

A rota da seda chinesa e a harmonia do eixo marítimo da Indonésia na perspectiva do direito soberano

Chinese Silk Road and Indonesian Maritime Axis Harmony in The Sovereign Law Perspective

La ruta de la seda china y la armonía del eje marítimo de Indonesia en la perspectiva de la ley soberana

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Faruq Ansori

ORCID: <https://orcid.org/0000-0002-7146-2443>

School of Law, Nanjing Normal University, China

E-mail: faruqansor@gmail.com

Zhang Guo Ping

ORCID: <https://orcid.org/0000-0001-5667-8556>

School of Law, Nanjing Normal University, China

E-mail: guoping.zhaang@indstate.edu

Melda Ria Juwita

ORCID: <https://orcid.org/0000-0003-2844-9566>

School of Geographic Science, Nanjing Normal University, China

E-mail: meldarj@gmail.com

Resumo

Este estudo teve como objetivo conhecer a implicação da soberania legal em acordos bilaterais como as conseqüências da intersecção dos interesses da economia política da Rota da Seda chinesa e do Eixo Marítimo da Indonésia. Também teve como objetivo explicar outras questões adicionais nas relações bilaterais entre a Indonésia e a China, como; Esforço no fortalecimento da igualdade legal, provisões regulam os esforços para evitar abuso de poder, regras sobre questões ambientais, regulação de direitos humanos, e também regulamentações em assuntos internacionais. Este estudo utilizou como qualitativa descritiva a metodologia. Os resultados mostraram que a escolha de empresas chinesas no projeto de trem rápido de Jacarta-Bandung foi puramente uma consideração econômica, o governo

parece passivo em responder ao aumento do número de trabalhadores estrangeiros, especialmente a China, que não é acompanhada pela mão de obra local. absorção, várias empresas de etnia chinesa ainda são indicados para poluir o meio ambiente, o governo ainda é cauteloso na abordagem de direitos humanos em Uyghur, o governo é firme sobre a violação da pesca ilegal de embarcações estrangeiras e independentes na disputa sobre o Mar da China Meridional.

Palavras-chave: Regulamentação do Investimento Estrangeiro, Relações Bilaterais, Investimento na China, Soberania Legal, Direito Indonésio

Abstract

This study aimed to know the implication of legal sovereignty in bilateral agreements as the intersection consequences of the political economy interests of the Chinese Silk Road and Maritime Axis of Indonesia. Also aimed to explain other further issues in bilateral relations between Indonesia and China, such as; effort in enforcing legal equality, provisions regulate effort to avoid abuse of power, rules on environmental issues, human rights regulation, also regulations in international matters. This study used descriptive qualitative as the methodology. The results showed that the choice of Chinese companies in the Jakarta-Bandung fast train project was purely an economic consideration, the government seems passive in responding to the surge in the number of foreign workers, especially China, which is not accompanied by the local labor absorption, several ethnic Chinese companies are still indicated to pollute the environment, the Government is still cautious in addressing human rights issues in Uyghur, the government is firm about violating illegal fishing of foreign and independent vessels in the dispute over the South China Sea.

Keywords: Foreign Investment Regulation, Bilateral Relations, China Investment, Legal Sovereignty, Indonesian Law

Resumen

Este estudio tuvo como objetivo conocer la implicación de la soberanía legal en los acuerdos bilaterales como consecuencias de intersección de los intereses de la economía política de la Ruta de la Seda china y el Eje Marítimo de Indonesia. También tuvo como objetivo explicar otras cuestiones adicionales en las relaciones bilaterales entre Indonesia y China, tales como; esfuerzo para promover la igualdad legal, disposiciones que regulan el esfuerzo para evitar el abuso de poder, normas sobre temas ambientales, regulación de los derechos humanos, y también regulaciones en asuntos internacionales. Este estudio utilizó descriptiva cualitativa

como metodología. Los resultados mostraron que la elección de las empresas chinas en el proyecto de tren rápido Jakarta-Bandung fue puramente una consideración económica, el gobierno parece pasivo al responder al aumento en el número de trabajadores extranjeros, especialmente en China, que no está acompañado por la mano de obra local. Absorción, varias compañías étnicas chinas todavía están indicadas para contaminar el medio ambiente, el gobierno sigue siendo cauteloso al abordar los problemas de derechos humanos en Uyghur, el gobierno está firme en violar la pesca ilegal de buques extranjeros e independientes en la disputa sobre el Mar de China Meridional.

