

THE NEED FOR ASIAN REGIONAL COOPERATION IN ESTABLISHING INTERNATIONAL AGREEMENTS ON MARINE PLASTIC DEBRIS

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ABSTRACT

The presence and circulation of marine plastic debris (or plastic waste) including in marine of the Asian continent have caused a threat to the life of ecosystems in the sea. Increased production and increasing use of plastics in the world. Besides the increasing volume or amount of plastic waste in the sea is inseparable from the behaviour of people who dispose of plastic waste. Insufficient national regulations and the absence of global international agreements including for Asia are also an issue. Cooperation on the handling of aquatic waste at sea in several Asian countries including ASEAN and its partners has also been conducted but is limited and has not been based on strong rules and legally binding. This problem is tried to be seen in this study that seeks to examine aspects of international law both hard law and soft law about the plastic waste in Asia and how the form of international agreements following the characteristics of the Asian community can handle the issue. The purpose and purpose of this study are to identify and analyse national, regional, and international regulations related to the applicable laws of the sea in Asia. Also, it analyses the framework of legal devices and regional cooperation to deal with plastic waste in the Asian seas. The methodology used is descriptive analysis with a normative legal method approach. This research are expected to provide solutions for efforts to handle global plastic waste, especially in the oceans of the Asian continent.

Keywords : Asian cooperation; Regional international law; Asia marine plastic waste, international agreement soft law, and hard law;

I. INTRODUCTION

Jambeck's research in 2015 shows that several Asian countries are the largest producers of marine debris.¹ Of course, the results of this study will become a consideration regarding the importance of handling marine waste, including plastic waste. Moreover, the marine environment suffers losses due to plastic waste reaching more than 13 million dollars per year.² The problem is getting more complicated when garbage becomes mountains in the middle of the sea, as happened in the Pacific, Atlantic and Indian Oceans.³ Therefore, it is necessary to change the policies of Asian countries to pay more attention, especially to plastic waste, from production, use, waste handling to disposal. One of the policies is to negotiate an international agreement for handling marine plastic waste.

However, several Asian countries have tried to take the lead by taking important policies such as those carried out by Indonesia by making regulations, namely the Presidential Regulation Number 83 year of 2018 concerning the Marine Debris Action Plan to reduce marine waste by up to 70 percent by 2025. Of course, the regulations The President has also changed the paradigm of managing marine waste, which has been business as usual in Indonesia. Meanwhile, China also made a policy change by banning imports of plastics in January 2018.⁴

¹ Jenna R Jambeck et al, Plastic Waste Input from Land to the Ocean (2015)347 (6223) Science 768-769

² Planet over Plastic: Addressing East Asia's Growing Environmental Crisis, The World Bank June, 8, 2018 in <https://www.worldbank.org/en/news/feature/2018/06/08/planet-over-plastic-addressing-east-asias-growing-environmental-crisis..>

³ L. Lebreton, B. Slat, F. Ferrari, B. Sainte-Rose, J. Aitken, R. Marthouse, S. Hajbane, S. Cunsolo, A. Schwarz, A. Levivier, K. Noble, P. Debeljak, H. Maral, R. Schoeneich-Argent, R. Brambini & J. Reisser. Evidence that the Great Pacific Garbage Patch is rapidly accumulating plastic in scientific Report (2018) 22 March in <https://www.nature.com/scientificreports>

⁴ <https://www.icis.com/explore/resources/news/2021/04/27/10632982/china-s-ban-on-plastic-waste-imports-propels-change-across-asia-pacific-and-beyond>

Meanwhile, East Asia, through the East Asia Summit, has also provided important direction for handling marine debris. Through the Conference Marine Debris in Bali, Indonesia on September 2017 an agreement was reached on the East Asia Summit Leaders' Statement. In Southeast Asia, the Association of South East Asia Nations (ASEAN), as one of the largest regional organizations, has also agreed on a joint commitment to dealing with marine waste through the ASEAN Framework of Action on Marine Debris as a result from the ASEAN Member at the Special Ministerial Meeting on Marine Debris on 5 March of year 2019 in Bangkok, Thailand.⁵ Such conditions have shown that Asian countries, especially for Southeast Asia and East Asia, have started to move and take action to pay more attention to the presence of waste in the sea which is increasing every year.

