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Status of Indonesia's Sovereign Rights in the North Natuna Sea Conflict Area Consequences of China's Nine-Dash Line Claim

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Abstract---Sovereign rights are rights granted by the Convention on the Law of the Sea III of 1982 to coastal states exclusively to exploit and explore natural resources, both living and non-living. As the largest archipelagic country globally, Indonesia has a vast exclusive economic zone in the North Natuna Sea area. The existence of sovereign rights in the North Natuna Sea has begun to be disturbed since China's claim of traditional fishing rights was strengthened by the nine-dash line claim. This claim includes the North Natuna Sea area into China's territorial sea, which makes this area a conflict area. The problem in this research is the existence of traditional fishing ground rights in UNCLOS III 1982 and the impact of the nine-dash line claim on Indonesia's sovereign rights in the conflict area of the North Natuna Sea. This study uses a normative legal research method with a statutory and conceptual approach. The results of the study explained that the 1982 UNCLOS III did not regulate *traditional fishing ground*, and the impact of *the nine-dash line claim* is very significant, as can be seen from the activities of Chinese fishers in the North Natuna Sea, which are supported by Chinese coast guard vessels, which have disrupted Indonesia's enjoyment of its sovereign rights. Thus, it can be concluded that *the traditional fishing ground rights with the nine-dash line claim* are not based on international law but are only based on China's unilateral claims and create conflicts that impact Indonesia.

Keywords---archipelagic country, conflict area, nine-dash line, north natuna sea, sovereign rights.

Introduction

The Unitary State of the Republic of Indonesia is an archipelagic state characterized by an archipelago with territories whose boundaries and rights are determined by law (Article 25 A of the Fourth Amendment of the 1945 Constitution of the Republic of Indonesia; (Article 46 (a) UNCLOS 1982; (Article 46 *United Nation Convention Law Of Sea* (UNCLOS III 1982). Indonesia's geographical condition, which consists of islands and a vast sea area, makes Indonesia one of the largest archipelagic countries in the world. The consequence of an archipelagic state is the many rights and obligations in sea areas that must be understood. There is the concept of sovereignty in the territorial sea, and there are also sovereign rights in the exclusive economic zone.

Indonesia's struggle to defend the sea area and the rights contained therein began with the Djuanda Declaration in 1957. Mochtar Kusumaatmadja continued them with the Indonesian negotiating team, who offered the concept of an archipelagic state to establish the *United Nations Convention on the Law of the Sea* (UNCLOS III 1982). or better known as the Convention on the Law of the Sea III in 1982. After the formation of UNCLOS III, Indonesia made laws and regulations related to the sea that had a *sui generis* character, namely the exclusive economic zone, by enacting Law Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone (Amin et al., 2021; Adyasari et al., 2021).

The concept of the exclusive economic zone is to protect the coastal state so that it can enjoy all the natural resources contained therein for the welfare of its people while still taking into account the provisions stipulated in UNCLOS III. Article 57 of UNCLOS III explicitly states that the width of the EEZ must not exceed 200 nautical miles from the baseline where the territorial sea is measured. The following reads Article 57 of UNCLOS III: “*The exclusive economic zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured*”.

This provision of Article 57 of UNCLOS is the basis for Indonesia's objection to China's entry into Indonesia's exclusive economic zone in the North Natuna Sea, previously known as the South China Sea (Ilahude, 1990; Lü et al., 2013). The problem was triggered by China's unilateral attitude in establishing a *nine-dash line* claim. China's *nine-dash line* claim covers part of the continental shelf and Indonesia's EEZ east of the Natuna Sea. If calculated from China's baseline measuring its Territorial Sea, of course, the distance of 200 miles has exceeded the limit given by UNCLOS III.

China's *nine-dash line* claim, which is not based on the rule of law, significantly affects national stability and security, especially in enjoying sovereign rights and jurisdiction (Article 56 UNCLOS III). The *nine-dash line* principle based on the *traditional fishing ground* has violated Indonesia's sovereign rights (Archer & Jarman, 1992; Kusuma-Atmadja, 1991). Chinese foreign vessels entering the EEZ

carry out exploitation and exploration without permission as if it does not recognize the sovereign rights and jurisdictional rights owned by Indonesia, which are legally obtained according to law (Pop, 2000; Xiaofeng & Xizhong, 2005).

