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The Role of *International Court Justice* (ICJ) in Resolving South China Sea Disputes in Positivism Perspective

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Abstract

The Law of the Sea increasingly developed in the 19-20 centuries marked by the 1982 UNCLOS Convention on the Law of the Sea. This research discusses the role of UNCLOS in handling South China Sea disputes. And how is the settlement of the South China Sea dispute based on the International Court of Justice? This study uses qualitative methods based on secondary data sources derived from books, the internet, documents, journal articles, media, and others. The theory used in this study is one of the theories of positivism with an international law approach. Cases of disputes over the jurisdiction of the ICJ against the agreement of the disputing parties are to be submitted to the International Court of Justice. Cases submitted to the International Court of Justice contain the determination of the matters in question as well as various kinds of questions submitted to the International Court of Justice. If viewed from the perspective of positivism, the position of national law is higher than international law, so the claims of the South China Sea that have existed since the Han dynasty cannot be denied if China itself does not ratify international law and does not ratify UNCLOS and still adheres to the principles of national law or jurisdiction of its country. As the International Court of Justice, this dispute should be resolved by the jurisdiction by the International Court of Justice

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MEDIASI
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I. INTRODUCTION

International law plays an important role in maintaining world peace and security. If International Law is not applied, then to resolve conflicts or disputes is not based on law but through warfare. In the system of International Law there is no supreme power that can be coercive or flexible. International Law is not as comprehensive as national law because there are some that are not covered by International Law. States that ratify International Law inevitably have to follow laws that are binding on laws or articles of International Law. If such countries cause conflict, they will be sanctioned by the International Court of Justice. So the country is not bound by International Law, so the sanctions given are only reprimands.[1]

According to positivism, the rules of International Law have a similar character to national law. Positivism believes that International Law can logically be returned to a rule for validity that depends on the fact that states have ratified treaties. According to Anzilotti, the power of International Law can be reanalyzed to a principle known as the *Sunt Servanda Pact.* This theory was initiated by Hans Keisen and Bodin. Based on their thinking, International Law derives from empirical evidence or events. International law is based on mutual consent (Pacta Sunt Servanda). Thus, international law is a common law that is the result of agreements between states so that national law has a higher standing than international law.[2]

International Law of the Sea is thought to have first been introduced in Athens in 436 BC. From there began to develop the concepts of sea areas both in the archipelago during the Srivijaya Kingdom in the 7th to 8th centuries, as well as in Europe. Its development in Europe occurred around the 6th century which gave birth to the concept of res nullius that is, no one owns the sea, so whoever first succeeds in controlling a sea area then the territory belongs to him and the concept of res communis that is, the sea and everything contained in it is common property. In the 16th century, the concept of mare liberum emerged which adhered to the idea that the sea belongs together so that anyone can benefit from it and the concept of mare clausum which adheres to the idea that the state only has control of sea areas as far as 3 miles from the coastline. The Law of the Sea increasingly developed in the 19-20 centuries marked by the existence of the United Nations Convention Law of the Sea (UNCLOS) in 1982.[3]

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[1] Mahendra Putra Kurnia, Faculty Lecturer, and University Law, 'International Law; an Ontological Review', 4.2 (2008), 77–85.
[2] Arman Anwar, *The Light of Islam in Europe*, 2021.
[3] Elfran Bima Muttaqin and Pasolang Pasapan, 'PAULUS Law Journal', *Paulus Law Journal*, 3.2 (2020), 119–29.

MEDIASI
E-ISSN : 2746-1122
P-ISSN : 2621-0924

After the advent of the 1982 UNCLOS Convention on the Law of the Sea, major powers had policies related to Maritime Security. This indicates that maritime security has a significant position in the national and global domains. China itself claims that the South China Sea is inherited from their ancestors. In recent years, the South China Sea issue has become a lot of attention from the world and international organizations, because many water states have filed lawsuits with the International Court of Justice or ICJ related to the *Nine Dash Line*. Another case with countries that did not ratify International Law, one of which is China. The countries have acceded to the Law of the Sea Convention in 1982. The reason for this unresolved problem is that China itself still holds strong regional law or positivist law for its national interests.[4]

Various means have been pursued to peacefully resolve the South China Sea dispute from the various parties involved in the dispute. One way of resolving disputes is to conduct peace negotiations both bilaterally and multilaterally before this matter is brought to the realm of the International Court of Justice. But unfortunately it happened when several countries involved in the South China Sea dispute filed various lawsuits against China claiming some territory to belong to it.[5]

The comparison of this study with previous research is to use the theory of positivism of International Law as well as the historical geographical approach of China as a country that is not a signatory to the Law of the Sea Convention and sticks to national law. This research discusses how the ICJ's role in handling South China Sea disputes based on International Law? And how is the settlement of the South China Sea dispute based on the International Court of Justice?

