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## The role of the Strait of Hormuz by Iran as a military defense fort analyzed from international law

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### Abstract

At first the relations between the United States and Iran went well, but these relations were strained since Iran underwent a revolution in the government and became an Islamic Republic. This situation has been exacerbated since Iran developed nuclear technology as an alternative to the use of petroleum. The development of technology by Iran is considered as a real form of effort to disrupt world security by Iran. Therefore, the United States and its allies are trying to impose sanctions on Iran. The various sanctions then made Iran issue an attack, Iran then threatened to close the Strait of Hormuz which is a vital route in distributing petroleum as the main global energy. The defensive strategy carried out by Iran in closing the Strait of Hormuz is an effort to deal with pressure from western countries who want to weaken Iran's nuclear program. When viewed from the side of international law, each country will defend the interests of its country. Iran's military defense carried out in the Strait of Hormuz is a tangible manifestation of efforts to protect Iran's territory.

**Keywords:** strait of homuz; military defense; international law

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### Introduction

International law is part of the legal system as a whole (Salter and Mason, 2007) <sup>[5]</sup>. When defined in general terms, the system consists of sub-sections that are interconnected between with each other, where the parts work together to achieve common goals that have been determined by a unit (Yustitaningtyas, 2015) <sup>[18]</sup>. Departing from this, if you look at International Law as a system, then International Law has a very important and strategic role to maintain security and peace in relations between countries in the world. In line with this, The American Law Institute provides a definition of International Law as: *the conduct of states and of international organizations, and with their relations inter se, as well as some of their relations with persons, wheter natural or personal*”, the free translation is as an act of the state and international organizations in the relationship between states and individuals as individuals and as legal entities (Thontowi & Iskandar, 2006) <sup>[8]</sup>. Thus international law can be said as a rule of law that is present so that relations between these countries can continue. Countries in the world need each other, so that in establishing this relationship there is reciprocity which is regulated according to the provisions of International Law (Kurnia, 2008) <sup>[10]</sup>. Without the presence of international law, these countries cannot establish cooperation so they cannot benefit from these relations, such as establishing trade, exchanging ideas, commercial activities, and other activities (Strake, 2001) <sup>[6]</sup>.

Iran as an independent and sovereign country cannot be separated from the influence of International Law in its relations with other countries in the world, especially regarding military defense in the Strait of Hormuz. When viewed from its geographical location, the Strait of Hormuz is the only connecting waterway to get out of the Persian Gulf. It is certain that all oil tankers from the Middle East will use the Strait of Hormuz. This is supported by data released by the United States through research conducted by the US Energy Information Administration (EIA) stating that in 2018, there were 28 million barrels of oil per day from the Strait of Hormuz. In comparison, 28 million barrels of oil per day is the same amount as 21% of global oil consumption (United State Energy Information Administration, 2019). The strategic location of the Strait of Hormez is supported by geographical factors, in which the strait is occupied by 3 (three) countries, namely: Oman, United Arab Emirates and Iran. This strategic position makes the Strait of Hormuz the busiest maritime route in the world (Ratner, M. (2018) <sup>[23]</sup>.

In addition to the advantages derived from its strategic position, the Strait of Hormuz is also a location prone to conflict. The conflict occurred between Iran and the United States. Iran has claimed this strait to be part of its country's sovereignty, and threatened to close the strait if Israel and the United States attacked Iran. Responding to the threat from Iran, the spokesman for the United States said that the United States and its allied countries would not stand by and would take steps to deal with the Iranian threat. (The Guardians, 2018). If examined historically, previously relations between the United States and Iran went quite well. In 1975 and 1976, through the National Security Decision Memoranda, the United States gave approval to Iran for the sale of uranium enrichment and processing facilities from the United States to Iran to pioneer the country's nuclear program

(Muhammad, 2010) <sup>[2]</sup>. But in the end after Iran underwent reforms and entered the government of the Islamic Republic, the United States opposed and withdrew its support. Western countries, especially the United States and its allies worry that the nuclear program developed by Iran will become a weapons program for mass destruction. The dislike of the United States and its allies towards the nuclear program developed by Iran has implications for the attitude of the United Nations (UN) which issued Resolution No. 1929. The resolution contains sanctions against Iran, such as travel bans and financial restrictions on countries related to Iran's nuclear activities. However, the sanctions did not work and Iran continued to pursue its uranium enrichment and development program. In response, the United States then issued new sanctions by punishing all insurance companies, banks, and shipping companies that helped sell Iranian oil.

