

THE BORDER LAND OF THE UNITARY STATE OF THE REPUBLIC OF INDONESIA WITH OTHER COUNTRIES

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ABSTRACT

The Unitary State of the Republic of Indonesia has land borders with three countries, namely Malaysia, Papua New Guinea and Timor Leste and also sea borders with other ten countries. The border is a dividing sovereignty of one country to another, if there is a state border which is still indistinguishable, it could lead to disputes with the neighboring countries. The disputes that often arise at the borders between countries are unresolved borders, natural resources, and the seizure of territory as well. Borders are a very important issue in international law, it relates to the jurisdiction of each country in carrying out their respective governance in each country. This article will discuss about the land border between Indonesia and Malaysia, Papua New Guinea and Timor Leste, these three countries are Indonesia's nearest neighbours, which are highly vulnerable to the dispute, by promoting mutual respect between countries that can create a healthy political climate and able to create an organized neighbourhood.

Key words: Border, Indonesia, Malaysia, Papua New Guinea, Timor Leste.

Introduction

Indonesia is an archipelagic state situated geographically in the South-east Asia with its ten immediate neighbors. Therefore, it has international land and maritime boundaries with the ten countries, i.e. Malaysia, Singapore, Vietnam, the Philippines, Palau, Papua, New Guinea, Australia, Timor-Leste, India, and Thailand (Sobar Sutisna, Sri Handoyo, 2006).

The Unitary State of the Republic of Indonesia (NKRI) is an archipelago consisting of large and small islands which are numerous, the number of 17,508. The existence of Indonesia as an archipelagic country has been recognized through their The United Nations Convention on the Law of the Sea (UNCLOS 1982). This resulted in Indonesia has quite a lot of territory bordering foreign countries. The border region, covering the borders that exist in the land, sea, or air that is in contact with neighboring countries is a strategic region (Joko Christanto, et al, 2014).

Indonesian border with neighboring countries have a positive impact on the diplomatic relations although in border management in particular on the land borders never cause a problem or conflict with other countries, but always with the principles of good neighborliness it can be done well, The emergence of a problem at the border is very reasonable and often occur, but it can not be used as a reason to affect diplomatic relations that have been established properly and tightly between the countries bordering on land directly with Indonesia.

For Indonesia, the border is a strategically vital region in the framework of NKRI. Said to be strategic because geographically the border area has the potential of natural resources and market opportunities due to the proximity distance with neighboring countries and called vital because politically the border area related to aspects of state sovereignty, defense and security, nationalism, ideology, social, economic and cultural (Irwan Lahnisafitra, 2005). In the opinion of Bonggas (2010) issue of the border into the qualifying traditional security issues, will become increasingly complex with the emergence of new issues such as ethno-religious conflict, human trafficking, illegal arms trade, drug trafficking, money laundering, terrorism, etc. other.

In a land border problems that need attention is with regard to the crossing of people and goods in each border, the issue of delimitation of the border region, which until now have not been resolved, such as Indonesia and Timor Leste in the border region of Oecusse enclave. Of course it can be a little wedge in diplomatic relations with the countries there is a neighbor and the problem must be resolved to create good neighborly relations and facilitate the lives of the people who are in the border area.

Border in a political context that has never been described as well, leading to frequent disputes border areas with neighboring countries sparked by competition over resources that have a strategic advantage as well as the increase in population and population movements. In disputes with neighboring countries are quite frequent conflicts over resources is a strategic, as well as increased and the displacement of populations in the border region (Saru Arifin, 2014).

In this article focuses on the land border between Indonesia and neighboring countries, namely Malaysia, Papua New Guinea and Timor Leste, diplomatic relations between Indonesia and the three countries, the problems at the border and which has been completed by each country in the region of their border so it is clear what must be done by a country if faced with a problem of the border, in this case the authors viewed from the standpoint of Indonesia.

Research Methods

Based on the features of legal research, Soekarno (1986,p.10) categorizes it into three types, namely:

- 1) Exploratory research is conducted if knowledge about a phenomenon that will be investigated is none or still lacking;
- 2) Descriptive study is done to provide accurate data about people, circumstances, or other symptoms;
- 3) Explanatory research is research that is intended to test specific hypotheses.

