

# EQUIDISTANCE LINE PRINCIPLE AS A SOLUTION TO IMPLEMENT ARCHIPELAGIC STATE IN THE TERRITORY SEA OF THE REPUBLIC INDONESIA

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## **EQUIDISTANCE LINE PRINCIPLE AS A SOLUTION TO IMPLEMENT ARCHIPELAGIC STATE IN THE TERRITORY SEA OF THE REPUBLIC INDONESIA**

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### **Abstract:**

The archipelagic principle which consists of several coastal islands and two archipelagic state in the Southeast Asian region in fighting for the concept of the Archipelagic state Principle, namely Indonesia and the Philippines need to consider not only geographical, but also natural characteristics and in particular historical backgrounds. The Archipelagic State Principle which is fought for by the archipelagic state is essentially the implementation of the principle of a straight line in an island state, although this principle is based on international law only applies to coastal island states. There are doubts about the definition of an archipelago, although there is recognition of the unity of a group of islands, the status of the waters that line within the islands are still unclear. What is clear is that the conception of the archipelagic had become a new problem in the field of International Law of the Sea at the conference on the Codification of the Hague in 1930.

**Keywords:** archipelagic state principle, straight base lines

### **1. Introduction**

The borders of the State indicate the expiration of a state's legal power and explain the validity of legal authority for the other countries. The demands on the territory or territory of a country can be based on a variety of things ranging from classical forms such as okupasi, cesi, aneksasi and preskripsi. To the most advanced forms such as the right to self determination, with the support of various political and legal factors such as *geographical contiguity* and also Historic and economic factor (Dowsettu). State territory can be a territorial part of other countries when the country willingly joins other countries. Through international treaties or when the entire

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territorial State is contrary to his will or through the revolution when separating themselves and forming a new country.

If territorial a country, either whole or part is the territorial of another country or if the territorial part of a country. Be part territorial other countries. Also included in the division of Sea territory with other countries. In the division of the Sea territory or territorial determination of the sea is known as delimitation (Victor Prescott, 2004). Delimitation is a process that involves determining the boundaries of regions between countries.

The easy question of the territorial claim of territory carried out by neighboring countries against the territory of Indonesia or Indoenesia to other countries is due to the absence of a boundary point agreement between borders. Therefore, the Indonesian Government or other state governments are expected to promptly resolve border delimitation issues with neighboring countries. The outer boundary of the state territory cannot be dismissal from contact with other countries. Therefore the country cannot by itself determine the boundary point of the country.

If any, the borders made by the country unilaterally without regard to the authority of the other state's authorities will reap conflicts between the two countries. The nature of the country's borders is very sensitive. Thus the determination of the borders must be discussed and by both parties that intersect (T. May Rudy, 2002).

A sovereign state is still subject to international law and must not violate or harm the sovereignty of any other country. Noting on the sovereignty described above, it can be said that the sovereign State is a country that has the ability to manage and manage itself domestic and foreign interests (I Wayan Parthiana, 2002).

## **2. Theoretical Framework**

The embodiment of such concept is through the international treaty, the international treaty as a "agreement" between two or more international legal subjects concerning a particular object formulated in writing and subject to or regulated by international law

This international treaty becomes a legal instrument demonstrating a close relationship between national law and international law. The jurisdiction is closely related to the boundary of the country in which the territorial boundary indicates the expiration of a state's legal power and explains the legal authority of the other countries on the border. (I Wayan Parthiana, 2003) The international border is also an important factor in the identification and preservation of national sovereignty. Even neighboring countries that enjoy the most friendly relationship need to know exactly their border location to enforce the laws and regulations of each country (Arif havas Oegroseno, 2006).

Therefore, the determination of borders between countries can clearly not only reduce the risk of frontier conflict in the later days, but also can guarantee the implementation of the law on each side of the border. Borders are identical to the territorial territory and sovereign of a country, the issue of country border determination is very high in relevance and urgency to the efforts of maintaining territorial integrity. In the 19th century (nineteen) and the 20th century (twenty) progressive codification about line was found in the opinion of experts and international treaties. However, the about line method is not the only method used in determining the boundary of the Sea region (Yoshifumi, Tanaka, 2006). Conversely, the determination of the territorial boundary is carried out using: *Equidistance line*, *The line perpendicular*, *The prolongation of the land boundary*, *Thalweg line* *Common zone*.

In the case of an adjacent country, the extension of land boundary (or perpendicular line drawn from a coastal point of border between the two countries) is a delimitation method. Conversely, in the case of opposite countries, the about line method seems to be regarded as the main method at that time, the borders between opposite countries or opposite to be discussed in setting the strait boundaries because the width Territorial sea is narrower than it is today. In the case of an adjacent country, the extension of land boundary (or perpendicular line drawn from a coastal point of border between the two countries) is a delimitation method. Conversely, in the case of opposite countries, the about line method seems to be regarded as the main method at

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### **3. Research Method**

The type of research of this study is nomartive, by analyzing the International convention through approach to historical approach by analyzing The Travaux Preparatoire <sup>12</sup> United Nation Convention Law Of The Sea 1982.