II. METHODOLOGY

Qualitative analysis method is a data collection technique that is processed in order to describe or discuss the results of research using theoretical analysis approaches and conceptual analysis. In this study using qualitative methods based on secondary data sources derived from books, the internet, documents, journal articles, media and others. The theory used in this study is one of the theories of positivism with an international law approach.[6]

The theory of positivism in International Law is divided into classical and modern. Positivism considers national law to be more powerful than International Law. National

[4] Asep Setiawan, 'Maritime Security in the South China Sea: A Review of Barry Buzan's Analysis', *Journal of National Security*, 3.1 (2017) <https://doi.org/10.31599/jkn.v3i1.8>.
[5] Accreditation of Kep and others, 'De Jure De Jure', *Journal of Legal Research*, 19.3 (2019), 339–48.
[6] Ismail Suardi Wekke, *SOCIAL RESEARCH METHODS*, 2019.

MEDIASI
E-ISSN : 2746-1122
P-ISSN : 2621-0924

law is more binding so that states can regulate laws without interference from other states or the International Court of Justice. Because positivism views that states can agree or reject legal rules agreed by international law without any coercion.[7]

III. RESULT AND DISCUSSION

Analysis of South China Sea Dispute Settlement Based on International Court of Justice

The South China Sea conflict has taken a long time involving many countries that joined ASEAN, in which case Southeast Asia needs to push with parties by adjusting all perspectives to reconcile the South China Sea conflict that can affect security, political and economic stability in the ASEAN Region.[8] In 1982 UNCLOS had regulated the South China Sea conflict with the UN Convention on the Law of the Sea. Under the convention each coastal state has the right to claim territorial waters with predetermined boundaries of 12 nautical miles, 24 nautical miles of additional zones, 200 nautical miles of Exclusive Economic Zones or shall not exceed 350 miles of continental shelf area.[9] An important provision contained in UNCLOS 1982 is a provision of International Law which is used as a reference for state sovereignty over the jurisdiction of the sea. UNCLOS 1982 regulates full sovereignty over maritime zones. As a legal basis, UNCLOS 1982 has a role to carry out international politics and security. Thus concerning international political and security developments in the Asia Pacific Region and countries in the region.[10]

In this case, China unilaterally claims that the South China Sea is the country's territorial waters and makes countries in ASEAN not accept the decision. Article 15, Article 74 and Article 83 of UNCLOS 1982 have regulated the delimitation of sea areas by means of settlement through agreements made by the parties concerned in order to obtain a fair solution. In international law is written article 33 in the UN Charter to resolve it through diplomatic channels by means of negotiation, fact-finding, mediation,

[7] International Law, An Introduction, and Rajawali Press, 'Sefriani, International Law: An Introduction (Jakarta: Rajawali Press, 2010) 1', 2010, 1–17.
[8] Jessica Evi and others, 'Analysis of the Settlement of South China Sea Disputes by Arbitration Bodies in Peaceful International Law', 1.3 (2023), 14–18.
[9] Febriyansyah Rahmat Maulana and Rahayu Repindowaty, 'Analysis of the Permanent Court of Arbitration Decision on the Nine Dash Line Claim: A Case Study of North Natuna Region Claims', *Uti Possidetis: Journal of International Law*, 1.2 (2021), 243–61 <https://doi.org/10.22437/up.v1i2.10452>.
[10] Pangesti Suciningtyas, 'The South China Sea Disputes in International Law Perspective', *The Digest: Journal of Jurisprudence and Legisprudence*, 2.1 (2021), 117–42 <https://doi.org/10.15294/digest.v2i1.48634>.

