

# The Role of International Organizations in Resolving Marine Disputes in Case Study of Marine Disputes in the South China Sea

Boy Nurdin<sup>1</sup>, Christmas Datumbanua<sup>2</sup>  
[drboynurdin\\_ppslaw@yahoo.com](mailto:drboynurdin_ppslaw@yahoo.com)<sup>1</sup>, [christ@datumbanua.com](mailto:christ@datumbanua.com)<sup>2</sup>

Universitas Borobudur<sup>1,2</sup>

**Abstract.** The South China Ocean is a district of international and monetary significance but on the other hand is known as a wellspring of mind boggling questions between nations in the locale. The South China Sea confrontation is the hottest in the 21st century, in which China, the United States, and most ASEAN members are involved indirectly. There are 3 (three) justifications for why the nations engaged with the South China Ocean or South China Ocean struggle like China, Taiwan, Vietnam, the Philippines, Brunei Darussalam, and Malaysia have common interests in battling about the ocean and land region of the two gatherings of Paracel and Spratly islands in the South China Ocean. To begin with, the ocean regions and archipelagos in the South China Ocean contain colossal normal assets, including oil and gas and other marine assets. Second, the waters of the South China Sea are a marginal sea that operates as a crossing route for international ship shipping activities, especially seaborne trade routes that connect European, American, and Asian trade routes. Third, quite rapid economic growth in Asia. The role of international organizations in resolving maritime disputes in the South China Sea is of primary concern.

**Keywords:** International Organizations; Dispute Resolution; South China Sea.

## 1 Introduction

A country has an area consisting of land, sea, and air above it. A country's maritime territory has full sovereignty over land waters, inland seas, and territorial seas. [1] Territory is one of the main and most important elements in a country. Border areas that are based on dynamic physical boundaries, such as rivers, seas, and so on tend to have consequences for a country.

The consequence then arises, namely that there is a dispute between two parties or several parties with claims to the same area. These cases are not cases that have just happened, previously there was a maritime dispute involving China and the Philippines, and now the case of the South China Sea whose name was changed by the Indonesian government to the North Natuna Sea. [2]

The South China Sea, as one of the most strategic waters in the world, has become a major highlight in regional and international geopolitics. The region, which includes resource-rich waters and major trade routes, is the subject of complex and sometimes tense disputes between many bordering countries. Oceanic regional questions in the South China Ocean cover issues connected with power claims, sea limits, monetary freedoms, and territorial security. This contention fundamentally affects harmony, solidness, and monetary improvement in the Southeast Asia locale and, all the more extensively, all through the world.

The new Show on the Law of the Ocean, to be specific the Assembled Countries Show on the Law of the Ocean, which was later called UNCLOS 1982, was signed by representatives from 119 countries in December 1982 and was held in Montego Bay, Jamaica. [3] UNCLOS 1982, which previously switched twice, is a victory for developing countries, this is in line with the statement which states that: [4]

"The introduction of this new Law of the Ocean show is the consequence of the endeavors of the worldwide local area for 14 years, namely since the establishment of the Ad Hoc Committee in December 1967. This new convention is also a victory for developing countries which in general were the first to actively participate in formulating various provisions that reflect their interests in maritime law in contrast to the conferences of 1958 and 1960."

This convention was in force from 1982 until 2020, this convention has been ratified by 116 countries. UNCLOS 1982 contains 8 (eight) regulatory zones (regimes) of maritime law, namely:

1. Inland waters (Interior waters);
2. Archipelagic waters, including waterways utilized for worldwide delivery;
3. Regional ocean (Regional waters);
4. Extra zone (Adjacent waters);
5. Restrictive financial zone;
6. Mainland rack;
7. High oceans; And
8. Global seabed region.

UNCLOS 1982 divides the sea into 3 (three) parts, namely: First, the sea is part of its sovereign territory (territorial sea, inland sea); Second, the sea is not a sovereign territory but the country has rights and jurisdiction over certain activities (additional zone, exclusive economic zone); Third, the sea is not its sovereign territory and does not have rights or jurisdiction, but the country has an interest, namely the high seas. [5]

UNCLOS is one of the few international conventions that provides mandatory jurisdiction requiring binding decisions on disputes arising from its interpretation and application. This was hailed as one of the most significant developments in dispute resolution in international law. All party states have a general obligation to resolve any disputes regarding the interpretation or application of UNCLOS peacefully, by referring to the methods chosen by the parties, including negotiation, special agreements, mediation, conciliation, arbitration, and legal settlement. If the parties fail to resolve through the means of their choosing, any party may request to submit the

dispute to a court or tribunal having jurisdiction under mandatory procedures subject to limitations and exceptions. [6]

