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Research Paper

Indonesian Ocean Legal Politics

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Abstract
Indonesia's foreign policy, namely a free and active foreign policy. Free means that Indonesia does not take sides with the forces which are basically incompatible with the national personality, as reflected in Pancasila, and is active in carrying out foreign policy. The acceptance of the Law of the Sea Convention III does not end all maritime disputes. Several problems arose, especially the clash of territorial delimitation between countries, particularly with China, for example regarding the Kwey Fey fishing boat incident. In March 2016, a Chinese fishing vessel, Kwey Fey, was involved in an incident with an Indonesian Marine patrol boat, KM Hiu II in the Natuna Sea. As a result of the incident, Indonesia then took steps to make a declaration, Coordinating Minister for Maritime Affairs LuhutBinsarPanjaitan announced the naming of the waters north northeast of the Natuna Islands as the North Natuna Sea.

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I. Introduction

Starting from two important maritime political declarations between 2016 and 2017 when, first; Coordinating Minister for Maritime Affairs Luhut Binsar Panjaitan announced the naming of the waters north and northeast of the Natuna Islands as the North Natuna Sea. Second, the Head of the Geospatial Information Agency (BIG) Hasanuddin Zainal Abidin who will fight for the change of the name of the Indian Ocean to the Indonesian Ocean because he considers the ocean to be in Indonesian territorial waters where the sea connectivity in Indonesia, both the strait and the bay, is all in contact with the Indian Ocean. The declaration announced by Luhut Binsar Panjaitan regarding the map of the North Natuna Sea region certainly caused a strong reaction from several friendly countries bordering, especially Vietnam and the People's Republic of China (PRC). A strong reaction actually came from the PRC because the announcement of the unilateral map that would be submitted to the United Nations Group of Experts on Geographical Names (UNGEGN) was related to the announcement of China's unilateral map of the Nine Dush Line. Apart from China, of course, Vietnam has objected because the area of the announcement of Indonesia's unilateral map of the 2 North Natuna Sea also touches on claims from Vietnam, which have been a dispute area between Indonesia and Vietnam.1 Meanwhile in August 2017 the Head of BIG Hasanuddin Zainal Abidin issued an announcement that he would fight for the international forum to change the name of India Ocean to Indonesia Ocean. The head of BIG Hasanuddin further stated that naming is important, that's why we will fight for the name India Ocean to become Samudera Indonesia.

So far, according to Hasanuddin, "people are really confused about India Ocean or Indonesia Ocean". Hasanuddin hopes that Indonesia's entry into the composition of the board at the UNGEGN forum will have an impact on Indonesia's struggle to change the name of Indian Ocean to Samudera Indonesia.[2]

Naming a Territory

The naming of a sea area is common as long as there is UNGEGN recognition. Is a leading scientist from The Institute of South East Asia Studies Singapore, Peter Polomka wrote the book Ocean Politics in the

Southeast Asia raising various theories about marine policy, Polomka not only highlighted the emergence of various policy conflicts in the maritime sector, especially countries in Southeast Asia but interesting further what is meant by ocean political linguistics, namely the politics of giving the names of the sea around (ocean behavioral names).

For experts, the issue of marine linguistics may be less interesting than the clash of maritime policies that causes disputes between countries, but this linguistic problem is the starting point for the emergence of disputes. The roots of maritime disputes may arise from this side.

There are countries that are very allergic to using names that have been recognized internationally (especially those that have been used by (National Geography), for example the China Sea National Geography is very common in using the China Sea for three oceans, namely the South China Sea, East China Sea and the Yellow Sea. (South China Sea, East China Sea and Yellow Sea.) The history of giving the names of the oceans cannot be separated from the historical perspective of ancient Chinese dynasties, especially during the Ming Dynasty 1323-1447. The South China Sea, for example, is taken from the belief of the Chinese people that Dewa - The goddess they believed came from the South Sea

As a result, many countries are against using the name of the sea of countries that are facing their dispute. The Philippines which is the opponent of the Chinese dispute is more likely to use the South Sea and does not want to use the South China Sea.

There is a strait that connects the Mediterranean Sea to the Atlantic Ocean which is called the Strait of Gibraltar (Gibraltar Straiht). This Gibraltar comes from the name of a Muslim Commander who crossed to attack and occupy mainland Europe (Spain), Tariq bin Ziyat, whose stopover was called Jibl Al-Tariq then the Europeans called it Gibraltar. Some Moroccan political figures have even referred to the Strait of Gibraltar as the Strait of Casablanca, the name of the northern country of Morocco.

A scientist at Hasanuddin University had once protested against an admiral for not wanting to mention the Makassar Strait but the Sulawesi Strait even though the Sulawesi Strait is not named on the map of Indonesia which contains the Sulawesi Sea.

Polomka argued that scientifically it should return to names recognized by the world of mapping science, for example; South China Sea, Strait of Gibraltar, Makassar Strait and Indian Ocean. These names have nothing to do with maritime political hegemony, but are important for naming an object of research that has received international recognition agreements.