MEDIASI
E-ISSN : 2746-1122
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consolation. Meanwhile, if you do not use this method, you can use it by means of legal channels consisting of arbitration and the International Court of Justice (ICJ).[11]

The Philippines became a ratifying state to the South China Sea Conflict on May 8, 1984 while China only ratified it on June 7, 1996, in which case the Philippines and China have been bound by the dispute settlement procedures written in chapter XV of the Convention. Both ratifying States may provide a written statement regarding the settlement procedure that has been chosen in accordance with article 287 paragraph (1).[12]

In article 38 paragraph (1) of the statute of the International Court of Justice, international law becomes a global basis in regulating the conduct and actions of states, international organizations and so on with the definition as material for international legal experts to determine international problems and disputes. International law is used with the South China Sea dispute between China and the Philippines to prove the existence of international law on the issue. Article 59 of the International Court of Justice statute relates to the decision of the international judiciary that: "The decision of the court has no binding force except between the parties and in respect of that particular." Due to the decision of an international body that becomes a solid foundation for international law.[13]

When peeled with a knife, the Positivism Theory of International Law states that International Law is based on mutual agreement between states (Pacta Sunt Servanda). So if China does not sign or ratify the 1982 UNCLOS Convention on the Law of the Sea, it is legitimate for China to take its territorial claim to the South China Sea. China bases its territorial claims on the South China Sea on historical maps that act as national law and the result of the 1982 UNCLOS Convention on the Law of the Sea is its international law. That way, China's national law, the Nine Dashed Line map, will rank higher than the 1982 UNCLOS Convention on the Law of the Sea.[14]

The South China Sea belongs to the Asia Pacific region. This international dispute involves many countries that offend their maritime territories, including: China, Taiwan, Vietnam, the Philippines, Brunei, and Malaysia. However, in fact great powers such as

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[11] Putu; Maharta Yasa Tuni Cakabawa Landra Made; Kusuma Dewi, Rina, 'State Accountability for Shooting in the South China Sea Overlapping Areas Under International Law (Case Study: Shooting of a Chinese Fisherman by Philippine Military in Spratly Islands)', *Kertha Negara : Journal of Legal Sciences*, Vol. 04, No. 01, February 2016, 2016, 1–5 <https://ojs.unud.ac.id/index.php/Kerthanegara/article/view/18897/12350>.

[12] Mifta Hanifah, Nanik Trihastuti, and Peni Susetyorini, 'Dispute Resolution of Philippine Lawsuit Against China on South China Sea through Permanent Court of Arbitration', *Diponegoro Law Journal*, 6.1 (2017), 1–9 <http://www.ejournal-s1.undip.ac.id/index.php/dlr/%0Agugusan>.

[13] Suciningtyas.

[14] Mokhamad Luthfi, 'Juridical Review of China's Actions Against FONOPs by the United States in the South China Sea', *NOVUM: Junal HUkum*, 7 (2020).

the United States are also involved in this problem. International Disputes that have not yet found a bright spot have complicated problems, ranging from territorial disputes to maritime territorial boundary disputes. Most of those involved in the South China Sea Dispute are member states of the Associate of Southeast Asian Nation (ASEAN). This dispute is exacerbated by the turmoil in relations between China and two ASEAN member states, namely: Vietnam and the Philippines. In 2014 precisely in May, Chinese Oil Company His Yang Shi You 981 drilled for oil in an area still included in Vietnam's Exclusive Economic Zone and Continental Shelf. Two years earlier, in 2012, China carried out permanent construction in the shallow coral area of Scarborough which would potentially threaten the security of the Philippine region because, it is only about 220 km from the Philippine coast.[15]

The South China Sea dispute began with China's claims to the seas listed on its Nine Dashed Line map. The Nine Dashed Line is a map of the sea area that includes nine dashes to provide imaginary markers or barriers that the Chinese government uses to indicate its claim to most of the South China Sea, at 90 percent. With this claim, the maritime area of China's Traditional Fishing Ground section becomes 94,000 square km. It is not without basis that China makes such claims, it bases this on the History of their civilization. Ancient Chinese civilization, especially during the Han Dynasty Kingdom, discovered this region in the 2nd century AD. His findings were continued by the Yuan Dynasty in 12 AD which included its territory South China Sea in its map of power. It continued onwards into the Ming Dynasty and Qing Dynasty in the 13th century. China itself is not a signatory to the 1982 UNCLOS Convention on the Law of the Sea, so the requirements based on land features in territorial claims do not apply to China. In the end, China released a map of the area containing a series of 9 dashed lines in the shape of the letter U, where the South China Sea is included. As of the end of 2013, China's decision on South China Sea claims remained unchanged.[16]

There are several reasons that cause South China Sea disputes with ASEAN member states, as follows:

First, the sea area and the range of islands in the South China Sea have a wealth of large natural resources, in the form of oil and natural gas as well as various other marine wealth. Second, the South China Sea area is one of the fixed waterways passed by international ships sailing for transnational and continental sea trade between Europe, America, and Asia. Third, the Asian economy is growing quite rapidly, attracting the

[15] Luh Gde and others, 'INTERNATIONAL IN THE SOUTH CHINA SEA Legal Studies Program of Ganesha University of Education E-Journal of Judicial Communication Ganesha University of Education', 5.1 (2022), 225–42.
[16] Muhar Junef, 'Maritime Area Disputes in the South China Sea', *De Jure Journal of Legal Research*, 18.2 (2018) <https://doi.org/10.30641/dejure.2018.v18.219-240>.

