

DISPUTE RESOLUTION IN ASIA: INDONESIA'S PRESPECTIVE AND PRACTICES

International Law Year in Review 2025

The United Nations at 80: Reflections and Projections
CIL-NUS, Singapore, 22 January 2025

Dr. iur. Damos Dumoli Agusman

Ambassador of the Republic of Indonesia to Austria and Slovenia and Permanent Representative to the UN and other IOs in Vienna



SOVEREIGNTY RELATED DISPUTES

TITLE TO MARITIME FEATURES

- LAND/MARITIME DELIMITATION
- LEGAL ENFORCEMENT IN UNDELIMITED LANDS/WATERS
- OTHERS

REGIONAL ATTITUDE 'ASEAN WAY?'

- PUT ASIDE DIFFERENCES AND GO 'COOPERATION',
 - 'NOT IN MY TIME'?
- TONE DOWN THE DISPUTE
- PROCEDURE: VOLUNTARY OVER COMPULSORY

NEGOTIATION IS PREFERABLE

UNCLOS 1982

Article 298 Exception

THE PARTIES MAY DECLARE SO:

- HISTORIC BAYS OR TITLES
- MARITIME DELIMITATION
- MILITARY ACTIVITIES



Indonesia's 'dna'
AGAINST COMPULSORY
DISPUTE SETTLEMENT
MECHANISM

No declaration on ICJ Compulsory
Jurisdiction (art. 36 Para. 2 ICJ
Statute)



INDONESIA'S PRACTICE ON COMPULSORY JURISDICTION

HUMAN RIGHTS TREATIES (CERD, CEDAW, CAT) 1980s

Reservation to ICJ

But.....was...

- Indonesia Thailand Treaty of Friendship 1954
- ➤ Indonesia—the Philippines Treaty of Friendship 1951

Optional clause referred to ICJ

DISPUTES OVER TITLE TO TERRITORY DILEMMA ON CHOICE OF MODES

- MOST UNLIKELY' SOLVED THROGH BILATERAL NEGOTIATIONS
 - Absolutist positions: 'no negotiation on sovereignty'
 - Negotiation is only best for exchanging and clarifying the respective claims
- ☐ IMPOSSIBILITY OF NEGOTIATION VS PROHIBITION OF USE OF FORCE VS RELUCTANT TO ENGAGE THIRD PARTY

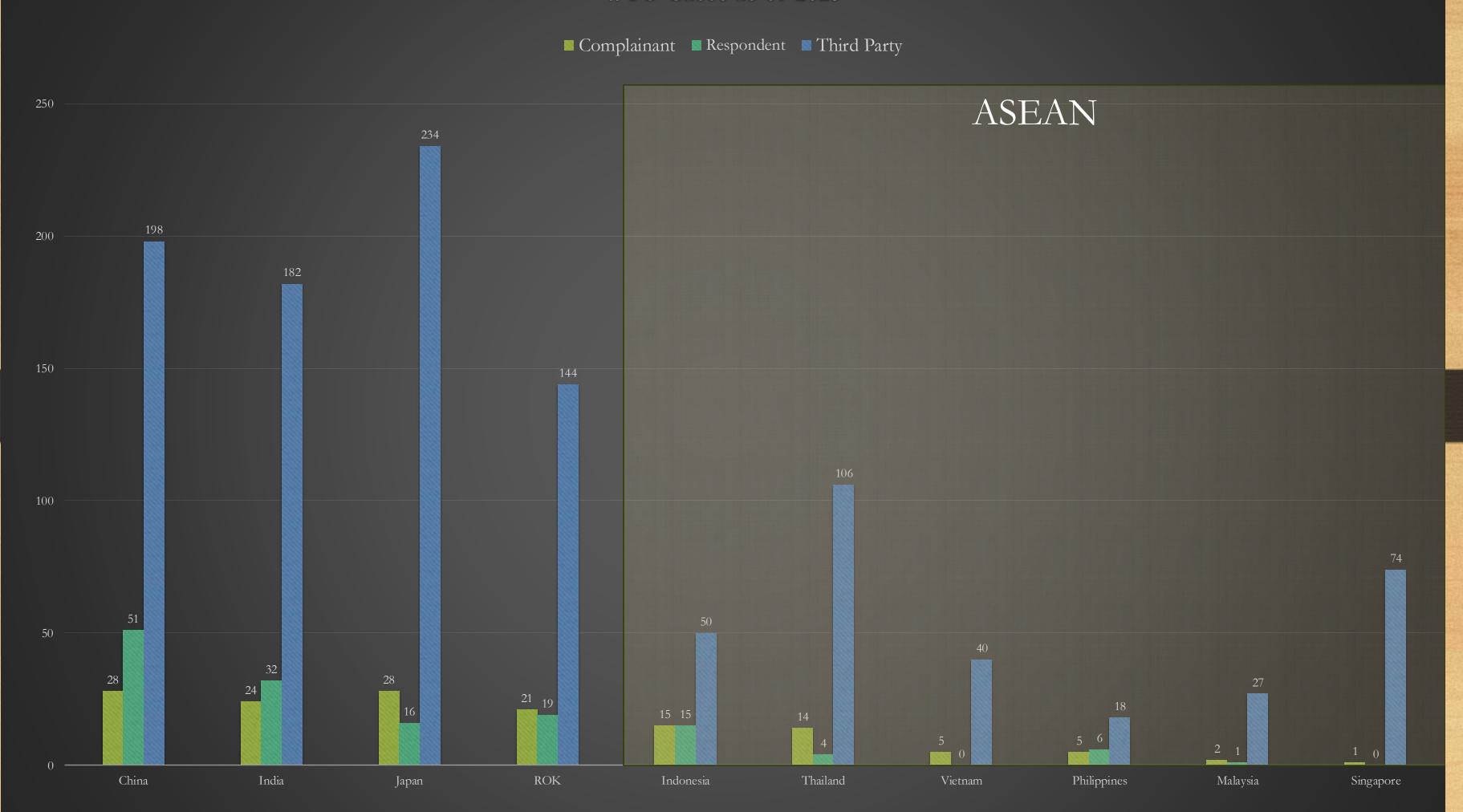
THE TREND MODELS

KEEP IT UNRESOLVED

JOINT DEVELOPMENT?

NEGOTIATION-CONCILIATION-MEDIATION

THIRD PARTY SETTLEMENT OF DISPUTE (EXCEPTIONAL)



COMMON TREND

THIRD PARTY

TECHNICAL, TRADE, **INVESTMENT** SOVEREIGNTY / POLITICAL, MARITIME **ISSUES**

DIRECT NEGOTIATION

GOOD OFFICE/CONCILIATION/MEDIATION

OBSERVATION

- MODEL OF 'DIRECT NEGOTIATION' IS STILL PREVAILING
- INCREASING USE OF THIRD PARTY MODEL FOR LESS POLITICAL DISPUTES.
- RESORT TO USE OF FORCE HAS BEEN OBSOLETE