The threat that Iran received incessantly then made Iran issue a counterattack, Iran then threatened to close the Strait of Hormuz, which is a vital route in the distribution of petroleum as the main global energy. In this regard, Siti Mutia as an expert on Middle East Studies and Foreign Policy at Gadjah Mada University said that Iran's defensive strategy in closing the Strait of Hormuz was an effort to deal with pressure from western countries that wanted to weaken Iran's nuclear program (Ika, 2012) <sup>[20]</sup>.

Based on this background, the writer will then try to analyze the "Role of the Strait of Hormuz by Iran as a Military Fortress Analyzed from the Side of International Law". This writing is a development of the previous writing of Wandy Ardiansyah Hasibuan which discusses about "The Iran-United States Confrontation in the Strait of Hormuz and its Impact on the Distribution of World Oil Sales" and the writing of Balqis Paradiba with the title "The United States' Attitude towards Military Activities in the Strait of Hormuz in the Ahmadienejad Period (2011-2013)". This writing will complement the previous writing by looking at the conflict that occurred from the Strait of Hormuz as a bulwark of the Iranian state when viewed from the side of International Law. To provide an answer to the title, this paper aims to explain: First; The background of the conflict between the United States and its allies with Iran. Second; The role of the Strait of Hormuz as a military defense base for Iran is seen from the perspective of International Law.

### **Research Method**

This research is a legal study which is category as normative or doctrinal legal study Peter (Mahmud Marzuki, 2014) Cconducted with a review of the literature "Research Library" is a process for discovering the rules of law, principles of law, and legal doctrine to solve the legal issues faced by examining the literature materials that focus on conducting analysis and studying primary and secondary legal materials so that legal research will be able to produce theoretical arguments or new concepts as an attempt at resolving legal issues. This legal research uses both primary and secondary legal materials regarding the case of The Role of The Strait of Hormuz by Iran as A Military Defense Fort Analyzed from International Law.

### **Research Result**

#### **Background of the Conflict between the United States and its Allies with Iran**

After World War II ended, the United States placed the Middle East as a strategic region. This strategic condition means that the United States wants to make the Middle East a hegemonic area of United States influence. It can be proven that in 2013 alone there were approximately 35,000 United States troops in military bases in a number of countries in the Middle East Region (United State Department of Defense, 2013).

At first Iran was an ally of the United States in the Middle East. Through the Atomic Agreement for Peace between the United States and Iran. The agreement promised the superpower United States to provide uranium enrichment assistance, technical assistance, to cooperation in the use of nuclear for peaceful purposes. However, the situation turned 180 degrees when the regime of Reza Pahlavi, the Iranian leader, supported by the United States, had to abdicate and replaced by the regime of the Islamic Republic of Iran. The United States' dislike of Iran is shown by the issuance of various kinds of embargoes, ranging from the application of financial sanctions, oil export sanctions, and Iran's ban on oil exports (Salsabila & Yulianti, 2019) <sup>[13]</sup>.

Iran as an independent country in 2002 sought to develop its country's nuclear program. Essentially, Iran's goal of developing nuclear power is to maintain the amount of oil that it has in its country. This is based on the fact that until now Iran is a country that imports quite a lot of oil in the world. The United States responded to this and tried to do various things to hinder the development of nuclear technology carried out by Iran. The inhibition was carried out by reporting that Iran had violated the agreement in the Non-Proliferation Treaty (NPT). It should be noted that the NPT is an agreement that binds countries not to carry out nuclear production in excess of the needs used for the national defense of a country (Thakur, 2006) <sup>[7]</sup>. Agreements like this are carried out as a fundamental effort to disarm nuclear development for countries in the world globally (Nye, J, 1992). However, in countries such as Pakistan, North Korea and India, such matters are ignored (Simpson, J & Howlett, 1994) <sup>[14]</sup>. The country took countermeasures and strengthened military capabilities in the country after the cold war (Potter, 2010) <sup>[16]</sup>.