UNCLOS III does not recognize traditional fishing grounds but only uses traditional fishing rights. Restrictions on traditional fishing rights are contained in article 51 of UNCLOS III that (1) archipelagic countries must respect existing agreements with other countries, (2) recognize traditional fishing rights and other legitimate activities carried out by neighboring countries that are directly adjacent to certain areas. Located in archipelagic waters, (3) Terms and conditions for the implementation of rights and activities shall apply at the request of one of the countries concerned and must be regulated by a bilateral agreement between them.

This study focuses on Indonesia's sovereign rights in the North Natuna Sea conflict area due to China's nine-dash line claim (Fausiah et al., 2019; Zou et al., 2021). This study wants to examine (1) the existence of the traditional fishing ground principle in UNCLOS III 1982 (2) The impact of the nine-dash line claim on Indonesia's sovereign rights in the conflict area of the North Natuna Sea.

Method

This research is normative legal research, namely library law research (Linos & Carlson, 2017; Allen, 2012; Benuf & Azhar, 2020; Adi, 2021; Soekanto, 2007; Muhdlor, 2012). The approach used is the statutory approach and the conceptual approach. The data sources used are secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials (Ginaya et al., 2020). Primary legal materials consist of international legal conventions, Indonesian laws, regulations, and various government policies related to research. Secondary legal materials include books, scientific publications, expert opinions, and research results. Tertiary legal materials are legal materials that provide instructions and explanations of primary and secondary legal materials, such as legal dictionaries, encyclopedias.

Discussion

Principles of Traditional Fishing Ground in UNCLOS III 1982

The provisions of article 56 of UNCLOS III state that Indonesia as a coastal State has rights in the Exclusive Economic Zone in the form of sovereign rights to explore and exploit, manage and conserve living natural resources (Rinartha & Suryasa, 2017). Apart from sovereign rights and jurisdiction, there are other rights regulated by UNCLOS III. One of them is traditional fishing rights. Traditional fishing rights are rights to catch traditional fish given to traditional fishers.

UNCLOS III in 1982 did not regulate the existence of *traditional fishing grounds* (Gao & Jia, 2013) UNCLOS III only recognizes the term *traditional fishing rights*. It is contained in Article 51 of UNCLOS III, which states that:

Without prejudice to article 49, an archipelagic State shall respect existing agreements with other States and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighboring States in certain areas falling within archipelagic waters. The terms and conditions for exercising such rights and activities, including the nature, the extent, and the areas to which they apply, shall be regulated by bilateral agreements between them at the request of any of the States concerned. Such rights shall not be transferred to or shared with third States or their nationals.

Indonesia has not yet a bilateral agreement with China regarding traditional fishing rights as mandated by Article 51 of UNCLOS III. China does not claim these rights but demands claims on *the traditional fishing ground*, which UNCLOS III does not recognize. The ground is two different things between traditional fishing rights and traditional fishing. It means a traditional fishing area in the traditional fishing ground, while in traditional fishing rights, it is the right to catch fish from traditional fishers in the exclusive economic zone.

There are sovereign rights in the traditional fishing ground, while there are only sovereign rights in traditional fishing rights. Sovereign rights are full and non-derogable rights and the highest rights owned by the coastal state in the territorial sea area, while sovereign rights (Article 56 UNCLOS III of 1982) and jurisdictional rights exist in the exclusive economic zone area in addition to the exclusive rights of the coastal state. As well as the rights of other countries.

China's territorial sea claim by traditional fishing ground exceeds the limit contained in UNCLOS III. As a result of this claim, the North Natuna Sea, Indonesia's exclusive economic zone, is included in China's sovereign territory.

China's actions on traditional fishing ground claims are also contrary to the laws and regulations of the Republic of Indonesia Article 4 Paragraph 1 of Law No. 5 of 1983 concerning the Indonesian Exclusive Economic Zone. That:

Insofar as it relates to the seabed and the land beneath it, sovereign rights, other rights, jurisdiction and Indonesian obligations as referred to in paragraph (1) are implemented according to the laws and regulations of the Indonesian Continental Shelf, agreements between the Republic of Indonesia and neighboring countries and the provisions of applicable international law.

