

RESEARCH ARTICLE

Indonesia's Cooperation with ASEAN Countries in Handling Transnational Crime Cases: South China Sea Dispute

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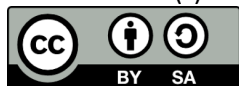
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Abstract

The dispute over the South China Sea is one of the disputes that has a high potential for conflict, especially in the ASEAN region. The South China Sea is a sea that irrigates many countries, such as Brunei, Malaysia, Vietnam, the Philippines, China, Taiwan and Indonesia itself. Many things belong to the South China Sea, ranging from strategic interests and natural resources owned by the South China Sea. ASEAN in general and Indonesia specifically want territorial disputes in the South China Sea not to escalate into armed conflict. Therefore, Joint Development Authorities are formed in overlapping claim areas to develop the area and share the proceeds fairly without resolving the issue of sovereignty over the territory. Although not directly involved, Indonesia is neutral in disputes in the South China Sea. Indonesia has an interest in reducing the potential for such conflicts. The legal and diplomatic approach in the South China Sea conflict has been carried out by Indonesia for a long time, since the first president to the seventh president, President Jokowi and until now Indonesia is actively conducting diplomacy to realize a conducive and peaceful territorial area.

Keywords: *Conflict, South China Sea, ASEAN, Diplomacy, Transnational Crime*

1. INTRODUCTION

As stated in the 1945 Constitution, the state of Indonesia is a unitary state in the form of a republic. Prior to the ratification of the United Nations Convention on the Law of the Sea on December 10, 1982, in Montego Bay (Yamaica), Indonesia was a coastal country. As an implementation of Indonesia's participation in the 1958 Geneva Convention I on the Law of the Sea, the Indonesian Government at that time promulgated Law Number 4 Prp. 1960 concerning Indonesian Waters. Based on the Perpu, the territorial waters of Indonesia include the Indonesian territorial sea and the Indonesian inland waters. However, with the ratification of the United Nations Convention, one of the substances of which regulates the new regime in the law of the sea, namely the Archipelago State (Chapter IV of the Convention), and Indonesia has ratified the Convention with Law no. 17 of 1985, the State of Indonesia changed its status to an archipelagic state.

As an implementation of Indonesia's participation in the United Nations Convention on the Law of the Sea, the Government of Indonesia on August 8, 1996, has promulgated Law no. 6 of 1996 concerning Indonesian Waters. In accordance with the provisions of this Convention and the Indonesian Waters Law, Indonesian waters include Indonesian territorial seas, Indonesian archipelagic waters, and Indonesian inland waters. These waters which include the air space above them, the seabed area below them according to the provisions of the Indonesian Waters Law are subject to and are under the sovereignty of the Indonesian state.

In addition to regulating the Archipelagic State regime, the United Nations Convention on the Law of the Sea also regulates a new regime regarding the Exclusive Economic Zone (EEZ)⁷ which is 200 nautical miles wide from the baseline, as well as the Continental Shelf. With the recognition of this EEZ as well as the Continental Shelf, the State of Indonesia has sovereign rights over the Indonesian

Exclusive Economic Zone (ZEEI) which has been regulated in Law no. 5 of 1983, and has sovereign rights over additional zones, as well as sovereign rights over the seabed and subsoil thereof outside the Indonesian territorial sea, namely the Indonesian Continental Shelf. In addition, Indonesia's sea area is 5 million km, which is divided into 3 million km² which is the ZEEI, and 2 million km² is the territorial sea and Indonesian archipelagic waters. (Azizah and Sari 2014).

This international law serves to provide a way how the disputing parties can resolve their disputes according to international law. In addition, it should also be stated that a dispute is not a dispute according to international law if the settlement does not have an impact on the relationship between the two parties. An international dispute is a dispute between subjects of international law concerning facts, law or politics in which the claim or statement of one party is rejected, counterclaimed or denied by the other party. An international dispute occurs when:

Such disputes involving governments, juristic persons (legal entities) or individuals in different parts of the world occur because:

- 1) Misunderstanding about a thing;
- 2) One party intentionally violates the rights or interests of another country;
- 3) Two countries disagree on a matter;
- 4) Violation of international law or treaties (Internasional 2021).

Settlement of disputes or conflicts regulated in international law has several principles, namely:

- 1) The principle of good faith, which is the fundamental and most central principle in the resolution of disputes between countries. This principle is reflected in two stages, first; the principle of good faith is required to prevent disputes that may affect good relations between countries; second, this principle is required to exist when the parties resolve their dispute. Section 1

paragraph 5 of the Manila Declaration requires the existence of this good faith principle in an effort to resolve disputes more quickly.

- 2) The principle of prohibiting the use of violence, namely the principle that forbids the parties to resolve their dispute by using weapons (violence).
- 3) The principle of freedom to choose ways to resolve conflicts.
- 4) The principle of freedom to choose the law to be applied, namely the parties have the freedom to determine for themselves what law will be applied if the dispute is resolved by the judiciary.
- 5) The principle of agreement of the parties, namely the principle of agreement of the parties is a fundamental principle in the resolution of international disputes. The principle of freedom to resolve conflict resolution methods and choose the law to be applied will only be realized if there is an agreement between the parties.
- 6) The principles of international law regarding the sovereignty, independence and territorial integrity of states.
- 7) The principle of neutrality, which is a principle that must exist in the resolution of conflicts or disputes involving third parties. According to Bindschedler, the elements of impartiality and neutrality are the keys to the success of the conciliation function, because only with these two elements can objectivity be guaranteed (Toruan 2020).