A country that borders or is directly adjacent to another country often gives rise to disputes or disputes related to land and maritime boundaries, for example, smuggling, extraction of natural resources, terrorism, illegal fishing, and the capture of fishermen from other countries who violate their maritime boundaries. other countries. Sovereignty, national defense, and national security are several important things regarding the borders of a region because a border is a territorial boundary that influences the defense of a country. As directed in Article 77 section 1 of UNCLOS (Joined Countries Show on the Law of the Ocean), in regards to regional limits, states have sovereign freedoms, for example, doing investigation and usage of regular assets both at the limits of the mainland rack, Selective Monetary Zone, and Extra Zone.

The increasingly rapid and advanced development of marine technology, such as the use of modern technology in fishing, the use of technology in mining the bottomland and seabed, and other marine technology has made countries compete and claim each other to exploit natural resources in the sea. [7] This claim has resulted in the emergence of maritime boundary disputes because countries in the world unilaterally claim these sea areas. This results in the view that international maritime law which regulates disputes related to maritime boundaries between countries is unclear. Therefore, the Law of the Sea Convention was born which discussed the Law of the Sea in 1960 and in 1978 which was formed by the UN (United Nations). Due to previously discovered uncertainties and problems related to the law of the sea, this created the basis for the holding of the third UN Convention in 1982 which gave birth to UNCLOS 1982, namely the Convention on the Law of the Sea established by the UN which was signed on December 10, 1982. New water boundaries emerged within This convention the Exclusive Economic Zone (EEZ).

International relations between countries, countries and individuals, or countries and international organizations do not always run well, often these relationships give rise to disputes between the parties involved in international relations. When this happens, international law has no small role in resolving it.

International law plays a role in providing ways for disputing parties to resolve their disputes according to international law. Likewise, it is stated that a dispute is not a dispute according to international law if its resolution does not have an impact on the relationship between the two parties. [8] An international dispute is a dispute between subjects of international law regarding facts, law, or politics where one party's claim or statement is rejected, counterclaimed, or denied by the other party. International disputes occur when the dispute involves governments, juristic institutions (legal entities), or individuals in different parts of the world because: [9]

1. Misunderstanding of a right;
2. One party intentionally violates the rights or interests of another country;
3. Two countries disagree on a matter;
4. Violation of international law or agreements.

The UN Show on the Law of the Sea (UNCLOS) is the fundamental worldwide authentic framework for settling ocean questions. UNCLOS coordinates the opportunities and ward of states uncontrolled, recollecting for the South China Sea. This worldwide association decides the constraints of the privileges and commitments of beach front states in the locale and gives question goal components, including global discretion courts.

A few justifications for why the South China Ocean region is being challenged by a few nations above are the promising capability of regular assets in the South China Ocean, copious oil and combustible gas, and the sea being a segment course for worldwide trade. There are a couple of islands in the South China Sea locale like the Spratly Islands, Pratas Islands, Paracel Islands, and Macclesfield Islands. The two islands most feeble in the fight for territorial cases are the Paracel and Spratly Islands. [10]

Based on the background described above, the problem of this research can be formulated as follows: What is the job of global associations in working with oceanic debate goal in regards to sea regional questions in the South China Ocean? Also, what are the variables that prompted the South China Ocean regional debate?

## **2 Methodology**

The research used in writing is normative juridical. The sources of legal materials used in this research are primary legal materials and secondary legal materials. The primary materials used are legal books. [11] The types of strategies used in this research are the statutory regulation approach and the legal notion analysis approach. The data processing method used is an analytical method which is then outlined in descriptive analytical writing.

## **3 Result and Discussion**

Institutionalists argue that organizations are frameworks for cooperation, which can help overcome the risks of security competition between states and promote peace and stability. The organization also becomes a means of communication between countries so that mutual trust can grow between its member countries. Apart from that, liberalism also believes that international law created by international organizations can be used as the main basis if conflict occurs between warring countries.

A couple of islands in the South China Sea locale like the Spratly Islands, Pratas Islands, Paracel Islands, and Macclesfield Islands. Two islands, explicitly the Paracel and Spratly Islands, are the most weak in the battle for regional cases. China's case to a few islands depends on the drawing of sea baselines utilizing the Nine Scramble Line technique which is drawn from China's regional ocean region until it contacts the regional ocean region, elite financial zone, and mainland rack of different nations around the South China Ocean which likewise guarantee that district. The use of the straight base Nine Scramble Line strategy isn't known in that frame of mind of oceanic regulation or the guidelines of the 1982 UNCLOS Law of the Ocean Show. The utilization of this strategy is completed by one-sided policing that apply in the South China Ocean region.

