

---

---

## Hindrances for Settlement: ASEAN's Difficulties in Dealing with the South China Sea Dispute

Abel Josafat Manullang<sup>1)</sup>

<sup>1)</sup>Departemen Hubungan Internasional, Fakultas Ilmu Sosial Ilmu Politik, Universitas Padjadjaran.

---

### Abstrak

Sebagai salah kawasan dengan perkembangan yang besar di dunia, tidak mengejutkan jika Asia Tenggara telah menghadapi berbagai masalah dalam perkembangannya. Salah satunya adalah sengketa Laut Cina Selatan, sebuah sengketa yang masih belum diselesaikan baik oleh para pemegang klaim maupun entitas regional seperti ASEAN. Menanggapi isu tersebut, penulis menjelaskan apa saja yang telah menghalangi ASEAN menindaklanjuti isu tersebut. Melalui pemakaian metode penelitian kualitatif dan pemanfaatan data sekunder, penulis memaparkan jawaban dari pertanyaan dalam artikel ini. Lebih lanjut dalam artikel ini, penulis menjelaskan secara mendalam ketiga faktor yang menghalangi ASEAN dalam menindaklanjuti penanganan sengketa Laut Cina Selatan. Pertama, Cina telah terbukti merupakan aktor penting dalam keseluruhan skema dari sengketa tersebut, baik sebagai pemegang klaim maupun tetangga dari negara-negara anggota ASEAN. Karakteristik Cina tersebut tentu memengaruhi ASEAN dengan memperburuk perpecahan diantara negara-negara anggota ASEAN dalam merespons sengketa itu. Selain itu, ASEAN juga perlu mempertimbangkan pihak-pihak luar lebih lanjut, terutama Amerika Serikat, dalam merumuskan langkah yang akan diambil.

**Kata-kunci** : Sengketa Laut Cina Selatan, Cina, ASEAN, Asia Tenggara

---

### Abstract

*As one of the thriving regions in the world, it is no surprise that Southeast Asia has met numerous problems as part of its development. One of which is the South China Sea dispute, a conflict that has yet to be solved either by the claimant states or notably ASEAN as the regional actor. To this matter, the writer seeks to explain what has been preventing ASEAN from making an effective move to the dispute. Through the use of qualitative research methods and incorporating the secondary data, the author seeks to explain the answers to the aforementioned guiding question. In the article, the writer explains in depth the three hindrances ASEAN is being faced with in regard to resolving the South China Sea dispute. First, China has proven to be an important actor in the entire scheme of the dispute, not only as a claimant state but also as a neighbor to the ASEAN member states. Such characteristic of China affects the ASEAN heavily as it worsens the apparent disunity ASEAN member states are facing in responding together to the dispute. Moreover, ASEAN must also take the outside parties, notably the US, into proper considerations in deciding its course of action.*

**Keywords** : South China Sea dispute, China, ASEAN, Southeast Asia

---

**Kontak Penulis**

Abel Josafat Manullang

Hubungan Internasional, Fakultas Ilmu Sosial Ilmu Politik, Universitas Padjadjaran

Jawa Barat, 17550

Telp: 085219380492

E-mail : [abel20001@mail.unpad.ac.id](mailto:abel20001@mail.unpad.ac.id)

## INTRODUCTION

Being a waterway that serves as the backbone of international trade worth more than \$5 trillion, it is no surprise that the South China Sea has come into huge scrutiny. Given its strategic position that connects into Southeast Asia, one of the biggest world markets for exports, its stability and dynamic would surely affect the trade flows. Another thing worth noting is the countless natural resources that lie beneath the sea, from natural gas, oil, to many varieties of marine life (BBC News, 2020). Given the many countries near the water passage, those resources have either been in hands of them or available for anyone to get in the open sea. With its strategic position and the precious natural resources, it is no surprise that some states have come into conflict over its possession of the waterway.