One of the international disputes that has become a hot topic of discussion is the South China Sea dispute. The South China Sea or South China Sea (LTS) has complicated disputes, including territorial disputes and maritime boundary disputes. In the South China Sea or South China Sea conflicts, in addition to tensions that occur due to overlapping claims between disputing countries that cannot be stopped (Junef 2018).

The dispute in the territorial waters which is rich in natural resources as well as a strategic economic route began before ASEAN was formed, even some of its member countries have not yet been established. In 1947, China made a map claiming most of the South China Sea based on what it called "historical rights" and "economic rights". In 1949, the Communist Party took power and formed the state of the People's Republic of China (PRC) and in 1953 the PRC made what is now known as the "nine dash line" on its official map covering the territories covered disputed with other countries on Scarborough Reef (between China and the Philippines) as well as those that are the object of multilateral disputes such as the Spratly islands (between China, Vietnam, Taiwan, the Philippines, Malaysia and Brunei Darussalam) and the Paracel islands (between China, Taiwan and Vietnam) (Bangun 2021).

China is based on strong arguments in claiming the South China Sea trying to seriously maintain its sovereignty. China has always said that its claims to the South China Sea are indisputable and inviolable. However, China's policy in this area is widely considered to be less consistent. On the one hand, China offers a way of resolving disputes by peaceful means, but on the other hand China uses its power to control several islands in the South China Sea area. This inconsistency is the result of the struggle for the political orientation of the elites in the government, namely the hard-line groups (nationalist groups) and soft-line groups (modernist groups).

Together with ASEAN as an institution, China is looking for a solution by participating in negotiations through diplomacy path I (formal path) and through path II negotiations (informal path). The maximum result of the negotiation process, both through formal and informal channels, is the agreement on the Declaration on the Conduct of Parties in the South China Sea. In addition, confidence building measures among dispute participants have also begun to be built. Nevertheless, overlapping

jurisdictions and sovereignty as a source of conflict in the South China Sea still exists and has not been resolved (Satyawati 2010).

2. LITERATURE REVIEW

Maritime security of a region is the concern of many countries, especially big countries such as the United States, the People's Republic of China, Russia, and the United Kingdom. Each country issues policies related to maritime security. This indicates that maritime security has a significant position for the major powers at the regional and global levels in international relations. The maritime security concept of these countries is driven by the interests of political, economic, and even social and cultural security. The South China Sea is no exception, which is a strategic location between the Indian Ocean and the Pacific Ocean, which has attracted the attention of many parties.

The South China Sea is the edge of the Pacific Ocean that stretches from Southwest to Northeast, from Singapore to the Taiwan Strait. Countries whose territory borders the sea are China, Macao, Hong Kong, Taiwan, the Philippines, Malaysia, Brunei, Indonesia, Singapore, Thailand, Cambodia, and Vietnam. Indonesia as a sovereign country has succeeded in implementing Maritime Diplomacy since the 1957 Djuanda Declaration with the results of the Archipelagic State Concept and the birth of a new legal norm, namely the width of the territorial sea of 12 nautical miles measured by drawing a straight line from the outermost point. The new legal norms were also accepted at UNCLOS 1982 after going through 25 years of diplomacy and negotiations. Thus, the inclusion of Maritime Diplomacy as part of Indonesia's Maritime Policy during the reign of President Joko Widodo is appropriate because Maritime Diplomacy is a mechanism for achieving the World Maritime Axis and making Indonesia an archipelagic country that is sovereign over its territory. The involvement of countries outside the region on the problem of the border

in the South China Sea further exacerbates the conflict in South China Sea area. Unbalanced power distribution between China as a big country and Brunei Darussalam (a very small city-state), then Malaysia with asymmetrical power compared to China, so also the Philippines and Vietnam have the same condition. Strong country dealing with a series of small and medium-sized countries in the understanding of political and military power. The data collection technique used in this research is based on a literature study because this research uses a library approach. Some of the literature studies used were from the official website and other websites and some news related to the research topic.

3. RESULT AND DISCUSSION

A. Indonesian Marine Law: The Future Challenges on Law Enforcement

Geographically, Indonesia is a maritime country, which has a sea area of 5.8 million km² consisting of a territorial sea with an area of 0.8 million km², an archipelagosea of 2.3 million km² and an exclusive economic zone of 2.7 million km². Indonesia also has 17,480 islands and a coastline of 95,181 km². Indonesia as an archipelagic country has been recognized internationally based on the 1982 United Nations Convention on the Law of the Sea (UNCLOS) which was later ratified by Indonesia with Law No. 17 of 1985 concerning Ratification of the United Nations Convention on the Law of the Sea. Indonesia's maritime policy has been further outlined in Presidential Regulation Number 16 of 2017 concerning Indonesian Marine Policy. The development of the marine and fisheries sector is still far from expectations, even though the coastal areas and small islands and oceans of the Indonesian archipelago have enormous potential for natural resources and environmental services and have not been utilized optimally.

