRODUCTION

Indonesia is an archipelagic country strategically located at the intersection of the Indian and Pacific Oceans, bridging the continents of Asia and Australia. According to, Indonesia's waters cover a vast area of 5.9 million km<sup>2</sup>, comprising 2.8 million km<sup>2</sup> of archipelagic waters, 0.4 million km<sup>2</sup> of territorial sea, and 2.7 million km<sup>2</sup> of the Exclusive Economic Zone (EEZ). The country boasts an extensive coastline of 81,000 km<sup>2</sup> and is home to a remarkable 17,499 islands. Additionally, Indonesia's continental shelf spans 0.8 million km<sup>2</sup>, while its total land area measures 19 million km<sup>2</sup> (Apriyanto

& Hakim, 2016). Indonesia's maritime territory witnesses the daily transit of diverse vessels, including oil tankers, nuclear and hazardous material carriers, military fleets (including ships and submarines), and other Indonesian transport ships. Additionally, both commercial and military flight routes intersect this region. Indonesia boasts 4 choke points and 9 choke points, making it one of the top three Indonesian Archipelagic Sea Lanes worldwide (Apriyanto & Hakim, 2016). These factors contribute to Indonesia's significant strategic importance both in the maritime and air domains, positioning it as a crucial area regionally and globally. Highlights four strategic roles for Indonesia: a pivotal junction for international shipping, a strategic fishing ground, a potential hub for business, and a key player in the strategies of major countries. When a threat arises against its citizens, the obligation to protect their interests compels the government of the affected nation to respond disapprovingly to the policies of the Indonesian Government, whether indirectly or directly. Consequently, this issue has evolved into a matter of national sovereignty and honor, which remains highly sensitive within the ASEAN environment. Such developments present complications for the prospects of regional development, particularly concerning international regulations (Nainggolan, 2015).

International law is divided into two, namely law that applies in times of peace and law that applies in times of war. The law that applies in peacetime consists of various branches of international law, for example, international law of the sea, diplomatic and consular law, international trade law, environmental law, air law, and space law. Meanwhile, there is only one law that applies at the time of war, namely international humanitarian law. According to the definition formulated by the International Committee of the Red Cross (ICRC), International Humanitarian Law contains a set of rules that include all international provisions derived from treaties and international customs; which is intended to address all humanitarian problems that arise during international and non-international armed conflicts; these provisions limit, on humanitarian grounds, the rights of parties involved in an armed conflict to use certain weapons and methods of warfare; or those affected by armed conflict protect persons who are victims or property affected by armed conflict (Narwati, 2008). The Gap analysis will provide a comprehensive overview of the regulation of armed conflicts in the maritime territory, as well as the principles outlined in the San Remo Manual. It will delve into various aspects, including the involvement and positions of different stakeholders in maritime security in Indonesia. This analysis will encompass the government, navy, law enforcement agencies, and international organizations, examining their roles and perspectives concerning the application of the San Remo Manual's principles.

This study aims to explore the significant role of the San Remo Manual in applying international law during sea warfare and examines its application in Indonesia. By examining the principles and guidelines outlined in the manual, this study seeks to understand how it can empower Indonesian naval forces to ensure the protection of national interests at sea. By comprehensively grasping the implications of this manual, Indonesia can enhance its maritime defense strategies, contribute to regional stability, and promote adherence to international laws during times of conflict.

## **METHODS**

This research was designed as a descriptive qualitative study. A descriptive qualitative study is a type of research that describes a phenomenon, population, or

situation being researched. A descriptive study focuses on answering the what, when, where, and who questions of the research problem (Somantri, 2005).

This study uses qualitative methods. Qualitative research seeks to identify various phenomena and social realities ideographically. Theory development and development can be formed from empirical through various phenomena or cases studied. The resulting theory gains a strong footing in reality, as contextual and historical Qualitative research methods open up sufficient space for scientific dialogue in different contexts, especially if it is understood in depth and "correctly". In this regard, a series of characters, a qualitative approach is a research procedure that produces descriptive writing. The data used in this study, namely data from the results of library studies such as journals, books, and website pages (Somantri, 2005).