In connection with the accusations given by the United States, Iran does not heed the accusations given by the United States, this is because as a member country of the NPT, Iran has absolute right to develop the nuclear program.

Furthermore, in 2018, Israel claimed to have discovered the presence of Iran's newest nuclear site. In response to this discovery, Israel hopes that the International Atomic Energy Agency (IAEA) will immediately follow up and impose sanctions on Iran (Kompas Internasional, 2018) <sup>[1]</sup>. It should be noted that the IAEA is one of the

efforts made by countries in the world to prevent the spread of nuclear weapons after World War II, nuclear is only used for peaceful purposes. This action is also one of the efforts for global nuclear disarmament (Mikail, 2018) <sup>[11]</sup>.

Along with the change of leadership, both in the United States and in Iran, various efforts to resolve disputes were carried out. For example, during the leadership of President Obama, who chose diplomacy in resolving disputes. The United States asked Iran to stop its nuclear development in exchange for the lifting of the sanctions embargo that had been previously given (Perwita & Razak, 2020) <sup>[15]</sup>.

The dispute between Iran and the United States has worsened again under Trump's leadership. Since May 8 2018, the United States has withdrawn from the 2015 Joint Comprehensive Plan of Action (JCPOA) and requested that countries in the world stop buying oil from Iran. This caused Iran to experience an economic crisis. The conflict between Iran and the United States that occurred in the Persian Gulf of course affect the stability of oil-producing countries in the Middle East. To overcome this, Saudi Arabia hopes for emergency regional talks with countries around the Gulf of Hormez in order to overcome this problem (Pujayanti, 2019) <sup>[17]</sup>. The conflict in the Strait of Hormez will not only affect countries in the Middle East, but will also have an impact on oil supplies around the world, especially countries that are active in developing technology, economy and industry, such as Russia, Japan, China, and the United States, participates in using petroleum from the Middle East.

The role of the Strait of Hormuz as a base for Iran's military defense in terms of international law.

Countries in the Middle East can be said as The Jugular of World Economy for countries in the world that are active in using oil supplies originating from the Middle East in their economic activities. This has implications for the many interests inherent in the Middle East, so that the interested countries will continue to strive to create peace and stability in order to safeguard the interests of each country in the Middle East region.

Entering the 21st Century, Iran is strengthening its country with military defense and economic improvement. Such conditions make Iran a major threat to the United States, which has strong ambitions to dominate and have strong influence in the Middle East region (Irawan, 2021) <sup>[9]</sup>. The desire to become a country that has a strong influence in the Middle East Region is then followed by establishing various collaborations with countries in the region The middle East. The action is certainly aimed at strengthening its position from the threat of Iran and its allies.

Theoretically, the presence of the United States' power in the Middle East is a counter balance to increase the United States' bargaining position in an effort to resolve various problems currently being faced in the region. Viewed from another point of view, if you look at the magnitude of the influence of the United States in the Middle East region, then Iran has a position as a balance of power or a balancing power of the strong influence of the United States in the region. This is done to provide assurance that no country can exert pressure, as well as reduce the dominance of the United States over other countries in certain regions (Odgaard, 2003) <sup>[4]</sup>, in this case in the Middle East region.

The Strait of Hormuz is a strait that has a strategic role in the distribution of petroleum in the world. Iran is one of the countries that enter the territorial area of the Strait of Hormuz. Under the provisions of UNCLOS 1982, Iran has the authority to regulate its territorial sea, along with its traffic. This has been explained in Article 22 paragraph (1) UNCLOS 1982, namely:

*“The coastal State may, where necessary having regard to the safety of navigation, require foreign ships exercising the right of innocent passage through its territorial sea to use such sea lanes and traffic separation schemes as it may designate or prescribe for the regulation of the passage of ships”* (Myron, (2011) <sup>[3]</sup>.

Based on the above provisions, it can be seen that the coastal state in this case Iran, has the authority to regulate the Traffic Separation Scheme in the Strait of Hormuz which is part of Iran's territorial sea.