The 1982 United Nations Convention on the Law of the Sea (UNCLOS) gave birth to eight regulatory zoning (regimes) for the law of the sea, namely:

- 1) Inland Waters (Internal Waters).
- 2) Archipelagic Waters, including straits used for international shipping.
- 3) Territorial Seas (Territorial Waters).
- 4) Additional Zone (Contiguous Waters).
- 5) Exclusive Economic Zone.
- 6) Continental Shelf.
- 7) The High Seas.
- 8) International Sea-Bed Area.

Internal waters are part of the waters of a country that are subject to the sovereignty of that country, as is the case with inland waters in Indonesia which has been regulated by Law Number 6 of 1996 concerning Indonesian Waters. Indonesia's rights and obligations as well as the current status of Indonesia's inland waters are fully under the sovereignty of the Indonesian state. Indonesia currently has not determined the inland water area with its identification. In addition, in the inland waters there are ports where the loading and unloading of export-import goods from and to Indonesia is located. In the context of Indonesia's national economic development, ports in Indonesia should have international standards and be able to compete globally with overseas ports. Indonesia is obliged to provide security and safety for international shipping in line with the International Ship and Port Facility Security (ISPS) Code adopted by the International Maritime Organization (IMO) on December 12, 2002.

The Territorial Sea has been regulated by the Convention, which is contained in Chapter II of the 1982 Law of the Sea Convention entitled "Territorial Sea and Contiguous Zone" from Article 2 to Article 32. Indonesia's rights and obligations as well as the current status of the territorial sea Indonesia is fully sovereign in the territorial sea, but if Indonesia's territorial sea is opposite or adjacent to a neighboring country, then the boundaries of the territorial sea with that country must be determined as required by Article 15 of the 1982 Convention on the Law of

the Sea (Unclos). The provisions of Articles 2 to 32 of the 1982 Law of the Sea Convention have implemented legislation, namely Law Number 6 of 1996 concerning Indonesian Waters and its implementing regulations, namely Government Regulation Number 36 of 2002 concerning Rights and Obligations of Foreign Ships in Implementing Peaceful Passage through Indonesian Waters, Government Regulation Number 37 of 2002 concerning the Rights and Obligations of Foreign Ships and Aircraft in Exercising the Right of Archipelagic Sea Lane Passage through Defined Archipelagic Sea Lanes, and Government Regulation Number 38 of 2002 concerning List of Geographical Coordinates of the Baseline Points of the Indonesian Archipelago

Contiguous Waters, every coastal country whose territorial sea exceeds 12 nautical miles means that it will also have a contiguous zone which has an important role in its security and economic development. Indonesia's rights and obligations as well as its current status in the additional zone is to prevent violations of laws and regulations on customs, fiscal, immigration, and sanitation that can harm Indonesia, and to enforce the law, so that the perpetrators of these violations can be brought to justice. Exclusive Economic Zone (EEZ), the development of an exclusive economic zone (exclusive economic zone) reflects international customs (international customs) which are accepted as customary international law (customary international law) because two important conditions have been fulfilled, namely state practice. and opinion juris sive necessitates (Susetyorini 2019).

Law Number 6 of 1996 concerning Indonesian Waters, states in Article 3 paragraph:

- 1) The territorial waters of Indonesia include the Indonesian territorial sea, archipelagic waters, and inland waters.
- 2) The Indonesian Territorial Sea is a sea lane with a width of 12 (twelve) nautical miles measured from the base

line of the Indonesian archipelago as referred to in Article 5.

- 3) Indonesian Archipelagic Waters are all waters located on the inner side of the straight archipelagic baselines regardless of their depth or distance from the coast.
- 4) Indonesian Inland Waters are all waters located on the land side of the low water line of the Indonesian coasts, including all parts of the waters located on the land side of a closing line as referred to in Article 7.

The enactment of Law Number 6 of 1996 concerning Indonesian Waters has strengthened the position and legal basis governing Indonesian territorial waters, sovereignty, jurisdiction, rights and obligations as well as activities in Indonesian waters in the context of national development based on the Archipelago Insight. On December 31, 1958, Indonesia has ratified UNCLOS 1982 through the promulgation of Law No. 17 of 1985 concerning the Ratification of the United Nations Convention on the Law of the Sea 1982. As a further implementation of this ratification, in 1996, the Government revoked Law no. 4/Prp./960, and replace it with Law no. 6 of 1996 concerning Indonesian Waters which is more adapted to the provisions of UNCLOS 1982.

UNCLOS 1982 gave birth to eight regulatory zoning (regimes) that apply at sea, namely:

- 1) State sovereignty area:
 - a. Inland Waters (Internal Waters);
 - b. Archipelagic Waters;
 - c. Territorial Sea (Territorial Sea); including the Straits Used for International Navigation;
- 2) Country-specific jurisdictions: Contiguous Zone;
- 3) Places to exercise sovereign rights over natural resources:
 - a. Exclusive Economic Zone;
 - b. Continental Shelf;

- 4) Parts that cannot be owned by any country: the High Seas; and Part of humanity's common heritage: the International Sea-bed Area (Limão 2016).

At the national level, the idea of the World Maritime Axis is stipulated in Presidential Regulation Number 16 of 2017 concerning Marine Policy (Perpres 16/2017). Article 1 point 1 of the Presidential Regulation 16/2017 stipulates that the Indonesian Maritime Policy is a general guideline for marine policies drawn up in the context of accelerating the implementation of the World Maritime Axis.¹³ Furthermore, Article 1 number 2 of the Presidential Decree 16/2017¹⁴ defines the World Maritime Axis as a vision of Indonesia as a Maritime country; and Article 2 of Presidential Regulation 16/2017¹⁵ stipulates that the Indonesian Maritime Policy is set out in 2 (two) documents, namely the National Document of Indonesian Maritime Policy, and the Action Plan for Indonesia's Marine Policy.