## **RESULT AND DISCUSSION**

### **The San Remo Manual**

Defense is a joint force (civil and military) organized by a country to guarantee its territorial integrity, protect people, and/or protect its interests from threats that arise from other countries, actors, and non-state actors (Prasetyo, Prakoso, & Sianturi, 2019). Defense can be interpreted as an effort to protect national sovereignty, territorial integrity, and security from threats and disturbances. Facing military, non-military, and hybrid threats, defense issues are not only the responsibility of the military but must involve all parties in depth. A universal defense effort is a model developed as an option for Indonesian defense which is structured with confidence in its strength based on the rights and obligations of citizens in the national defense effort from various threats. Sources of threats can come from within and outside the country, as well as carried out by state and non-state actors, which are national, regional, and international (Tippe, 2016).

To protect the country and people from the threat of war, namely with a guide that can be used by countries that are carrying out war at sea. The guideline is called the San Remo Manual on International Law I Applicable to Armed Conflict at Sea or called the San Remo Manual, which was adopted in June 1994 at a meeting held by the International Institute of Humanitarian Law in San Remo, Italy. In 1988, a Round Table was convened by the Institute for International Humanitarian Law, bringing together international legal experts and navy personnel who participated in their capacities. During this gathering, a consensus was reached, leading to the adoption of the San Remo Manual on International Law Applicable to Armed Conflicts at Sea as a crucial guideline for regulating maritime warfare.

The San Remo Manual on International Law Applicable to Armed Conflicts at Sea is a document published by the International Institute for the Laws of War in San Remo, Italy, which contains the principles of international law applicable to armed conflict at sea. This document forms part of the wider Law of War of the Sea, which sets out the legal principles that apply in situations of war at sea. The San Remo Manual contains guidelines on the rights and obligations of states in armed conflicts at sea, including military rights that states may use in wars at sea, as well as how states should treat prisoners of war and hostages at sea (Doswald-Beck, 1995). This document also regulates the handling of issues such as Violations of Human Rights at Sea as This document provides a legal framework to protect human rights during conflicts at sea. It encompasses the protection against unlawful acts of violence towards individuals not directly engaged in combat, such as torture, slavery, inhumane treatment, or forced labor. Use of Violence Against Civilians at Sea as this document might discuss principles

for the protection of civilians, limitations on the use of force, and the responsibility to prevent unauthorized harm to civilians or civilian infrastructure at sea. Resolution of Disputes at Sea through Destruction and Legal Mechanisms This document could provide guidelines regarding acceptable destruction during conflicts at sea, including damage to military and civilian facilities. Additionally, the San Remo Manual may address various dispute resolution mechanisms, such as negotiation, arbitration, or settlement through international legal procedures (Doswald-Beck, 1995).

The formation of the San Remo Manual was influenced by several factors:

1. Firstly, the laws of war at sea had not seen significant developments since 1907. Although essential legal instruments, such as the London Declaration in 1909 and the Oxford Manual in 1913, reflected the international customs of that era, they were never ratified by countries and are now considered outdated.
2. Secondly, traditional laws of war at sea, based on 19th-century provisions, failed to address the emergence of new technological advancements in methods and means of warfare at sea.
3. Thirdly, while the laws of armed conflict on land were updated with the publication of Additional Protocols I and II in 1977, along with the 1949 Geneva Convention, some provisions in Additional Protocol I have an impact on sea warfare. However, these provisions primarily apply to land wars that result in sea warfare and are insufficient as a comprehensive reference for conflicts at sea.
4. Lastly, the presence of new developments in the fields of law of the sea, the United Nations Charter, international environmental law, and the law of the air has further prompted the need to reevaluate the laws of war at sea. These changes created a strong impetus for the establishment of the San Remo Manual, addressing the contemporary challenges in regulating warfare at sea (Narwati, 2008).

The San Remo Manual is a unique form of guideline because it consists of various forms of rules. Not just a compilation. Most of the provisions contained in this Manual derive from provisions previously regulated in the 1907 Hague Convention, the 1949 Geneva Convention, and Additional Protocol I of 1977; some others are a collection of countries' practices regarding war at sea. All of this was then made into written form and outlined in the San Remo Manual, then added with others which were completely new rules, especially regarding the area of war operations because they had to conform to the 1982 UNCLOS.