The South China Sea dispute has been one of the longest ongoing issues of the region. The issue within the waterway ranges from minor clashing claims between some ASEAN states to a major claim over the entire South China Sea (Baylis et al, 2014). Within Southeast Asia, there lies 4 claimant states, that being Malaysia, Brunei Darusallam, Philippines, and Vietnam. The conflicting claims between the 4 members of ASEAN actually doesn't amount big enough to cause a strong enmity atmosphere among themselves. What makes this dispute a lot more complicated is the presence of an outside claimant state, that is China. This presence of a giant outsider between the scheme of the problem has been one of the biggest obstacles for a solution to materialize. That is to say because of the sheer difference in power and capacity between the two parties, China and ASEAN member states, which is also made more difficult with how some ASEAN members are a lot more leaning to China in regard to the dispute.

One of the most notable developments of this issue happened within the last 10 years, that is the recent construction of military bases on numerous artificial islands in the South China Sea. The move made by China receives huge backlash from the international community including the states from Southeast Asia. In dealing with the dispute, there have been many attempts done by the claimant states from Southeast Asia but none has produced a lasting solution. One of the ways many of these Southeast Asian states have tried has been a resort to ASEAN. Such a move to the regional entity is also supported by ASEAN's growing centrality in Southeast Asia and the Indo-Pacific. The central image of ASEAN is clearly seen in its involvement in many initiatives done by other major powers in the world, from the EU, US, and China itself.

Despite being a seemingly overarching entity of Southeast Asia, ASEAN has also been facing a similar end to dealing with the issue, that being another deadend. Having 4 of its members as the claimant, it is no surprise that the dispute has remained as an agenda to numerous ASEAN ministerial meetings and other relevant overtures. The organization has made some initiatives, from bringing the topic up for deep deliberation in the ministerial meetings to developing a real project that would become a proper solution to it, that being the ongoing progress for a Code of Conduct in the region (Buszynski, 2003). Unfortunately, none of them has yet made any significant change to the issue or has yet to materialize at all.

Considering the importance of the issue at hand and how much is at stake, it is interesting to take a deeper look and compose a proper analysis of the hindrances ASEAN has been facing this whole time. That focus would be what separated this writing from other research on the South China Sea dispute that covered

what China's next move would be, What ASEAN could do, or each country's responses to China's growth.

## **METHODS**

In the article, the writer uses the qualitative research method. The understanding on ASEAN and the South China Sea dispute along with the use of secondary data would be used to answer the leading questions of this article. The secondary that the article uses would consist of past reports, analysis, and media coverages considering the ongoing nature of the issue. In analyzing the South China Sea dispute, the writer seeks to address the challenges ASEAN, the regional entity in the region, faces in addressing the problem. The writer would analyze the 3 factors that are believed to be the hindrances to any effective ASEAN measures, that being China's presence both as a neighbor and claimant states, the disunity among ASEAN member states and the presence of outside parties in the region.

## **RESULT AND DISCUSSION**

### **China as a Neighbor**

Apart from ASEAN, another actor that has grown a lot prominent in the eve of the 21st century is China. In an international system that is still arguably ruled by the US, China has come up as an emerging power that attracts many states around the world, even the US itself. Not only from its huge development in the last few decades, China has also made some initiatives on the global stage, one in particular is the Belt and Road Initiative (Puryono, 2016). Many view China as another possible partner for cooperation, but a different view also arises from the US or the West in general. In this case, China is viewed as a threat to the western hegemony that has been built to this point. ASEAN, as a regional entity, has appeared to

give the first view. This is clearly seen in the many agreements or collaboration ASEAN has reached with China, from the TAC (Treaty of Amity and Cooperation) to the recently formed ASEAN-China Comprehensive Strategic Partnership. At last, despite those ties, ASEAN can not be considered an ally for China. This can be traced to China's position in an issue that has been present in the Indo-Pacific or specifically Southeast Asia, that is the South China Sea dispute.