China claims to understand that the territorial features of the South China Sea are areas that have been owned by China under sovereign jurisdiction, namely "ancestral property rights" from previous generations. Based on the Nine Dash Line method, China claims several islands in the South China Sea, in the form of: [12]

- a. Mischief Reef Island, an uninhabited island area that is also claimed by the Philippines and China.
- b. The eastern part of the Spratly Islands is occupied by China, and is claimed by 4 (four) claimant states.
- c. The Paracel Islands are occupied by China and also claimed by Vietnam.
- d. Pratas Reef Island was forcibly occupied by China.
- e. Apart from China, Malaysia has also established a resort on Swallow Reef.

China is currently actively carrying out development in the South China Sea in the form of erecting permanent buildings, increasing the number of fishing vessels, building military bases, and placing its warships on patrol. These activities certainly threaten the security stability of the region around the South China Sea.

Several countries involved in maritime territorial disputes in the South China Sea have used international arbitration tribunals to resolve their disputes. For example, the Philippines submitted its claim against China to the Permanent Arbitration Tribunal in 2013, which resulted in a decision in favor of the Philippines' claim. This suggests that international arbitration tribunals can play an important role in interpreting and enforcing UNCLOS.

ASEAN additionally plays a significant part in overseeing questions in the South China Ocean through different systems, like the Exchange of Normal Interests (ASEAN Territorial Gathering) and the continuous Set of principles Cycle with China. ASEAN looks to work with exchange between the nations in question and keep up with solidness in the locale.

In general, dispute resolution methods are classified into 2 (two) categories, namely peaceful resolution methods and forced or violent resolution methods. Where ways of resolving disputes peacefully can be carried out if the parties have agreed to find an amicable solution. And if countries cannot reach an agreement to resolve their disputes peacefully then the possible solution is through violent means. One way to resolve disputes peacefully is through arbitration, which is an alternative method of dispute resolution that has long been known in international law.

One of the questions brought to a global mediation body is the South China Ocean debate. The South China Ocean regional debate is a contending guarantee over waters and islands in the South China Ocean including nations in Southeast Asia like Vietnam, the Philippines, Malaysia, Indonesia, and Brunei, and East Asia such as China and Vietnam. This dispute refers to claims between the countries above to the Spratly and Paracels Islands, as well as the waters 12 nautical miles off the surrounding coastline by UNCLOS regulations. This dispute has caused the countries above to be involved in various diplomatic problems and even armed conflicts.

International organizations such as the UN and various regional cooperation forums have played a role in facilitating dialogue and maintaining peace in the South China Sea. International arbitration tribunals have also been used as a dispute resolution tool. The role of international organizations in resolving maritime disputes as a facilitator, mediator, and guardian of international law. However, successful dispute resolution depends on the cooperation of all parties involved in the dispute. This mechanism creates an important legal and diplomatic framework for achieving a just, sustainable, and peaceful resolution of maritime territorial disputes in the South China Sea.

The presence of worldwide regulation what capabilities as a political instrument depends on the truth of relations between nations, relations between countries cannot be separated from intersecting interests. A country will use various political instruments such as economic dependence,

dependence in the field of defense, security, international law, and international law to override obstacles to the sovereignty of other countries to achieve its national interests. [13]

### **3.1 The Role of International Organizations in Resolving the South China Sea Dispute**

The job of worldwide associations in settling sea debates, particularly for the situation investigation of oceanic regional questions in the South China Ocean, altogether affects endeavors to keep up with harmony, security, and dependability in the district. There are several main roles of International Organizations in Resolving Maritime Disputes in the South China Sea, namely:

1. **Dialogue and Negotiation Facilitator:** One of the primary positions of international organizations is as a facilitator in promoting dialogue and negotiation between countries involved in a dispute. Providing a safe and neutral forum where countries can meet to discuss problems and find peaceful solutions. An example of an organization that plays this role is ASEA (Association of Southeast Asian Nations) which has held various high-level meetings and dialogue forums to discuss disputes in the South China Sea.
2. **Mediators and Mediators:** international organizations often act as mediators or intermediaries in maritime disputes. Can help ease tensions between disputing countries and encourage them to reach an agreement. For example, the UN has supported mediation efforts in disputes in the South China Sea through the UN Secretary-General or special representatives. [14]
3. **Surveillance and Monitoring:** some international organizations, such as the UN, can monitor activities in the South China Sea. They collect data and information about current developments, including military activities and the mining of natural resources. This monitoring can help understand the development of the situation and prevent conflict escalation.
4. **Worldwide Policing:** Worldwide associations can assume a part in upholding important global regulation, like the UN Law of the Ocean Show (UNCLOS), which is the vitally legitimate system overseeing sea regions, and worldwide associations can assist guarantee consistence with it.
5. **International Arbitration Tribunals:** In some cases countries involved in disputes have used international dispute resolution mechanisms, such as arbitration tribunals, to resolve disputes. Decisions from arbitration tribunals can provide a strong legal basis for dispute resolution.
6. **Supporters of Diplomacy and Peaceful Settlements:** international organizations are supporters of diplomacy and peaceful settlements. And spread the values of peace, justice, and compliance with international law, as well as supporting efforts that lead to non-violent dispute resolution.

