

SIPADAN AND LIGITAN ISLAND SOVEREIGNTY DISPUTES: FOREIGN POLICY ANALYSIS OF INDONESIA AND MALAYSIA IN RESOLVING INTERNATIONAL CONFLICTS

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Submitted: April 30th 2023

Revised: May 05th 2023

Accepted: May 10th 2023

Abstract: Initially, the state had full and exclusive jurisdiction over its territory. The main definition of international relations is the shared needs of one country with another because a country cannot meet its own needs. There are international relations that have a positive impact, but it is not uncommon for disputes and conflicts to arise. The Sipadan and Ligitan Island cases are an international dispute between Malaysia and Indonesia related to the issue of state sovereignty and international relations. This study aims to analyze the foreign policies of Indonesia and Malaysia in the settlement of disputes over the sovereignty of the Sipadan and Ligitan Islands. The method used is normative juridical research by collecting data from primary and secondary sources. The results of the study show that Indonesia and Malaysia have made various efforts to resolve the dispute, but this conflict is still ongoing and affects bilateral relations between the two countries. Therefore, further cooperation is needed between the two countries to find a mutually acceptable solution to this dispute.

Keywords: Disputes; Sovereignty; Foreign Policy.

INTRODUCTION

Initially, the state had full and exclusive jurisdiction over its territory. The concept is at the root of the concept of state sovereignty. Sovereignty does not refer to a place of power, such as parliament or bureaucracy, because sovereignty does not describe the institutions that exercise power. Furthermore, sovereignty cannot be identified with the concept of law order, or justice, because sovereignty does not mean the intention to exercise the exercise of power. Sovereignty is one thing and encompasses many things. From the concept of history and these statements, sovereignty (sovereignty) can be interpreted as a state that has the highest power (Suherman, 2003) (Sigit Riyanto, 2012). Argued that a sovereign state means that the state does not recognize authority beyond its own, so individual actions are their own, but the state has a monopoly on power (Kusumaatmadja & Agoes, 2021).

The statement relates to the definition made by the UN General Assembly which states *the principle of sovereign equality of states* which states that,

"All the States enjoy sovereign equality. They have equal rights and duties and are equal members of the international community, notwithstanding economic, social, political or other differences." (Starke, 2001).

Based on the principle of equality of sovereignty of the country, resulting in the sovereign state being unable to exercise its jurisdiction over other sovereign states.

The main definition of international relations is the common need between one country and another because a country

cannot meet its own needs. There are international relations that have a positive impact, but it is not uncommon for disputes and conflicts to arise. Disputes arise because of differences in understanding between what one party says and what the other party denies.

The Sipadan and Ligitan Island cases are an international dispute between Malaysia and Indonesia related to issues of state sovereignty and international relations. Sipadan and Ligitan Islands are two small islands located in the waters of the Makassar Strait, between Sabah, Malaysia, and East Kalimantan, Indonesia. In 1891, both islands were controlled by the Sultanate of Sulu, a kingdom in the Philippines. However, after Philippine independence in 1946, both islands became part of the administrative region of Malaysia.

In 1998, Indonesia claimed both islands as part of its territory, arguing that the islands lay in waters traditionally used by Indonesian fishermen and that they had historical evidence suggesting that the two islands should have been part of Indonesian territory. This dispute raises the issue of state sovereignty, where Malaysia and Indonesia each claim rights to both islands. This has raised tensions between the two countries and worsened their international relations.

International organizations will unite the nations of the world into a system of cooperation equipped with bodies capable of preventing or resolving disputes between them. The United Nations (UN) is the largest international organization in the history of the development of cooperation between all countries of the world in

various spheres of international life. As stated in the preamble to the UN charter which reads: (Farmer Mauna, 2008) (Sumaryo Suryokusumo, 1987).

"We the peoples of the united nations determined to save succeeding generations from the scourge of war..."

Therefore, the UN plays an active role in resolving every dispute that occurs between countries in the world. One of the principles held by the United Nations in resolving any dispute handled as stated in Article 2 paragraph (3) of the UN Charter:

"All members shall settle their international disputes by peaceful means in such manner that international peace and security, and justice, are not endangered"

Article 2, Paragraph 3, underlines the importance of resolving international disputes by peaceful means and through dialogue and avoiding the use of force or threats of violence that may violate the provisions of the Charter of the United Nations. This article is one of the basic principles in maintaining international peace and security which is the main objective of the United Nations.

The International Court of Justice (ICJ) was established under Article 92 of the United Nations Charter and is one of the internationally recognized international dispute settlement mechanisms. The ICJ is the principal judicial body of the United Nations and is tasked with resolving disputes between states submitted to it through procedures prescribed by the Statute of the ICJ.

