

International Maritime Law Strategy in Maritime Boundary Disputes Using Negotiation and Mediation (Analysis of Island Cases Sipadan and Ligitan)

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International Maritime Law Strategy in Maritime Boundary Disputes Using Negotiation and Mediation (Analysis of Island Cases Sipadan and Ligitan)

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Abstract. This article discusses the importance of reaching mutually beneficial solutions in international conflicts, focusing on negotiation and mediation as key elements. Negotiation allows parties to resolve each other's differences, while mediation facilitates dialogue and promotes compromise. This research uses normative legal research methods with a statutory approach and case approach to analyze relevant laws and regulations related to the Indonesia-Malaysia maritime boundary, using the technique of collecting legal materials for literature studies. These disputes also impact social, political, economic, and environmental life, and both countries must accept the consequences of the Indonesia-Malaysia maritime dispute, such as dispute resolution costs, potential conflicts, and environmental impacts. The results of this study show that negotiations aim to achieve mutually beneficial solutions by providing a forum for communication, identifying common interests, constructive negotiations, and dialogue with regional, national, or international organizations such as the United Nations. Meanwhile, mediation plays an important role in reaching mutually beneficial solutions, assisting effective communication, information and education, claims actions, compromises, facilitating the negotiation process, and reaching mutual agreements.

Keywords: International Law of the Sea; Maritime Boundary Disputes; Negotiation; and Mediation.

BACKGROUND

Indonesia can be called an archipelagic country in that it covers land and water areas, this has been determined based on the Convention on the Law of the Sea (KHL) which can be known as the United Nation Convention on Law of the Sea (UNCLOS) 1982. The existence of this water area, 10 countries such as Thailand, India, Papua New Guinea, Palau, the Philippines, Malaysia, Australia, Singapore, Timor Leste and Vietnam are some of the countries that border Indonesia by sea. Maritime boundaries are lines on the maritime boundaries between the Republic of Indonesia and its neighboring countries consisting of the Additional Zone, Exclusive Economic Zone (EEZ), Continental Shelf and Territorial Sea (Kurnia, 2021).

The process of determining Indonesia's maritime boundaries is a long and complex process, and is still ongoing today. Determination of maritime boundaries aims to assert sovereignty over maritime areas, regulate and manage natural resources at sea, maintain security and increase international cooperation in maritime areas. Some of Indonesia's maritime boundary determinations have been contained in the 1957 Juanda Declaration, the 1982 Convention on the Law of the Sea (UNCLOS), and bilateral agreements with neighboring countries.

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The Juanda Declaration contains the essence of several policies, including (1) The part that cannot be separated from the land is the sea which connects the islands, while the Indonesian archipelago and the waters become one unit. Connectors between the outermost ¹islands or parts of islands in Indonesia must be drawn from a straight baseline, (2) Indonesia has full rights to all activities in its territorial sea, along 12 miles from the outermost coastline, (3) Air space, seabed, water and the land beneath it in Indonesian waters is part ²of the sovereignty of the Republic of Indonesia, and (4) In inland waters, foreign vessels have the right to pass peacefully, with different arrangements. (Ramli & Lumumba Burhanuddin, 2021).

Meanwhile, part IV ¹¹of the 1982 UN Convention on the Law of the Sea (UNCLOS) includes provisions regarding archipelagic states with ¹⁶the concept that there is no open sea between the islands of Indonesia and Indonesia has the right to draw baselines from its outermost islands. (Susetyorini, 2019). There are 3 types of baselines for measuring sea width for countries such as normal, straight and island baselines (Marewa & Parinussa, 2020).

Apart from that, the International KHL also known as the UN KHL (UNCLOS) 1982 has divided sea waters in Indonesia into three parts, including the Indonesian sea boundaries measured from the outer edge of the island to the open sea, approximately 12 miles, the continental shelf of a country is no more than 200 meters deep. and the baseline to the open sea is at most 200 miles, and 200 miles from the coast of an island is the boundary of the Exclusive Economic Zone (EEZ) (Nursalim, Puspoayu, & Hikmah, 2023).

However, the determination made by Indonesia is still not fully implemented in several maritime boundaries in neighboring countries. This results in unclear border lines as well as small islands along the border which will later become independent problems whose ownership cannot be demonstrated. This problem has occurred in ¹Indonesia and Malaysia in maritime boundary disputes. Maritime boundary disputes that have occurred in Indonesia-Malaysia include the Ambalat Block dispute, the ¹maritime boundary dispute in the Malacca Strait, the Sebatik Island dispute, ¹⁴the ownership dispute over Sipadan and Ligitan Islands.

Based on the provisions of the 1982 Law of the Sea Convention, Indonesia is both an archipelagic country and a coastal country and Malaysia is a coastal country. Thus, the two countries have different positions or qualifications in the right to use baselines.