MEDIASI
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attention of other countries such as China, countries in the South China Sea region, as well as large countries such as the United States that want to have power and influence on the strategic area of the South China Sea which has high economic value for a country.[17]

The South China Sea issue is a dispute, of course, inseparable from the interests of the countries involved, including:

China: is the most forthright and passionate country in this international dispute, China's various moves in this South China Sea dispute, ranging from the path of diplomacy to other powers, such as fishing boats, maritime patrol boats, and naval vessels.

ii. Brunei Darussalam: The sovereign interests of the jurisdictional waters belonging to the country, especially the security of navigation and management of marine resources as well as oil and gas.

iii. Vietnam: On 5 December 2014 Vietnam filed a statement with the arbitral tribunal regarding the South China Sea dispute. Vietnam also claims sovereignty over the Paracel and Spartly Islands through the same claims as China, namely, historical claims reinforced by the guidelines of the Exclusive Economic Zone and Continental Shelf in accordance with the 1982 UNCLOS International Convention of the Sea. Vietnam's claim to the Paraccel and Spartly Islands will add to the Exclusive Economic Zone and Continental Shelf. Vietnam needs freedom of navigation for its ships.

iv. Philippines: Many factors underlie the Philippines' claims to the South China Sea include; History, discovery, continuation of sea areas, and geographical factors are the same as in the 1982 UNCLOS Convention on the Law of the Sea. The Philippines' claim to sovereignty over Scarborough Shoal and Kelayaan Island would clearly benefit as it adds to the country's Exclusive Economic Zone and Continental Shelf. Both regions have the potential for natural wealth ranging from petroleum resources to fisheries.

v. Malaysia: like Vietnam and the Philippines, the claims of the Spratly Islands are also based on the provisions of the Exclusive Economic Zone and Continental Shelf from Articles 55 and 76 of the 1982 UNCLOS Convention on the Law of the Sea. Malaysia's claims to several islands from the Spratly Islands named Flyover Reef and Admiral Reef are biased towards the importance of the right to sovereignty, especially in the safety of navigation and the use of marine resources as well as oil and gas.[18]

vi. Taiwan: Taiwan's geographical location in the South China Sea conflict is in a strategic position. Taiwan feels it has the same history as the South China Sea region. On the other hand, China considers Taiwan to be one of its provinces. In 1947 the

[17] Hendra Maujana Saragih and Universitas Nasional, 'JIPSi', VIII.1 (2018).
[18] Edmondus Sadesto Tandungan, 'SOUTH CHINA SEA DISPUTES IN INTERNATIONAL LAW PERSPECTIVE', *PAULUS Law Journal*, 1.2 (2020).

Kuomintang government made an official map consisting of the claim area including the South China Sea such as the Spartly Islands, Paracel Islands, Pratas Island and Scarborough Reef which were included in Taiwan's claim area.

Natural resources in the South China Sea have great potential to trigger competition between countries for control of the region. The strategic position of the South China Sea has become a lot of targets for countries to use as a defense system. This resulted in conflict and became a serious threat in the South China Sea. The above countries such as China, Brunei Darussalam, Vietnam, the Philippines, and Malaysia seized the Spartly Islands and Paracel Islands which are claimed as the territory of each of these countries.[19]

Analysis of South China Sea Disputes under International Law.