Indonesia's Free and Active Foreign Politics

Indonesia's foreign policy, namely a free and active foreign policy. Free according to MochtarKusumaatmadja means that Indonesia does not take sides with forces which are basically incompatible with the national personality, as reflected in Pancasila. While active means in carrying out foreign policy, Indonesia is not passive-reactive about its international events, on the contrary it is active. The link between Indonesia's free-and-active foreign policy and the three essences in international relations will form an identity in the international relations system. This identity will be used by Indonesia as the character and identity of the country, as well as to differentiate between Indonesia and other actors. Coupled with Indonesia's free-and-active foreign policy, it will make Indonesia independent from the nature of its dependence on only one actor. So that Indonesia can be more flexible in carrying out its role in international relations by implementing the three essences as previously explained.[1]

In international relations, Indonesia is an actor carrying out its role based on a free and active foreign policy. Then it can be interpreted that Indonesia is an actor who has the right to determine the direction of policies, attitudes and desires as a sovereign state to fulfill its needs. In this case, Indonesia cannot be influenced by the foreign policies of other countries. In its implementation, Indonesia carries out a free and active foreign policy based on the Pancasila ideology and the constitutional foundation of the 1945 Constitution of the Republic of Indonesia which is the highest legal basis for the Indonesian state. Pancasila is the foundation of Indonesia's ideology which reflects the values contained in Pancasila as Indonesia's guideline in fighting for its national interests in international relations. Meanwhile, Indonesia's national interests have generally been stated

[1]Enggartias Wahana Putera, *Esensi Hubungan Internasional dan Kebijakan Politik Luar Negeri Indonesia*, Published on 19 September 2018

in the 1945 Constitution. In that constitution, Indonesia's national interests are as follows: (1) protecting the entire Indonesian nation and all spilled blood; (2) promote public welfare; (3) educating the nation's life; and (4) to participate in implementing world order based on freedom, eternal peace and social justice.[2]

Apart from that, Indonesia's national strength must also be considered as a bargaining value in order to fulfill its national interests. Indonesia needs to consider several factors to become a national power, including military strength, politics, geographical location, number and quality of population, economy and state resources, and state ideology. The national power that Indonesia possesses will later help run the process of international relations, because from the essence, especially this power, it can be seen whether an interaction takes place or not. Each actor has different strengths, the greater the strength of an actor, of course, the easier the actors will use their power to rule in the context of international relations. A simple example is the crisis in the South China Sea. The South China Sea is in a disputed area involving China and ASEAN countries which directly border the South China Sea region. Indonesia, which is also involved in the dispute, took firm steps to defend the territorial sovereignty of the Republic of Indonesia, by changing the name of the waters of the South China Sea which entered Indonesian territory to the North Natuna Sea in July 2017. In addition, Indonesia has placed its military power on Natuna Island and around the region. Natuna waters. This aggressive move is being carried out by Indonesia, despite calls from China for Indonesia to cancel the plan to change the name of the South China Sea waters and reduce military confrontation in the region.[3]

Indonesian Ocean Legal Politics

After proclaiming the independence of the Republic of Indonesia (RI) on August 17, 1945, the Prime Minister Ir. DjuandaKartawidjaja was assigned by the President of the Republic of Indonesia, Ir. Soekarno gathered experts in maritime law to formulate the areas surrounding the newly proclaimed state. Many young figures were present in discussing national boundaries, including Ali Sastroamidjojo, MochtarKusumaatmadja, SoedjarwoTjondronegoro, Dr. J. Leimena, Dr. Samuel Ratulangi, SumarioWiraatmadja, Pringadi, and others. Three of them later became Indonesian Foreign Ministers, namely, Ali Sastroamidjojo, SumarioWiraatmadja and MochtarKusumaatmadja (the longest Foreign Minister in the New Order era).

In the discussion regarding the determination of the maritime territory of the Republic of Indonesia after the proclamation was quite long. Because the references used with country examples vary widely. The boundaries of sea delimitation also vary on the theoretical basis of the law of the sea before the 1958 Geneva Convention. Each of the participants in the formulation presented theories from classical to contemporary. Moreover, the international atmosphere is still influenced by the principles of "res nullius" from Roman times. In fact, in the discussion of regulations, the classic Tordesillas agreement, the division of the Atlantic Ocean between Spain and the Portuguese, was used. The Portuguese claim for Spain was later acknowledged by Pope Alexander VI, who in 1493 divided the world's oceans for Spain and Portugal by dividing the meridian of 100 leagues (approximately 400 nautical miles) west of the Azores. The west of the meridian (which includes the West Atlantic Ocean, the Gulf of Mexico and the Pacific Ocean) belongs to Spain, while the east (which includes the Atlantic south of Morocco and the Indian Ocean) belongs to the Portuguese.[4]The theoriesputforwardbyclassicalexpertssuch as Hugo deGroot, known as Grotius, alongwiththe Mare Liberumdoctrine, John Seldenwiththe Mare Clausumtheory, as well as Cornelis van Bynkershoek's theory of the cannon fire rule.