Coastal countries usually use normal baselines. However, in situations on indented beaches and all situations that have been stated and justified by KHL 1982 so that normal baselines cannot be used, then straight baselines can be used. Meanwhile, straight archipelagic baselines measured from connecting locations to the outermost islands can be used by archipelagic countries (Dimas Fajri Nugroho, 2022).

As for Indonesia's maritime boundaries which are adjacent to Malaysia, among others, in the Strait of Malacca, there is a maritime boundary line, especially in the narrow part of Indonesia-Malaysia with the determination of the sea boundary for each country along 12 miles, ¹ the continental shelf line of Indonesia-Malaysia with the difference being located in three parts, namely the Strait. Malacca, ⁷ the South China Sea (to the east of West Malaysia) and the South China Sea (to the east off the coast of Sarawak), apart from that there are also ¹ maritime boundaries in the Sulawesi Sea region (Kurniawati, 2019).

Maritime boundary disputes on the Indonesia-Malaysia border have been going on for decades, with roots embedded in colonial history. Overlapping claims over maritime areas, including small islands, ⁴⁷ the Exclusive Economic Zone (EEZ), and the continental shelf have become a source of tension and uncertainty in the region. The cause of the dispute over the maritime borders of Indonesia and Malaysia is the lack of clarity in Indonesia's maritime boundaries with several neighboring countries. Apart from that, it could also be due to differences of opinion regarding the Malaysia-Indonesia maritime boundaries, and Malaysia does not agree with the regulations stipulated in the 1982 KHL (Ulhaq, 2022).

This dispute not only impacts bilateral relations between Indonesia and Malaysia, but also has the potential to hamper research and use of the region's rich marine resources. Legal uncertainty and potential conflict could result in significant economic losses for both countries.

Many efforts have been made ⁴⁹ to resolve this dispute, including bilateral negotiations, third party mediation, and even legal proceedings at the International Court of Justice. However, until now there has been no permanent solution agreed upon by each party, namely Indonesia and Malaysia. Apart from that, it is not stated in detail regarding the consequences that will be given if there is a violation of the rules agreed upon in negotiations and mediation ¹ of the Indonesia-Malaysia maritime boundary dispute. This can be a weakness in enforcing rules and preventing future violations.

Finding a win-win solution that is fair and mutually beneficial for both countries is very important. This solution must be based on principles established in international law and must take into account the mutual interests of both countries.

Negotiation and mediation are two important tools that can be used to achieve a win-win solution in this maritime boundary dispute. Direct negotiations between the two countries allowed them ² to discuss their differences and find a mutually agreeable solution. Meanwhile, mediation by a neutral third party can help facilitate dialogue and encourage compromise. This article aims to explain the impact and consequences of this dispute and the role of negotiation and mediation as a tool to achieve a win-win solution.

THEORETICAL STUDY

Theoretical studies are the main basis for conducting research to answer problem formulation questions. Theoretical studies are used in this research to improve or focus the research to be conducted. Research has clear direction and objectives because there are several theoretical studies that underlie it, including:

1. Understanding Negotiation

Negotiation is a negotiation process between two parties that involves giving, receiving, and bargaining. Negotiation is also the end point of the interaction process where both parties decide to give and receive what has been mutually agreed upon.

In *The Social Physiology of Bargaining and Negotiation* written by JZ Rubin and BR Brown states that "negotiation is a process in which individuals work together to formulate an agreement on a disputed issue". Meanwhile, in the book entitled *Negotiation: An Important Life Skill*, the work of R. McGuire emphasizes that "negotiation is a life skill that helps achieve compromise in situations where interests are polarized (there are differences in interests)".

Negotiations can take as little as two minutes to reach an agreement to months, years, or even nothing at all. A particular negotiation may require only one transaction, or it may involve a long-term relationship. In addition, negotiations can produce mutual benefits (win-win), while others simply function as a win-lose game of "divide a pie". Negotiation analysis is considered a powerful tool for assessing negotiation situations and creating winning strategies.

2. Stages in the Negotiation Process

Negotiation is not just an action but also a process that takes place over a certain period of time, which requires appropriate strategies and abilities for each phase. Each negotiation or negotiation has three stages:

- 1) The stages before negotiations begin include the following preparations:
 - a) The main issues that often arise in the work context can require negotiated dispute resolution
 - b) Who is involved in negotiations
 - c) Does this problem require a negotiated solution?
 - d) What is the quality of the relationship between the parties?
- 2) Stages in which negotiations take place and things that negotiators need to pay attention to, namely:
 - a) Determine the problem

- b) Set the starting position
- c) Argumentation
- d) Investigating the Possibilities
- e) Establish proposals
- f) Establish and sign the agreement

3) The post-negotiation stage can be summarized as follows:

- a) Include the implementation program in the agreement agreed upon by the parties
- b) Bring a team together to review implementation
- c) Ensure adequate information and explanations (very important to avoid misunderstandings)

3. Understanding Mediation

¹⁷ In the Big Indonesian Dictionary, "mediation is defined as the process of involving a third party in resolving a dispute as an advisor." With this, mediation itself is a ⁵⁷ dispute resolution process involving a third party, namely a mediator as a mediator without taking sides with either party in the dispute.

