



From Fragility to Resilience: Revitalising International Legal Order in an Era of Strategic Ambiguity

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Abstract

This paper examines the constrained yet meaningful role of international law in managing contemporary geopolitical disputes from the perspective of a middle power. It argues that international law's effectiveness is fundamentally limited by the absence of enforcement mechanisms binding sovereign states, a constraint most visible in security-related disputes such as the South China Sea. Through Indonesia's diplomatic engagement with China on overlapping maritime claims and its unresolved Exclusive Economic Zone boundary with Vietnam, the paper illustrates the dilemmas confronting middle powers navigating competing major-power interests. Two complementary strategies are proposed: preserving the status quo through cooperation and awaiting more internationally committed leadership. The paper concludes that Indonesia's "free and active" foreign policy remains its most viable strategy for balancing national interest with broad diplomatic engagement.

Keywords: Exclusive Economic Zone (EEZ), Free and Active Foreign Policy, International Law, Middle Power, South China Sea.

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Introduction

The contemporary international legal order faces increasing pressure from intensifying geopolitical rivalry, strategic competition, and declining trust among major powers. Although international law continues to provide an important normative framework governing relation among sovereign states, its practical effectiveness is increasingly challenged when disputes involve national security and competing strategic interests. This situation raises an important question concerning the extent to which international law remains capable of contributing to the peaceful settlement of interstate disputes.

The discussion further emphasises that international law continues to play an essential role in regulating relations among states. Nevertheless, its practical effectiveness remains constrained when competing strategic interests dominate political decision-making. Under these conditions, legal principles alone cannot always resolve interstate disputes, highlighting the continuing importance of diplomacy, political commitment, and confidence-building initiatives in supporting peaceful conflict management.

Within this context, the paper further explores Indonesia's diplomatic engagement with China concerning overlapping maritime claims in the South China Sea, as well as the unresolved ratification of the Exclusive Economic Zone (EEZ) boundary agreement with Vietnam, as concrete illustrations of the constraints confronting a middle power operating between competing major-power interests. Building on these illustrations, the paper considers the strategic options available to Indonesia and comparable states in managing such disputes without resorting to escalation, before assessing the continued relevance of Indonesia's "free and active" (*bebas aktif*) foreign policy as a framework for reconciling the pursuit of national interests with the maintenance of broad and constructive diplomatic relations. In doing so, the paper argues that international law and diplomacy should be understood not as competing instruments but as complementary mechanisms through which middle powers may contribute to the peaceful management of contemporary geopolitical disputes.

Result and Discussion

First, the discussion establishes that international law possesses a limited capacity to respond to contemporary geopolitical dynamics, particularly with respect to security-related issues. The central argument advanced rests on a fundamental distinction between domestic and international legal systems. Within a domestic legal system, governmental authority stands above citizens and private entities, enabling coercive enforcement of law, including arrest and sanction. In the international environment, by contrast, no equivalent authority

exists, such that state compliance with international legal norms remains essentially voluntary in nature. This absence of an enforcement mechanism is identified as the principal structural weakness constraining international law's capacity to regulate the conduct of sovereign states.

The discussion further argues that the practical influence of international law becomes increasingly circumscribed when disputes implicate security interests, whereas, on non-security matters, international law is regarded as functioning relatively more effectively as a framework for interstate cooperation. In contemporary armed conflicts, opposing parties frequently invoke differing provisions of international law to justify their respective positions. As illustrated in the discussion, competing interpretations of the United Nations Charter may be advanced simultaneously by different parties to the same conflict. Persistent legal disagreement often arises because no authoritative judicial institution possesses the practical capacity to determine conclusively which interpretation should prevail when sovereign states decline to accept an adverse outcome. Leadership dynamics are further identified as a factor shaping how major powers construe and apply international legal norms. By way of illustration, reference is made to the position adopted by the United States leadership in asserting that reference to international law was unnecessary in the case concerning the arrest of Venezuelan President Nicolás Maduro. A further example is provided by the 2016 ruling of the Permanent Court of Arbitration (PCA), which rejected the legal basis of China's historical claims in the South China Sea and is widely regarded as a legal victory for the Philippines; however, the ruling proved ineffective in practice after China openly refused to recognise it. Both examples substantiate the paper's central thesis that, in interstate relations, power ultimately prevails over law, enabling more powerful states to determine what is regarded as "right" according to their strategic interests rather than according to international normative consensus.