Of course, the main basis for discussions on determining Indonesia's maritime boundaries after the 1945 proclamation of independence at that time were the boundaries of the sea area made by the Dutch, namely Territoriale zeen en Maritieme Kringen ordonantie 1939 in staadblad 1939 No. 442 which draws a normal boundary line of 3 nautical miles by following the curves of the coast. This maritime boundary is deemed no longer appropriate to the development of the marine area of an independent, sovereign country like Indonesia. If this concept is maintained, there will be a number of "pockets of the high seas" located between the Indonesian islands with a distance of more than 6 miles. The existence of pockets of the high seas will allow the entry of

[2]*Ibid*.
[3]*Ibid*.
[4]Hasjim Djalal, *Perjuangan Indonesia di Bidang Hukum Laut*, Bina Cipta, Bandung, 1979.

foreign ships because they are considered as high seas, where all countries are free to use them. Therefore, it is difficult for the Indonesian government to supervise pockets of the high seas without special authority for Indonesia.[7]

Reflecting on countries that have unilaterally defined their maritime boundaries, especially Latin American countries such as Panama, Chile and El Salvador, which have drawn their maritime boundaries to 100 miles. The concept of expanding the sea area was introduced by the United States through President Truman's Proclamation issued September 28, 1945. For the first time, the conception of the continental shelf was introduced by the United States through President Truman's Proclamation issued on September 28, 1945. This proclamation, among other things, stated that the United States had the right to have its continental shelf up to a depth of 100 fathoms (approximately 200 meters) facing the beach. However, the full sovereignty or jurisdiction of the United States is still limited to its territorial seas, therefore freedom to sail in that region is guaranteed.[8]

After the United States issued the unilateral proclamation, then Latin American countries followed the example of the United States such as Mexico on October 26, 1945, Panama, March 1, 1946 and Ar-gentina on October 9, 1946. After that, it was followed also by the Chilean declarations of 23 June 1947, Peru on 1 August 1947 and Costa Rica on 27 July 1948. However, these last three countries have a further reach, because their arguments are based on the absence of a continental shelf, in a geological sense. they have. Therefore they need a compensation which they then reinforce with a biological argument which they call "biome theory". According to this theory, the three countries have a unity of biological life between life on land and in the sea, because off the coast of the three countries there are islands that are rich in fertilizers derived from the droppings of Guano birds. This bird feeds on a type of fish called the fish "Anchovy" which is abundant in the sea 200 miles from the coasts of the three countries. These Anchovy fish feed on plankton which thrive in these waters because of the hot current flowing from North to South which is called "humbold current". So, apart from claiming sovereignty over the continental shelf, which they do not actually have, they also claim the sea up to 200 miles from the coast as their territorial sea for the reasons mentioned above.[9]

Apart from that it is guided by what has been decided by the International Court of Justice (ICJ). 1951 in the case of the Anglo Norwegian Fisheries Case (in the case of a fisheries dispute between England and Norway). As is known before the Anglo Norwegian Fisheries Case was decided by the International Court of Justice, the baselines which are usually used to determine the width of the territorial sea are only normal baselines, namely the low water lines along the coast that follow the twists and turns of the coast, except in estuaries and bay mouths less than 10 miles wide.[10]

Geographically, Norway has a very tortuous or "fjord"-shaped beach and in front of the coast there are a series of islands which in Norwegian are called "skjaergaard". If, Norway still maintains the 3 mile territorial sea principle measured from the tidal lines of each island, it will be difficult for it to protect the Norwegian fishermen, who operate around the islands. This is due to the fact that so many parts of the sea area are considered the high seas where all countries are free to exploit them. For this reason, in 1935, the King of Norway issued a decree (Royal Decree). This decree states that the width of the Non-Norwegian territorial sea is 4 miles drawn parallel to a base line consisting of straight lines drawn from end to end (straight baselines from point to point). These lines connect the outer points of the outer islands which line the Norwegian coast which belongs to Norway. However, Britain could not accept the decree of the King of Norway, because it was considered to be contrary to international law. This is also because in an area where British fishermen were free to fish there, now in accordance with the King's decree it became part of the territory of Norway. So that by itself it becomes a closed area for foreign countries and fishermen, in this case England. Therefore, Britain put the matter before the International Court of Justice. It turns out that the International Court of Justice in its decision on 18 December 1951, confirmed the actions and methods taken by Norway and stated that it was not in conflict with international law. the front of the coast contains a series of islands which should belong to the territory of Norway and / or historically have been considered as such. What is important for us to note from the above case is the recognition of how to draw a baseline by drawing straight lines from end to end of the outer points of the outer islands to determine the territorial sea in which the country has a distinctive geographical