⁸ In the opinion of J. Folberg and A. Taylor, "mediation is the process by which the participant, together with the assistance of a neutral person, regularly isolates disputes in order to develop options, consider alternatives, and reach consensual settlement that will accommodate their needs". Meanwhile, ⁶ according to Laurence Bolle, "mediation is a decision making process in which the parties are assisted by a mediator; the mediator attempts to improve the process of decision making and to assist the parties the achievement of outcomes to which they can assent."

⁵³ In article 1 point 7 of the Supreme Court, namely ¹³ Supreme Court regulation no. 1 of 2008 concerning mediation procedures in the Courts emphasizes that "mediation is a method of resolving disputes through a negotiation process to obtain an agreement between the parties with the assistance of a mediator."

4. Mediation Implementation Process

The mediation process must take no longer than thirty days from ³ the appointment of the Mediator, so that within these thirty days, there must be a peace agreement or a statement that the mediation has failed or cannot continue. Mediation is carried out ³ in the Court Mediation room or in another place outside the court agreed by the parties. However, the Judge Mediator ⁸ may not hold Mediation outside the court.

This ⁹ mediation process is different or separate from the litigation process, the thing that makes the process separate is that one of the parties makes a statement or confession so

that it cannot be used as evidence in the case trial process (litigation). The mediation process in court is divided into 2 stages, namely Pre-Mediation and Mediation Process.

Before the mediation process begins, the pre-mediation stage involves explaining the obligations of the parties to attend and act in good faith at the mediation; selection of mediator and time limits; and summons of the parties. Meanwhile, at the mediation process stage, the mediator begins the mediation process which includes more than the posita and petitem of the lawsuit. This process includes a mediator meeting with both parties, a mediator meeting with one of the parties (known as a Caucus), submission of an issue resume, involvement of experts and community leaders, and approval.

Caucus is seeking information from one party that cannot be conveyed by another party. This was done because there was no evidence presented in the mediation process. In article 26 of the Republic of Indonesia Supreme Court Regulation No.1 of 2016, mediation can involve experts and community figures based on the agreement of the parties.

RESEARCH METHODS

Normative legal research is applied in this research and is known as a legal research method which involves the process of discovering, reviewing and analyzing rules, legal principles, legal doctrine and legal principles. The approach used is the statutory approach which aims to analyze laws and regulations relevant to the Indonesia-Malaysia maritime boundary dispute, while the case approach is used to examine cases related to the legal issues being faced. The method for collecting legal materials uses library research, namely collecting books, statutory regulations, scientific journals, news articles and official documents. Apart from that, researchers used descriptive qualitative legal material analysis methods in their analysis.

RESULTS AND DISCUSSION

Impact and Consequences of the Indonesia-Malaysia Maritime Boundary Dispute

A conflict that occurs between two or more parties who are at odds regarding a certain matter can be called a dispute. In a geopolitical context, disputes often occur between competing countries over territory, natural resources, or certain rights.

Maritime boundary disputes are conflicts or disputes that occur at the maritime borders of two or more countries. This conflict is related to the definition and position of maritime boundaries claimed by each party. These disputes can take the form of differences of opinion on how to determine maritime boundaries, inconsistencies with the regulations established by KHL 1982, as well as border areas involving small islands and their seas that are still given little attention by the government.

Disputes can influence and impact countries that are or are not participating in the dispute (Yanti, 2022). This dispute can have a very broad and complex impact, affecting various aspects such as social, political, economic and environmental life.

The maritime boundary dispute between Indonesia and Malaysia has had an impact on relations between the two countries as well as economic activities in the border area. So, the impact of the Indonesia-Malaysia maritime boundary dispute or conflict is:

1. Political Aspects

The political impact of the maritime boundary dispute between Indonesia and Malaysia is mainly related to tensions between the two countries. This dispute often results in harsh rhetoric and actions that can damage diplomatic relations between the two countries. This political tension can complicate efforts for a peaceful and sustainable resolution and has the potential to increase the risk of armed conflict between the two countries, namely Indonesia and Malaysia.

2. Economic Aspects

Disruptions in trade and investment in border areas can hamper economic growth in the relevant areas and harm both countries. Apart from that, unlawful activities such as illegal fishing and theft of natural resources in border areas can also harm the economic sector and disrupt the sustainability of natural resources.

3. Environmental Aspects

Disputes can also cause damage to natural ecosystems and natural resources. Military activities, illegal mining, or theft of natural resources often occur and can damage the environment, thereby threatening the sustainability of the ecosystem around the area.