Palabras clave: Regulación de inversiones extranjeras, relaciones bilaterales, inversiones en China, soberanía legal, derecho indonesio

1. Introduction

The silk road is a network of ancient trade routes as a center of cultural interaction in the Asian continent that connects the West and East from China to the Mediterranean Sea. This silk trade route greatly benefited China since the Han dynasty. In the millennial era, China was also inspired to sow economic and geopolitical power, one of them is through the international One Belt & One Road program. Mastery of the international trade route through the maritime silk road corridor has political and economic implications. The Chinese military presence in the strategic waters of the Indian Ocean, the Gulf of Aden and the Suez Canal, politically shows the wish to become the World's main force. While on the economic side, China predicted to become the center of international trade (Costantinos, 2016; Ramadan, 2018). One Belt & One Road is a project initiated by President Xi Jinping in 2013. The concept divided into economic belts along the ancient Silk Road and the 21st century Maritime Silk Road. In addition to deepening China's reform, this program is also intended to open up and advance its environmental diplomacy. The opening of the new Chinese silk line expected to guarantee energy supply stability from the Middle East and access the markets of Southeast Asian countries. In addition, it can at least cut the United States influence in Asia (Campos, 2015; Sevilla, 2017). In 2014, President Jokowi initiated the World Maritime Axis vision in his government. The maritime vision contained in five policy concepts consisting of: maritime diplomacy to resolve maritime boundary disputes, security of maritime sovereignty and security, security of natural resources, intensity of defense diplomacy and reduction of interstate maritime disputes through regional dispute resolution (Wardani, 2018). Taking into account the economic and political aspects is very much in line with one belt road initiation.

Aside from being fellow Asian countries, Indonesia also develop abundant human resources opportunity as shown in the following comparison.

Table 1. Comparison of Population and Area of Indonesia and China

Country	Population (People)	Area (km ²)	Ratio of World Population
China	1.379.302.771	9.596.961	18.6%
Indonesia	260.580.739	1.904.569	3.5%

Source: CIA World Factbook for 2017

In addition to the positive response, the intimate relationship between Indonesia and China is also feared to cut state sovereignty through impartial policies. This is clear, such as, in the case of the Indonesian Chinese Fast Train choice, which is a consortium of Indonesian stated-owned enterprises and the China Railways Consortium, to work on Jakarta-Bandung fast train project. Whereas before, the study of the feasibility study of the fast train project had been carried out by the government together with the Japan International Corporation Agency (JICA). According to the government, the basis for this choice is purely business (Sugianto, 2018). On this basis, this study would like to show the implications of legal sovereignty in bilateral agreements as a consequences of the Chinese “Silk Road” and the Indonesian “Maritime Axis” political economic interests intersection. In addition, this research also explain the bilateral relations between Indonesia’s and China’s further problems such as: (a) To what extent do investment regulations enforce legal equality? (b) Is there an in-depth effort to avoid the arbitrariness of power in the provisions of investment? load international concern?

2. Methodology

This paper used qualitative descriptive methodology in order to describe the events that occurred and intended to describe the phenomena that exist, both natural and human engineering. It paid more attention to the characteristics, quality, interrelationship between activities. In addition, descriptive research did not provide treatment, manipulation or alteration in the variables studied, but describes a condition that is. The data were obtained from Chinese law, Indonesian law, documents, books, and scientific researchs.

3. Toward the State Law Sovereignty

One element supporting state sovereignty is the rule of law. For democratic state, legal sovereignty seen as an adherence to the existing rules which is contrary to arbitrary

government actions. Thus, the rule of law covers equality in special legal rights absence of certain people appointed by the authority. It supports equality before the law which is the opposite of arbitrary government (Hayek, 2005). As for the state sovereignty, there are several things that become international trends such as environmental issues, human rights, economic development, and general international attention.

Environmental Issues

Some community activists consider multinational corporations responsible for pollution caused mainly in developing countries, where environmental standards are weak. As a result of weak law, multinational companies see developing countries as a place of refuge where they can generate profits without having to bear the costs associated with compliance with the strict regulatory standards they face in their home countries. NGO believe that investment agreements prevent actions taken against polluters when the agreement ensures that violations of existing investor rights considered as takeovers based on agreements. Arguments have also been made that investment agreements securing highly polluted industrial exports to developing world countries. For this group, investment agreements must contain exceptions to allow the host country to protect the environment (Sornarajah, 2010).

Human Rights

Human rights issues are rarely mentioned in bilateral investment agreements. However, violations related to dissent suppression against certain projects initiated by multinational companies revealed in recent years. Recent litigation before a domestic court against a holding company of a multinational company alleges that human rights violations committed by agents of multinational companies to the political élite of developing countries illustrate the problem extent. Investment agreements can prevent the state from interfering with improvements in the human rights situation that might arise. However, often, the state, or the élite that controls it, is also a joint participant with multinational companies in violating human rights. However, successful governments may want to improve the situation but prevented from doing so by the fact that such interference can considered as investor rights violation under the agreement. There are several agreements that address this issue. The saving of health, morale and welfare issues, a formula used in international trade law, has found its way into several investment agreements. However, the scope of the use of the phrase in the investment agreement has not been determined. In international trade, the court has not provided a term of scope that allows interests contained in the formula to defeat the interests

of free trade. There is little reason to believe that the situation will be different when the phrase is considered in the investment agreement.