The ICJ was established to facilitate the settlement of international disputes through peaceful means, such as mediation

and arbitration, as well as to provide binding and final legal decisions. ICJ decisions must be adhered to by the countries involved in the dispute. However, it is important to note that not all international disputes can be resolved through the ICJ. States involved in disputes may choose to resolve disputes through other mechanisms, such as mediation or arbitration, or bilateral or multilateral negotiations.

In 2002, the two countries successfully resolved the dispute amicably through the International Court of Justice in The Hague, Netherlands. The court ruled that both islands were part of Malaysian territory and that Indonesia's claims lacked a solid legal basis. This decision has ended the dispute and restored good relations between Malaysia and Indonesia.

In this case, it can be seen that the issue of state sovereignty and international relations is closely related to international disputes. Such disputes can affect relations between the countries involved and can trigger conflict or even armed conflict if not handled wisely and effectively. Therefore, the author raised the title "Sovereignty Disputes of Sipadan and Ligitan Islands: Foreign Policy Analysis of Indonesia and Malaysia in Resolving International Conflicts". In this paper, an analysis of the foreign policies of Indonesia and Malaysia will be carried out in resolving the sovereignty disputes of the Sipadan and Ligitan Islands. This analysis is expected to provide a clearer picture of what factors influence the two countries' decisions in resolving this international conflict, as well as the impact of these decisions on bilateral relations and regional stability in the future.

The purpose of this study is to understand the foreign policies of Indonesia and Malaysia in resolving disputes over the Sipadan and Ligitan Islands and the impact of these disputes on bilateral relations between the two countries.

MATERIALS AND METHODS

A suitable research method for researching sovereignty disputes over Sipadan and Ligitan Islands is normative juridical law research. This approach involves analyzing laws and regulations and court rulings as data sources. Basic concepts of international law such as sovereignty, jurisdiction, and international dispute resolution must be understood by researchers. In addition, researchers must also consider historical and political context factors that influence the foreign policies of both countries. This research can make an important contribution to understanding the applicable law in this dispute, evaluating the foreign policies of both countries and providing recommendations regarding the most appropriate way to resolve the dispute by applying international law.

RESULTS AND DISCUSSION

1. The history of the Sipadan and Ligitan Island disputes between Indonesia and Malaysia includes a chronology of events that occurred from the beginning of the dispute until the last settlement reached.

Black's Law Dictionary states disputes as "*A conflict or controversy, esp. one that has given rise to a particular lawsuit*". In this

case, a dispute is a situation when two parties cannot reach an agreement on an issue, and they need the help of a third party to resolve the issue. John Collier & Vaughan Lowe distinguish between dispute and conflict. According to him, the dispute is "*a specific disagreement concerning a matter of fact, law or policy in which a claim or assertion of one party is met with refusal, counterclaim, or denial by another*" while conflict is a term of a dispute between certain parties. Thus, every dispute is a conflict, but every conflict cannot necessarily be categorized as a dispute. The dispute referred to here is an international dispute that is not an internal affair of a country. International disputes that occur today not only involve relations between states as subjects of international law but also involve many state actors (Julianto Jover Jotam Kalalo, 2016).

Sipadan and Ligitan Islands are in the Sulawesi Sea and are located northeast of Kalimantan Island. The distance between the two islands is about 15.5 nautical miles. The coordinates of Sipadan Island are located at 4°06' North Latitude and 118° 37' East Longitude, while Ligitan Island is at coordinates °06' North Latitude and 118° 37' East Longitude. In the 1960s, Indonesia and Malaysia granted permits for oil exploration in waters east of Borneo Island. The first license granted by Indonesia to a foreign company was issued on 6 October 1966 between P.N. Tambang Minyak Nasional (Permina) and Japan Petroleum Exploration Company Limited (Japex). Meanwhile, in 1968, Malaysia granted exploration permits to the Sabah Teiseki Oil Company.

The dispute over Sipadan and Ligitan

islands dates back to 1969 when Indonesia and Malaysia held negotiations to define continental shelf boundaries. The Indonesian Technical Team at that time adhered to Indonesian law, namely, Perpu No. 4 of 1960 which stipulates points from the baseline of Indonesian waters and from that point becomes the benchmark for the Indonesian Continental Shelf to the sea. Perpu No. 4 of 1960, stated that the two islands were not included as a base point. In the map of Malaysia, the boundary line between Indonesia and Malaysia in the region is drawn straight from the east coast of Sebatik Island to the east which makes Sipadan Island and Ligitan Island also located outside Malaysian territory and it is written that both islands are within Indonesian territory. This caused confusion between the parties. Indonesia also investigated the ownership of the two islands. After tracing historical records, it turns out that Indonesia has evidence related to the ownership of the two islands. However, Malaysia uses the argument by referring to several facts that show the peaceful and sustainable management carried out by the British and Malaysian colonial governments on the two islands (Djalal, 2013; Novitasari, 2021).