4. Social Aspects

In this aspect, it can be felt in the form of societal polarization and tension between ethnic or social groups. Conflict between the two countries can trigger social tensions and affect harmony between communities in the relevant regions.

Overall, the maritime boundary conflict that occurred in Indonesia-Malaysia had a complex and detrimental impact on both countries. The real impacts that have been given by the maritime boundary dispute that has occurred on the Indonesia-Malaysia border include:

Disputes/Cases	Impact	
	Aspect	Explanation
The case of Sipadan and Ligitan Islands(Nugraha, 2020)	Economy	Indonesia loses potential income from natural resources and Indonesian fishermen are prevented from carrying out their activities because the territory is owned by Malaysia
	Social	Triggering tension and conflict between communities and the community's maritime culture is threatened with extinction due to the tension and uncertainty it causes
Ambalat Block Case	Economy	Causing uncertainty for investors, thereby hampering investment and development of the oil and gas industry, besides that, both countries have the potential to lose income from oil and gas reserves
	Political	Increasing tensions in the Sulawesi region and potentially triggering a wider conflict and both countries strengthening the military in the Ambalat waters to protect their sovereignty
The case of Sebatik and Tawau Islands(Siregar, Rahmansyah, & Saepudin, 2020)	Economy	Indonesia can easily cooperate with other countries within this border, so that the Indonesian economy can develop
	Political	Because Indonesia has many border areas, Indonesia must be able to maintain and protect land

		and sea border areas from unwanted situations
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Apart from the negative impact on maritime boundary disputes, this dispute can also have a positive impact on the two disputing countries, including:

1. Can encourage increased maritime capacity of the two countries, including in terms of maritime law enforcement, marine resource management and maritime diplomacy.
2. Can encourage strengthening law enforcement at sea which can combat illegal fishing, smuggling and other illegal maritime activities.
3. This dispute can increase public awareness in both countries about the importance of maritime boundaries and sustainable management of marine resources.
4. Peaceful dispute resolution can help open new opportunities for cooperation between Indonesia and Malaysia in the maritime area, such as joint management of marine resources, maritime research and development, and maritime tourism.

The consequences obtained after a maritime boundary dispute occur are as follows:

1. Dispute Resolution Fees

Efforts to resolve disputes, whether negotiation, mediation or arbitration, require quite a lot of money. Because these costs include travel costs, accommodation, expert fees and other legal fees.

2. Potential Conflict

Even though both countries have committed to resolving disputes peacefully, there is always the potential for conflict if this dispute is not resolved properly. This conflict can result in greater losses for both countries and the people of both countries.

3. Environmental Impact

Military activities and exploration of natural resources in disputed areas result in environmental damage, such as marine pollution, marine damage and loss of marine biodiversity.

The maritime boundary dispute that has occurred on the Indonesia-Malaysia border has complex impacts and consequences for both countries, with both positive and negative impacts. Therefore, it is important for the two countries, namely Indonesia and Malaysia, to find a peaceful and sustainable solution to resolve this dispute in order to maintain the stability and sustainability of bilateral relations in the future.

Peaceful and constructive dispute resolution through negotiation and mediation is the best solution to avoid negative impacts and maximize the potential for cooperation in the maritime sector. It is important to note that the impact and consequences of this dispute may continue to evolve as the situation develops.

The Role of Negotiation and Mediation in Achieving Win-Win Solutions

Since 1969, ¹Indonesia and Malaysia have disputed ¹their maritime border. Starting from ¹the two countries are negotiating about ¹the continental shelf boundary between Sabah and East Kalimantan which has given rise to a dispute over Sipadan Island and Ligitan Island (Turangan, 2021). For years, the two countries, namely Indonesia and Malaysia, have tried to resolve this problem at their respective government levels, but to no avail. Then, this dispute continued with other cases such as the Ambalat Block dispute which became a debate between the two countries regarding their respective border lines and maritime territorial claims.

Disputes that occur on the maritime borders of the two countries must be resolved immediately so that they do not prolong because this could disrupt relations between the two countries, which have been neighbors for a long time and have established cooperation in various fields, both bilateral and regional.

There are two ways to resolve international conflicts, through peaceful resolution or through war. The following is a description of these two mechanisms (Unclosing 1982 ¹¹United Nations Convention Concerning ¹¹the Law of the Sea, 1994):

a) Peacefully:

1. ¹¹In resolving disputes through courts (litigation) in the form of arbitration and international courts.
2. There are various ways to resolve disputes non-litigationally, such as consultation, conciliation, negotiation, mediation, expert research, and even settlement under the UN.

b) Resolving disputes by means of violence can take the form of reversion, reprisal (retaliation), termination of the peaceful period, and war. This has been stated in the UN Charter in article 51 which states that the use of force can be used for reasons ¹¹of self-defense and Article 39 gives ¹¹the UN Security Council ¹¹the authority to make recommendations and establish dispute resolution procedures.