In fact, the South China Sea Dispute not only concerns territorial waters, but also land areas that fall under the regulation of International Law of the Sea which is divided as follows:

i.Island

To be called an island, a land in the middle of the sea requires the ability to "support human habitat or economic life independently" the island owning country is automatically entitled to an Exclusive Economic Zone (the right to use, collect, and explore the surrounding natural resources) with a limit of 200 nautical miles.

ii. Karang

In the form of rocks of various sizes that pop out to the surface of the sea during high tide. A country is entitled to a reef with a limit of 12 nautical miles from the reef.

iii. Terumbu

It is still a kind of rock that is not visible except for the receding sea water. Reef-owning countries are not entitled to the surrounding natural resources.[20]

The main issue is the Exclusive Economic Zone and the Continental Shelf because, from both countries get Natural Resources from state waters. Based on International Law in resolving disputes relating to sovereignty, independence, and territorial integrity of states based on the Manila Declaration in section 1 paragraph 1, that is, states in conflict must be qualified to always comply with and carry out international obligations regarding maintaining relations with each other. In addition to

[19] Ali Maksum, 'Regionalism and the complexity of the South China Sea', *Journal of Social Politics*, 3.1 (2017), 1 <https://doi.org/10.22219/sospol.v3i1.4398>.
[20] Danang Wahyu Setyo Adi, 'Analysis of Settlement of South China Sea Disputes by The International Arbitration Agency', *Lex Generalis Law Journal*, 1.3 (2020), 39–51 <https://jhlg.rewangrencang.com/>(.

MEDIASI
E-ISSN : 2746-1122
P-ISSN : 2621-0924

states, the subject of international law also includes non-state actors that can be international organizations.[21]

In order to maintain its stability, legal protection of the sea is needed. The Asia-Pacific region cannot be separated from international security and political issues to maritime and territorial border disputes. The South China Sea is a contested area for trade routes, because the sea is a strategic route connecting the Indian Ocean and the Pacific Ocean and a gateway for trade in East Asia. Therefore, the ecosystem in the South China Sea is very diverse and has a high selling value for export purposes and household needs. In addition, the South China Sea also has 130 billion barrels of oil, the largest besides Saudi Arabia.[22]

Since 2009, China has claimed that its vast sovereignty over the South China Sea has become militarized as China seeks to defend its territorial claims. ASEAN, which is a maritime territory, is demanding that Vietnam, Indonesia, Malaysia and the Philippines seek to renew their respective naval and defense capabilities against the status quo in the South China Sea. Compared to China's defense is stronger than countries in ASEAN, the fact is that Vietnam's ability is more prominent in the military field to keep up with China's growing military strength.[23]

According to the theory of positivism when viewed from international law, China claims the nine dash line has no legal basis. Because China itself believes that the South China Sea has been its territory since ancient times and the map of China cannot be changed until now. While positivism assumes that all laws that exist in the international world are man-made laws that are rational. Based on the South China Sea dispute, the UN has established the law of the sea in accordance with agreed boundaries. This dispute can be submitted to the International Court of Justice and can be resolved under applicable law. Positivism also emphasizes the importance of states in complying with the courts of international law. Meanwhile, according to Anzilotto, the binding power of international law can be reviewed to a supreme and fundamental principle

[21] Gerald Theodorus L Toruan, 'Indonesia's Strategic Role in Resolving the South China Sea Conflict in the Perspective of Regional Security Stability', *Journal of National Security Volume*, VI.1 (2020), 111–29.
[22] Muhammad Rafi Darajati and Huala Adolf, 'Journal of Law & Development ITU', 48.1 (2018) <https://doi.org/10.21143/jhp.vol.48.no.1.1594>.
[23] Ogi Nanda Raka Ade Candra Nugraha, 'Geopolitics of the South China Sea: Indonesia's Diplomatic Strategy in Maintaining Political Stability in the ASEAN Region', *Journal of the Indonesian National Lemhannas*, 9.4 (2021), 25–42 <https://doi.org/10.55960/jlri.v9i4.414>.

MEDIASI
E-ISSN : 2746-1122
P-ISSN : 2621-0924

known as pacta sunt servanda. This norm is absolute evidence of an international legal system and by the process of equating itself with the rules of international law.[24]

In addition to the Philippines, there are also several parties who have complaints by ratifying UNCLOS, namely Vietnam. In May 2014 there were tensions between the South China Sea and Vietnam due to the operation of the Chinese oil refinery His Yang Shi 981 (HYS 981) where oil drilling by China is in the Exclusive Zone and Continental Shelf area of Vietnam.[25] Then on 5 December 2014, Vietnam submitted a statement to the Court of Arbitration regarding arbitration procedures in the South China Sea that have interests in Vietnam. Vietnam's intervention brought new things to the court of architecture by supporting countries that had a similar fate. The presence of intervention from Vietnam and the absence of a formal position from China, made the arbitration make several decisions related to the rules including the statement from the Vietnam Arbitral Tribunal requiring consultation with the Philippines and China.[26]