Indonesia as a sovereign country has succeeded in implementing Maritime Diplomacy since the 1957 Djuanda Declaration with the results of the Archipelagic State Concept and the birth of a new legal norm, namely the width of the territorial sea of 12 nautical miles measured by drawing a straight line from the outermost point. The new legal norms were also accepted at UNCLOS 1982 after going through 25 years of diplomacy and negotiations. Thus, the inclusion of Maritime Diplomacy as part of Indonesia's Maritime Policy during the reign of President Joko Widodo is appropriate because Maritime Diplomacy is a mechanism for achieving the World Maritime Axis and making Indonesia an archipelagic country that is sovereign over its territory.

The things that were taken into consideration and proposed by the Government of the Republic of Indonesia in announcing the Djuanda Declaration, were:

- 1) that the geographical condition of the Republic of Indonesia as an archipelagic country consisting of

- thousands of islands, has its own characteristics and features that require separate regulation;
- 2) that for the territorial unit (territorial) of the Republic of Indonesia, all the islands and the sea located between them must be considered as one unified whole;
 - 3) that the determination of the boundaries of the territorial sea inherited by the colonial government as stipulated in the *Territoriale Zee en Maritieme Kringen Ordonnansi (TZMKO) Stb Number 442 of 1939 Article 1 paragraph (1)* is no longer in accordance with the interests of the safety and security of the Republic of Indonesia;
 - 4) that every sovereign state has the right and obligation to take actions it deems necessary to protect the integrity and safety of its state (Kusumawardhani and Afriansyah 2019)

With the 1957 Djuanda Declaration, Indonesia introduced a new concept that became the basis for the expansion of the territorial sea of the Republic of Indonesia, namely the concept of territorial sea boundaries for archipelagic countries, from 3 miles to 12 miles. The second concept is the basis for determining the territorial sea boundaries from the coastline (coastal baseline) of each island to a straight line (straight baseline), which connects the outermost points of the outermost islands, which is measured from the line connecting the outermost end points. on the outermost islands of the territory of the Republic of Indonesia at low tide, otherwise known as (straight baselines). Both concepts are summarized in the Archipelagic State Principle.

After going through long negotiations, the countries participating in the 3rd UN Conference on the Law of the Sea have finally agreed on the 1982 United Nations Convention on the Law of the Sea, which consists of 320 articles and 9 Annexes. This convention regulates all aspects of activities at sea, such as; delimitation, right of passage, pollution of the marine environment, marine scientific

research, economic and trade activities, technology transfer and dispute resolution on marine issues. The 1982 Law of the Sea Convention (UNCLOS) has generally resulted in new agreements on the international law of the sea, which of course have a positive influence on the territorial integrity of Indonesia's seas.

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The 1982 Law of the Sea Convention (UNCLOS) contains provisions governing various maritime zones with different legal statuses. Broadly speaking, the Convention divides the sea into two parts of maritime zones, namely

zones under and outside national jurisdiction. Maritime zones that are under national jurisdiction are subdivided into maritime zones that are under the full sovereignty of a coastal state, and maritime zones where the coastal state can exercise its powers and rights. specifically provided for in the convention. Maritime zones that are under full sovereignty are internal waters, archipelagic waters for archipelagic countries, and territorial seas. Maritime zones that are under the authority and special rights of the coastal state are the contiguous zone, the exclusive economic zone, and the continental shelf. Meanwhile, maritime zones that are outside national jurisdiction are the high seas and international seabed areas (Darusman 2018).

B. Scope of the South China Sea: How Indonesia's Cooperation to resolve the Transnational Crime at this area?

The South China Sea includes the waters and landmass of a cluster of islands of two large islands, the Spratlys and Paracels, as well as the Macclesfield River and Scarborough Reef that extends from Singapore from the Strait of Malacca to the Taiwan Strait (Farhana 2014). Due to this vast stretch of territory, and the history of alternating control by the traditional rulers of nearby countries, today, several countries, such as the People's Republic of China (PRC), Taiwan, Vietnam, the Philippines, and Brunei Darussalam, engage in confrontational efforts to claim each other, over some or all of the territorial waters. Indonesia, which is not a claimant state, became embroiled after the PRC's absolute claim to the waters of the South China Sea emerged in 2012.

The South China Sea is the seafront of the Pacific Ocean, which stretches from the Karimata Strait and Malacca Strait to the Taiwan Strait with an area of approximately 3,500,000 square kilometers. This sea has great strategic potential because one-third of the world's ships cross it. The sea also has a wealth of living things capable of sustaining the food needs of millions of people in

Southeast Asia as well as large oil and natural gas reserves (Chandra, n.d.).

According to "Limits of Oceans and Seas, 3rd edition" (1953) released by the International Hydrographic Organization (IHO), the sea is located in southern China; in the east of Vietnam; in the west of the Philippines; east of the Malay and Sumatra peninsulas to the Singapore Strait to the west, and to the north of the Bangka Belitung Islands and Kalimantan. The South China Sea islands are made up of hundreds of small islands. The sea and most of its uninhabited islands are contested by various countries. These claims of sovereignty are evident from the many names given to these islands and seas.