### **4. Results and Discussion**

In connection with the interstate treaty bordering on the territory of the Sea, UNCLOS 1982 refers to the achievement of the Agreement of the Parties made based on the source of public international law. Thus UNCLOS 1982 provides great flexibility to the parties to find the principles of law that can be shared by State parties as the basis for the determination of the borders in the sea region.

It should be noted however that in applying the median line or about principle for sea boundary disputes also consider other factors beyond these distance factors. The case of Jan Mayen between Nowergia-Lslandia in 1981 gives an interesting illustration regarding the method of completion of the continuous landing limit and the exclusive economic Zone (hereinafter referred to as ZEE) by co-extensive, the reconciliation Commission decides That the boundary line is determined by the maximum claim of either party to the other party's median claim.

This is generally done in order to seek settlement closer to justice for the parties to the disputing or equitable principle. The number of cases addressed by the ICJ regarding the delimitation of the boundary landas of the continuity until the period before 1994, i.e. before the 1982 Sea Convention, may be referred to as proof

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of acceptance of such principles as international customs or customary of International law.

The 1958 failure of the Geneva Conventions and the 1960 UN Conference (UNCLOS II) to resolve issues relating to the breadth of territorial sea and fisheries limits, and the emergence of new debates on exploitation of the UN's international seabed area is requested for Conduct a State party to UNCLOS.

The orientation of the UNCLOS debate is strongly influenced by the recent developments of the territorial delimitation law as cultivated by various legal cases, particularly the North Sea Continental Shelf cases. The United States, the first mentioned country refers to the equitable principle, in the year 1945 the Declaration of the right to the adjacent seabed and the land layer, and in 1983 its proclamation on the Economic exclusive Zone, has been used About line principle in most delimitations. Boggs reiterated in 1951 that it makes most sense when determining the boundary of the Sea region using the median method of the line principle, and adding that this method will provide fair principles for agreement between the Americas The United States and its neighbors are referred to in Proclamation Truman.

Shalowitz also emphasized the fair nature of other avenues for the median line principle in determining the boundaries of the sea. It is only an exception to about in the boundaries involving the United States is the boundary with Canada in the Gulf of Maine, decided by the ICJ, and the boundary with Russia in the Bering Sea where the determination of the sea region to a large extent of Prior agreement interpretation. Equidistance was forced even within a continuen-shelf beyond 200 M with Mexico where the rights overlapped were not based on distance criteria. This provides tremendous support for the notion that equitable principles are always associated with equidistance.

Interestingly, Ireland uses the about line principle to refer to criteria that restrict the exclusive fishing zone. Another interesting case is that of United Arab Emirates. After starting with referring to the equitable Principles as the boundary criteria for the continuous shelf at the end of 1940, this is the same country that used about in the year 1980 declaring the exclusive economic zone. The preference for

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equidistance, because of the clear and fair character, was re-affirmed at the end of the third Conference. Other State practices incorporate references to equity or equitable solutions with about line principle in several forms, both implicitly and explicitly (e.g. Australia, Belgium, Bulgaria Cuba, France, Haiti, Indonesia, Jamaica, Malaysia, Morocco, Seychelles, Tanzania, Turkey, and the United Kingdom).

Broadly, the scheme of debate is as follows: first, the agreement and the second, special circumstances or relevant as the main factor in the process of delimitation in the relationship between the two countries. On the other hand, about principle and fair are the point of difference. However, it should be noted that by the end of the debate, a debate arises between the two opposing groups about qualifying circumstances. The equity Pro group advocated for relevant circumstances while the Pro group about principle sponsored special circumstances, as noted in the consultation report on the boundary between delegates of the two opposing groups (UN Doc DEL/2, 22 April 1981)

Thus, there are two concept pillars, namely about on one side, and relevant circumstances on the other, the concept of about with relevant circumstances is not able to appear under UNCLOS. In the case of delimitation in general refers to the principle of the position of the position identical UTIs which means referring to the Treaty of colonial inheritance in the late 19th and early 20th centuries, for the territorial sea boundary the focus of the handling is primarily on the border agreements Which is a function of the sea law that occurred at the time of the border Treaty was established or technology available at the time.

The principle influence of territorial integrity is found in the idea of Uti Possidetis which is one of the international legal resources because as one of the principles of general law that has been recognized by the civilized country that can be used as One of the guidelines for determining a country's borders according to international law (Joshua Castellino, 2005). Uti Possidetis is a principle in international law that the territory or territory with its owner at the end of the conflict, unless there is another agreement, if the agreement does not include the condition of ownership of the territory taken during War, the principle of uti possidetis applied.

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## 5. Conclusion

Technical aspects of territorial sea delimitation, from the process of delimitation, also necessary technical aspects in the practice of these countries. The most important aspects are the collection of hydrographic data and the delimitation method. This method of maritime determination is based on approaches, planning mindset, descriptions of the existence of regulations relating to the management of maritime boundaries connected with national development interests and remains National and international sea laws.

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