This regulation emphasizes that any activity enjoying sovereign rights, other rights must be subject to approval from Indonesia as a coastal state. For the provisions of the EEZ that borders are regulated in Article 74 Paragraph 1 UNCLOS III, which is carried out with agreements based on international law, as referred to in Article 38 of the Statute of the International Court of Justice, to reach a fair solution.

The Impact of the Nine-Dash Line Claim on the Utilization of Indonesia's Sovereign Rights in the North Natuna Sea Conflict Area

The History of the Nine-Dash Line

The history of the nine-dash line can be traced back to 1947, when Chiang Kai Shek's Kuomintang party still controlled China, setting nine *interrupted marks*. At

that time, the Kuomintang government created a demarcation line called the eleven dash line. This claim has resulted in China controlling most of the South China Sea, including the Pratas Islands, Macclesfield Bank, and the Spratly and Paracel Islands. This claim persisted as long as the Kuomintang party was in China. In 1952 Zhou En Lai asserted China's claims but did not delimit its maritime boundaries. In 1953 the Chinese government simplified the *eleven dash line* map to a *nine-dash line* by removing the Bay of Tonkin from the Kuomintang map of the *eleven dash line*.

The international community does not recognize the nine-dash line claim because it is only based on historical records, site discoveries, ancient documents, maps, and island groups by Chinese fishers. Apart from Indonesia, other ASEAN countries have protested against China's nine-dash line claim in the South China Sea. These include Vietnam, Singapore, Malaysia, Taiwan, Cambodia, Thailand, the Philippines, and Brunei.

The validity of the nine-dash line has never been described before. Based on historical research, it can be proven that China's claim is only over the islands and surrounding waters, not the entire waters covered by the line. Surprisingly this claim is not supported by geographic coordinate data. The absence of these coordinates makes the nine-dash line concept very elastic, depending on who drew the map and the publication type. The elastic nature makes the nine-dash line a source of destabilization in the region (Wangke, 2020; Putranti, 2018).

The impact of the nine-dash line claim on Indonesia's Sovereign Rights in the North Natuna Sea Conflict Area

China claims almost all of the waters in the South China Sea as its territory based on the nine-dash line principle. This Chinese claim impacts the loss of Indonesian waters of approximately 80,000 km² or 30% of Indonesia's sea area in Natuna. If reconstructed on the map, it will cross the continental shelf boundaries that Indonesia-Malaysia has set based on the Kuala Lumpur Agreement on October 27, 1969, and Indonesia-Vietnam based on the Determination of the Continental Shelf Boundary of the Republic of Indonesia with the Socialist People's Republic of Vietnam in 2003, as well as unilateral claims to the Economic Zone. Indonesian Exclusive. These negotiations have greatly strengthened Indonesia's territorial claims in the South China Sea and served as the basis for rejecting China's nine-dash line claim in the South China Sea.

The two agreements on the determination of the boundaries of the continental shelf between Indonesia and Malaysia and Indonesia and Indonesia and Vietnam, which have been ratified into national legislation, have subsequently become favorable laws that bind Indonesia and at the same time serve as a standard guideline for the other two countries if other countries are claiming the territory. The agreed continental shelf. If China claims the continental shelf area, Indonesia, Malaysia, and Vietnam can refuse individually or jointly.

In 2014, the utilization of capture fisheries production in Natuna Regency reached 233,622 tons or reached 46% of the total fish resource conservation Natuna potential. The Ministry of Energy and Mineral Resources (ESDM) also

recorded its oil content of 36 million barrels. Moreover, around 25 thousand barrels are still used (Muslimah & Adi, 2020).

The enormous and diverse potential of fisheries is an economic potential that can be utilized for the nation's future as the backbone of national development (Kurnia, 2018). Fish resources owned by the Indonesian people have an influential role in supporting the improvement of the welfare and prosperity of all people, especially Indonesian fishermen (Chairijah, 2015). However, several efforts are still needed to revitalize various policies and perspectives that have been *land-oriented* (*land-oriented/continental-based*) (Loy et al., 2019).

China is strengthening its nine-dash line claim in the Natuna Sea using military strength and the ingenuity of its fleet. It can be seen when Indonesia's tranquility in enjoying its sovereign rights to the EEZ in the Natuna Sea has begun to be disturbed since Chinese fishers began their activities in the North Natuna Sea by getting escort and support from the Chinese coast guard vessels.