However, dispute resolution as stated in ¹⁵Article 279 of the 1982 ¹⁵Law of the Sea Convention states that:

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“Partying states shall resolve any disputes between them regarding the interpretation or application of this Convention by peaceful means...”

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Therefore, the above declaration can be interpreted as an effort proposed by the 1982 Law of the Sea Convention, namely to use peaceful means in resolving a dispute or conflict related to the international sea. There are many attempts to resolve disputes peacefully which have the potential to produce win-win solutions. This is because peaceful settlements generally focus on finding a solution that benefits the parties, rather than finding winners and losers.

There are many benefits offered by a win-win solution to the parties involved, including:

1. Can improve relationships and trust between the parties involved.
2. All parties were satisfied with the solution reached.
3. Encourage better cooperation in the future.
4. Produces better results than a win-lose solution.
5. Helps create a more stable and sustainable situation.

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A win-win solution is known as a mutually beneficial solution, a win-win solution is an approach to resolving a dispute or conflict where all parties involved feel satisfied and benefit. This approach focuses on cooperation and mutual understanding, rather than competition and power struggles. An effective way to achieve a win-win solution is to use dispute resolution through negotiation and mediation.

1) Negotiation

In general, the word negotiation is used for negotiations that aim to reach an agreement between the participants taking part in the negotiations. "Negotiation" comes from the English word "negotiation". Negotiation in everyday life is the same as negotiating, deliberating, or coming to an agreement. A negotiator is someone who is skilled at negotiating to reach an agreement between both parties.

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Garry Goadpaster's opinion regarding negotiation is that "negotiation is a process of reaching an agreement with another party, a dynamic and diverse process of interaction and communication." Howard Raiffa stated the conditions that influence a negotiation that helps a stable agreement, including:(Munandar, Sudiarto, & Kurniawan, 2023):

1. The parties concerned are willing to enter into negotiations with their own conscious will.
2. The parties are always ready for negotiations.
3. Having the ability to make judgments or decisions.
4. Having a balanced power that results in mutual dependence.
5. Committed to solving the problem.

Negotiation in simple terms is the interaction carried out by all parties during the negotiation process to reach an agreement and produce a resolution to an ongoing problem or dispute.(Ramadhani, Kustiawan, Nasution, & Azhari, 2022).

Dispute resolution by means of negotiation can be found in a dispute or disagreement where the flow is not complicated and all parties have good faith in resolving the problem. If both parties continue to communicate well, there is still trust and want to reach an agreement and maintain good relations, then negotiations can be carried out.

The most common method is negotiation. So far, this dispute resolution is considered the most effective method. In this way, more than 80% of business disputes are resolved. The result of this solution is not a win-lose, but a win-win. Therefore, resolving disputes in this way is considered a beneficial solution for both parties(Triana, 2019).

This negotiation results in an agreement which is stated in a written agreement and the parties must carry out the agreement(Haerani, 2020). However, the parties can change perceptions and destroy the agreement if one of them delays the implementation of the agreement.

Dispute resolution by means of negotiation has been carried out in disputes between Indonesia and Malaysia periodically for decades. These negotiations have resulted in several advances, such as the establishment of a Joint Economic Zone (ZEB) in the Malacca Strait and the signing of delimitation agreements in several maritime areas.

The role of negotiations in achieving a win-win solution to the Indonesia-Malaysia maritime boundary dispute, includes the following:

1. Providing a communication forum for direct dialogue to discuss differences in views of the parties. This is important to build mutual understanding and trust between the two countries.
2. Through negotiation, we can identify areas of common interest, thereby finding solutions that are mutually beneficial and fair. By focusing on areas of mutual interest, both countries can seek solutions that are mutually beneficial and create justice.
3. Constructive negotiations can help prevent tensions and conflicts arising from maritime boundary disputes. So, through this dialogue the two countries can strengthen bilateral relations and cooperation in various fields.
4. Help facilitate dialogue if it reaches a deadlock by asking for help from a neutral and impartial third party in the form of a regional organization, neutral country, or international organization such as the UN.

¹ In the Indonesia-Malaysia maritime boundary dispute, the process of resolving it through negotiations has several challenges, including:

- ¹ The Indonesia-Malaysia maritime boundary dispute involves many factors, such as history, geography, international law and economic interests. This makes negotiations complex and time consuming.
- Nationalism and political interests in both countries could complicate negotiations.
- Public pressure from the media and civil society can influence the course of negotiations and make it difficult for both parties to reach an agreement.

