

## Conference Paper

# Protection of Indonesian Fishermen from China's Threat in the North Natuna Sea Region During the Covid-19 Pandemic

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**ORCID**Wildani Angkasari: <https://orcid.org/0000-0002-1897-7026>**Abstract.**

The economic importance of the North Natuna Sea is premised not only on its function as one of the largest marine sources in Indonesia but also as an important location for the Indonesian military to conduct large-scale exercises. Amidst the ongoing outbreak of the COVID-19 pandemic, unauthorized fishing by Chinese flagged boats continues to be pervasive in the Indonesian EEZ off Natuna Islands. Chinese coast guard and military vessels were constantly and visibly present in those waters, testing the patience and perseverance of Indonesia's authorities. The purpose of this article is to find out the cause related to the problem of protecting Indonesian fishermen in catching fish in the region. The Indonesian government is committed to ensuring rapid mobilization of its military and naval assets in the area when required to protect the fishermen. The method used in this research employed the qualitative method and critical content analysis. The legal consequences of ratifying the United Nations Convention on the Law of the Sea 1982 (UNCLOS 1982) with Law No. 17 of 1985 concerning the ratification of UNCLOS, Law No. 32/ 20014 concerning about the sea are the substance of law regulation. The type of data used is secondary data, namely data obtained through literature study. The study matches that Indonesia must develop fishermen with the spirit of defending the country, especially in areas where the waters are partially located within China's nine-dash line.

**Keywords:** fisherman, North Natuna Sea, Covid-19 pandemic

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## 1. INTRODUCTION

The Natuna Islands are the point of this part of the Indonesian archipelago, lying between Kalimantan (Borneo) and the Malaysian Peninsula, stretching into the far southern end of the South China Sea. [1] End of 2019, a number of foreign vessels entered Indonesia's EEZ in the Natuna Sea to take fish illegally. There was a chase between Indonesian fishing boats and foreign vessel, which one was a Chinese ship. The existence of these foreign vessels is very detrimental to the catch of Indonesian fishermen in the Natuna Sea. [2]

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Geographically, the Natuna Islands are the northernmost part of Indonesia in the Karimata Strait and consist of small islands which directly adjacent to the maritime territory of three countries, namely Malaysia, Singapore and Vietnam. The Natuna territory to the north is bordered by the waters of the south china sea. [3]

The marine area and group of islands in the South China Sea is a strategic and potential area and contains large natural resources and other marine resources. The area is also a waterway which is a traffic lane for international trade and shipping.

Several facts show that there have been incidents between Chinese patrol boats and fishermen from several countries including Indonesia in the South China Sea region. This is due to maritime boundary disputes and the existence of overlapping claims between the disputing countries. Disputing countries in the region generally use historical and geographical grounds in fighting over ownership of the South China Sea area. China claimed the disputed territory since 2000 years ago based on Chinese ownership of the Paracel and Spratly islands. In addition, in 1947 China issued a map known as the "Nine Dash Line". [4]

A number of countries involved in the South China Sea dispute, Vietnam, Malaysia, Brunei Darussalam, the Philippines, Taiwan claim that part of the South China Sea area is included in the country's exclusive economic zone based on UNCLOS 1982. This often leads to conflicts in the form of clashes that use force military. As a result of this conflict, it can disrupt regional stability and have an impact on Indonesian fishermen, especially traditional fishermen who are not directly involved.

The long-standing, intractable maritime territorial disputes in the South China Sea involving multiple-claimant States (i.e., China, Taiwan, Malaysia, Vietnam, Brunei, Philippines). [5] As illustrated in Figure 1.

In view on the description above, it is important to conduct study correlated with protection of Indonesian fishermen in the South China Sea region when there is a friction. The issues that will be focused around are how lawful assurance of fishing privileges for fishermen Indonesia in the South China Sea conflict region. As for the purpose of this study is to detect related to the problem protect of Indonesian fishermen issue of the freedom of them in catching fish in the Natuna. The guidelines with respect to traditional fishing right are contained in UNCLOS 1982 is limited students working with randomized pairs are significantly different.



Figure 1: Map of overlaps in the waters of the south china sea are.

## 2. METHODOLOGY/ MATERIALS

This paper followed the systematic literature review method. The preparation of this paper uses both socio-legal legal research methods by analyzing statutory rules and norms related to the topic of writing. [6] The type of data used is secondary data, namely data obtained through literature study. In addition, the data were collected from the international regulations on maritime. [7] Law No. 45/ 2009 amending Law No. 31/ 2004 concerning Indonesian fishery, journal article, books, internet resources and uses a fact approach in analyzing the relevant law. [8]

## 3. RESULTS AND DISCUSSIONS

### 3.1. The Law of Sea and Fisheries in Indonesia

Legal protection for traditional fishermen has not actually been regulated clearly. Law No. 45/2009 amending Law No. 31/ 2004 concerning Indonesian fishery are the substance of law regulation. The Fisheries Law is a general rule for types of fishermen, which

includes problems with the number of catches, types of trawlers and permits, vessels and sizes and so on.

Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries was passed in response to the fact that Law Number 31 of 2004 concerning Fisheries was not fully capable of anticipating technological developments and legal needs in the context of managing and utilising the potential of fish resources.

This legislation is there to satisfy the demands of the law, not to replace the existing law. However, some of its provisions have been changed to reflect technological advancement. Several substances, both pertaining to management, bureaucracy, and legal aspects, are among the adjustments that have been made.

The lack of a coordination mechanism amongst agencies involved in fisheries management is one of the weaknesses in the management element of fisheries management. Conflicts of interest exist in the administration of fisheries on a bureaucratic level. It was deemed necessary to make the following adjustments to Law Number 31 of 2004 on Fisheries in light of some of the flaws it contained.