China has rejected all arbitration decisions that have led to heightened pressure between countries in the South China Sea. In this regard, the UN is committed to supporting the peaceful settlement of disputes and shows that the UN is the largest organization in dealing with various international problems. The UN has an international tribunal for resolving South China Sea disputes. The international court can use its power to compromise peacefully with China in the national interests of each side. But in this dispute the proposed resolution did not get approval from China itself as the Security Council and also the veto holder as a permanent member. This makes the UN unable to resolve this dispute because China itself is one of the holders of the UN veto power. If China does not want to cooperate and does not follow the UN in resolving this dispute, then the UN as an international organization cannot follow up legally because China adheres firmly to their national laws that are more binding than international law established by the United Nations.[27]

The role played in the settlement of disputes by providing a way in which the parties resolve them peacefully with agreed law. In international law there are two ways of solving international problems, including peaceful settlement of problems or by war. Disputes between China and surrounding countries can be carried out peacefully by ratifying peace treaties that have been agreed upon by both sides. In international law

[24] Starke J.G, 'J.G. Starke, Introduction to International Law, (Jakarta: PT Sinar Grafika, 2010), p. 3. Ibid., p. 19.'
[25] Suciningtyas.
[26] Kresno Buntoro, Anatomy of Sengkata, and China Sea, 'Philippines versus China in International Arbitration in the South China Sea', 2013, 1–7.
[27] Andrian Rizky Moranta and Abdul Rivai Ras, 'Dynamics of the South China Sea in the Perspective of International Realism', 6 (2022), 8720–27.

MEDIASI
E-ISSN : 2746-1122
P-ISSN : 2621-0924

there is a role of Arbitration in resolving national or international disputes. Arbitration is a legal action in which one party submits a dispute with the aim of obtaining a final and binding decision. One of the advantages of using arbitration lies in the binding final award. Through this, procedures in resolving disputes can be resolved faster than the general judicial process.[28]

The International Court of Justice has internal jurisdiction procedures with a state including:

1 . There is a written procedure and debate that is arranged in such a way as to ensure that each party to express his opinion.

2.Various ICJ hearings are open to the public, while arbitration hearings are conducted behind closed doors with ICJ judges.

Cases of disputes over the jurisdiction of the ICJ against the agreement of the disputing parties to be submitted to the International Court of Justice. Cases submitted to the International Court of Justice contain the determination of the matters in question as well as various kinds of questions submitted to the International Court of Justice.

The International Court of Justice as the largest judicial place in resolving international disputes is expected to be able to reconcile the settlement of disputes between countries that are part of its members. The function of the International Court of Justice as part of an international organization that can protect world peace and security as written in the UN charter which basically affirms peaceful efforts in resolving disputes. In the case of South China Sea disputes, jurisdictional settlement can be by the International Court of the Law of the Sea.[29]

IV. CONCLUSION

The role played in the settlement of disputes by providing a way in which the parties resolve them peacefully with agreed law. In international law there are two ways of solving international problems, including peaceful settlement of problems or by war. Disputes between China and surrounding countries can be carried out peacefully by ratifying peace treaties that have been agreed upon by both sides. In international law there is a role of Arbitration in resolving national or international disputes. Through this, procedures in resolving disputes can be resolved faster than the general judicial process.

[28] Muhammad Rafi Darajati, 'STATE OBSERVANCE OF INTERNATIONAL TRADE LAW', Legal *Reflections: Journal of Legal Sciences*, 5.1 (2020) <https://doi.org/10.24246/jrh.2020.v5.i1.p21-42>.

[29] Julianto Jover Jotam Kalalo, 'Dispute Resolution of State Immunity Cases through ICJ (International Court of Justice)', *Jurisprudentie : Department of Law, Faculty of Sharia and Law*, 3.2 (2016), 98–109 <https://doi.org/10.24252/JURISPRUDENTIE. V3I2.2818>.

MEDIASI
E-ISSN : 2746-1122
P-ISSN : 2621-0924

If viewed from the perspective of positivism, the position of national law is higher than international law, then the claims of the South China Sea that have existed since the Han dynasty cannot be denied if China itself does not ratify International Law and does not ratify UNCLOS and still adheres to the principles of national law or jurisdiction of its country. As the International Court of Justice, this dispute should be resolved by the jurisdiction of the International Court of Justice.

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J.G, Starke, 'J.G. Starke, Pengantar Hukum Internasional , (Jakarta: PT Sinar Grafika, 2010), Hlm. 3. Ibid., Hlm. 19.'

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