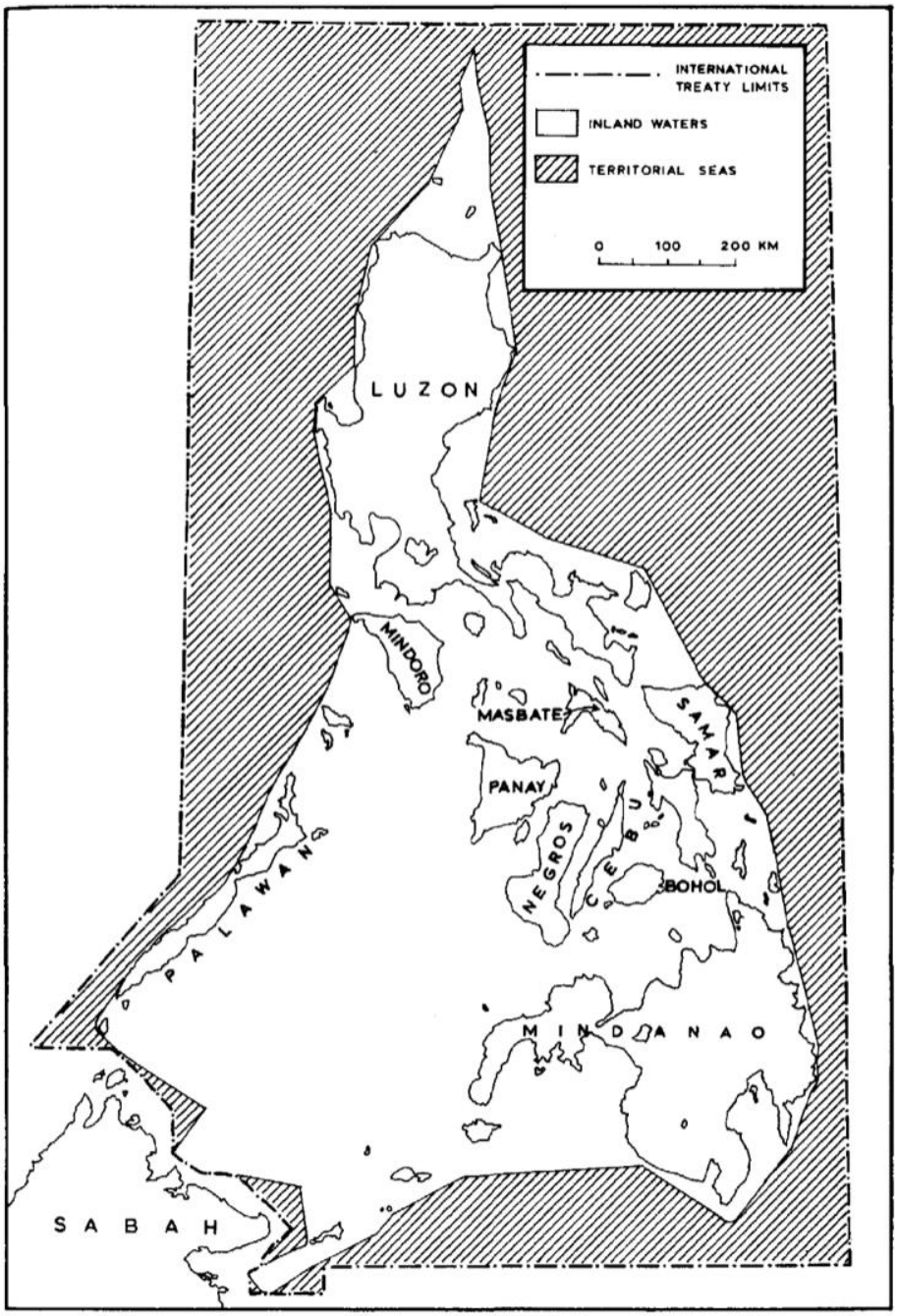
shape. The International Court of Justice considers this method to be legitimate and does not conflict with international law. This method can then be accepted as positive international law, which is contained in article 4 of the 1958 Geneva Convention on the Territorial Sea and Additional Oceans. The action taken by Norway can be justified by the International Court of Justice, and has even been used as an article in an International Law of the Sea Convention. It seems that it has been influenced by the few parties directly involved or interested in it (only the UK), so that this case can be resolved by the Court in a relatively short time with the victory of the Norwegian side.[11]

Based on some of these thoughts, the formulator of the delimitation of the country's maritime territory agreed that the sea and land in Indonesia were integrated with islands that continued from west to east as a whole as a whole. Every sea within the territory of Indonesia is part of the land. Therefore, a decision was agreed that, "All the waters around, between and connecting the islands belonging to the Indonesian state regardless of the mainland of the Indonesian State and thus part of the interior or national territory which is under Indonesia's absolute sovereignty. Peaceful traffic in these inland waters for foreign ships is guaranteed to be safe and only does not conflict with disturbing Indonesia's sovereignty and safety. determination of the boundaries of the territorial sea, the width of which is 12 miles measured from the lines connecting the outer end points of the islands of the Indonesian state. What was decided by the state territorial delimitation committee chaired by Colonel (Laut) Pringadi was then outlined in the form of the Government Announcement regarding the Territorial Waters of the Republic of Indonesia dated 13 December 1957 by Prime Minister Djuanda. This announcement was known as the Juanda Declaration on December 13, 1957. As in the last clause of this announcement that this declaration would be fought for at the Geneva Conference on the Law of the Sea in February 1958. Unfortunately, at the 1958 Geneva Conference, the Juanda Declaration on Indonesian territorial waters was rejected by the majority of participating countries, generally the countries that control the oceans still have dimensions. colonialism such as the Netherlands, England, France and Western European countries and the United States. Even when the Republic of Indonesia announced the conception of the Archipelago on December 13, 1957, countries such as the United States, Britain, France, Australia, the Netherlands, New Zealand and Japan also gave a strong and half threatening reaction in the form of diplomatic notes delivered through their respective ambassadors. -Each of them generally rejects the expansion of the territorial sea from 3 miles to 12 miles and refuses to use the determination of the width of the territorial sea using straight baselines connecting the outer islands of Indonesia by stating that Indonesia's actions are contrary to international law.12 Although it was rejected by the major maritime powers in Geneva 1958, the spirit of the 1957 Juanda Declaration did not fade. In fact, to further support these efforts the government issued Law No. 4 of 1960 which in principle further strengthened the principle of an archipelago by drawing a straight line. In order to further strengthen these principles the state formulated a national political doctrine with the Archipelago insight doctrine. The strategy of implementing the Archipelago Insight doctrine has been quite successful because the awareness of the integration of islands to islands and the sea in Indonesia's inland waters is getting more intense. Success in the implementation of the Archipelago insight doctrine was accompanied by success in the international arena. Moreover, the increasing number of new countries in facing the Third Sea Law Conference. There are more and more comrades in upholding the archipelagic principle of 4 archipelagic countries that are also attracting interest in this principle, namely the Philippines, Fiji, Mauritus and Indonesia, while fighting for the principles of an archipelagic state in the Third Conference on the Law of the Sea.