Being one of the claimant states in the waterway, China's move and basis for its claim have come under huge criticism. Not only does the so-called historical claim is deemed unlawful, how its recent moves in the region is not something many welcome with joy. From building up artificial islands from scratches to militarizing them (Hale, 2021), many have called upon China to stop its development there. Unfortunately, despite numerous attempts through various channels, not much has changed.

What has paved the way for the perceived impunity China is enjoying is its position with ASEAN, especially the other claimant states. China is an important partner for ASEAN, the two have cooperated in many fields (from education to trade) and have formed a degree of interconnection between them. This particular position that China holds, as one of the biggest trade partners of ASEAN and the world's growing superpower, also further complicates the dispute. The regional security complex in the region is not something that would be igniting any huge conflict, despite the recent dynamic from the Myanmar crisis and some clashes the Southeast Asian states have found themselves into. But with the presence and active business China has, there is a risk that the essential structure of the region (the pattern of amity and enmity along with the

power distribution) may be altered (Buzan, 1991).

Many states, both outside and within Southeast Asia, have voiced their call for the cessation of China's activity in the region and for an effective solution be applied there. Some even have feared that China may bring this issue up to the International Court of Justice for a final solution once it has reached a *fait accompli*. This *fait accompli* would be reached when China's presence in the region has amounted to big enough to ensure an effective occupation within the contested territory (Shicun, 2019). Following the last case between Indonesia and Malaysia (the case for the Sipadan and Ligitan Islands), it is a possible scenario for China to resort to the same basis within that case (Sutadi, 2021).

All kinds of scenarios mentioned above cannot be shrugged off as another exaggeration, considering the enormous power China holds, especially in terms of economic and military means (Manullang & Stephen, 2022). The present huge power disparity between China and ASEAN along with the unilateral moves China has been making in the contested waterway do not help to create a cooperative or good image for itself. Although ASEAN also has a hold of norms (ASEAN Way & ASEAN Outlook on the Indo-Pacific) that have guided many interactions in the region, the prior mentioned power disparity proves to be a hindrance for an absolute enforcement of those norms. China may decide to follow which rules or norms it sees fit and breaks those it deems against its own interest. This disparity also allows China to keep maintaining ties with other ASEAN states (including the claimant ones) despite the grievances they may hold.

### **Disunity among ASEAN Member States**

The presence of China both as a neighbor of the ASEAN states and also as a claimant state also affects how many attempts to solve it progress. To begin with, the ASEAN members' stance can be grouped into two, the claimants (Vietnam, Malaysia, Philippines, and Brunei Darussalam) and the neutral ones (the rest of ASEAN members). In understanding the divide, another look at UNCLOS would also be a good starting point. Despite being one of the main international laws that set the stage for the dispute, it is not the main driving force in the division. Indeed, UNCLOS has been one of the bases used by the claimant states in advocating the issue. The Philippines, back in 2016, made use of UNCLOS during its attempt at the Permanent Court of Arbitration. Not stopping there, the Philippines also brought the issue to the 2016 ASEAN meeting. It was there that Cambodia, a fellow ASEAN member who also recognized the UNCLOS, prevented it from being discussed. In the case of Cambodia, its close ties with China, as opposed to the UNCLOS, is what matters in its position in the dispute. Cambodia may not show any outright support for China but it has disagreed with other ASEAN member states' move to discuss the issue in ASEAN meetings. Cambodia also suggests the issue to only be dealt with among the claimant states (ASEAN claimant states and China) without involving ASEAN as a whole considering not all members hold a claim. For those who do not have any claims, their stance also varies. There exists a state like Indonesia who still wishes for a proper solution to the dispute and actively participates in any ASEAN attempts to bridge the demand to China. UNCLOS holds an important meaning for Indonesia, not only due to its active and central role during its formulation but also to its identity as an archipelagic state. Indonesia is also committed to maintain stability in the

region as shown in its attempt to push for peaceful dialogue in resolving the issue, especially in ASEAN (Beckman, 2020). On the other hand, there are also states who do not wish to get entangled in the issue or even reject any notion by ASEAN to deliberate the issue in any ASEAN meetings.