South China Sea or in language is South China Sea, Its name in the average European language also follows naming in English. The name came about when Europeans used the sea as a shipping route from Europe and South Asia to trade outposts in China. In the 16th century, Portuguese sailors used the name Of the Sea of China (Mare da China). The name South China Sea is used to distinguish it from other nearby bodies of water. The International Hydrographic Organization calls the sea the "South China Sea (Nan Hai)"

The South China Sea contains such a large wealth, no wonder that many countries are in dispute for the territory. Here are the countries in dispute that recognize the South China Sea:

- a. Indonesia, China and Taiwan over waters northeast of Natuna Islands
- b. Philippines, China, and Taiwan over Scarborough Shoal.
- c. Vietnam, China, and Taiwan over the waters west of the Spratly Islands. Some or all of the islands are contested by Vietnam, China, Taiwan, Brunei, Malaysia, and the Philippines.
- d. The Paracel Islands are contested by the PRC/ROC and Vietnam.

- e. Malaysia, Cambodia, Thailand, and Vietnam over the waters in the Gulf of Thailand. Singapore and Malaysia over the waters around the Johor Strait and the Singapore Strait.

ASEAN in general and Malaysia specifically want territorial disputes in the South China Sea not to escalate into armed conflict. Therefore, Joint Development Authorities are formed in overlapping claim areas to develop the area and share the proceeds fairly without resolving the issue of sovereignty over the territory. This method was once applied in the Gulf of Thailand (Rodriguez 2018). Generally, China wants to resolve disputes bilaterally, while a number of ASEAN countries choose multilateral discussions, ASEAN believes that they are harmed in bilateral negotiations with greater China. Because many countries claim the same territory, ASEAN feels multilateral discussions are able to resolve mutually intimated claims (Wong et al., 2010).

This sea is located above the sinking continental shelf. During the last ice age, global sea levels were several hundred meters lower, and Kalimantan is still part of mainland Asia. The South China Sea opened about 45 million years ago when the "Dangerous Ground" detached from southern China. The expansion of the seabed occurred about 30 million years ago. This process that spills out to the southwest forms a V-shaped basin that survives until now. The expansion ended about 17 million years ago ("Rock Formations and Unusual Geologic Structures: Exploring the Earth's Surface," 1993).

Paul Tapponnier and his colleagues argue that when India joined Asia, the subcontinent pushed Indochina southeast. Relative friction between Indochina and China caused the South China Sea to form. This view is doubted by some geologists who do not consider Indochina to be moving far from mainland Asia. A geophysical study of the sea in the Gulf of Tonkin by Peter Clift shows that the Red River Fault was once active and caused a basin formation

about 37 years ago in the northwest of the South China Sea, in accordance with the extrusion that helped drive the formation of this sea. Since its formation, the South China Sea has stored sediments sent from the Mekong River, Red River and Pearl River. Some deltas in this area are rich in oil and gas reserves.

Because the South China Sea has a huge natural wealth, it becomes a grab of the countries around it and causes disputes. This dispute never ended and has been going on for a long time.

Historically, the South China Sea conflict has existed for a long time before the existence of a nation state in the Southeast Asian region. Even local kingdoms at that time seemed to have mapped and saw great potential in the South China Sea. So that there was a gradual political push from the entity to expand the South China Sea area which was already crowded with merchant ships (Maksum, 2017).

Indonesian waters are often infiltrated by fishing boats from Vietnam and the Philippines. As punishment, Indonesia destroyed ships caught by China announcing a new breakthrough in methane clathrate mining in May 2017 when they mined methane reserves from hydrates in the South China Sea. For centuries the South China Sea has played an important role in the economic sustainability of neighboring countries, namely Vietnam, Malaysia, Brunei, the Philippines. Countries that do not claim the area also have their own interests. The Natuna Sea fishing area bordering the South China Sea also holds important natural gas reserves for Indonesia. Furthermore, South Korea and Japan, while not claiming ownership of the South China Sea, rely on the free area to meet more than half of their energy needs. The U.S., which protects its interests and the interests of its allies, maintains its military presence in the region. U.S. Navy officials plan to increase the number of Pacific fleets serving overseas by about 30 percent by 2021.

The South China Sea is a water in the territory of a number of Southeast Asian countries. This ocean has the

potential for abundant natural resource wealth and as one of the international trade routes, so it has an important role for several countries to improve their economies. The South China Sea area is considered so strategic that it becomes a conflict area because it becomes a struggle for countries that want this region. Natural wealth in the South China Sea region is the cause of the claims made by the countries involved and overlapping claims eventually struggle to become a conflict.

The South China Sea conflict is a regional security issue that has yet to reach a settlement point and is prone to destabilizing the region in the future. The dispute was initiated by a unilateral claim by China to expand its territorial waters to reach the territorial waters of the Philippines, Taiwan, Vietnam, Brunei Darussalam, and Malaysia. This conflict requires a fixed and binding settlement, because otherwise the potential for territorial seizure is very large (Arifianto 2018).