Map of Indonesia in the Concept of Archipelago Insights[5]

In the struggle for Archipelago insight, the Philippines is one of the closest allied countries to Indonesia, although the positions of the two countries are not always the same. As is known, in the passage problem, Indonesia's position is not as hard as the position of the Philippines. In addition, Indonesia and the Philippines are also strong partners in defending the regime of peaceful traffic through the straits used for international shipping. Although Indonesia and the Philippines maintain close cooperation on matters of the straits and the Archipelago, Indonesia is also cautious about the Philippine conception of "history waters" and methods of measuring the width of the territorial sea, especially as these will have an impact. which is quite important in the issue of archipelago and marine insight in the region around the Palmas Islands (Miangas).[6]For comparison, the following authors present the Philippines Historical Waters Claim:[7]

[5]Seehttps://image1.slideserve.com/1896687/wawasan-nusantara-l.jpg
[6]Hasjim Djalal, (1979), *Op.Cit.*
[7]Peter Polomka, *Ocean Politics in Southeast Asia*, Singapore: Institute of Southeast Asian Studies, 1978, p. 13



Map 4: Philippines' Historical Waters Claim
Source: Philippine Coast and Geodetic Survey.

When the Third Law of the Sea Conference was opened, most of the countries in the world had changed their territorial sea width to 12 miles, some even up to 200 miles. Advanced maritime states see the expansion of territorial seas and other forms of jurisdiction over the sea by these coastal states as a danger that threatens their interests. The claims made by the coastal states and sometimes very exaggeration seem to reinforce John Selden's theory of the mare clausum.

Unfortunately, neither Selden's theory nor Grotius' theory of mare liberum can no longer be used to complete this fundamental revolution about the relationship between humans and the sea.[16]

These maritime countries are increasingly aware that the concept of a territorial sea width of 3 miles that they have been trying to defend has been abandoned by many countries. The attitude of maritime countries to defend the principle of freedom in the oceans by trying to limit the jurisdiction of the coastal state as narrow

as possible is finally confronted by the fact that over time they are forced to recognize the 12 miles of sea width. Meanwhile, this expansion of the territorial sea has resulted in several straits that were part of the high seas now under the jurisdiction of the coastal states. It is therefore understandable that the acceptance of maritime countries for the concept of a sea width of 12 miles is accompanied by the requirements of a free shipping regime for ships through the strait. These mostly newly independent coastal states expressed their suspicion and distrust of the more developed countries, and tried to limit the implementation of the principle of freedom in the oceans as much as possible. The international community is then faced with the need to eliminate the selfish attitudes of both developed and developing countries by finding ways to reduce restrictions on the use of the sea, and narrow the application of state sovereignty to parts of the sea. In the context of political differences, there are two directions that lead to the development of a new law of the sea. First, the principle of freedom in the oceans which underlies the four Geneva Conventions of 1958, is more beneficial for countries that are able to take advantage of the oceans. This principle is confronted with the tendency that has emerged among the newly independent countries to expand their jurisdiction over the sea in order to secure natural resources in the sea for the benefit of their people, to protect and maintain their marine environment, and for the defense and security of their countries.

Second, there are efforts made by developing countries to develop a new legal concept in regulating natural resources found in deep ocean seabed areas, which are outside national jurisdiction. These states endeavor to fight for the application of the concept of the common heritage of mankind through an international arrangement based on principles of the welfare of all human beings rather than free competition. This is intended to prevent the control of natural resources in the sea by countries with modern technological capabilities in the mining of the deep ocean seabed. Changes in the map of the political landscape and technological advances and their consequences, is a challenge for international jurists. The attempts that arise to revisit existing concepts of law of the sea are a natural part of the process of developing international law.[17]

Interestingly, at the III Conference on the Law of the Sea in Caracas in February 1975 the delegation of the People's Republic of China began to participate as participants. After the PRC appeared to replace Taiwan's position at conferences on the law of the sea, especially in the long discussion of drafts of the third maritime law convention, so far the PRC started long criticisms regarding the contents of the 1958 Geneva Law of the Sea Convention. Western countries suddenly flinched , as if he just realized about the mistakes he had made in formulating the Geneva Convention 1958.[18]