The job of worldwide associations in settling oceanic questions in the South China Ocean is as a significant player in endeavors to keep up with harmony and dependability in the locale. However, successful dispute resolution also depends on the will and active

involvement of all parties involved in the dispute, as well as a strong understanding of relevant international law, such as UNCLOS.

### **3.2 Factors Causing the South China Sea Dispute**

The South China Sea dispute is a complex issue involving several factors that have contributed to tensions and disputes in the region. Some of the main factors that caused the South China Sea dispute are as follows:

1. **Overlapping Territorial Claims:** One of the main factors causing disputes in the South China Sea is the overlapping territorial claims between various coastal countries, including China, the Philippines, Vietnam, Malaysia, and Brunei. These countries have different views on their maritime boundaries, which often overlap.
2. **Abundant Natural Resources:** The South China Sea contains abundant natural resources, including fish, oil, natural gas, and minerals. High demand for these resources has sparked competition to secure access and exploitation rights in these marine areas.
3. **Strategic and Military Importance:** The South China Sea region has significant strategic and military importance. This is a very important maritime trade route, and control of this area can give countries control over sea routes and access to natural resources. Several countries have strengthened their military presence in the region, which has increased tensions.
4. **National and Political Policies:** national and political policies within each coastal state also play a role in the dispute. For example, China has asserted its claims to most of the South China Sea within the “Nine Dash Line” framework, which has raised tensions with neighboring countries.
5. **History of Conflict and Distrust:** The South China Sea dispute is also influenced by a history of conflict and distrust between coastal countries. Several incidents, both military and non-military, have occurred in the past, which may increase tensions and create obstacles to the resolution of disputes.
6. **Complicated International Legal Framework:** the complex international legal framework, especially the UN Law of the Sea Convention (UNCLOS), has become a factor influencing disputes. UNCLOS regulates the rights and obligations of states in maritime areas, but different interpretations of UNCLOS can lead to disputes.
7. **Involvement of External Parties:** Several external factors, such as the involvement of countries outside the South China Sea Region, have also influenced the dispute. The involvement of external actors, both military and economic, has complicated the dynamics of the conflicts and increased tensions.

There are also other causal factors besides the factors described above, including:

1. Violation of law or international agreements by one of the countries.
2. There is an intentional violation of the rights or interests of another country by a country.
3. Between the countries in dispute, misunderstandings occur.

Tensions in the South China Sea are influenced by a combination of factors, and resolving them is a complex challenge. Efforts to achieve a peaceful and sustainable resolution require active cooperation from all parties involved, as well as the role of international organizations in facilitating dialogue and dispute resolution.

## **4 Conclusion**

### **4.1 Conclusion**

The job of global associations in settling sea questions, particularly for the situation investigation of sea regional debates in the South China Ocean, is vital in keeping up with harmony, steadiness, and security in the locale. International organizations have played an important role as dialogue facilitators, mediators, monitors, and enforcers of international law. They have also assisted in developing relevant legal frameworks, such as the UN Convention on the Law of the Sea (UNCLOS), which helps regulate the rights and obligations of states in the sea.

However, the South China Sea dispute remains a complex issue and has not been fully resolved. Tensions and disputes continue to exist, and many challenges must be overcome to achieve a sustainable resolution. It is important for countries involved in a dispute to commit to honest dialogue, diplomacy, and compliance with international law.

### **4.2 Suggestions**

Countries involved in disputes in the South China Sea must continue to be committed to maintaining peace and encouraging open and sincere dialogue. They must employ international organizational forums to communicate and seek peaceful solutions. All coastal states must commit to respecting and implementing UNCLOS provisions in their territorial claims. UNCLOS is a strong legal framework that can help resolve disputes.

Maritime disputes in the South China Sea are a serious challenge to regional stability and global peace. With strong cooperation, a commitment to international law, and a more active role of international organizations, there is hope that a sustainable solution can be achieved for the benefit of all parties involved.

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