For the ASEAN states in the latter group, Cambodia, Laos and Thailand for example, they have their own perspective and interest in doing so. Apart from the obvious condition that they do not have any claim on the waterway, they also have strong ties with China. That is why, to actively participate in ASEAN's measure to push China away from the contested area despite its membership in it, is not a good course of action to take. Not only would it go against their respective past records, it may also endanger their future relations with China, as in the case if China decided to use its economic and political ties as a piece to get them away from having a united stance in ASEAN.

This is clearly shown by Laos, an ASEAN member state that has strong ties with China, when it hosted a ministerial meeting back in 2016. Despite the desire of other member states to have the South China Sea dispute to be one of the agenda discussed and the momentum earned after the Philippines victory in the Permanent Court of Arbitration, Cambodia insisted on not putting it up and even went as far as to prohibit any mention of the dispute throughout the meeting. Prior to that, Cambodia has also been uncooperative in the South China Sea dispute as well. In 2012, for the first time in 45 years since its founding, ASEAN failed to issue a joint statement on the dispute. The prior failures in releasing both joint statement and joint communique have shown how a fellow ASEAN member state could preclude any considerable ASEAN measures

(Benar News, 2021). Considering ASEAN's principle of total consensus in producing any statement or plan of action, this position of Cambodia is obviously one of the biggest internal hindrances to it (Willemys, 2016). Many may have voiced their dissatisfaction towards Cambodia's stance that makes it appear to be on China's side on the issue, but as of this moment, it has not amounted to anything drastic.

With the opposing attitude shown by Cambodia, an opposite of it has been shown by the Philippines. Instead of using the channel available in ASEAN, they resort to their own course of action, the most prominent of which being its case against China in the Permanent Court of Arbitration. In that occasion, the Philippines managed to win the case that not only deems China's action in the region (militarization and construction of artificial islands in the water passage) but denies the legitimacy of China's historical claim in its 9 dash line. Despite how it was won in an international court and the number of states that bore witness to it, the result didn't bear any significant result. In the end, China rejected the result and even denied its legality by referring to some mechanisms provided in UNCLOS, an international law that China also violated.

Vietnam also shares the same view on China. Aside from the close economic ties between the two countries, Vietnam is still against China's position and claim in the dispute. China's move that caught Vietnam's attention is the one it did during the Vietnam war back in 1974. That year, when North Vietnam was steamrolling through South Vietnam, China used the opportunity to mobilize its force to occupy the Paracel islands (Resky, 2015). Despite protest from the Vietnamese, China still remained insistent with its claim. Moving on, nowadays, China's activity in the region remains more

active than ever. The public of Vietnam and the way they express their anger towards China's move, as in intimidating local fishermen and installing oil rigs near the Paracel Islands, are clear examples of the negative perspective China has attracted in Vietnam.

Many may have thought that the ineffectiveness of the bilateral approach should have awakened the involved ASEAN member states to resort to another path, one that is provided by its membership in ASEAN. Unfortunately, it is not as simple as it may seem. Given the other differences other ASEAN members share along with how they translate those differences into their respective policies, any resort to ASEAN may not bring the desired outcome.

### **Presence of Outside Parties**

In this era filled with globalization, it is no surprise that many states in the world are now growing a lot more interconnected and interdependent. This trend of interdependency can be seen in all sectors, from the most notable in the security and economy to even a more trivial one in trends/fashion. What is now happening in a state may have a huge impact later on in the region or even bigger, the entire international system, from Asia to the Western Hemisphere.

The same thing also applies to the state's activity and interest. Big states that hold huge power may project them throughout the world, both in a soft and hard sense. They would pay attention to what's going on throughout the regions, especially those regions it deem crucial to its national interest. South China Sea is one of those regions many world powers outside of Southeast Asia put their attention to, that being China and the United States.