International Concerns

Despite the concerns of the host country, foreign investment in the country also raises international concerns. It is clear that international law has moved to recognize that matters included in the country's domestic concern can involve international values and that in this situation the international community has the right to make sure that changes occur in a domestic situation. The modern classical situation is a movement that has taken place in the field of human rights. The state can no longer claim that there have been gross violations of human rights in its territory is only a domestic affair and is not a concern of other international communities. International law on foreign investment also moves in the same direction, adopting values taken from the related fields of international law. Although foreign investment is a process that occurs entirely in the territory of the host country, the host country cannot avoid supervision from the international community. This cannot avoid the main force of international rule over domestic law that justifies this action. In one case, there was government interference in foreign investment contracts on the grounds that sand mining projects involving the potential damage to an area classified in the World Heritage Convention considered justifiable by domestic courts. Of course, this kind of thing cannot be left alone as a domestic problem. Today the understanding of sovereignty as an absolute concept should be reconsidered. The failure of national priorities in managing political dynamics and providing protection for their citizens in various regions of the world is proof that the state cannot close itself from international help under the pretext or in the name of sovereignty. State sovereignty cannot be used as a shield by national authorities to prevent international help to citizens in countries that need international help and protection (Riyanto, 2012).

4. Investment Regulations and State Sovereignty Guaranteed

Bilateral Cooperation

Bilateral relations between countries often refer to political, economic, cultural and historical ties. Strong bilateral relations are characterized by collaboration between institutions and people at the administrative and political level as well as in the private sector, academia and civil society. Other elements of bilateral relations include trade and investment, cultural exchanges, as well as general knowledge, understanding and public awareness about other countries and

the ties that exist between them. Meanwhile, strengthening bilateral cooperation includes: cooperation, shared results, and increasing mutual knowledge and understanding between donor countries and recipients as a function of bilateral cooperation (Committee, 2016). Unilateralism plays an important role in promoting liberalization. Unilateralism makes liberal trade politically possible at the domestic level because it allows political actors to manage domestic political costs and benefits arising from losing and winning economic actors through commercial collaboration. However, unilateralism is not without problems. Concerns about domestic distribution create a problem of law enforcement which can lead to cessation or even reversal of liberalization. This enforcement problem can be eliminated through multilateral cooperation (Rohlfing, 2007). Bilateral cooperation is multilateral dependence consequences. According to many indicators, interdependence is increasing in almost all parts of the world. International political economists talk about global infinity, from peace to pollution. The most important international issues – including pollution, energy, regulating flight traffic, and maintaining the rules of trade and investment - intrinsically involve many countries simultaneously. What makes an international problem is that it often cannot be dealt with effectively in the national arena. Costs and benefits spill over to the external arena. These external effects are often so intense that domestic goals cannot be achieved without coordinated multilateral actions (Caporaso, 1992).

Investment Agreement

Investment plays a very important role in the economic development of a country. Investment agreements can be contained in various contractual and contractual product agreements, one of the ASEAN-China Free Trade Agreement which regulates international trade relations and investment between ASEAN member countries and China. In carrying out this relationship, of course, need the principle application of reciprocity, where both countries must strive to give the same treatment so that both can benefit from the investment being carried out. One of the minimum standards in providing treatment recognized by various investment agreements and ACFTA is a fair treatment principle. This principle talks about why and how the host country should give fair treatment and balance to the Investor. This principle is also one reason investors will feel interested in investing in a country so that it can increase the flow of investment. When compared with Malaysia, Singapore, Thailand, and even Vietnam, Indonesia's ranking tends to decrease because the four countries are now increasingly progressive in providing protection and fair and balanced treatment to investors. The fair treatment principle application between Indonesia and China has not been fully implemented.

Indonesia still has several problems in terms of providing legal certainty and ease of bureaucracy and/ or administration to Chinese investors who invest their capital in Indonesia. This illustrated by the large number of central and regional regulations that overlap, the intricate flow of bureaucracy, etc. (Putri et al, 2018).

Political Economic Relations

The term “political economy” dates back to the 18th century when economic transactions increased politically and were subject to government intervention (Caporaso & Levine, 1992). The head of the household, once the soul supplier of their own desires of satisfaction, began to rely on the head of state to offer the institutions and legal rules needed to get someone’s livelihood a fundamental shift in understanding what makes up “economy” sparked heated debate about the extent to which the government involved in the economic life of its citizens. At present, NGO and civil society are actively involved in this ongoing debate amidst the backdrop of democracy that has emerged throughout the world. The overarching concept that unifies political economy definition is complex and unavoidable social interaction, economic power, and politics in the market and the need to look at each of these elements to understand the economy of ordering. Whereas sociology, political science, and economics are disciplines for themselves, political economy perspectives use each other’s contributions to recognize the economy as part of a larger social system and learn it as much as it does the same way as an interesting body of public relations knowledge from many disciplines. Following this logic, Caporaso and Levine (1992) describe the economy as having its own social goals which cannot be reduced to those we associate with politics and family life (p. 29). Political economy distinguished from pure economics in “political economy in varying degrees recognizing the impact of political economy development and ideological, cultural and other social factors and making it part of their analysis (Kollontai, 2002; Sriramesha et al, 2009).