There have been several incidents of illegal fishing carried out by Chinese vessels entering the Indonesian EEZ area in the North Natuna Sea. Recorded in 2016-2017 happened three times. The first was on March 19, 2016, by the Motorboat (KM) Kway Fey 10078. The pursuit and arrest were carried out by the Superintendent Ship (KP) Shark 1. There was resistance by the Chinese Coast Guard, who deliberately rammed into KM Kway Fey to finally damage the ship to be abandoned in the middle of the sea. This aims to avoid the punishment given if Indonesia catches KM Kway Fey.

Second, on May 27, 2016, by KM Gui Bei Yu 27088 in adjacent waters. KRI Oswald Siahaan-354 made the arrest. All processes are carried out with operational standards. During the arrest process, the Chinese Coast Guard's Kway Fkapal watched from afar but did not take any action. However, after that, China protested Indonesia over this incident.

Third, on June 17, 2016, the pursuit process was carried out by KRI Imam Bonjol-383 because 12 Chinese ships entered the EEZ of the North Natuna Sea, but only one ship was caught, namely KM Han Tan Chou 19038. The Chinese coast guard ship had contacted and asked for the ship to be released. In addition, it also disrupted the convoy of Indonesian ships that were carrying KM Han Tan Chou. However, the request was ignored by KRI Imam Bonjol-383, and the Chinese ship was still being escorted to the Natuna port.

In 2019, Chinese fishers re-entered the North Natuna Sea and were secured by the KKP. China protested this and stated that the Natuna Sea is part of the nine-dash line, their Traditional Fishing Ground area. In addition, to strengthen its existence in the South China Sea, China is also trying to build reclaimed/artificial islands in the South China Sea area.

In early 2020, the Maritime Security Agency (Bakamla) of the Republic of Indonesia again succeeded in expelling a Chinese coast guard ship from the Natuna Islands. The ship with hull number 5204 was previously detected by the radar and automatic identification system (AIS) of the Bakamla ship, KN Pulau

Nipah-321. N Nipah Island personnel established persuasive communication with the Chinese coast guard via VFH radio channel 16 and expelled the ship from the North Natuna Sea area. However, Chinese coast guard personnel claimed that they were operating in the nine-dash line area of China's territory.

Throughout the second quarter of 2019, the Central Statistics Agency recorded that the fisheries sector's contribution grew 6.24%. However, in the second quarter of 2020, it fell to 0.63%. Losses due to illegal fishing (illegal fishing) by foreign fishing vessels are feared to increase in line with the increasing number of cases of violations in the field of fisheries (Nova et al., 2021).

The impact of this nine-dash line claim can be seen from the attitude of the Chinese coast guard that always adheres to the traditional fishing ground rights based on the nine-dash line principle in the South China Sea, which includes the North Natuna Sea, which will further reduce Indonesia's right to enjoy sovereign rights in the North Natuna Sea. In addition, it also has an impact on Indonesia's economic stability and defense, and security.

Conclusion

Article 57 of UNCLOS III explains that the width of the exclusive economic zone may not exceed 200 miles measured from the baseline from which the territorial sea is measured. If calculated from the baseline, China measures its territorial sea at a distance of 200 miles that has exceeded the limit given by UNCLOS III. Thus, the nine-dash line claim is not recognized in UNCLOS III and China's traditional fishing ground rights. Looking at the available evidence that the nine-dash line claim is not based on the provisions of international law of the sea, but only based on historical and political factors of the Chinese nation, so that Indonesia can refute this claim on a clear legal basis.

If China continues to impose the nine-dash line claim with a traditional fishing ground, conflicts will continue to occur in the North Natuna Sea area. Currently, the impact of the nine-dash line claim on Indonesia is quite significant, namely the disruption of Indonesia's rights to enjoy sovereign rights. Indonesia legally obtained this right under UNCLOS. The marine potential contained in the North Natuna Sea is fundamental for Indonesia to be utilized for the welfare of its people.

Indonesia must be firm in dealing with China's nine-dash line claim because Indonesia's bargaining position is relatively strong compared to China. Indonesia has rights under the law, while China does not. Indonesia can apply Indonesian laws and regulations firmly and take practical steps to deal with conflicts in the North Natuna Sea

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