Several examples of successful mediation in maritime boundary disputes are as follows:

Cases/Disputes	Chronology	Results
Indonesia-Timor Leste Border Area Dispute(Mayaut, Anis, & Sinaga, 2021)	This problem started when East-East broke away from the Republic of Indonesia. Relations between these two countries are starting to cause problems in maritime and land border areas. However, this settlement is carried out by both parties using peaceful dispute resolution methods, such as negotiations or negotiation.	In the 2012 land border agreement, the two countries have reached an agreement on 907 coordinates of land border points, which is about 96% of the total length of the border line and signed several agreements by the two countries.
Senkaku/Diaoyu Islands dispute between Japan and China(Dirha Kirana & Pratama Irsadanar, 2022)	The Senkaku Islands territorial dispute between Japan and China has been going on since 1970. Japan and China have had an agreement to resolve the dispute regarding the Senkaku Islands through a negotiation and mediation process.	³⁵ All parties agreed to end their territorial dispute over the Senkaku Islands by holding Joint Development
⁶² Indonesia's Water Dispute with the South China Sea(Siti Mashawa Nanda Mirza, Khodijah Ismail, 2020)	In 1974, China ² made a map covering the entire South China Sea area in the form of a U-shaped dotted line. From the start, Indonesia claimed that it had no rights ¹⁶ to the South China Sea. However, in 1993, Indonesia found out about the ninedash line map which included the name of the Natuna Islands so that Indonesia	The resolution of this dispute results in a declaration which is then agreed to and carried out by all parties. The declaration is the ²⁷ Declaration on the Conduct of Parties in the South China Sea

	questioned the purpose of the map, but China did not tell them the purpose of the ninedash line map. Then, China and ASEAN countries tried to negotiate formally, such as through the ASEAN Summit, the ASEAN ministerial meeting, and the ASEAN Regional Forum.	
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2) Mediation

Etymologically, the word "mediare" comes from the Latin word mediation. The word means "in the middle". The third party in this case functions as a mediator. The mediator's job is to mediate in resolving a dispute or dispute between two or more parties (Hanifah, 2021). Apart from that, the position in the middle means that the role of the mediator must have a neutral attitude, that is, he must not take sides with one party without any reason.

The word "mediation" in English has the same definition as "mediation" in Indonesian, namely the process of resolving disputes by asking parties for help when mediating disputes, this third party is a mediator. This method of resolving disputes peacefully and producing a win-win solution to benefit the parties is known as mediation (Hidayat, 2022).

Takdir Rahmadi stated "mediation is a process of resolving disputes between two or more parties through negotiation or consensus with the help of a neutral party who does not have the authority to decide. The mediator is called a mediator with the task of providing procedural and substantial assistance." Meanwhile, Rahmadi Usman revealed that "mediation is a way of resolving disputes outside of court through negotiations involving a third party who is neutral (non-interventionist) and does not take sides (impartial) towards the disputing parties." (Dr. Hilman Syahril Haq, SH., 2020)

Disputes or conflicts over Indonesia-Malaysia maritime boundaries, third party mediation can be carried out by regional organizations such as ASEAN which can play a role as a facilitator, neutral countries such as Singapore or Brunei Darussalam which have good relations with both countries, and international organizations such as the UN through The Convention on the Law of the Sea (UNCLOS) can provide technical assistance.

Mediation plays an important role in achieving a win-win solution to disputes on the Indonesia-Malaysia maritime border as follows:

1. Mediation can provide a platform for both parties to establish effective and open communication. This allows the parties to talk and discuss effectively.

2. Mediation can provide the information and education needed by the parties to understand the problems that occur and find effective solutions.
3. Mediation can help with claims that could take the dispute further.
4. Mediation can help the parties to find a compromise that is beneficial for all parties and can simplify the negotiation process and create a better environment for the development of both countries.
5. The parties can reach a mutual agreement with the help of mediation.

However, mediation does not just work and be successful. There are several factors that influence the success of the mediation process in the Indonesia-Malaysia maritime boundary dispute:

1. Both parties agree to participate in mediation in good faith.
2. Selection of impartial and competent mediators.
3. The willingness of both parties to compromise and find solutions for mutual benefit.
4. Support from the international community.

Several examples of successful mediation in maritime boundary disputes are as follows:

Cases/Disputes	Chronology	Results
South China Sea dispute(Wahyudi, Risnain, & Pitaloka, 2023)	In 2016, the Philippines filed a lawsuit against China at the Permanent Court of Arbitration (PCA) regarding its maritime claims in the South China Sea	The PCA decided to partially support the Philippines' claims and this ruling helped ease tensions in the region
Black Sea Dispute(Varykasha, 2019)	In 2009, Romania and Ukraine resolved their maritime boundary dispute in the Black Sea through mediation facilitated by the European Union	The agreed solution satisfies both parties and helps improve bilateral relations between the two countries