Furthermore, this argument is supported by the statement of Hussein Shariatmadari, which states that Iran has the authority to close the Strait of Hormuz, the closure can be done temporarily or even permanently. This authority refers to the 1958 Geneva Agreement and the 1982 Jamaica Agreement (Rahman, 2012). If the coastal state feels that its sovereignty is threatened by military or trade ships crossing the strait, then the coastal state has the right to close the strait.

Seeing the attitude of the United States and its allies imposing repeated sanctions on Iran, such as the blockade of oil exports from Iran. Thus, Iran will consider all ships carrying petroleum for countries that have boycotted Iran as a real manifestation of a threat to national security. Iran's threat to block the Strait of Hormuz then had implications for the increase in oil prices in 2011 to 2% (two percent), which amounted to over 100 dollars per barrel.

When viewed from the side of international law, each country will defend the interests of its country. So Iran as a sovereign country has various interests in the Strait of Hormuz. First; In the interest of security, Iran as an independent country feels the need to protect the Strait of Hormuz from possible threats from other countries, especially the United States and its allies who are rivals of Iran.

Second; In the interest of defense, the Strait of Hormuz is part of Iran's territory, so Iran has the right to maintain the strait as a legal boundary of its territory.

Third; In the interest of the economy, from an economic perspective, tankers from Iran and other Middle Eastern countries wishing to distribute oil to other parts of the world must pass through the Strait of Hormuz. So it can be said that the Strait of Hormuz plays a very important role in relation to the availability and prices of petroleum globally.

Iran's military defense carried out in the Strait of Hormuz is a manifestation of efforts to protect Iran's territorial territory. Seeing the enormous interest in the Strait of Hormuz, as a territorial state, Iran feels the need to secure logistical routes for Iran's interests.

Responding to Iran's stance, the United States as a rival country to Iran, stated that Iran's military defense in the Strait of Hormuz was a form of Iranian threat and provocation. The United States claims that the military exercise has hampered the process of shipping oil by tankers passing through the Strait of Hormuz.

In order to take revenge for Iran's actions, the United States then held exercises in the Persian Gulf, and also accompanied by imposing economic sanctions on Iran. The threat was then responded to with a discourse to close the Strait of Hormuz by Iran.

The act of attacking each other between these countries will certainly not never finished. When examined from the concept of state security, Iran is a reference object, namely a country that has a territorial area over the Strait of Hormuz, and tries to survive the threat posed by the United States (Bahman. A. (1995) <sup>[1]</sup>. So that the act of establishing a military defense base, as well as the discourse of closing the Strait of Hormuz is a defense effort from Iran which has independence and sovereignty as a country. These independent and sovereign countries certainly have a rational choice to defend their country from future threats, so Iran also has the right to seek rational choices in the face of pressures that threaten its country.

## Conclusion

Iran as a country cannot be separated from the influence of International Law in its relations with countries in the world, especially regarding military defense in the Strait of Hormuz. Geographically, the Strait of Hormuz is the main and only waterway that can be passed by oil tankers from the Middle East to get out of the Persian Gulf. At first, relations between the United States and Iran went quite well. But in the end, after Iran underwent reform and entered the government of the Islamic Republic, the United States began to oppose Iran's nuclear development and considered it a threat to world security stability. Pada dasarnya, tujuan Iran untuk mengembangkan tenaga nuklir adalah untuk menjaga jumlah minyak yang terdapat di negaranya, hal tersebut berlandaskan bahwa sampai saat ini Iran merupakan negara mengimpor minyak yang cukup kuat di dunia. The United States in response to this is trying to do various things to hinder Iran's nuclear development.

The United States and its allies have repeatedly attacked Iran in the form of accusations that Iran has reneged on the agreement of the Non-Proliferation Treaty (NPT). Iran does not heed the accusations given by the United States, this is because as a member of the NPT, Iran has the absolute right to develop its nuclear program. The conflict in the Strait of Hormuz will not only affect countries in the Middle East, but will also have an impact on oil supplies around the world. The act of attacking each other between these countries will certainly never be finished. When examined from the concept of state security, Iran is a reference object, namely a country that has a territorial area over the Strait of Hormuz, and tries to survive the threat posed by the United States, so that the act of establishing a military defense base, as well as the discourse of closing the Strait of Hormuz is an effort to defend Iran's sovereignty as a state.

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