

Kondisi terkini terkait konflik laut Cina Selatan dan permasalahan hukumnya = Recent developments concerning the conflict in south China sea and its legal problems / Isoni Muhammad Miraj Mirza

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Abstrak

ABSTRAK

Konflik Laut Cina Selatan merupakan masalah yang bersifat multidimensional. Pembahasan hal itu membutuhkan pendekatan berbagai aspek, yakni hukum, politik, ekonomi, hingga keamanan (security). Aspek-aspek tersebut saling berkaitan satu sama lain. Dalam perkembangan terakhir, konflik tersebut semakin memanas di antara claimant states. Intensitas konflik tersebut semakin terlihat dengan adanya berbagai macam klaim dari para claimant states, khususnya Cina melalui konsep nine dashed line yang dimilikinya. Konsep tersebut memang dinilai banyak pihak, bahkan oleh non claimant states, sebagai konsep dan tindakan illegal dari Cina karena hal tersebut mengakibatkan Cina menguasai hampir sebagian besar dari perairan Laut Cina Selatan. Tindakan ini juga melanggar ketentuan UNCLOS 1982. Asal muasal Nine Dashed Line ini sendiri tidak jelas dan penuh akan nuansa politik yang diciptakan pemerintah Cina. Nine dashed line tersebut tentunya semakin meningkatkan kompleksitas konflik Laut Cina Selatan. Konsekuensi yang terjadi saat ini, khususnya akibat nine dashed line tersebut, ialah secara geografis timbul apa yang disebut 'overlapping EEZ' di perairan tersebut. Filipina sebagai claimant states mengajukan sengketa ini ke Permanent Court of Arbitration (PCA) sebagai upaya untuk melawan tindakan agresif Cina di Laut Cina Selatan. Meskipun forum ini dilangsungkan tanpa persetujuan dan kehadiran Cina. Karena negara ini menolak berpartisipasi dari awal hingga akhir. Hal tersebut mengakibatkan proses peradilan di PCA hingga putusan akhir yang akan dikeluarkan tidak akan berpengaruh sedikitpun pada Cina untuk menghentikan tindakan agresifnya di Laut Cina Selatan. Artinya apa yang berjalan di PCA tidak akan menyelesaikan konflik tersebut seutuhnya. Meskipun bagi claimant states lainnya maupun non claimant states, seperti Indonesia, hal itu masih memberikan dampak cukup positif. Ketidakjelasan solusi konflik itu maupun kompleksitasnya, mengundang perhatian dari pihak lainnya seperti ASEAN dan EU. Kedua entitas ini memiliki kepentingan signifikan di Laut Cina Selatan, terutama ASEAN. Akibat faktor hukum, politik, dan ekonomi, EU dan ASEAN tidak bisa secara institusi dan unilateral mengintervensi langsung sebagai pihak ketiga dalam membantu claimant states mencapai solusi damai terkait konflik Laut Cina Selatan. Sehingga peran kedua entitas ini terbatas. Agar ASEAN dan EU berperan lebih signifikan, perlu ada upaya community dan confidence building secara tidak langsung melalui kerjasama ASEAN-EU demi tercipta stabilitas regional di Laut Cina Selatan.

<hr><i>ABSTRACT</i>

The Conflict in South China Sea is a multidimensional problem. The explanation of this issue requires a multidimensional approach, which consists of legal, political, economic, and security aspects. In recent years, the intensity of this conflict has considerably increased among claimant states. The intensity of the conflict is particularly visible through numerous of claims stated by the claimant states, especially China through its concept known as nine dashed line. Such concept is often regarded even by the non claimant states as an illegal act by China since such act entitles Cina to dominate almost all territory of South China

Sea. Such act also violates UNCLOS 1982. The origin of Nine Dash Line remains unclear and politically fabricated made by the Chinese government. The Nine Dash Line increases the complexity of the conflict in South China Sea. Geographically, the consequence, particularly due to the nine dash line, which is commonly visible today is what we know as the term "overlapping" in South China Sea. Particularly, this also refers to "EEZ overlapping. Philippines as a claimant state, submitted this case before the Permanent Court of Arbitration in an attempt to counter China's aggressiveness in South China Sea. Despite the fact that China rejects to participate in it from the beginning until the end of the legal proceeding. Consequently, both the legal proceeding and the final verdict of PCA would have no effect at all in deterring China from refraining its aggressiveness in South China Sea. In other words, it will not entirely resolve the conflict. Although, for the other claimant states and non claimant states, including Indonesia, the legal proceeding and the final verdict exercised by PCA would at least bring about a positive impact. The complexity and the inability by claimant states to reach a solution with regard to South China Sea issue, has attracted the attention of ASEAN and EU. These two international bodies have both significant interest in South China Sea, especially ASEAN. Due to numerous legal, political, and economic considerations, EU and ASEAN are not institutionally and unilaterally able to carry out direct intervention as a third party in assisting the claimant states to reach peaceful settlement concerning the conflict in South China Sea. Therefore the roles of these two entities are limited. In order for ASEAN-EU to play significant role, there has to be a community and confidence building exercised indirectly through ASEAN-EU Joint Cooperation in an attempt to bolster regional stability in South East Asia.