State Sovereignty

The nature of a sovereign state is an independent state, not under the control of other countries and not subject to other authorities that are traditionally recognized by international law (Bartelson, 2006; Marcos, 2003; Brownlie, 1990). Sovereignty underlies several rights recognized by international law such as; rights of equality, territorial jurisdiction, the right to find nationality for the population in the region, the right to allow and reject or prohibit people from entering and leaving their territory and the right to nationalize (RC Hingorani,

1982) . In the current discourse and praxis of the concept of state sovereignty in an absolute sense, namely as a unit of authority that is not subject to any party, it cannot be maintained anymore (Riyanto, 2012).

Jokowi's Governemt First Period Policy

Indonesia has a wider area of land than land that is an area of 6,315,222 km², the length of the coastline of the islands 99,093 km, and the number of islands that have been standardized by the National Team for Formation of the Earth as many as 13,466 islands. The Global Maritime Axis idea campaigned by Jokowi since 2014 has become the policy agenda of his government which has great aspirations to restore Indonesia to its glory as a seafaring nation (Jalesveva Jayamahe). This policy at the same time confirms that in the 2015-2019 governance range, Indonesia emphasized the development of the marine sector in various aspects (Nainggolan, 2015). Various efforts made by the president to realize these ideals starting from world-class sea tolls construction on the main islands have at least 24 ports in Indonesia including Periuk, providing more fishing vessels, reforming the fish trading system to human resources development and several other things. This shows the seriousness of the president in Indonesia realization as the world's maritime axis. Indonesia's national interest in strengthening and improving the economy through the world's maritime axis faces several internal challenges in terms of managerial and working aspects as before described. The overlap between the main tasks and functions between the maritime enforcement sector, the lack of coordination between sectors and the high level of sectoral ego have become big managerial challenges. While in the working realm, the lack of infrastructure facilities to support maritime operations due to the lack of funds, rampant crime in the marine sector such as piracy, illegal fishing, violation of national borders, and piracy are major challenges for the world's maritime axis realization. On the other hand, the role of each sector should support of this policy instead becoming an obstacle to its realization. It recommended that horizontal integrity between sectors through integrated coördination be considered supported by infrastructure facilities to support each sector performance, especially in terms of security and maritime patrol. This is none other than Indonesia realization as the world's maritime axis (Latifah and Larasati, 2017). Some countries are enthusiastic about welcoming proposals for maritime infrastructure projects that offer benefits and can offer great benefits, it seems like China's attitude, although it remains cautious in realizing their commitment and support later (Nainggolan, 2015). The Belt and Road Initiative is a giant project issued by China during the reign of Xi Jinping because it covers 2/3 of the global population and 3/4 of energy sources.

namely (1) China's interest in securing energy supply lines to the Middle East and Central Asia through cooperation with countries in South Asia, (2) Chinese ambitions to take over leadership roles in the Asian region through the struggle for financing fast train projects with Japan, (3) China is trying to challenge US hegemony both in the security and economic fields. In addition, if The Belt and Road Initiative realized, China will not only benefit economically but also be able to change the geopolitical constellation of the world (Anam and Ristiyani, 2018; Ramadan, 2018).

In 2015, China established the Asian Infrastructure Investment Bank (AIIB) to give financial support for the One Belt One Road (OBOR) project. As a geopolitical and geo-economic idea, One Belt One Road is an effort to combine land and sea lines at the same time that will connect China with a joint 70 countries in the world. From the mainland, the concept of 'Belt' initiated the construction of highway infrastructure through the Xi, Xinjiang, Central Asia, Moscow, Rotterdam, and Venice routes. In the maritime region, the idea of road tries to connect ocean infrastructure across Southeast Asia, South Asia, East Africa, and the Mediterranean. contained in the idea of road. Not to forget, in order to support the belt and road infrastructure project funding, China also built-in 2015 (Hu, 2017: 108; Callahan, 2016: 236). In 2015, Indonesia and China agreed to cooperate in the eight fields of signing a Memorandum of Understanding signed at the Great Hall of People by officials witnessed by President Joko Widodo and President Xi Jinping (Antara News, 2015).

The involvement of Indonesia itself, if it is not addressed with careful preparation, it will become a blunder. The Chinese maritime vision is a strategy to expand its influence, while Indonesia precisely follows the path built by China. If it is not accompanied by the strength of a strong maritime infrastructure, it can sink into the competition built by the system. Ideally, the Chinese Maritime Silk Road intersection has positive implications for Indonesia's World Maritime Axis. However, the tendency to show negative phenomena. The benefits will be smaller than losses. This is because Indonesia does not yet have a comprehensive geo-strategy and geo-economic construction synergies as the foundation for the Maritime Axis geopolitical structure. In fact, the geo-strategy is very strategic in providing a macro, micro, and comprehensive description of the negative impacts of the Chinese Silk Road and the World Maritime Axis intersection in Indonesia. In addition, it also controls the negative implications of a number of influences on external maritime policies on security structures in East and Southeast Asia (Majid, 2016; Fitriyanti, 2016).