During the subcommittee talks on the UN seabed commission on March 29, 1975, the PRC representative, Shen Wei Liang, presented a paper in a loud voice that drew attention, especially to developing countries who were critical of the content of the Geneva Conventions. Sheii Wei Liang suggested, among others:

"in 1958 when the first conference on the law of the sea was held, many Asian and African countries had not get won independence. Asian, African and Latin American countries made up only about half of the eighty-old countries the participating in the conference. And owing manipulation by the imperialist powers, their many reasonable propositions here not adapted".[8]

"Imperialism is imperialism, they have evil intentions which cannot be openly told. They desire a narrower territorial sea for other countries or no territorial sea at all so that they can freely engage in military aggression andeconomic plundering. The United States, Great Britain, and other imperialist countries are called "Strong Sea Powers" and proses enormous fleets which are used as their capital to engage in aggression against other countries. If a countries territorial sea is expanded, then the aggressive activities of imperialist countries are subjects definite restriction……".[9]

[8]Jerome Alan Cohen dan Huang-dah Chiu, Peoples China and International Law, Princenton University Press, Princenton New Jersey, 1970, See alsoS.M. Noor, "*Sengketa Laut Cina dan Kepulauan Kurir,"* Pustaka Pena, Makassar, 2015.
[9]Jerome Alan Cohen dan Huang-dah Chiu (1970), *Ibid*.

Such accusations for participants in the Law of the Sea III conference are common. For them, it is no longer strange that every time Chinese representatives appear in front of the pulpit making such sharp accusations. It is the same usually when China points to the 1958 Geneva Convention as :
"*Manipulation by the imperialist powers of the 1958 Geneva Conference on Law of the Sea, which adopted the four conventions on the terriotorial sea the high sea, the continental shelf and the conservation of the fishing resources*".[10]

The aforementioned matters show how solidarity China's consistent stance is on the side of third world countries in the struggle for the law of the sea.

The strong international pressure to replace the 1958 Geneva Conference led to the access of the Third Sea Law Conference which took place in Montevideo, Jamaica in February 1982. The outcome of the 1982 conference was seen as a victory for the struggles of developing countries including Indonesia. The island nation principles set out in the Juanda Declaration were accepted. Archipelagic countries are allowed to draw straight lines between their outer islands (straight baseline outermost point to point) by producing internal water which is an interesting note in the development of international maritime law.

The United States is disappointed with the results of the Law of the Sea Convention III with two things, first, the seabed authority and second, the principles of archipelago principles. The United States has not ratified the Law of the Sea Convention III even though President Ronald Reagen was present in Montevideo to sign the historic maritime law convention.

The Indonesia-PRC incident

The victory of the Law of the Sea Convention III does not end all maritime disputes. Several problems arose, especially the clash of territorial delimitation between countries, particularly with China, Malaysia and Vietnam.

One example with China is the incident with the fishing vessel Kwey Fey. In March 2016, a Chinese fishing vessel, Kwey Fey, was involved in an incident with an Indonesian Marine patrol boat, KM Hiu II in the Natuna Sea. Kwey Fey is sailing in the exclusive economic zone of Indonesia with a full load after fishing in Indonesian waters with a total cargo of approximately 300,000 Gros tons. KM Hiu II caught and caught the fishing boat with the PRC flag. Shark II officers inspected the ship and then dragged it to the nearest port after the fishermen were arrested and detained on board.

Before arriving at the port, suddenly a Chinese coast guard ship at high speed hit the Kwey Fey ship so that its hull broke. Some of the fish spilled in the sea. Officer Shark II was taken aback. Not yet finished their surprise, the PRC coast guard deftly jumped into the sea as a frogman, tied Kwey Fey, then the troops went up to Kwey Fey immediately at high speed Kwey Fey was brought back into the waters of the PRC. All boat fishermen were detained at TelukRanai Harbor, Natuna.

As a result of this incident, there was a diplomatic incident between China and Indonesia. The Indonesian side protested that the PRC had committed an offense by protecting fishermen under military escort from illegal fishing in Indonesian waters. However, the PRC rejects this assumption on the pretext that the fishermen who catch fish do not enter Indonesian territory. The PRC even hopes that the Indonesian government will immediately return the Chinese fishermen.

At the heart of the Natuna incident, the Indonesian government tried to detain the Chinese fishing boat Kwey Fey and its fishermen for violating Indonesian sovereignty, but the PRC refused and asked the fishermen to be released. This incident drew Indonesia once asked by the PRC to be careful in determining its territorial waters so as not to touch the nine dashed lines that it has established. PRC helps fishermen enter Indonesian waters. The question is, in which waters does the Kwey Fey fishing boat catch fish?

If in the free sea area, the question is, is there still a free sea area in the entire South China Sea area that has been claimed entirely by the PRC, causing clashes with various countries such as the Philippines, Vietnam, Brunei Darussalam and Malaysia. Indonesia, which has so far felt that the PRC did not touch the South China Sea territorial dispute, turned out to have had this incident as well. This means that with this incident there is an Indonesian EEZ overlapping (Overlapping area) with the PRC. This is something to really watch out for.

[10]Jerome Alan Cohen dan Huang-dah Chiu (1970), *Ibid*.