C. South China Sea Dispute

There are at least 3 (three) things that make the South China Sea a region of waters prone to major conflicts today and in the future. First, the South China Sea is an area of water with rich natural resource potential, especially oil and other energy sources, with several island clusters, scattered around it, which are contesting the mutual claims of several countries around the region, such as China (People's Republic of China – PRC), Vietnam, the Philippines, Taiwan, Malaysia, and Brunei Darussalam. Second, because of its location on the international railway crossing through the Strait of Malacca, one of the busiest in the world, and is a business link from Europe to Asia and the Americas to Asia and vice versa, through the territorial waters of countries in at least 3 (three) important regions, namely Southeast Asia, East Asia and Asia-Pacific, hence, In addition to the claimant countries, countries located around the South China Sea, such as Indonesia and Singapore, even the United States

(US), have an interest at all times over maintaining stability and security in the South China Sea (Roza et al., n.d.).

From the traditional perspective, all countries involved in the South China Sea dispute share a common national goal, which is to secure territorial sovereignty and obtain sources of production for domestic economic growth and interests. Contemporary developments in the South China Sea and the position of individual ASEAN members concerned are still characterized by differences in values and belief systems in response to South China Sea disputes. At the same time, until the stage of the establishment of the ASEAN community in 2015, the commitment of its members to form a joint agreement in the defense and security sector is still not realized (Haacke, 2005).

Another source mentioned that the main reason the South China Sea is contested is because it is a strategic area, surrounded by 10 (ten) countries. Then rich in fishery resources, it is a contributor to 10% of global fisheries. And it is a huge oil and gas potential, 11 (eleven) billion barrels of oil reserves and 190 trillion cubic feet of natural gas content. While other countries' fishing vessels are always *incar natuna* because there is a potential fishery of 504 (five hundred four) thousand tons or contributes 21% of Indonesia's fish catch.

Regional countries involved in the South China Sea conflict use historical and geographical grounds in contesting ownership of the sea area and two island groups, the Paracels and the Spratlys. China, for example, claims the disputed territory based on Chinese ownership of the sea area and two groups of Paracel and Spratly islands since 2000 years ago, then the Chinese government claims to have issued a map detailing China's sovereignty over the South China Sea in 1947, known as the "Nine-Dashed Line".

Meanwhile, Indonesia and other ASEAN countries have followed the rules of the Exclusive Economic Zone and the united nations convention on the law of the sea

(UNCLOS). This means that if there is a country that wants to claim a territory that is included in the Indonesian EEZ it will be a big problem because it will interfere with Indonesia's territorial integrity. Indonesia is not a country that claims territory (non claimant state), but Indonesia is involved in this conflict. Indonesia's involvement in this conflict is based on the national interest to participate in the maintenance of world peace and awareness of the benefits of resolving the conflict ("Tidwell, Alan C. *Conflict Resolved? A Critical Assessment of Conflict Resolution*. London: Pinter, 1998.," 1999).

The development of the South China Sea conflict is now increasingly widespread and has implications for issues that are considered more crucial regarding threats to Indonesia's territorial sovereignty. Various efforts are being made by countries involved in this conflict. Among them is the Philippines which filed a lawsuit in 2013 to the International Court of Arbitration. The results concluded that there is no legal basis whatsoever for China to claim historical rights to resources in the oceans located in the "nine borders" in the South China Sea region. The 2017 ruling of the International Court of Arbitration in The Hague Netherlands claims China's claims in one of the world's widest waters violate Philippine sovereignty. The development of the South China Sea conflict is now increasingly widespread and has implications for issues that are considered more crucial regarding threats to Indonesia's territorial sovereignty. Various efforts are being made by countries involved in this conflict. Among them is the Philippines which filed a lawsuit in 2013 to the International Court of Arbitration. The results concluded that there is no legal basis whatsoever for China to claim historical rights to resources in the oceans located in the "nine borders" in the South China Sea region. The 2017 ruling of the International Court of Arbitration in The Hague Netherlands claims China's claims in one of the world's widest waters violate Philippine sovereignty.

In the case of The Philippines which filed a lawsuit with the International Court of Arbitration. The Philippines' lawsuit against China regarding the South China Sea through the Permanent Court of Arbitration (PCA), the lawsuit filed by the Philippines is correct and does not violate the rules of UNCLOS 1982 and does not touch on the issue of state sovereignty. The arbitration ruling remains final and binding even though China has said it did not participate and does not accept the ruling. Both parties must still respect the verdict and carry it out in good faith (Hanifah et al., 2017).

The basis for the Philippines' consideration of defending the claimed territory is enforcement of territorial sovereignty and utilizing sources of production from oil and gas supplies at Reed Bank. Although a number of claimants have maintained economic ties with China, the Philippines remains suspicious of China's increased military posture in the South China Sea. In this context, the Philippines applies "double standards" to keep the economic benefits while maintaining its dominance of China. In 2013, the Philippines released an official statement and annex to a policy document opposing China's presence in territory claimed to belong to the Philippines (Suharman, 2019).

Another study explained that China's claim to the South China Sea territory was declared in violation of UNCLOS 1982 by an Arbitration ruling in The Hague dated July 12, 2016 so that China absolutely has no rights to the South China Sea territory it claims. For military activity in the disputed region, China must cease all activities there and immediately withdraw its military force. Other countries in dispute to refrain in accordance with the declaration of conduct of the South China Sea until an agreement is reached (Silabi Al-Attar et al., 2017).

Foreign policy is a concept with the needs or interests of each country that can generally be said that foreign policy is a policy taken by the government of a country or other political community in relation to the state and actors not

countries in the international world. Foreign policy can also be a bridge to domestic borders and the international environment. Foreign policy can be in the form of diplomatic relations, issuing doctrines, making alliances, setting long-term and short-term goals (Edy, 2011).