5. Discussion and Analysis

Legal Equality

In Chapter III of the Basic Investment Policy Article 4 paragraph 2 of the Republic of Indonesia Law Number 25 of 2007 on Investment, it stated that in establishing basic policies the government gives equal treatment to domestic investors and foreign investors while taking into account national interests. Polemic related to a consortium company from China determination defeated Japanese companies in the Jakarta-Bandung fast train infrastructure project, according to the government purely based on business considerations. Unlike Japanese companies that do not respond to the business to business scheme, Chinese companies are willing to apply the business to business scheme in the process of the fast train project where the financing of this project without using the state-budget cut the risk of state losses. Likewise, this policy does not violate because the government rules Japan International Corporation Agency (JICA) through the National Development Planning Agency (BAPPENAS), the Ministry of Transportation and the Technology Assessment and Application Agency (BPPT) just a feasibility study. Meanwhile, the tough choice of project winners according to the auction as shown in the following figure:

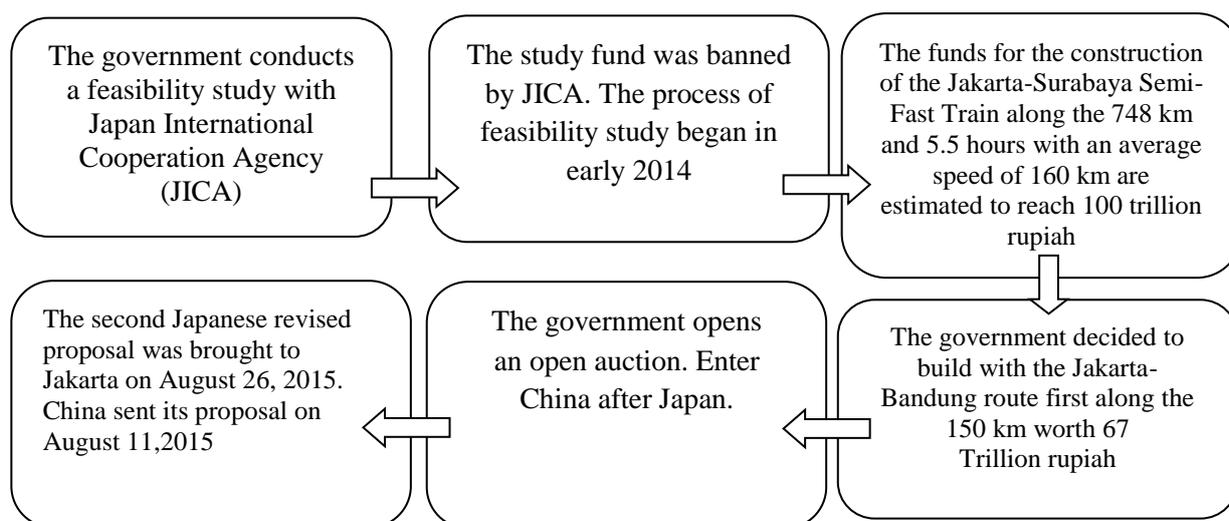


Figure 1. Process Plan for the Jakarta-Bandung Fast Train (Sugianto, 2018)

Thus the Indonesia-China cooperation project implementation is still guided by legal equality where it does not give special rights to a particular person or company. China choice as the winner of a more rational tender according to the government is due to technology and financial capabilities that do not need government guarantees through the State Budget so that cooperation carried out in a business to business. In addition to hoping to attract the trust of a some other country investors with a Chinese "guarantee", the government also wants the opportunity to invest in China in infrastructure development in Indonesia for a long time (Yamin and Windymadaksa, 2017).

Avoiding Arbitrariness

The spread of the issue of 10 million foreign workers invasion from China to Indonesia, although it has not been empirically proven where differences in the number of foreign workers between the Ministry of Manpower and the Ministry of Law and Human Rights certainly needs serious attention. The use of foreign labor is one thing that cannot be avoided especially when foreign investment included in a country. Among the problems of foreign workers entering Indonesia is about immigration violations. In fact, even though supervision of foreigners has been regulated in Article 68 Paragraph (1) of the Immigration Act, there is still an increase in immigration violations of foreigners due to the weak coordination of foreign supervision teams and the inadequate implementation of regulations relating to foreigners and their activities while in the region Indonesia (Jazuli, 2018). Not surprisingly, based on data from the ministry of labor and transmigration, it appears that foreign workers, especially from China, a significant experiences increase as shown in the following table and figure:

Table 2. Profile of Foreign Workers

No	Foreign Workers	2017 (people)	2018 (people)	Increasing (people)
1.	China	24.804	32.209	7.405
2.	Other Countries	61.170	63.126	1.956
	Total	85.974	95.335	9.361

Table 3. Business Sector of Foreign Workers in 2017 and 2018

No.	Sector	2017 (People)	2018 (People)
1.	Services	52.633	59.013
2.	Industry	30.625	33.589
3.	Agriculture and Maritime Affairs	2.716	2.733