If the PRC sees its fishermen as being in the open sea, which then is the open sea? It is possible that the EEZ is a free sea area, but it is for international navigation purposes, not as a fishing area because if it is included in the fishing area it is categorized as an area of economic exploitation of Indonesian sovereignty. The PRC cannot behave in this way. No less interesting is where suddenly the safe guard ship appeared and seized a Chinese fishing boat and then took it away from Indonesian waters. The PRC's conventional strategy is to actually guard with weapons the fishing boats that catch fish in disputed areas.

Meanwhile, the dispute with Vietnam over the sea area has not ended until now. Vietnam claims the Small Natuna Archipelago Group which it calls KruenhNoang Sha as its archipelago. Not a few of their fishing boats come to catch fish around the islands, many of which do not yet have this name. In fact, several ships were often found on empty islands drying fish while waiting to sail again, making arrests before being driven out by the Indonesian war fleet which was conducting routine patrol.[11]

What is the basis of Vietnam's claim to the area around the Natuna Kecil Islands cluster which is used as the outermost point of measurement for the Indonesian territory line? The basis is drawing a line with the Thalweg Doctrine. This doctrine is known as boundary dispute settlement, but rivers, where the deepest areas are drawn, the boundary is drawn. For example, the boundary of the Republic of Indonesia - Papua New Guinea (PNG) in the South West region is the Fly River (Fliying River) where the line is drawn. Likewise, Bensbach because the Bensbach River delta forms the island from its abrasion group, so that the island formed belongs to Indonesia and is recognized by PNG.

The territorial dispute with Malaysia has also attracted attention between two allied countries and fellow ASEAN pioneers. The Sipadan-Ligitan dispute was even brought to the International Court of Justice after more than 10 years of negotiations and no common ground.

The emergence of the first time the dispute over the territory of Indonesia-Malaysia in the Celebes Sea regarding the ownership issue of Sipadan Island and Ligitan Island has been pursued through various solutions that prioritize friendship between the two countries in order to find the fairest possible solution.

The problem itself arose, in 1969 when delegations of the two countries held a meeting to determine the boundaries of each country's continental shelf. At that point the two delegations agreed not to discuss the issue of ownership of Sipadan Island and Ligitan Island because in addition to the discussion regarding the two islands it could create a peaceful atmosphere after the confrontation of the two countries, there was also political sensitivity at that time regarding the Philippines' demands for Sabah so that the two parties agreed to let the two the island is in a status quo position.

After this matter had been silenced and continued for a decade, the Government of Indonesia on 8 February 1980 submitted a memorandum of protest to the Malaysian government because in December 1979 Malaysia published a map that included the two islands in its territory. Even President Soeharto immediately met with Prime Minister Husain Onn which was followed by a Ministerial meeting. A note of protest from the Indonesian side and a memorandum of reply from the Malaysian side were inevitable so that the two countries formed a working group called the Joint Working Group on PulauSipadan and PulauLigitan to resolve ownership disputes over the two islands.[12]

The cooperation group has held several meetings. The first meeting was held in Jakarta in July 1992, where Indonesia confirmed its position regarding ownership of the two islands by submitting legal arguments and several documents and maps to support its claim to the two islands. Likewise, Malaysia has submitted a Government Memorandum along with supporting documents, then there has been an exchange of documents, but the substance has not been discussed.

The second meeting was held in Kuala Lumpur in January 1994, where the results were relatively the same as the first meeting. However, progress has been achieved, marked by an agreement to accelerate the process of resolving ownership disputes over the two islands, namely by holding a follow-up meeting in Indonesia. The progress of the results of this meeting reflected the mandate of President Soeharto's meeting with

[11]Tribun Timur, 2016

[12]Marcel Hendrapati, *Implikasi Kasus Sipadan dan Ligitan atas Titik Pangkal dan Delimitasi Maritim,* Arus Timur, Makassar, 2013.

Prime Minister Mahathir Muhammad on Langkawi Island in July 1992 that the dispute between the two islands needed to be resolved immediately so as not to burden future generations.

Another advance during the second round was the issuance of a joint press statement stating that the two delegates submitted a number of documents confirming their respective positions. In addition, the two delegations agreed on a number of principles, including that the Sipadan and Ligitan issues would be resolved with the principles of international law, including relevant agreements, conventions and various mutual understandings involving relevant parties and relevant times. Furthermore, it was stated that an immediate settlement of the dispute over the Sipadan Island and Ligitan Island would have a positive impact on friendly and neighboring relations between the two countries. Finally, the resolution of this dispute must be through consultation and / or through peaceful means.

The third round of dispute resolution negotiations over the two islands was held in Jakarta in September 1994. Malaysia intends to immediately resolve the dispute by involving a third party. Malaysia invites Indonesia to resolve the dispute over Sipadan Island and Ligitan Island in front of 10 because ICJ as a third party is seen as capable of resolving the issue in an authoritative, neutral, safe and prompt manner. On the other hand, the Indonesian side in the closing speech of the third round of the Cooperation Group by the Chairman of his delegation stated that Indonesia did not feel the need to involve a third party. However, if this is the case, Indonesia will choose the ASEAN High Council as the third party.