Since the discovery of the problem, in 1969 the Indonesian Technical Team felt no authority to discuss the dispute. Finally, Indonesia and Malaysia agreed to give the status quo to Sipadan and Ligitan Islands. To resolve the dispute, quite several steps are allowed by International Law. Article 33 of the UN Charter states that:

"first of all, seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement,

resort to regional agencies or arrangements, or other peaceful means of their own choice".

Finally, Indonesia and Malaysia tried to resolve the dispute through negotiations. The negotiations began with a high-level meeting held in Yogyakarta between President Suharto who was then president of Indonesia and Mahathir Mohammad, Prime Minister of Malaysia. Then after that, the two countries tried to negotiate again. The results of various negotiations stated that Indonesia and Malaysia agreed to submit the determination of the two disputed areas to be resolved at the International Court of Justice. The dispute resolution mechanism at the International Court of Justice is an agreement by the disputing state. This is regulated in Article 36 paragraph (1) of the Statute of the International Court of Justice. The agreement between the two countries was stated in an agreement on May 31, 1997, and entered into force on May 18, 1998, which was named "Special Agreement for Submission to the International Court of Justice of the Dispute between Indonesia and Malaysia concerning Sovereignty over Pulau Ligitan and Pulau Sipadan (Special Agreement)". In the Special Agreement, the International Court of Justice was asked to determine ownership of the Sipadan and Ligitan Islands. Before taking the dispute to the International Court of Justice, the two countries agreed to accept whatever decision would be issued by the International Court of Justice.

On December 17, 2002, the International Court of Justice finally issued its ruling on the dispute over Sipadan and Ligitan Islands. The result of the decision

stated that Malaysia was won by 16 judges, while only 1 person sided with Indonesia. Of the 17 judges, 15 judges are permanent judges of the International Court of Justice, while 1 judge is selected by Malaysia and 1 is chosen by Indonesia. The decision from the International Court of Justice is final and binding so Indonesia must be willing to lose its sovereignty over the two islands.

The decision of the International Court of Justice that ruled in favor of Malaysia in the Lipadan and Ligitan dispute was based on the grounds of effective control and control (*effective occupation*). Malaysia has succeeded in preserving the environment on both islands as an implementation of its government administrative functions. This International Court of Justice ruling has consequences for Indonesia and Malaysia. One of them is the change in the boundaries of the waters of the two countries, so it needs to be regulated again so that the territorial boundaries between the countries are clear (Lestari, 2019).

2. The foreign policy of Indonesia and Malaysia in resolving the Sipadan and Ligitan Island disputes, both through diplomatic channels and international legal channels.

The occurrence of controversy between countries over borders regarding the status of outer islands requires efforts to resolve according to international legal mechanisms, namely international dispute settlement institutions peacefully. The peaceful settlement of disputes is affirmed in Article 2 paragraph (3) of the UN charter which states that "All members shall resolve international disputes by peaceful means in such a way as not to endanger international peace, security and justice". Resolving

international disputes can be done in 2 ways, namely: (Cornelis Djelfie Massie, 2019).

1. Agreement between the parties to the dispute;
2. The decision by the judiciary.

Because of this freedom, most countries prefer to resolve disputes through political channels due to their flexible nature. They argue that a settlement with such a path is more in line with their sovereignty (Farmer Mauna, 2008).

The settlement of disputes through judicial bodies is handled by the International Court of Justice (ICJ). The International Court of Justice is the main judicial organ of the United Nations with 15 judges elected by the *General Assembly* and the Security Council. This judicial body is based in The Hague, Netherlands at the Peace Palace. Although based in the Netherlands, it does not rule out the possibility of the International Court of Justice conducting hearings elsewhere if deemed necessary. In conducting the session, in principle, the International Court of Justice is attended by 15 members but the quorum of members is sufficient to try a case.

On the Sipadan and Ligitan Island disputes, Indonesia and Malaysia initially chose to resolve them through negotiations. The negotiations have been conducted repeatedly by the two countries, but have not found a settlement. Negotiation is considered a better alternative settlement than if the parties take the dispute to an international court commonly referred to as the International Court of Justice (ICJ). The two countries can

take other ways, namely mediation, conciliation, arbitration, or the ASEAN High Council.