Total Number

85.974

95.335

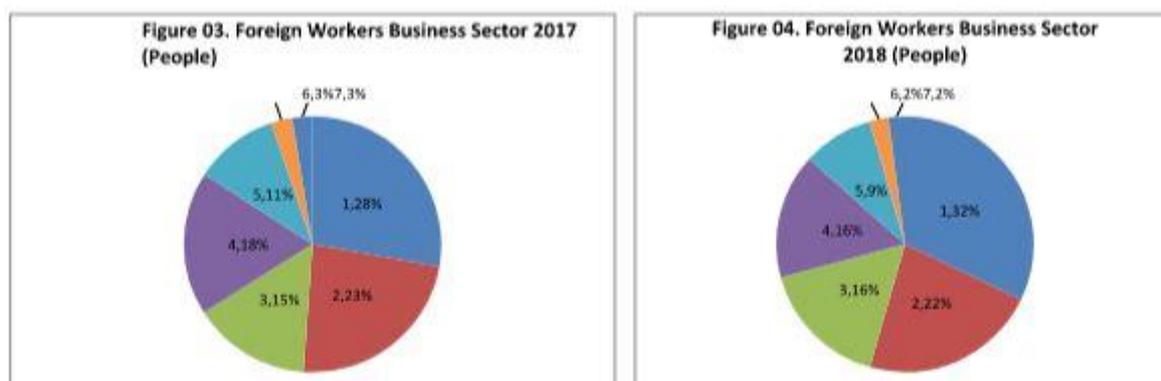


Figure 2. Business Sector of Foreign Workers in 2017 and 2018

Source: Ministry of Manpower and Transmigration (Hamdani, 2019)

In Chapter VIII article 42 paragraph 4 of the Law of the Republic of Indonesia Number 13 of 2003 on Labor it is stated that foreign workers can employe in Indonesia only in employment relations for certain positions and at certain times. While article 45 has the obligation of the foreign worker to appoint an Indonesian citizen workforce as a foreign labor assistant who employed for technology transfer and transfer of ability from foreign workers; and implementing work education and training for Indonesian workers in the qualifications accordance of positions occupied by foreign workers and this does not apply to foreign workers who hold positions as directors and / or commissioners. The increase in the number of foreign workers is in sharp contrast to the increase in productive age unemployment as shown in the following table:

Table 4. Open Unemployment Based on Highest Education 2017 – 2018

No	Highest Education	August 2017	August 2018
1	General / High School Senior High School	1,910,829	1,930,320
2	Vocational High School / Vocational School	1,621,402	1,731,743
3	Academy / Diploma	242,937	220,932
4	University	618,758	729,601
Total		7,005,262	7,000,691

Source: National Labor Force Survey (2019)

The table above shows an increase in unemployment in high school, vocational education as well as university graduates in 2017 and 2018. Thus an increase in productive age unemployment from 2017 amounted to 4,150,989 to 4,391,664 in 2018 or as many as 240,675 people. The technology transfer absences from foreign workers to local workers as expected by the Labor Law poses its own challenges for the government. Comparison of the increase in foreign labor with rising unemployment from 2017 to 2018 certainly raises a number of concerns. The government has an arbitrariness if this process continues and is not addressed with real action.

Environmental Issues

In Indonesia, there are about 1,000 Chinese companies that are active in activities where 50 percent invest in Java with the details that around 17 percent of companies engaged in construction, 15 percent in mining, and 13 percent in electricity. Their presence expected to benefit in increasing local workforce, conducting technology transfer and ability, to increase cultural exchange between the two countries (Saputri, 2018). However, in total, the amount of Chinese investment in Indonesia is still below Singapore and Japan as shown in the following graph;

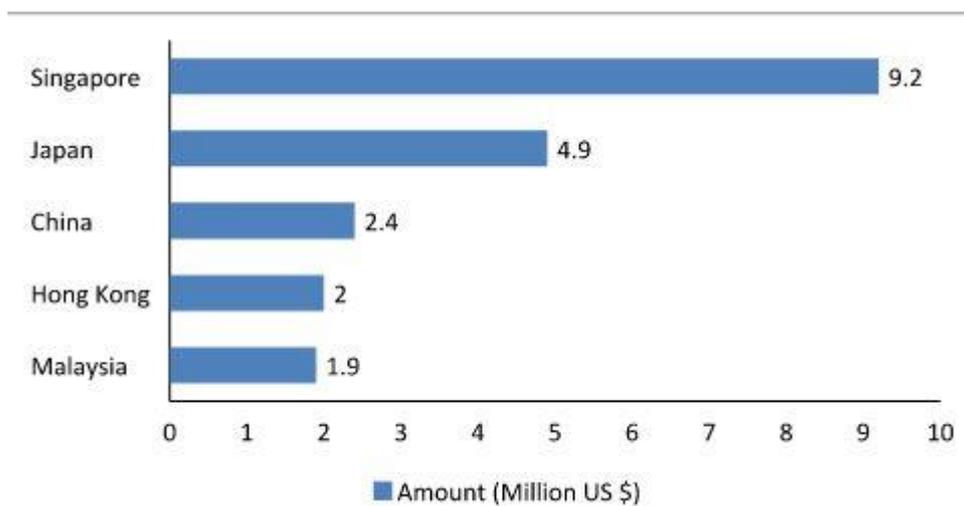


Figure 3. Realization of Investment During 2018

Source: 2018 Investment Coordinating Board (Sukmana, 2019)