Dispute over Dokdo Island between Japan and South Korea (Setiawati, Mangku, & Yuliantini, 2019)	In 2012, the Japanese Ambassador to South Korea declared the island of Dokdo Takeshima to be Japanese territory, which sparked anger among South Koreans, leading to tit-for-tat actions. Japan and South Korea are trying to resolve the ongoing conflict on Dokdo Island through mediation. Both countries chose the United States as a third party for mediation.	The resolution of the dispute suggests that the court may issue a ruling regarding Dokdo's status
Dispute in the West Natuna Sea (Novianto, Firmansyah, & Pratama, 2020)	In 2017, the Indonesian state claimed the North Natuna Sea area as its territory and changed the name to North Natuna Sea. China and Indonesia reached an agreement to resolve the problem through a mediation process where the mediator is the International Court	Both countries agreed to each other respect each other. The Indonesian government considers this dispute an issue it was over, and the misunderstanding only occurred between the two countries

Mediation is an effective tool to achieve a win-win solution in the Indonesia-Malaysia maritime boundary dispute. Despite some challenges, constructive and professional mediation, with the right mediator, can help both countries resolve this dispute peacefully and fairly. A win-win solution in maritime boundary disputes will not only benefit both countries, but will also contribute to stability and security in the Southeast Asian region.

CONCLUSIONS AND RECOMMENDATIONS

A dispute is a dispute or conflict between two or more parties who disagree about certain things. Geopolitical conflicts between countries affect various aspects, such as social, political, economic and environmental aspects. This has happened in border disputes in the Indonesia-Malaysia sea, namely the dispute over the Ambalat Block, Sipadan Island and Ligitan. This dispute not only has impacts, but both countries must accept consequences such as dispute resolution costs, potential conflict and environmental impacts. Peaceful and

constructive dispute resolution through negotiation and mediation is the best solution to avoid negative impacts and maximize the potential for cooperation in the maritime sector.

The role of negotiations is to achieve a win-win solution for the Indonesia-Malaysia maritime boundary dispute by providing a communication forum, identifying common interests, constructive negotiations, and facilitating dialogue with regional, national or international organizations such as the UN. Meanwhile, mediation plays an important role in achieving a win-win solution to the Indonesia-Malaysia maritime boundary dispute, among other things, it can help with effective communication, information and education, claims action, finding compromises, simplifying the negotiation process, and reaching mutual agreements.

This resolution requires strong commitment and cooperation from both countries. In the spirit of mutual respect and seeking fair and sustainable solutions, it is hoped that this dispute can be resolved well and pave the way for closer maritime cooperation in the future. Preventing this dispute also requires activities that can strengthen communication between related agencies in Indonesia and Malaysia in order to prevent misunderstandings and respect and comply with international law, including UNCLOS 1982.

THANK-YOU NOTE

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REFERENCE LIST

- Dimas Fajri Nugroho. (2022). Disputes occurring in the South China Sea and their impact on international relations. *International Treaty Law*, (January), 1–6.
- Dirha Kirana, ER, & Pratama Irsadanar, RJ (2022). Japan's strategy on managing territorial disputes of Senkaku Islands. *Journal of Islamic World and Politics*, 6(2), 207–227. <https://doi.org/10.18196/jiwp.v6i2.16769>
- Dr. Hilman Syahrial Haq, SH., L. (2020). Community mediation as an alternative dispute resolution. In *Lakeisha* (Vol. 5).
- Haerani, R. (2020). Juridical review of peace agreements in resolving disputes in court through a negotiation process. *Unizar Law Review*, 3(1), 72–73.
- Hanifah, M. (2021). Comparison of the duties of mediators at the Indonesian Religious Courts and the Malaysian Syariah Courts. *ADHAPER: Journal of Civil Procedure Law*, 6(2),

101. <https://doi.org/10.36913/jhaper.v6i2.134>

Hidayat, D. (2022). Formalization of mediation as a civil dispute resolution mechanism. *Journal of Literate Syntax*, 7(8.5.2017), 2003–2005.

Kurnia, I. (2021). Maritime boundaries between Indonesia and Palau in the Exclusive Economic Zone. *Estuary Journal of Social Sciences, Humanities and Arts*, 5(2), 342. <https://doi.org/10.24912/jmishumsen.v5i2.11456.2021>

Kurniawati, FNK (2019). Maritime boundary dispute between Indonesia and Malaysia in the Ambalat region and resolution according to international law.

Marewa, YB, & Parinussa, E.M. (2020). Protection of Indonesia's outer islands based on the concept of an archipelagic state. *Paulus Law Journal*, 2(1), 1–14. <https://doi.org/10.51342/plj.v2i1.151>

Mayaut, CRAW, Anis, H., & Sinaga, TB (2021). International law study of dispute resolution over the Indonesia-Timor Leste border region. *Lex Privatum*, 9(3), 140–150. Retrieved from <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/33254>

Munandar, A., Sudiarto, & Kurniawan. (2023). Option for resolving disputes outside of court. *Citra Aditya Bakti*, 8(1), 5.