The San Remo Manual in Chapter I on General Provisions contains the basic legal principles of sea warfare, including the definition of armed conflict at sea, the rights and obligations of states in the conflict, and the use of force at sea. This chapter is divided into five rules: Part I Scope of Application of the Law, Part II Armed Conflict and the Law of Self-defense, Part III Armed Conflicts that have been taken action by the Security Council, Part IV Areas of Maritime Warfare, and Part V Definitions.

San Remo Manual in Chapter II on Areas 1994 in Article 1 stipulates that Operations, Part I on Waters of the parties involved in the conflict of the Inland, Territorial Sea, and armed waters in the sea-bound by principles and Islands, is governed by the waters of international humanitarian law provisions. Neutral waters comprise the national force from the time internal waters, territorial sea, and armed forces came into use. Furthermore, if any, the archipelagic waters of the country, the war zone at sea consists of a neutral country.

The neutral airspace consists of (Doswald, 1995):

1. The territorial sea, the inland waters of the space above neutral waters, and the land areas, exclusive zones, and land areas of neutral States. continental shelf, and if any,

the waters within and over the archipelagic waters of neutral countries, including neutral waters at war.

2. The high seas.
3. The zone within which there are exclusive economic international straits and continental shelves and waters through which neutral States have the right of passage of sea passages. While archipelagic areas can be carried out, actions that are prohibited from being used as combat zones by operating forces are the territory of a neutral State.

Article 10 permits the designation of the exclusive economic zone of a neutral country as one of the permissible war zones, and further details are provided in articles 34 and 35. If a combat action takes place in the exclusive economic zone or on the continental shelf of a neutral country, the belligerent must duly adhere to the rights and obligations of the coastal state. This includes respect for activities such as exploration and exploitation, in addition to complying with other relevant provisions in the law of armed conflict (Doswald, 1995).

Chapter III of San Remo Manual, Basic Rules and Target Discrimination. This chapter includes Part I: Basic Rules, Part II: Countermeasures in Attack, Part III: Freedom of Enemy Ships and Aircraft from Attack, Part IV: Ships and Other Enemy Aircraft, Part V: Neutral Merchant Ships and Civil Aircraft, and Part VI: Precautions Relating to Civil Aircraft.

The San Remo Manual encompasses several chapters on maritime warfare. Chapter IV focuses on the Ways and Means of Warfare at Sea, including Part I: Means of War, Part II: Methods of War, and Part III: War Deception and Treason.

Chapter V of the San Remo Manual deals with Brief Measures of Attack: Interceptions, Visits, Searches, Diversions, and Captures. This chapter includes Part I: Determining the Character of Enemy Ships and Aircraft, Part II: Visits and Searches for Merchant Ships, Part III: Interception Visits and Search for Civil Aircraft, Part IV: Capture of Enemy Ships and Goods, Part V: Capture of Enemy Aircraft and Civilian Goods, Part VI: Seizure of Neutral Ships and Merchandise, and Part VII: Seizure of Neutral Aircraft and Civil Goods.

Chapter VI of the San Remo Manual addresses Protected Persons, Medical Conveyances, and Medical Aircraft. This chapter consists of General Rules, Part I: Protected Persons, Part II: Medical Transportation, and Part III: Medical Aircraft (Doswald 1995).

Another important provision in the San Remo Manual is Article 38, reaffirming the principle that the use of means and methods of warfare by parties is not unlimited. This principle was previously established in Article 22 of the Hague Regulation, an annex to the Fourth Hague Convention on War on Land in 1907. Additionally, experts agree that these provisions also apply to wars at sea, referencing Article 35(1) of Additional Protocol I of 1977.

Article 36 of Additional Protocol I of 1977 governs the use of new weapons, which also applies to wars at sea. Furthermore, the principle of distinction, outlined in Article 39 of the San Remo Manual, is derived from Article 48 of Additional Protocol I of 1977, with important additions such as the inclusion of military-protected persons and exempt objects. Article 40, which regulates the limitation of military objectives, is adapted from Article 52(2) of Additional Protocol I of 1977. This article specifies that military objectives are limited to objects that, due to their nature, location, designation, or use, contribute effectively to military advantage. Additionally, Article 47 of the San Remo Manual, governing groups of vessels exempted from attack, originates from the 1949

Geneva Convention II concerning War at Sea and incorporates various articles, including 22, 24, 27, 29, 30, 32, 33, and 47 (Narwati, 2008).