One problem often arises from growing industries related to environmental pollution of industrial waste of PT. Kahatex such as, a textile company founded in 1979 by Liang Hua Song based on the checking of the Citarum Harum Survey Team -- combined across local

government institutions in West Java — as early as January 2018 along with several other companies. It indicated that the industrial wastes were throwing out of the river. Meanwhile, in May 2017, the Coalition against waste - combined across West Java's Walhi, Bandung Legal Aid Institute, Pawapeling Society and Greenpeace Indonesia won a lawsuit to the Supreme Court. The Supreme Court annulled the Liquid Waste Disposal Permit (IPLC) granted by the Regent of Sumedang Regent to Kahatex Group, PT Five Star Textile Indonesia and PT Insan Sandang Internusa. By to dispose of liquid waste into the Cikijing River, the tributary of Citarum (Sari, 2015; Perkasa, 2018).

Both Indonesia and China are both interested in environmental issues. In the relations between Indonesia and China, this problem is quite dilemmas, especially in marine matters. The Chinese side through an official from the Ministry of Agriculture and Rural Affairs said that the Chinese government would impose a "zero tolerance" sentence on domestic vessels that were proven to violate laws and regulations in fishing on the high seas. Deputy Director of Marine Fisheries Administration Liu Xinzhong also stated that China is very concerned about the protection and sustainability of marine resources. In Indonesian waters alone, from 2014-2018, only 1 ship from China was successfully sunk compared to Vietnam in the same period which reached 276 (Katadata, 2019). However, in fact, in 2016, an Indonesian patrol boat seized a 300-ton Chinese fishing vessel, Kway Fey 10078, which was fishing near the Natuna Islands, where "nine broken lines" marking China's claims over the South China Sea overlapped with waters Indonesia. According to the Indonesian fisheries minister, Pudjiastuti, hunters are now shifting tactics using modern and large technology, with a 150 km line and a 100 kilometer wide net, operating from the high seas and attracting catches from all exclusive economic zones of all countries outside national jurisdiction (Rose, 2018).

In Part Two Article 76 Administrative Sanctions in paragraphs (1) and (2) of the Republic of Indonesia Law 32/2009 about Environmental Protection and Management stated that: (1) Ministers, governors, or regents / mayors apply administrative sanctions to those responsible business and / or activity if supervision is found to violate environmental permits. (2) Administrative sanctions consist of: written warning; government coercion; freezing of environmental permits; or revocation of environmental permits.

The Issue of Human Right

One of the human rights issues that plagued China internationally was the treatment of Muslim minorities in East Turkestan (officially called by the Chinese government as the Xinjiang Uyghur Autonomous Region), an ethnic minority region in northwest China.

Indonesian Vice President, Jusuf Kalla, said Indonesia basically did not agree with violating human rights. However, the issue of oppression of Uighur Muslims, in his eyes, is an internal matter of China so that Indonesia does not want to interfere in a country's domestic problems. The response of Indonesia and a number of Muslim countries such as Malaysia, Pakistan, Saudi Arabia is "cold" towards the Uyghur minority in contrast to their frontal attitude towards the humanitarian tragedy in Palestine and Rohingya, Myanmar. Of course, economic and political considerations in their relations with China are one reason for their caution (ABC Australia, 2018).

Since 2014, the Chinese government has launched a campaign to eradicate ideological viruses by building camps to control political indoctrination, collective punishment and restrictive and mass restrictions on religious movement and communication to the 13 million Turkish Muslim population in Xinjiang. 2016. The UN urged the Beijing government to immediately end detention and give data on the number of detainees and reasons for detention. Ironically, this incident occurred when the Chinese government was actively promoting the model of governance and trade through Belt and Road Initiatives globally (Human Rights Watch, 2018; Florentin, 2018).

To dismiss all allegations, the Chinese sent a 66-member delegation to the UN Human Rights Council. They stated that an education and training center establishment in Xinjiang was a preventative measure to combat terrorism. Some observers such as Gao (2018) stated that detention redefinition became training and education as nothing but repetition of Chinese idioms from the Qin Dynasty (221–206 BC) in the millennial era. This idiom describes someone who deliberately misinterprets the truth and distorts facts for an ulterior motive. Chinese media supported the government's stance and called international criticism a Western attack that was wrongly addressed. To strengthen the support of a number of non-Western countries, in December 2018, the Chinese opened the first official visit to assess conditions in Xinjiang, to Russian diplomats, 11 Asian countries and Muslims majorities. As a non-permanent member of the UN Security Council since January 1, 2019 Indonesia's role can actually be more crucial. Unfortunately, Indonesia's place - based on ANP-INSIGHT data - at the diplomacy in global perspective level with 0.33 vitality policy is very inferior as an internal player compared to China with China's vitality policy reaching 0.89 and occupying the global player place.