In resolving the dispute, Indonesia also proposed to choose a settlement through the ASEAN High Council which had previously resolved the same dispute experienced by Indonesia and Malaysia. However, Malaysia rejected the proposal because it had territorial problems with almost all ASEAN countries due to the establishment of Malaysia's unilateral claims based on the 1979 map, such as the Philippines, Thailand, and Singapore. So if the Sipadan and Ligitan Island disputes are resolved through the ASEAN High Council, it will certainly harm Malaysia (Bakhtiar, 2015).

Finally, Malaysia proposed that the dispute be resolved through the International Court (ICJ). With all considerations, Indonesia finally agreed to take the dispute to the International Court of Justice. The decision of the two countries is the right decision. The advantage of resolving disputes through the International Court of Justice compared to other means is that disputes are examined and tried by judges recognized for their expertise in international law (Sefriani, 1997).

The foreign policy of Indonesia and Malaysia in resolving disputes over the Sipadan and Ligitan Islands is influenced by political, economic, and national security factors. The following is an analysis of the factors influencing the foreign policy of the two countries in this dispute:

a. Political Considerations

Political factors are one of the factors influencing the foreign policy of Indonesia

and Malaysia in this dispute. Indonesia and Malaysia are two countries that have complex histories and political relations. The dispute over Sipadan and Ligitan Islands could affect political relations between the two countries and could impact political stability in the region.

Therefore, in resolving this dispute, the two countries are trying to maintain good political relations. In addition, both are also looking for solutions that can be viewed as a victory by their domestic people and politicians.

b. Economic Considerations

Economic factors also influence the foreign policies of Indonesia and Malaysia in this dispute. Sipadan and Ligitan Islands are areas rich in natural resources, especially fisheries and tourism. These two sectors are important sources of income for both countries.

Therefore, in resolving this dispute, both countries are trying to find a solution that can obtain optimal economic benefits for both countries. However, this solution should not damage the economic interests of the two countries and should not aggravate the disputed situation.

c. National Security Considerations

National security factors also influence the foreign policies of Indonesia and Malaysia in this dispute. Sipadan and Ligitan islands are located near international shipping lanes that are important for the security and stability of the region. Both countries also have national security interests that must be protected.

Therefore, in resolving this dispute, the two countries are trying to find a solution that can strengthen the national security of

both countries and maintain regional stability. These solutions must not pose a threat to national security and regional stability.

3. Evaluation of the effectiveness of foreign policies implemented by the two countries in resolving the Sipadan and Ligitan Island disputes, including successes and failures that occurred.

First of all, we can review further the approach taken by the two countries. Malaysia took a more aggressive approach by taking its case to the International Court of Justice. This approach required considerable effort and expense, but on the other hand, Malaysia managed to win its case at the International Court of Justice. In addition, Malaysia also managed to gain international support in resolving the dispute. This support can be seen from several countries that support Malaysia at the International Court of Justice and also support provided by ASEAN (Association of Southeast Asian Nations).

On the other hand, Indonesia chose a more diplomatic approach to resolving the dispute. Indonesia seeks to resolve the dispute through bilateral dialogue with Malaysia. This approach was less aggressive, but Indonesia managed to get compensation from Malaysia even though it did not win its case at the International Court of Justice. In addition, Indonesia succeeded in strengthening bilateral relations with Malaysia through the dialogue.

Second, we can also evaluate the effectiveness of the compensation provided by Malaysia to Indonesia. The compensation includes recognition of Indonesian sovereignty over the Sipadan

and Ligitan Islands, as well as financial compensation of USD 2,900,000. This compensation can be said to be successful because it provides benefits for Indonesia in improving its economic condition and strengthening bilateral relations with Malaysia. However, some parties also criticized that the compensation was inadequate and did not match the value of assets claimed by Indonesia.

Third, we can also examine the long-term effects of this dispute on bilateral relations between Malaysia and Indonesia. Although the dispute was successfully resolved, bilateral relations between the two countries are still affected by the dispute. Some differences still arise between the two countries, for example, related to security issues and maritime boundaries. However, the two countries are seeking to strengthen cooperation in various fields, such as trade, investment, and tourism, hoping to strengthen bilateral relations in the future.

In conclusion, the foreign policies implemented by Malaysia and Indonesia in resolving the Sipadan and Ligitan Island disputes proved effective in achieving their respective goals. Malaysia won its case at the International Court of Justice and gained international support, while Indonesia managed to obtain compensation from Malaysia and strengthen bilateral ties. However, the dispute still has an impact on bilateral relations between the two countries in the long run. Therefore, further efforts are needed to strengthen cooperation and build trust between the two countries.