The US, a global power people may consider China's rival, is one of the outside parties

involved with the dynamics in that contested waterway, both with direct or indirect measures. With numerous power, both hard and soft, the US has been actively engaging the claimant states of Southeast Asia or the ASEAN members in general. The US presence in the region has grown significantly after its departure from Afghanistan which reduced the resources it put in the Middle East. Not only that, the US also seeks to establish itself in the region to balance the influence of China, a new power which the US may perceive as a threat to its hegemony. Hence, despite not being a claimant state, the US still consider the unlawful move by China as something it needs to response (Pompeo, 2020)

With the US actively interacting with states in the region, it also affects how ASEAN could effectively perform in the face of dispute. One of which is being a go-to state the claimant states can resort to. This is clearly shown in the case of Vietnam. Despite the negative past the two countries share (in the Vietnam War that lasted for more than 15 years and the following hardships the US put the newly united Vietnam through), the two have shown good cooperation in the face of the South China Sea dispute. In support of Vietnam's vocal disapproval of China's unilateral move to establish its presence in the region, the US has shown some significant gestures. One of which is through having its aircraft carrier, the USS Theodore Roosevelt, visit Vietnam back in 2020, and to even clash with Chinese vessels. Apart from that, the US has also made clear its desire to make the region along with the entire Indo-Pacific a free and open area.

Aside from the general rapprochement the US made in its shift in the Indo-Pacific, or Southeast Asia in general, also generates some other effects. AUKUS has been another initiative the US made back in 2021. This

initiative not only cemented US interest in the region but also as a means to materialize the Free and Open Indo-Pacific (Yadav, 2022). Such a major move that covered the military field would not surprisingly trigger a response from China (Sun, 2021). In responding to it, China has grown somewhat hostile by pointing it out as another attempt from the US to start an arms race in the region as a means to face China's development. An impact this development has on the issue of South China Sea would be China's move to solidify its position in the contested region.

Considering China's past move of building up and militarizing artificial islands in the waterways, it is less likely for China to open up any room for an effective dialogue by ASEAN to deal with the dispute. This would surely add up more challenges that ASEAN needs to overcome. The presence of outside parties and their initiatives would also make things difficult for ASEAN by shifting the spotlight on them. In the past few decades, ASEAN has grown to be a considerable or central actor in the scheme of both the Indo-Pacific and Southeast Asia, but in spite of that, for them to deal with 2 global powers over an issue that has themselves as the chief bearer would indeed pose an enormous challenge.

## CONCLUSION

As a regional identity, ASEAN has indeed grown to be a lot more central in the development of Southeast Asia and the bigger picture of the Indo-Pacific. This growing centrality is present in the many contributions ASEAN has made, either by itself or in collaboration with another power in the region, for the region through the formulations of norms to its own outlook. Unfortunately, despite the huge attention ASEAN receives in dealing with the South China Sea dispute, the

hindrances available has prevented any recent ASEAN measures for a solution. A proper consideration for the influences provided by the both sides of the great power, China and the United States, along with some internal disunity in the face of the dispute would be required. Considering the stark difference between ASEAN, as a regional entity, and others of its kind (notably the European Union), it would be wise to tune down the standard many have for ASEAN. With the orientation ASEAN currently has in economic/cultural/social matters instead of security, it may take some time for ASEAN members to reach a proper agreement that would allow ASEAN to take effective and collective measures within that field.

With the absence of any ASEAN effective role, many may be expecting more negative developments in the contested waterway. This can be based on recent developments, either by China (its militarization of artificial islands), the US (its active engagement and presence in some ASEAN members), or by the ASEAN members itself (differences of view that may lead to unilateral actions for their own need or a deadlock that would prevent an effective ASEAN response). What the South China Sea dispute may lead to if it keeps going like this is unknown, as it may end up igniting another conflict or remain as a status quo to be solved later.