Until now in Asia itself, collective action from the perspective of the Asia Region has not been clearly seen. There has been no meaningful meeting at the Asian level to discuss marine debris, let alone plastic waste in the sea. With this condition, more concrete action is needed for Asia to enhance Asian cooperation so that in the future a more binding and responsible international agreement can be agreed. This study tries to see the perspectives and norms of Asian countries in dealing with plastic waste, especially plastic waste in the sea. Apart from that, does Asia really need regional international law on the protection and management of plastic waste in the sea? This research tries to see the opportunities, challenges, and achievements of the Asian region in agreeing to handle marine waste, especially plastic waste in the sea.

II. METHODOLOGY

The method of this research is descriptive analysis with a normative legal method approach.⁶ This method tries to look in perspective and focus, especially by describing and analysing documents or information related to marine debris including plastic waste and other documents such as international meetings and agreements reached. From the available information, it is then analysed, and conclusions with in order to objectives of the research.

III. RESULT OF THIS RESEARCH

3.1. The existence of marine plastic waste in Asia.

In this century, plastic production and use has increased rapidly. Since the discovery in the 1950s, plastic production has increased from year to year.⁷ This plastic production is of course related to human needs which continue to increase and increasingly depend on plastic as a daily necessity. The consequence of the sharp increase in production is that the volume of waste produced also increases. Part of the plastic waste that is produced can be managed, but most of it cannot be managed or just thrown away.⁸ This unmanaged amount of plastic waste then enters the ocean and becomes plastic waste in the sea. Even as mountains in several large oceans such as the Pacific, Atlantic and Indian. As a result of the accumulation of garbage in the sea in the Indian Ocean, most Asian countries are affected, including the entry of some of the waste into Asian countries.⁹ Meanwhile in the Pacific, several Asian countries are also affected by the mountains due to their distribution. Various forms of plastic waste in the sea ranging from macro-plastic, meso-plastic, micro-plastic to nano-plastic has found in the oceans.¹⁰ The existence of marine plastic debris in various forms has caused many problems, including for animals that live in the sea. Many animals are entangled and swallowed plastic which results in disease and death. Even more dangerous is the entry of plastic waste from the oceans into the food chain system.¹¹ Of course this will threaten the oceans of the future and future

⁵ <https://asean.org/storage/2019/06/3.-ASEAN-Framework-of-Action-on-Marine-Debris-FINAL.pdf>

⁶ Theresia Anita Christiani. Normative and Empirical research Methods : Their Usefulness and Relevance of the Study of Law as an Object in Procedia - Social and Behavioral Sciences 219 (2016) 201 – 207 in <https://reader.elsevier.com/reader/sd/pii/S1877042816300660?token=DFF35412D5DB418F38CCFE448D7A900281FEE6B1771D70712FEE7928DA8C00EA10051CAD1658FF3532A28262F41DD195&originRegion=eu-west-1&originCreation=20210504173311>

⁷ Hannah Ritchie and Max Roser. Plastic Pollution in Our World in Data in <https://ourworldindata.org/plastic-pollution>

⁸ <https://www.weforum.org/agenda/2018/03/8-steps-to-solve-the-oceans-plastic-problem/>

⁹ <https://magazine.scienceconnected.org/2021/04/tracing-the-origins-of-ocean-garbage-patches/>

¹⁰ <http://www.planetexperts.com/macro-meso-micro-but-what-about-nanoplastic/>

¹¹ See UN Environment (14) Fredic Gallo, Cristina Fossi, Roland Weber, David Santillo, Joaou Sousa, Imogen Ingram, Angel Nadal and Dolores Romano, Marine Litter Plastic and Microplastic and Their Toxic Chemicals Components: The Needs for urgent Preventive Measure (2018) 30 (1) Environmental Science Europe; UNEP Frontier 2017 (number 15) 13-16.

generations. In 2015, Jambeck conducted research on marine debris in the Asian region. These results indicate that there are 5 largest waste-producing countries, namely Republic of China, Republic of Indonesia, Philippines, Vietnam and Sri Lanka.¹²

3.2. Plastic Waste Management Regulations in Several Asian Countries

Several Asian countries have arrangements regarding waste including plastic waste in the sea. This regulation is quite important because it is an effort to handle plastic production, its use, restriction, handling and disposal. Some Asian countries, among others, are trying to handle plastic waste through their national regulations, including:

Table 1
Regulations plastic product and waste handling in Asia`s countries

No	Name Country	Regulation	Information
1	Cina	Law on the Prevention and Control of Solid Waste Pollution to the Environment 1996,	This temporary effort is to ban imports and recycle up to 35 percent in cities
2	Indonesia	Act Number 18 year of 2008 concerning on Waste and Act Number 32 year of 2009 concerning Environmental Protection and Management	There is a Plan for Action Marine Plastic Debris 2017-2025
3	Kamboja	Solid Waste Management year in 1999	National Strategy on Integrated Solid Waste Management (2011-2025)
4	India	Municipal Solid Waste Regulation (Management and Handling) 2000, The Solid Waste Management Rules, 2016.	Plastic Waste Management Rules, 2016 limit the use of all single-use plastics and remove them until 2022.
5	Thailand	Enforcement and Conservation of National Environmental Quality Act 1992, National Solid Waste Management Master Plan 2016-2021	Road Map for Plastic Waste management 2018-2030
6	Jepang	Waste Management Law 1970, as amendment 2000, Basic Law for Establishing a Sound Material Cycle Society, 2000	Law of the Promotion Utilisation of Recycled Resources, 2000, amendment
7	Bangladesh	Environmental Conservation Act 1995 as amendment 2010.	Government has banned use of poly shopping bag since 2002 and 2010 has a National Initiative 3 R.
8	Korea	South Korea's Waste Management Law, 1986	Marine plastic litter strategy by 2050
9	Sri Lanka	National Policy Waste Management,	Comprehensive Action

¹² Jenna R Jambeck et al, Plastic Waste Input from Land to the Ocean (2015)347(6223)Science 768-769



		2019	Plan of Marine Waste, 2020
10	Taiwan	Waste Disposal Act, 2006 as amendment 2012	Marine Debris Management Platform 2017 and Taiwan Marine Debris Governance Action Plan, 2019

Sources : Result of this research, 2022

3.3. International Cooperation in Handling Plastic Waste in Asia.

International cooperation regarding the handling of marine debris including marine plastic waste has not been taken seriously at the Asian level. One regional organization, such as the Gulf Cooperation Council (GCC), which consists of 6 Middle Eastern countries, has managed plastic waste but is still limited in recycling plastic.¹³ Meanwhile, The regional organization such as South Asian Association for Regional Cooperation (SAARC) and South Asia Cooperative Environmental Program (SACEP) already have plastic waste management programs. The Shanghai Cooperation Organization (SCO) is a regional organization formed from several Asia and European countries. In the year agreed to a limited use of plastic. Meanwhile, the Asia-Pacific Economic Cooperation (APEC), whose members consist of Asia and Pacific countries, seeks to spread markets including plastic products. The agreement on plastic waste has been made through restrictions and disposal of plastic waste. The East Asia Summit has also provided important direction for handling marine debris. Through the Conference on Combating Marine Plastic Debris in Bali in September 2017 an agreement was reached on the East Asia Summit Leaders' Statement on Combating Marine Plastic Debris. ASEAN as one of the largest regional organizations has also agreed on a joint commitment in dealing with waste in the sea through the ASEAN Framework of Action on Marine Debris as an negotiate from the ASEAN Member at the Special ASEAN Ministerial Meeting on Marine Debris on 5 March 2019 in Bangkok, Thailand.¹⁴

3.4. Encourage International Agreements the Perspective Asia Region

At the Asian level, there is no international agreement regarding marine plastic waste that is legally binding. Even the initiative to create regional rules is still very limited and has not spread and applies throughout Asia. In several parts of Asia countries such as East Asia countries, in 2017, a Leaders' Statement on Combating Marine Plastic Debris has been agreed at East Asia Summit.¹⁵ Meanwhile, in 2019, for the Southeast Asia through the ASEAN member, the Bangkok Declaration on Marine Debris and the ASEAN Framework of Action Plan on Marine Debris as a result negotiation in ASEAN Summit. However, these two agreements are only soft law or not legally binding and based on commitment only. For example, for Southeast Asia, the agreement and provisions on plastic handling must be based on the "ASEAN way" norm. This norm is very strong and growing in Southeast Asia.¹⁶ Meanwhile in East Asia, human security norms have developed.¹⁷ South Asia has tried to develop norms for attention to family and gender protection.¹⁸ West Asia including the Middle East has long developed norms in Islamic law.¹⁹ Although these norms are still developing, they are expected to integrate into Asian norms for handling marine plastic waste.