Indonesia's position as a middle power is illustrated through several concrete diplomatic measures. A state visit by the President of the Republic of Indonesia to China resulted in a joint statement proposing a breakthrough through joint development in areas of overlapping maritime claims. Subsequent diplomatic engagement with the United States introduced additional complexity, as a joint statement issued during the presidential visit reaffirmed the importance of international law and UNCLOS. That position stood in implicit tension with China's rejection of the 2016 PCA ruling. Negotiations leading to UNCLOS focused on establishing a new legal framework to replace the 1958 Convention on the Law of the Sea during a period in which developing countries exercised considerable influence in multilateral negotiations. Broad international consensus consequently emerged in support of substantial legal reform. Contemporary geopolitical disputes, by contrast, primarily stem

from strategic rivalry and national security considerations, making comparable consensus considerably more difficult to achieve. A persistent dilemma therefore confronts middle powers: preserving constructive relations with major powers whose strategic interests and legal positions diverge while operating within limited diplomatic latitude to align decisively with either normative framework without incurring diplomatic risks.

In response to this situation, the presentation puts forward two complementary strategic approaches. The first emphasises the importance of maintaining the status quo while avoiding escalation, prioritising the peaceful management of differences, and expanding cooperation in areas where the interests of states may converge. The second approach is more long-term in character, entailing a period of waiting for a change in global leadership toward figures more genuinely committed to upholding international law, peace, and multilateral cooperation. In this connection, ASEAN's Treaty of Amity and Cooperation (TAC) is highlighted as an important regional instrument for affirming the region's commitment to peace, while simultaneously signalling to the international community that ASEAN has no intention of allowing rising tensions to escalate into open conflict.

Continuing relevance of Indonesia's "free and active" (bebas aktif) foreign policy is reaffirmed as the most appropriate strategy for navigating contemporary strategic ambiguity. Implementation of a free and active policy requires careful and deliberate balance, given that a state's natural tendency to lean towards one party on a given issue risks undermining the very principle of neutrality that defines the policy. Equivalence between a free and active policy and passive neutrality is nevertheless rejected. A free and active policy continues to afford Indonesia the latitude to take a firm stance and assert its national interests whenever those interests are perceived to be under threat, while upholding the principle of "many friends, zero enemies" as the guiding orientation of Indonesian diplomacy amid an increasingly complex geopolitical landscape.

Complementary functions performed by international law and diplomacy in managing contemporary geopolitical disputes are further recognised. International law continues to provide the normative framework governing relations among states, whereas diplomatic initiatives create practical opportunities to sustain dialogue and confidence when legal mechanisms alone cannot produce mutually acceptable outcomes.

Conclusion

International law continues to function as essential normative framework governing relations among states; however, fundamental structural limitations become apparent when disputes involve security interests and the geopolitical interests of major powers. The absence of an enforcement authority comparable to that found within domestic legal systems renders compliance with international legal norms heavily contingent

upon the political will of individual states, such that power ultimately proves more determinative than law itself. China's rejection of the 2016 PCA ruling, together with the stance adopted by United States leadership in dismissing reference to international law in certain cases, stands as concrete evidence of this condition. Indonesia's position as a middle power is consequently confronted with the dual challenge of preserving strategic relations with major powers whose legal positions frequently diverge while simultaneously safeguarding national interests, as reflected in the complexity surrounding the joint development initiative with China in the South China Sea and the still-pending ratification of the EEZ boundary agreement with Vietnam. Resolution of maritime disputes in the region therefore cannot rest solely on a legal-formal approach but instead requires a more adaptive and long-term diplomatic strategy.

Maintaining the status quo through strengthened cooperation and the peaceful management of differences, together with awaiting a shift in global leadership towards greater commitment to international law, indicates that the strategic posture of a middle power such as Indonesia is inherently a medium- to long-term undertaking rather than an instant solution. Strengthening regional instruments such as ASEAN's Treaty of Amity and Cooperation (TAC) remains vital to affirming the region's commitment to peace and preventing the escalation of tensions into open conflict. Indonesia nevertheless continues to possess an important role as a middle power through constructive diplomatic engagement. A "free and active" foreign policy remains the most relevant approach for navigating contemporary strategic ambiguity, while practical initiatives that strengthen confidence, facilitate dialogue, and support peaceful negotiation complement international law by creating opportunities for peaceful conflict management while recognising the political realities that characterise the contemporary international system.

Publication Note

This article presents an academic adaptation of the presentation delivered at the 10th Jakarta Geopolitical Forum (JGF X) 2026. Editorial revisions were limited to structure, language, and readability, while the speaker's original arguments, meaning, and policy recommendations remain unchanged.

References

1. Lembaga Ketahanan Nasional Republik Indonesia (Lemhannas RI). **Jakarta Geopolitical Forum X/2026: Strengthening Multilateralism: Survival Amid Global Turbulence and a Fragmented World** [video on the Internet]. Jakarta: Lemhannas RI; 2026 Jul 9 [cited 2026 Jul 17]. Available from: <https://www.youtube.com/watch?v=IbYayky-FmQ>