Legal action may be taken in the form of sinking foreign ships operating in the fishery management area of the Unitary State of the Republic of Indonesia in order to supervise and enforce maritime legislation in the sphere of fisheries. [9]

### **3.2. Impact of North Natuna Sea Conflict for Indonesian Fishermen**

The member of Southeast Asian nations (ASEAN) and Tiongkok are engaged in a dispute over the South China Sea that is becoming more tense. According to the PCA ruling, Beijing's claims to the South China Sea lack any legitimate legal basis. However, Tiongkok responds strongly rejected the decision of the PCA. Tiongkok's rejection impacted Indonesia, particularly those parts of Indonesian territorial waters that border the South China Sea.

Natuna is a salient territory of Indonesia which is quite busy talked about especially when China's increasingly offensive presence in the South China Sea region. The Natuna area adjacent to the South China Sea makes the area particularly vulnerable, especially when China claims ownership of Natuna. [10] China has begun to take actions that disturb Indonesian waters.

The impact of the North Natuna Sea Conflict on the sovereignty of the state and Indonesian fishermen, which are directly adjacent to the South China Sea, disturbs the sovereignty of the state. China's expansion into Natuna waters other than disturbing Indonesia's sovereignty also disrupted the security of Indonesian fishermen with various

incidents involving guard ships from China. The feelings of insecurity felt by fishermen can affect the amount of catch they get. [11]

Chinese Nine dash line began to become a serious problem for Indonesia as well. It started in 2016 since China fishing vessels come across Indonesian territory around Natuna. In addition, quoted from Bangka Pos, June 20, 2016, in March 2016, a coast guard vessel belonging to China blocked an Indonesian vessel that was catching and herding illegal vessels from China that were carrying out illegal fishing in Natuna waters. [10] It continued when an incident occurred between Indonesian Vessel Imam Bonjol-383 and Chinese coast guard vessels. [12] On Monday, September 13, 2021, some fishermen who were at sea in the North Natuna Sea asserted to have encountered a Chinese warship there. Fishermen were alarmed by the appearance of several warships, especially given the worsening of the situation in the maritime region. [13] It leads the president of Indonesia to react to the case. [14]

According to UNCLOS 1982, archipelagic countries will lose their traditional rights because they cannot assert their traditional rights against neighboring countries. The rules regarding traditional fishing rights contained in the 1982 UNCLOS are very restrictive. The UNCLOS of 1982 contains virtually few restrictions on traditional fishing rights. Only that traditional fishing rights are not always linked to the rights of every fisherman in an archipelagic country is stated in Article 51 of the convention. This is so that parties, whether they be traditional fisherman, their nation, or nearby nations, can be legally bound by bilateral agreements, which are subject to certain requirements.

“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 the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the States concerned, be regulated by bilateral agreements between them”. [7]

United Nations Convention on the Law of the Sea 1982. [7] Has been regarded as the most critical convention regulating various matters regarding the law of the sea. Though UNCLOS 1982 has provided regulations concerning the law of the sea, the amount of conflicts at sea is still significantly high. [15]

### 3.3. Justification for Legal Regulations' Applicability to Resolve the Norms' Conflict in The Area of Illegal Fishing in Indonesia

As was previously said, a number of laws and rules restrict illegal activities in the fishing industry. The applicable rules are the result of legislation that particularly control fisheries, in accordance with the principle of *lex specialis derogat legi generalis* (law that specifically excludes general law). Given that there are presently two pieces of legislation covering fisheries, Law Number 31 of 2004 and Law Number 45 of 2009, the *lex posteriori derogat legi priori* principle (the most recent law supersedes the earlier law) applies.

Under such statute, a lot of legal goods were created to regulate fishing. The law made by a ruler in a higher position can therefore supersede a law made later by the same ruler in a lower position if it deviates from the principles and rules of law that govern similar things in different contexts. This is known as the principle of *lex posteriori*, which derogates the law of superiority. The provisions of lower laws and regulations shall not clash with those of higher laws and regulations, according to the idea of hierarchy or order of laws and regulations. Each sort of legislation in a nation must be equal in order to preserve the rule of law.

### 3.4. Settlement of unilateral claims by China and Indonesia

Conflicts in the South China Sea, Indonesia has always made diplomatic efforts so that maritime disputes South China does not extend to Indonesia's sovereign territory in Natuna. On At that time, the Indonesian Minister of Foreign Affairs Marty Natalegawa and the Minister of Foreign Affairs China's Yang Jiechi agreed to hold diplomacy in China resolve the South China Sea dispute by implementing full and effective of the Declaration on the conduct in order to create stability in the South China Sea.

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Recently, a similar incident involving Chinese ships entering Indonesia's Exclusive Economic Zone in the North Natuna Sea occurred. [17]

## 4. CONCLUSION AND RECOMMENDATION

UNCLOS 1982 only briefly regulates Traditional Fishing Rights (hereinafter referred to as "HPT"). The technical provisions regarding these rights, such as what marine resources may be caught, where fishing activities must be carried out, and so on must be further regulated in a bilateral agreement between the two countries.

Fishing-related disputes between Indonesian fishermen frequently occur in the South China Sea region. The preliminary premise is that the issue arose because traditional fishermen's characteristics were not particularly addressed in the UNCLOS 1982 rules. Additionally, there are unclear regulations regarding traditional fishermen's legal protection and privileges.

The Ministry of Maritime Affairs and Fisheries, Bakamla, and the Indonesian Navy should consistently conduct maritime security patrols in the North Natuna Sea up to the outer limits of Indonesia's EEZ claim, according to a number of suggestions made to the government. In addition, it also law enforcement against foreign fishing vessel that are operating illegally in the Natuna region.

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