Indonesia's foreign policy is very important in responding to this conflict. Either with military and diplomacy approaches or other approaches such as legal and socioeconomic. This is because in the research Ryan Muhammad explained that the scale of the threat faced by Indonesia related to the issue of China's claims to the waters and natuna islands shows the final value result that is at the value of the coefficient of the "moderate" scale. This means that the potential threat faced by Indonesia related to the issue of China's claims to the waters and natuna islands is relatively moderate for Indonesia, in this case not classified as high and not classified as low.

The increased shipping activity that uses international cross-border passages in the South China Sea and the highly dynamic economic development in countries in all three important regions, makes the role of the South China Sea all the more important, and both claimants and non-claimants in the vicinity, as well as foreign countries are also sensitive to changes in the constellation of military forces in these countries as well as countries outside the region of interest, In particular, the target is directed there. Thus, any maneuvering of the forces of the armed forces, especially the navy, which seems provocative or offensive from every country, especially those categorized as big power and superpowers, will invite reactions from countries that feel threatened by its interests today (routine) and long-term.

Security conditions in the Southeast Asian region are much different from other regional regions due to the cultural elements that have been formed, as shown by ASEAN Value and ASEAN Way where existing culture is always at the front when conflict occurs (Vander 2007). Looking at the Conception of Cooperative Security,

ASEAN Value is used here because in the understanding of cooperative security is the existence of communication, consultation, and mutual trust with each other, where the threats that exist in the maritime cannot be separated from the issue of sovereignty, namely territorial. The need for the formation of mutual trust awareness is needed here so that there is no suspicion in cooperation. On the issue of maritime defense cooperation, the threat of cross-border crime using the waters is not only an individual issue but is a common problem. ASEAN as a regional community that becomes a forum for each member becomes important to expand the scope that can control the security of maritime areas, such as security cooperation at borders, cooperation in international waters, cooperation in strategic international trade routes (Itasari, 2020).

ASEAN member states that show a tendency to behave in a stronger or bandwagoning strategy, namely Cambodia, Myanmar, and Laos. These three countries are essentially not so bothered by China's actions in the region because it is not directly involved in dispute cases. ASEAN has its own challenges in raising the issue of the South China Sea to resolution or resolution of disputes, namely differences in the interests of intra-ASEAN countries involved in disputes and clashes with asean non-intervention principles. This tends to be an obstacle for ASEAN to raise the issue of the South China Sea because it falls into the category of high issues (sovereignty and defense).

Indonesia can seek the completion of the drafting of the Code of Conduct (CoC) on the South China Sea which has been protracted never resolved. But again, this will be difficult to realize because ASEAN does not know the voting system in decision-making, but consensus deliberation. And unfortunately, until now, ASEAN member states are still not one vote in this dispute in the South China Sea, therefore it will be difficult to immediately establish a Code of Conduct in the South China Sea region in a short time (Itasari, 2015).

Since the emergence of conflicts over ownership of the South China Sea, Indonesia has always acted as a mediator for countries in conflict over the region. But now Indonesia is starting to be dragged into the vortex of conflict in the South China Sea when China has begun to include the Natuna area on the Nine-Dash Line map. Indonesia has an interest in jurisdictional waters north of the Natuna Islands which are part of the waters of the South China Sea where the maritime boundaries of these waters intersect with the PRC's 9 dashed line claim. Indonesia's interests are in the form of ownership of the waters of the Exclusive Economic Zone and the continental shelf in the northern seas of the Natuna Islands. The situation worsened when Chinese fishermen began to enter Indonesian territory and carry out Illegal Fishing inside the Indonesian Exclusive Economic Zone. Even natural resources are a threat, in this contest, it does not only refer to energy; gas, and oil, especially in the Natuna waters, but also concerning all of Indonesia's maritime resources which are threatened because of China's claims in the South China Sea area which are in a package with China's traditional fishing ground claim that touches the ZEEI in Natuna. Indonesia also perceives the South China Sea as a SLOC because it is the main route connecting the world economy (East to West and vice versa). As one of the users of this route, of course, Indonesia will feel a significant impact on its economy if some disputes or conflicts limit or even close the South China Sea (Lubis, n.d.).

Asean Political and Security Community (APSC) is a framework or guideline formed with the aim of realizing a peaceful ASEAN community with a lack of security dilemmas, provided asean is able to manage the use of military force of its members in order to resolve each dispute issue. The APSC framework has sub-forums for dialogue, meetings between delegations, and various cooperations that Indonesia can use to reduce potential conflicts in the South China Sea, in particular:

- 1) Indonesia can take advantage of the ASEAN Defense Minister Meeting-Plus (ADMM-Plus) forum to negotiate with disputed countries. ADMM-Plus is an ASEAN defense ministerial meeting with eight strategic partner countries in the Southeast Asia region, namely: the US, China, Australia, Japan, South Korea, India, Russia, and New Zealand. ADMM-Plus is a relevant medium in reducing potential conflict in the South China Sea, as almost all parties to the dispute (except Taiwan) are ADMM-Plus member states. In addition, a series of inter-defense ministerial meetings within the framework of the ADMM-Plus reflected with diverse defense and security cooperation can overcome the tensions of the modernization of the great powers military in the Asia Pacific by increasing mutual trust.
- 2) Indonesia can initiate ASEAN to enhance maritime security cooperation both intra-ASEAN and ASEAN-Plus (strategic partner countries, especially China and the U.S.), such as Table-Top Exercise (TTX) and Field Training Exercise (FTX), which is a maritime security cooperation based on meetings to discuss urgent issues related to maritime security issues that are being faced together, including maritime issues in the China Sea area South.
- 3) Indonesia can maximize the function of the ASEAN Regional Forum (ARF), where the initial purpose of ARF was formed as a means for ASEAN to build constructive dialogue and consultation every year related to political and security issues based on common interests. ARF also produces various forms of agreements and cooperation frameworks in order to build mutual trust in the Southeast Asia Region.