Novianto, RD, Firmansyah, DA, & Pratama, NA (2020). Dispute resolution in North Natuna Sea. *Bonum Commune Business Law Journal*, 3(1), 69–78. <https://doi.org/10.30996/jhbbs.v3i1.3074>

Nugraha, MF (2020). Challenges to Indonesia's maritime sovereignty in the Sulawesi Sea for the release of Sipadan and Ligitan Islands. *Journal of Socio-Politics*, 1(1), 14–25. <https://doi.org/10.54144/jsp.v1i1.2>

Nursalim, M., Puspoayu, E., & Hikmah, N. (2023). Settlement of disputes regarding Chinese vessels' fishing activities in the waters of the North Natuna Sea according to international maritime law. *Novum: Law Journal*, (1), 139–160.

Ramadhani, S., Kustiawan, W., Nasution, JH, & Azhari, MI (2022). Lobbying and negotiation strategies in the political communication process. *An Nadwah*, 28(1), 89–95. <https://doi.org/10.37064/nadwah.v28i1.12255>

Ramli, RP, & Lumumba Burhanuddin, P. (2021). Republic of Indonesia-People's Republic of China dispute in Natuna waters. *Hasanuddin Journal of International Affairs*, 1(1), 2774–7328.

Setiawati, N., Mangku, GS, & Yulianti, NPR (2019). Settlement of island disputes from an international law perspective (case study of the dispute over Dokdo Island between Japan and South Korea). *E-Journal of the Justisia Community*, Ganesha Educational University, Department of Law, 2(3), 168–180.

Siregar, CN, Rahmansyah, S., & Saepudin, E. (2020). National security threats in Indonesia's border areas: Case study of Sebatik and Tawau Islands (Indonesia-Malaysia). *Socioglobal: Journal of Sociological Thought and Research*, 4(1), 26. <https://doi.org/10.24198/jsg.v4i1.23933>

Siti Mashawa Nanda Mirza, Khodijah Ismail, ADN (2020). Settlement of Indonesia's maritime problems with the South China Sea by means of negotiations.

Susetyorini, P. (2019). Indonesian maritime policy in the perspective of UNCLOS 1982. *Legal Issues*, 48(2), 164. <https://doi.org/10.14710/mmh.48.2.2019.164-177>

Triana, N. (2019). Alternative dispute resolution (alternative dispute resolution using mediation, arbitration, negotiation and conciliation models).

Turangan, V. F. (2021). Legal studies regarding the peaceful resolution of international disputes according to international law. 7(3), 6.

Ulhaq, ANZ (2022). Negotiation process in an effort to resolve the maritime boundary dispute between Indonesia and Malaysia. *Papers*, 1–12.

UNCLOS 1982 United Nations Convention Concerning the Law of the Sea (pp. 1–64). (1994).

Varykasha, I. (2019). Case concerning maritime delimitation in the Black Sea (Romania v. Ukraine). Investigation of positions. *Lex Portus*, 2019(5), 33–60. <https://doi.org/10.26886/2524-101X.5.2019.3>

Wahyudi, I., Risnain, M., & Pitaloka, D. (2023). Case study of the Permanent Court Arbitration (PCA) decision regarding the dispute over ownership of the South China Sea Exclusive Economic Zone (EEZ) between the People's Republic of China (PRC) and the Philippines. *Mataram Journal of International Law*, 1(1), 96–108. Retrieved from <https://journal.unram.ac.id/index.php/majil/index>

Yanti, NLPMP (2022). Efforts to resolve the Natuna Islands conflict in the light of international law (the case of the dispute between Indonesia and China). 2(3), 79–95.

Hidayati, SN (2016). The influence of organizational leaders' hard and soft approaches on job satisfaction and the potential for employee strikes. *Maximreneur Journal: Management, Cooperatives and Entrepreneurship*, 5(2), 57–66. <http://dx.doi.org/10.30588/SOSHUMDIK.v5i2.164>

Risdwiyanto, A., & Kurniyati, Y. (2015). The marketing strategy for private universities in Sleman Regency, Yogyakarta, is based on marketing stimuli. *Maximreneur Journal: Management, Cooperatives and Entrepreneurship*, 5(1), 1–23. <http://dx.doi.org/10.30588/SOSHUMDIK.v5i1.142>

Bator, R. J., Bryan, A. D., & Schultz, P. W. (2011). Who gives a hoot?: Intercept surveys of litterers and disposers. *Environment and Behavior*, 43(3), 295–315. <https://doi.org/10.1177/0013916509356884>

Norshaheera, AW, Lailatul, FAH, Shahid, SAM, & Maon, SN (2016). The relationship between marketing mix and customer loyalty in

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