But at last, hope also remains present. With each year, as ASEAN's leadership changes, opportunities for new initiative would also be available. New leader with a new spirit of cooperation may make great use of resources within ASEAN and its members to come up with a proper solution. Despite many differences states have over the issue, it is still in their interest to maintain a good image and contribution within ASEAN. So in the end,



there still exists opportunities for ASEAN and its members to give a proper response to the dispute.

## References

- Baylis, J., Smith, B., & Owens, P. (2014). *The globalization of world politics* (6th ed.). Oxford: Oxford University Press.
- BBC News. (2020). *South China Sea dispute: China's pursuit of resources 'unlawful', says US*. Retrieved 9 September 2022, from <https://www.bbc.com/news/world-us-canada-53397673>.
- Beckman, R. (2020). *Why Indonesia has stake in fight to defend Unclos*. The Straits Times. Retrieved 9 September 2022, from <https://www.straitstimes.com/opinion/why-indonesia-has-stake-in-fight-to-defend-unclos>.
- Benar News. (2022). *Cambodia Inherits South China Sea Headache as ASEAN New Chair*. Retrieved 9 September 2022, from <https://www.benarnews.org/english/news/indonesia/n/asean-cambodia-southchinasea-10292021173404.html>.
- Buszynski, L. (2003). ASEAN, the Declaration on Conduct, and the South China Sea. *Contemporary Southeast Asia*, 25(3), 343-362. doi: 10.1355/cs25-3a
- Buzan, B. (2016). *People, States and Fear an Agenda for International Security Studies in the Post-Cold War Era*. United Kingdom: ECPR Press
- Hale, E. (2021). China uses maritime militia to assert claim on South China Sea. Retrieved 20 April 2022, from <https://www.aljazeera.com/news/2021/11/19/china-supports-maritime-militia-to-assert-south-china-sea-claim>
- Heydarian, R. (2022). South China Sea: Countering Hun Sen's Cowboy Diplomacy | Asia Maritime Transparency Initiative. Retrieved 20 April 2022, from <https://amti.csis.org/south-china-sea-countering-hun-sens-cowboy-diplomacy/>
- Manullang, A., & Stephen, E. (2022). *The Bully of South China Sea: The Case of China's Power Projection | Kontekstual*. Kontekstual. Retrieved 9 August 2022, from <https://kontekstual.com/the-bully-of-south-china-sea-the-case-of-chinas-power-projection/>.
- Pompeo, M. (2020). *U.S. Position on Maritime Claims in the South China Sea - United States Department of State*. United States Department of State. Retrieved 9 August 2022, from <https://2017-2021.state.gov/u-s-position-on-maritime-claims-in-the-south-china-sea/index.html>.
- Puryono, S. (2016). *Mengelola Laut untuk Kesejahteraan Rakyat: Refleksi untuk Indonesia Sejahtera*. Jakarta: PT Gramedia Pustaka Utama.
- Resky, M. (2015). *Sistem Politik Indocina 1945-1990*. Yogyakarta: Deepublish.
- Shicun, W. (2019). What's Next for the South China Sea?. Retrieved 20 April 2022, from <https://thediplomat.com/2019/08/whats-next-for-the-south-china-sea/>
- Sun, Y. (2021). *Fold, call or raise? China's potential AUKUS reactions*. Asia Times. Retrieved 9 August 2022, from <https://asiatimes.com/2021/11/fold-call-or-raise-chinas-potential-aukus-reactions/>
- Sutadi. (2021). Klaim Wilayah People's Republic of China atas Laut China Selatan dan "21st Century Maritime Silk Road": Laut China Selatan sebagai "Flashpoint" Baru di Asia Tenggara. *Jurnal Hubungan Luar Negeri*, 6(2), 136-150.
- Willemyns, A. (2016). *Cambodia Blocks ASEAN Statement on South China Sea*. Retrieved 20 April 2022, from <https://english.cambodiadaily.com/news/cambodia-blocks-asean-statement-on-south-china-sea-115834/>
- Yadav, A. (2022). *Indo-Pasifik: Sebuah Konstruksi Geopolitik*. Jakarta: PT Elex Media Komputindo.