If Indonesia consistently maximizes defense diplomacy as the above points, it will create confidence building measures and mutual trust between interested countries in the South China Sea, it will certainly reduce the potential for conflict. In addition, as a country that has

strong influence in ASEAN and is an honest broker in the South China Sea dispute, the success of reducing the potential conflict will lead Indonesia to the opportunity to manage the South China Sea through ASEAN in accordance with its national fatigue corridor.

It cannot be denied that each State has its own interests in their economic, political and national interests, but in order to maintain the stability of the region, increased defense must be established together. Because it concerns the smoothness of each interest to be achieved, as well as the benefits obtained. Moreover, it includes smooth communization between countries, economic smoothness, and can bring relations closer bilaterally and multilaterally closer. In the case of the South China Sea dispute, the different strategies chosen by each ASEAN member state in dealing with China have their own role. Asean's inability to therefore take collective policy in response to the South China Sea dispute is faced with two limitations. First, perceptions of the external environment that include the values, belief systems and cognition of each ASEAN member state. Second, the economic-political influence derived from extra-regional powers on each ASEAN member. Asean's integration agenda of upholding organizational autonomy by maintaining its relationships with external forces and maintaining its collective neutrality is the greatest challenge to achieving solid integration in order to maintain regional political-security stability and peace.

The governments of each ASEAN country should take a stance and policy, considering the maritime area issues are very complex, the governments of each ASEAN country must maintain good relations with each other both with claiming and non-claiming countries and maintain regional security stability in the region. South China Sea Region. Regarding the actions that must be taken by ASEAN countries from a security perspective, ASEAN can seek to accelerate the completion of the Code of Conduct (COC) in

the South China Sea between the ASEAN Navy and the Chinese Navy. With the enactment of the COC, each Navy implements a conflict prevention mechanism at sea. This COC mechanism is very important to reduce the escalation of conflict so that it does not escalate into war. Parties with an interest in COC can also be more open, not only between the Navy, but also between the Coast Guard. So, the warships, Coast Guard ships, and warplanes of the respective ASEAN countries and China all respect the COC. The government must continuously review the development of the South China Sea dispute situation and prepare an agenda for resolving problems that occur through legal channels and discussing them through existing bilateral and multilateral forums. The Ministry of Foreign Affairs of each ASEAN country should immediately reschedule the negotiations on maritime boundaries to strengthen its position in defending sovereign rights in the South China Sea. In addition, the government must anticipate legal problem solving, which is based on each country's national legislation, bilateral and multilateral agreements based on international law.

4. CONCLUSION

The role of Indonesia and ASEAN in the Natuna Block South China Sea conflict cannot be separated from the current government regime, namely the government of President Joko Widodo. The first point of emphasized that his mission will be to present the state to protect the nation (including its people) and provide a sense of security to all citizens, through a free and active foreign policy, trusted national security, defense development based on national interests, and strengthening identity. as a maritime nation. Indonesia's free and active foreign policy is based on the Pancasila ideology and has a Trisakti philosophy based on Soekarno's thoughts. Based on research, Indonesia's foreign policy in the South China Sea conflict, especially the Natuna Block, can be grouped into 4 approaches, namely the

geopolitical approach, the defense and security approach, the legal and diplomatic approach, and the economic cooperation approach. The defense and security approach in Indonesia's foreign policy on the Natuna Block South China Sea conflict is not the main option, but as a world maritime axis country, it must be able to show its military strength in maintaining territorial sovereignty. Jokowi is increasing Indonesia's military budget in stages with the main aim of upgrading the existing defense equipment and adding to the missing weapon systems. The development of a military base is also needed at national boundaries and areas that are prone to conflict, crime, and disturbances in security and order that threaten the territory and citizens of Indonesia. The legal and diplomatic approach in the South China Sea conflict has been carried out by Indonesia for a long time, since the first president to the seventh president, President Jokowi and until now Indonesia is actively conducting diplomacy to create a conducive and peaceful territorial area. Indonesia has long been known as a key factor in negotiations. and the birth of various norms of the ASEAN Way and ASEAN development such as the establishment of the ASEAN Political-Security Community and the Bali Democracy Forum. Indonesia is also a peacemaker or trusted mediator in various regional conflicts, such as the Thailand-Cambodia conflict and the Philippines and Myanmar conflicts.

5. DECLARATION OF CONFLICTING INTERESTS

The Author(s) declare that there is no potential conflict of interest in the research, authorship, and/or publication of this article.

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Peace is a state of mind, but
in a world where the state
controls the mind, peace
remains an inconvenience.

Abhijit Naskar
Time to End Democracy: The
Meritocratic Manifesto