¹³ Heather Caliendo. 2016. End Market : About 10% of Plastic is Recycled in GCC Countries. <https://www.ptonline.com/blog/post/about-10-of-plastic-is-recycled-in-gcc-countries>

¹⁴ https://asean.org/main-search/?_sf_s=%22Marine+debris%22

¹⁵ https://asean.org/storage/2018/11/EAS_Leaders_Statement_on_Combating_Marine_Plastic_Debris.pdf

¹⁶ <https://cil.nus.edu.sg/wp-content/uploads/2019/01/Session-1-Jay-Singapore-Conference-Jan-15-16-2019.pdf>. See also https://asean.org/?static_post=the-asean-way-and-the-rule-of-law

¹⁷ <https://cesran.org/human-security-norms-in-east-asia-towards-conceptual-and-operational-innovation.html>

¹⁸ <https://www.encyclopedia.com/medicine/diseases-and-conditions/pathology/south-asia#:~:text=Familial%20coresidence%20remains%20the%20norm%20for%20most%20seniors,thus%20illustrate%20living%20arrangements%20and%20support%20for%20seniors.>

¹⁹ Chiara Formichi. Islam and Asia https://assets.cambridge.org/97811071/06123/frontmatter/9781107106123_frontmatter.pdf



3.5. Regional International Legal Instruments that need attention.

Regional international law for Asia has not regulated plastic waste in the sea specifically. This happens because the waste problem has not become a big concern for Asia. In fact, the volume of waste around the world, including Asia, is increasing and requires serious handling.²⁰ Moreover, the handling of waste, especially plastic waste in the sea, has spread and at some points has turned into mountains that can endanger shipping, animal life and marine ecosystems in general. Plastic waste that can stay longer in the sea will jeopardize the future of the ocean and future generations. Therefore, an initiative is needed to form an agreement regarding the regulation of marine plastic waste. For that we need both soft law and hard law instruments that can apply in Asia. One of the objectives is to regulate several things such as production, limitation, utilization or use, transportation, waste management, disposal. In addition, it also needs to be regulated regarding the form and type of plastic, labelling, export-import, responsibility and economic instruments as well as other instruments such as social and culture. Some of the norms or provisions that need to be made to be included in an international agreement such as principles, accountability, restrictions on Production, Import and Export, development of environmentally friendly plastic technology, protection of the Marine Environment etc. This Asian legal instrument can also be in the form of hard law or soft law which can be used by all Asian's countries

IV. DISCUSSION

Although waste in the sea in general has been regulated by countries, however, plastic waste in the sea needs to get more attention. This is because plastic waste is very dangerous and contains toxins and has a long life span in the sea. If ingested by marine animals which are then captured and used for human consumption, humans can contract various diseases including cancer or even cause death. This existence, of course, needs not only to be regulated at the national level. Only the problem that occurs, not all Asian countries regulate plastic waste, let alone those in the oceans. Not all Asian countries also have a good national capacity to regulate this. So that a lot of plastic waste originating from land enters the oceans and is late and even difficult to overcome. Capacity building is needed to increase collective action through collective agreements, one of which is through international agreements, both hard law and soft law. The role of regional organizations is important to facilitate various meetings of countries to deal with marine plastic waste. Regional organizations in Asia also need to collaborate between other regional organizations so that this action can be more encouraging to be taken together to deal with plastic waste in the ocean at the Asian level. On the other hand, in determining the regulatory instrument, norms that are suitable and in accordance with Asian norms are needed to make it easier to implement. It is important for Asian norms to be mutually agreed upon so that international legal instruments will be more effectively used by Asian countries because they are in accordance with Asian local conditions.

IV. CONCLUSION AND RECOMENDATION

Finally, the conclusions reached from this research show that Asia does not yet have an agreement to deal with marine waste, let alone plastic waste in the sea. For this reason, several things need to be recommended including:

- a. Marine debris, including plastic waste in the sea, is urgent to tackle at the Asian level.
- b. Asian countries that already have the capacity in handling marine debris must push for an Asian collective agreement.
- c. International organizations in the Asian subregion can help to increase Asian cooperation in dealing with marine plastic waste.
- d. Research needs to be developed, especially related to Asian norms, especially those related to efforts to deal with marine debris, especially plastic waste in the sea.

²⁰ <https://rse-usa.com/marine-debris-urgent-issue/>