In addition, Indonesia's economic dependence on China in a number of infrastructure development projects to China is a barrier to bilateral communication with China on the Uighur conflict. Actually, a multilateral approach can overcome bilateral barriers in which

Indonesia becomes an inspiration through the UN, ASEAN and OIC forums on the issue of the Uyghur Muslim minority. This pressure in the future can at least make China's human rights diplomacy strategy adaptable to international norms (Gozali, 2019; Zhu, 2011). In articles 3 and 4 of the Law of the Republic of Indonesia Number 37 of 1999 on Foreign Relations and Foreign Politics it stated that: (a) Foreign Policy adheres to the principle of active freedom which devoted to national interests; and (b) Foreign Policy carried out through creative, active and anticipatory diplomacy, not just routine and reactive, firm in principle and establishment, and rational and flexible in its approach. Indonesia's attitude that considers the Uyghur issue as a domestic Chinese problem and is careful not to involved in a deep way is an unreactive attitude representation and rational and flexible in approach as for domestic human rights issues, it regulated in Law Number 26 of 2000 about Human Rights Courts and Law No. 39 of 1999 on Human Rights.

International Concern

In the relations between Indonesia and China, there is a non-linear relationship between economic interests and state sovereignty. The growth of Chinese investment in Indonesia in a number of infrastructure financing does not affect Indonesia's firmness in maintaining Natuna Island, which is the Indonesian boundary in South China Sea waters. In the field of sovereignty, the relations between the two countries was based on the principle of strategic interests. The fabric of economic cooperation between the countries was based on the principle of pragmatic cooperation to increase trade and investment relations. A number of ASEAN countries have different attitudes in looking at South China Sea conflict with China. The Philippines and Vietnam still claim the disputed territory. Malaysia and Brunei did not act because their disputed territories did not clash with China. Laos and Myanmar support China. Singapore and Thailand still have a profit and loss in their involvement (Andika and Aisyah, 2017; Hartati, 2016). Indonesian government is firm in maintaining the sovereignty of its maritime region. In a four-year duration (2014-2018), Indonesia has banned 10,000 foreign vessels from mainland China, Taiwan, Thailand and the Philippines from fishing in its waters, half of which have captured more than 500 gross tons (GT) of fish.

Hundreds of ships confiscated, sunk and in some cases detonated. The Indonesian side views fishing activities in Indonesian waters, especially by China as illegal and includes organized transnational crime. The Chinese side themselves denied the allegations. Although, in fact, based on the analysis of the Food and Agriculture Organization of the United Nations (FAO), there has been a drastic decline in fish stocks in their waters which has encouraged

fishing in waters far beyond their own exclusive economic zones. This decline in fish stocks is due to the increasing demand for high-quality fresh seafood from middle-class consumers (Rosi, 2018).

6. Conclusion

This study limited on the basic idea that the Foreign Regulations Law is still not optimal in maintaining legal sovereignty, especially intervention influence of political interests in bilateral relations between Indonesia and China. Therefore, the aim of the study was to find out and explore how the harmonization that occurred during the silk path project took place in the study of law.

From the discussion above, it could be concluded that legal equality is still maintained within the reasonable limits of bilateral relations between Indonesia and China, even though in the policies implementation it based more on pragmatic economic interests and political strategies. The Chinese companies choice in the tender process for the Jakarta-Bandung railway project was purely a business consideration. Nevertheless the government and all elements of society still needed to have vigilance with rigorous calculations related to several synergistic infrastructure projects. Hence, it safe for the sovereignty of state law. Moreover, the increase of foreign workers from year to year was very significant. Contrast with the amount of productive unemployment which also increases per year. However, if there is no response to a balanced policy, it feared that the omission was seen as an arbitrariness of power that less pro-justice and welfare. It might led to social conflict, especially toward Chinese ethnic in Indonesia. The mandate of the labor law on the transfer of technology from foreign workers to local workers have not yet been realized.

Some companies established by ethnic Chinese in Indonesia have been proven to have violated the environment, especially in the disposal of waste into rivers. Unfortunately, the regional government bureaucracy was still weak that could issue permits for the unfinished foreign companies establishment to study its environmental impact analysis. Citarum River pollution was one of the cases in the midst of similar problems that continue to emerge. Continuous of all elements synergies needed to enforce environmental sustainability as mandated by the environmental law.

Indonesia can firm about the Palestinian issue or humanitarian tragedy in Rohingya, Myanmar. But not in the case of mass detention of Muslim minorities in the Uyghur. Although the report on empirical evidence of international institutions continues to emerge, the project claimed to an education and a vocational training by the Chinese government as an

effort to eradicate terrorism that threatens national stability cannot touch the Indonesian government sensitivity. With political and economic considerations, Indonesia was still cautious and tend to quiet by considering the problem as mere domestic China. This soft attitude was certainly still not at odds with the breath of the foreign relations law and the Indonesian human rights law.

Although Indonesia is in desperate need of Chinese investment in infrastructure development, this did not cut Indonesia's efforts to keep up its sovereignty. Through the Fisheries and Marine Law, the Indonesian government took the distance in the matter of the dispute over Natuna Island in the South China Sea and dared to sink foreign ships that crossed Indonesian waters and even ships from China.

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Percentage contribution of each author in the manuscript

Faruq Ansori - 55%

Zhang Guo Ping – 20%

Melda Ria Juwita - 25%