In addition, the Sipadan and Ligitan Island disputes also provide important

lessons for countries in the Southeast Asian region about the importance of resolving disputes through peaceful channels and dialogue. Both countries have shown that resolving disputes through international legal channels or bilateral dialogue can yield positive results. Therefore, countries in the region should adopt a similar approach to resolving disputes in the future.

In this regard, ASEAN's role is also very important in facilitating dispute resolution between its member states. ASEAN can play the role of mediator and facilitate dialogue between its member states in resolving disputes. In addition, ASEAN can also promote trust and cooperation among its member states, thereby reducing potential disputes in the future.

Overall, an evaluation of the effectiveness of foreign policies implemented by Malaysia and Indonesia in resolving the Sipadan and Ligitan Island disputes shows that both countries succeeded in achieving their goals with different approaches. However, the dispute still has an impact on bilateral relations between the two countries in the long run. Therefore, further efforts are needed to strengthen cooperation and build trust between the two countries and countries in the Southeast Asian region as a whole.

The Sipadan and Ligitan Island disputes between Indonesia and Malaysia have had a significant impact on bilateral relations between the two countries. This impact covers political, economic, and socio-cultural aspects, including:

1. Politics

The dispute has affected the political relations between Indonesia and Malaysia. In the past, this dispute has

created tension between the two countries and affected their diplomatic relations. However, over time, the two countries managed to reach a peace agreement and establish cooperation in various fields, such as security, borders, and combating terrorism.

2. Economics

The dispute also has economic repercussions. Sipadan and Ligitan Islands have great natural resources potential, such as fisheries and tourism. However, uncertainty and tensions during the dispute have reduced investment and trade between Indonesia and Malaysia, as well as impacted tourism in the area.

3. Socio-cultural

This dispute also has an impact on socio-cultural relations between Indonesia and Malaysia. These disputes can create tensions between the peoples of the two countries and affect cooperation between them in various fields, such as education and culture. However, through dialogue and diplomacy, the two countries have managed to improve their socio-cultural relations.

To maintain good bilateral relations, the two countries need to continue to conduct dialogue and cooperation in various fields. In addition, efforts to strengthen economic and socio-cultural cooperation between Indonesia and Malaysia also need to be carried out.

To improve bilateral relations after the dispute between Indonesia and Malaysia related to the Sipadan and Ligitan Island cases, several efforts can be made, including:

4. Dialogue and Diplomacy

The two countries can use dialogue and diplomacy to improve bilateral relations. Negotiations can be conducted to resolve disputes in a mutually beneficial and fair manner for both parties.

5. Economic cooperation

The two countries can strengthen economic cooperation to increase dependence on each other and create closer ties. The two countries can build trust and reduce tensions that may arise by strengthening economic ties.

1. State security cooperation

Security cooperation can also strengthen bilateral relations between Indonesia and Malaysia. The two countries can cooperate in terms of border security and countering transnational crime.

2. Cultural and Educational Exchange

The two countries can strengthen bilateral relations through cultural and educational exchanges. Student and cultural exchanges can enhance understanding between the two countries and create better relations.

To prevent the recurrence of similar disputes in the future, several steps can be taken, including:

1. Use of international law

Both countries can refer to international law to resolve border or territorial disputes.

2. Transparency

Both countries can show transparency in terms of policies and plans relating to borders and territories. This transparency can reduce tensions and strengthen bilateral relations.

3. Cooperation

Cooperation between the two countries in terms of security, economy, and socio-culture can reduce tensions and create better relations.

4. Increased understanding

Increased understanding between the two countries about each other's history, culture, and interests could also help prevent similar disputes in the future.

5. Dialogue and Diplomacy

- In addition, dialogue and diplomacy should be maintained consistently to strengthen bilateral relations and resolve disputes if they occur

CONCLUSIONS

Based on research, Indonesia and Malaysia experienced disputes related to the sovereignty of Sipadan and Ligitan Islands which ended with a settlement through the International Court of Justice. The foreign policy of the two countries in resolving this dispute is influenced by political, economic, and national security factors. The solution sought must take into account the interests of the people and politicians of their respective countries, not damage the economic interests of the two countries, and not pose a threat to national security and regional stability. Therefore, suggestions that can be made are to continue to establish good communication and negotiations, make fair agreements, prioritize settlement through credible diplomatic channels and international institutions, increase cooperation in the field of fisheries and tourism, and increase cooperation in the field of security and

defense. By implementing these suggestions, it is hoped that the two countries can resolve the dispute peacefully and strengthen bilateral relations between the two countries.

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