Detailed case studies of specific armed conflicts at sea to show how the principles of the San Remo Manual are applied in practice. In the International Crimes in the 1998 Rome Statute, crimes against humanity consist of the following acts that, if carried out as part of a direct, widespread, or systematic attack aimed at a group of civilians, and the group of civilians knows that the attack will occur, include, among others, murder and other inhumane acts that are intentionally intended to cause great suffering or serious injury to the body or mental or physical health. As for the attack directed against a group of civilians, it is a series of acts that include the multiple execution of the act of attack against the civilian population, by or as a continuation of the state's or organization's policy to carry out the attack.

During times of war, Article 2 paragraph (2) letter a of the 1998 Rome Statute stipulates that "war crimes" mean gross violations of the Geneva Conventions of August 12, 1949, namely any of the following acts against protected persons or property by the provisions: the relevant Geneva Conventions. Furthermore, in letter (b), it is also determined that war crimes are other serious violations of law and customary law that apply in international armed conflicts. As for the 1994 San Remo Manual (SRM), arrangements for war in airspace can also be found in the San Remo Manual: Para 13: defines the definition of aircraft, Para 62-6: enemy aircraft, Para 70-7: civil aircraft, Para 106-8: zone, Para 112-7: characterizes enemy aircraft; Para 125-34 Para 141-5: interception, inspection, and search of civil aircraft; Para 141-5: capture of enemy civil aircraft and their cargo; Para 153-8: capture of neutral civil aircraft; and Para 174-83: aircraft. Therefore, even during wartime, it is prohibited to attack civilians or civilian objects, including shooting aircraft with ground-to-air or air-to-air missiles. Exceptions to this are regulated very strictly in international law, namely in Protocol 1 of the 1977 Convention or in the San Remo Manual (Widarto, 2014).

### **The San Remo Manual In The Indonesian Maritime Territory**

The implementation of the principles of the San Remo Manual in the Indonesian maritime territory involves the active participation of various stakeholders, including the government, navy, law enforcement agencies, and international organizations. The Government of Indonesia, as the sovereign authority over Indonesia's maritime territory, plays a pivotal role in regulating and supervising maritime security. It holds the responsibility for formulating and implementing policies and legal frameworks concerning maritime security, including the regulation of armed conflicts at sea. To align with the principles of the San Remo Manual, the Indonesian government is instrumental in adapting or supplementing national regulations to adhere to the international standards outlined in the Manual. Notably, the Indonesian Navy is crucial in addressing cases involving crimes or law violations within Indonesia's maritime territory, including military actions that contravene the principles of the San Remo Manual. For instance, For the Unitary State of the Republic of Indonesia, it can be said that the San Remo Manual 1994 is currently being utilized, particularly by the Indonesian Navy.

This can be observed from various activities that rely on the San Remo Manual 1994 as the foundation for their implementation:

1. In 2002, the Indonesian Navy Headquarters, in collaboration with the International Committee of the Red Cross (ICRC), successfully translated the San Remo Manual 1994 into Indonesian. In his Opening Remarks, the Chief of Staff of the Indonesian Navy at that time, Admiral TNI Bernad Kent Sondakh, stated:

"With the publication of this book, I hope that every Indonesian Navy personnel can grasp its contents to further comprehend and understand what is permissible and obligatory, as well as what is not allowed, in carrying out their duties. This understanding will help prevent the failure of task execution and legal aspects".