Malaysia refuses to use the "High Council" in resolving the dispute because it fears that such a mechanism would be time consuming. The Malaysian side does not want the settlement to drag on so that it can disrupt good relations between the two countries. Meanwhile, the reason why Indonesia chose the ASEAN High Council if it was already needed by a third party was because this institution naturally had a better knowledge of the problems that occurred in the ASEAN region.

Negotiations and diplomacy that have been carried out by the two countries for years have not resulted in a solution regarding ownership of the two islands. The failure to reach common ground on Sipadan and Ligitan led in 1994 President Soeharto and Prime Minister Mahathir Mohammad agreed to appoint a Personal Representative (Special Representative) to solve the problem. President Soeharto appointed the State Secretary. Moerdiono, while PM Mahathir Mohammad appointed Deputy Prime Minister Anwar Ibrahim. The two Private Representatives met four times in Kuala Lumpur and Jakarta, but neither was able to reach an agreement.

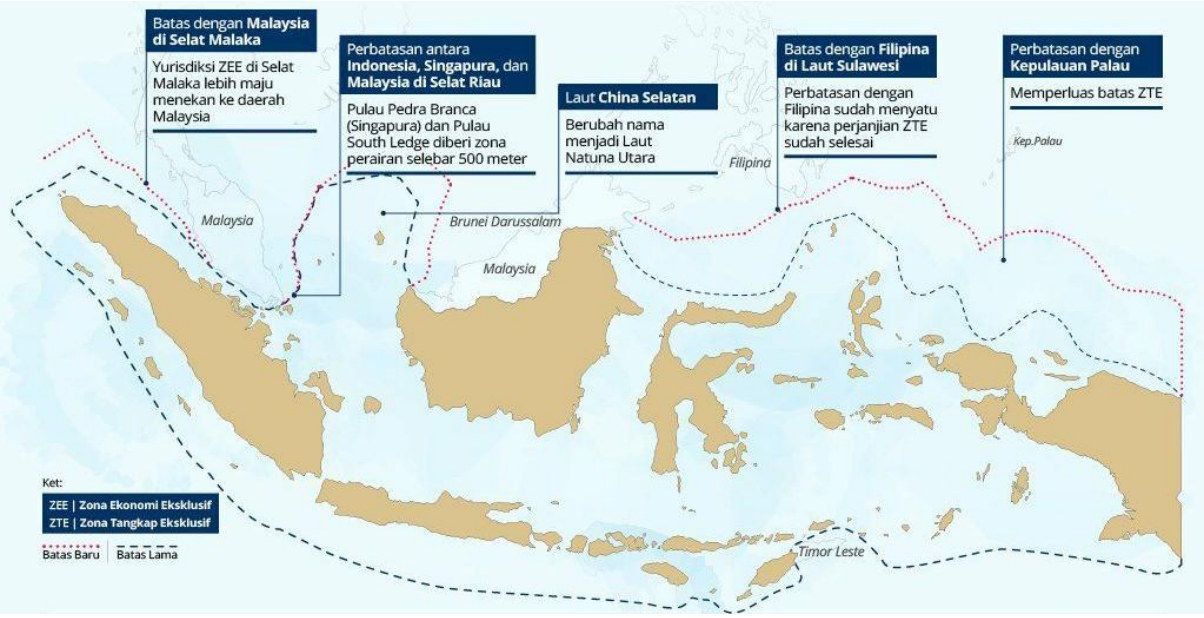
Through their meeting in Kuala Lumpur on June 21, 1996, Moerdiono and Anwar Ibrahim signed a joint report submitted to President Soeharto and PM Mahathir Mohammad which recommended that the dispute over Sipadan and Ligitanbe brought to the International Court of Justice. The two Heads of Government accepted the recommendation.[13]

On 31 May 1997 Malaysia and Indonesia officially started the process of determining their claim rights over Sipadan Island and Ligitan Island by submitting them to the International Court of Justice. A special agreement to jointly hand over the issue of sovereignty over the two islands to the International Court of Justice was signed by Indonesian Foreign Minister Ali Alatas and Malaysian Foreign Minister Abdullah Ahmad Badawi in Kuala Lumpur ahead of an informal meeting of ASEAN Foreign Ministers. Before being formally submitted to the International Court of Justice, the special agreement (Special Agreement) must first be ratified by the parliament of each country. Once ratified, the two parties will meet again to determine a date to submit the case to the International Court of Justice. Submission of cases was carried out together. Neither party precedes the other party, but is put forward collectively. Both parties stated that whatever decision of the International Court of Justice will be final and binding.

The latest development related to the politics of maritime law in Indonesia was when the Declaration by the Coordinating Minister for Maritime Affairs LuhutBinsarPanjaitan announced the naming of the waters north northeast of the Natuna Islands as the North Natuna Sea, with the existence of this declaration, there were 6 points of legal implications related to the granting the name of the North Natuna Sea as depicted in the following map:

[13]Marcel Hendrapati (2013), *Ibid*.

New Map of the Republic of Indonesia[14]



Indonesia is increasingly being taken into account when arguing as a country labeled as a world maritime axis. The rise of China as a major power in the Asia Pacific and the United States that wants to maintain the defense aspects of the ocean, especially in the Asia Pacific, makes Indonesia inevitably also involved in the vortex of the conflict in the South China Sea.

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