2. In 2003, the Indonesian Navy, in partnership with the International Committee of the Red Cross (ICRC), created the instructional book *Proper Conduct in Warfare*, intended for all personnel of the Indonesian Navy, including educational institutions. This instructional material elaborates on the Laws of War, encompassing the Hague Conventions, Geneva Conventions, and the San Remo Manual applicable to naval warfare. Therefore, the book serves as a significant resource for all officers, non-commissioned officers, and enlisted personnel at various levels assigned to ships, aircraft, bases, staff, and marines.
3. The dissemination or socialization conducted by the Indonesian Navy or involving the Indonesian Navy to personnel and educators in higher education institutions throughout Indonesia.
4. In seminars and training sessions organized by the Indonesian Navy or involving the Indonesian Navy, researchers consistently use the San Remo Manual as a foundational reference for related topics, both of which are distinct legal frameworks. UNCLOS 1982 constitutes a series of international laws applicable to the seas during times of peace, while the San Remo Manual represents regulations applicable during times of warfare (Narwati, 2010).

Furthermore, one of the objectives behind the creation of the San Remo Manual was to align regulations on naval warfare with the current maritime law, specifically UNCLOS 1982. Indonesia, particularly the Indonesian Navy, has utilized the San Remo Manual 1994 as a training basis for its personnel and other activities. The San Remo Manual provides essential guidance on safeguarding civilian populations during armed conflicts. Indonesian National Navy personnel should be educated on identifying and protecting civilians from risks and threats during sea operations. Development of a specialized module on international law should be provided to military personnel upon their induction into the Indonesian Navy or during their service. This module may include summaries of relevant international law, case studies, and simulations of operational situations to practice decision-making skills by international legal norms (Nainggolan, 2015).

The application of the San Remo Manual and International Law Guidelines within the Indonesian Navy's context is that the San Remo Manual covers vital aspects of international law during armed conflict, encompassing principles that protect civilian populations, civilian ships, and military personnel. Indonesian National Navy's education curriculum should include instruction on the law of armed conflict as described in the San Remo Manual, applicable to all personnel, including soldiers, officers, and military legal staff. The San Remo Manual offers guidance on the lawful and proportionate use of military force in maritime operations. Indonesian National Navy for education must equip personnel with the ability to apply these principles appropriately in various situations, ensuring that their actions align with international law. Integrating international law, including the principles and guidelines from the San Remo Manual, into the operational procedures of the Indonesian Navy is crucial. This integration involves implementing measures to prevent and mitigate violations of international law during conflicts.

## CONCLUSIONS, RECOMMENDATIONS, AND LIMITATIONS

The San Remo Manual is a set of rules and principles that apply to the conduct of war at sea. Its purpose is to harmonize the provisions related to the laws governing maritime warfare. While the San Remo Manual is an internationally recognized framework, it cannot be considered a comprehensive source of international law. Some provisions in the manual restate existing rules found in the 1907 Hague Convention, which have become part of international law through treaties and customary practices. Other provisions, that introduce new arrangements, have also gained the status of international law through customary law processes and their adoption by various countries. Thus, the San Remo Manual serves as an important guide for regulating actions during conflicts at sea, but its influence on international law is influenced by the interaction of existing conventions and customary practices.

The San Remo Manual and International Law Guidelines in the Indonesian Navy involve key aspects of international law during the conflict. This includes safeguarding civilians, civilian ships, and military personnel. The Indonesian Navy's education curriculum should incorporate the San Remo Manual's principles for all ranks, encompassing soldiers, officers, and legal staff. The San Remo Manual guides the proper use of force at sea, and Indonesian Navy education should enable personnel to apply these rules effectively. Integrating international law, especially from the San Remo Manual, into the Navy's operations is essential. This integration prevents and addresses violations of international law during conflicts. This measure aims to equip all personnel, particularly those engaged in sea operations, with a comprehensive understanding of the principles of international law. By doing so, the Indonesian Navy can ensure that its actions adhere to international legal guidelines and uphold the principles of human rights. Provide recommendations on how the Suggest steps for capacity building, training, and awareness programs to facilitate the implementation.

Future research is expected to be able to fill in the gaps in this research to complement knowledge Legal and Political Challenges: Implementing the San Remo Manual's principles may face legal and political challenges within Indonesia's domestic context, which could affect the speed and efficacy of adoption and Changing Maritime Dynamics, The maritime security landscape is characterized by constant dynamism and swift alterations. Consequently, strategies derived from the San Remo Manual must exhibit adaptability and responsiveness to effectively address emerging challenges.

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