Viewing from the objectives, legal research is divided into two categories (Soekarno & Mamudji, 2003, p.14) they are:

- 1) The literature research is done by researching library materials or secondary data.
- 2) The empirical or sociological legal research is conducted primarily by examining primary data.

Based on the category of the types of research, this research employed descriptive design that is intended to provide a clear picture of a country's reasons to issue a travel warning to a state in the perspective of international law. The objective of the present research is normative law, of which the data were obtained through the study of documents or literature by examining library materials, such as: books, international conventions, international agreements, papers, journals, articles, newspapers as well as internet sites related to the object under study.

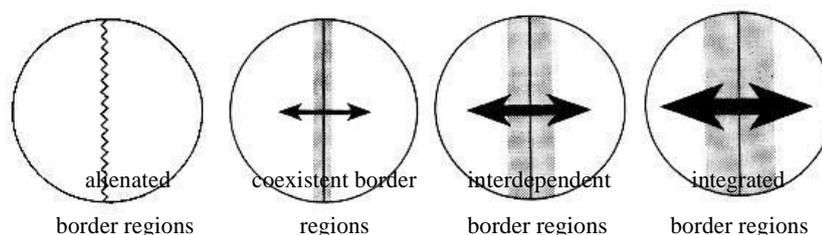
Research is a scientific activity that is related to the analysis and construction done methodically, systematically and consistently. Methodological means in accordance with a method or a certain way, systematic is based on a system, while consistent means the absence of contradictory things within a certain framework. (Soerjono Soekanto, 2012). This research is descriptive research that provides the data as accurately as possible about the Border Land Of The Unitary State Of The Republic Of Indonesia With Other Countries and this research is a normative research is legal research done by researching library materials or secondary data. The data were analyzed qualitatively is this analysis want to find the truth based on the value or quality of data obtained through the process: collecting the data, the data were then grouped according to the object, the data that have been classified was then outlined and explained, then data described further in the evaluation using legal provisions that apply to see kesesuaian or vice versa and then compared, and establish conclusions and ius constituendum.

Understanding The Border

According Rongxing Guo (1996) border is the limiting of the political area and the movement area, while the border region is as an area that plays an important role in the political competition between the two countries are different.

Attempting to define a border region the typology of border regions by Oscar J. Martinez (1994) needs to be presented. Depending on the degree of cross-border cooperation, relations between the respective countries and interactions between the communities O. J. Martinez distinguishes four types of border regions i.e. *alienated border regions*, *coexistent border regions*, *interdependent border regions* and *integrated border regions* (see Figure 1).

Figure 1. Models of borderlands interaction by O. J. Martinez



Source: (Martinez 1994, p.7)

According to the author alienated border regions are the ones with no cross-border connections. It is a consequence of relations between the countries characterised by open conflict or a state of war, existing political discrepancies, incidence of nationalism, ideological and religious hostility as well as cultural and ethnic differences. These factors influence high formalisation and the lack of the permeability of a border. The effects of which are the lack of cross-border cooperation, low levels of population density and spatial development (Martinez 1994).

Coexistent border regions are characterised by the disappearance of open conflict. However, barriers preventing the cross-border cooperation i.e. emotional barriers, irregular status and course of national borderlines (Martinez 1994) still exist. Developing cooperation at culture, economy and policy levels is only possible when the course and status of the national borderline is accepted on the basis of bilateral or international agreements.

On the other hand, another type of interdependent border regions refers to those border regions that maintain mutual relations and interactions which are then manifested in developing cross-border cooperation and intensifying the movement of persons, goods and capital. As it is pointed out by Martinez, the economies of the border regions become interconnected. This process is strengthened because the cooperating regions are characterised by the similar level of socio-economic development. Disparities, on the other hand, might marginalise a less developed region (Martinez 1994).

Integrated border regions comprise the final type of border regions indicated by Martinez. The characteristic feature of these regions is the disappearance of a barrier within trade and social relations. An important factor of the integrated border regions is

the intensive and free movement of people, goods, services and capital (see Martinez 1994; Czarczyńska and Śledziwska 2003; Łukasz 2013). Moreover, neighbouring countries are drawn into further integration as a result of affiliation to international and/or supranational organizations. Nationalism is eliminated in favour of international ideology based on peaceful coexistence, raising the standards of living and voluntary renunciation of a part of sovereignty (Martinez, 1994).

According to the theory of Oscar J. Martinez, in Tirtosudarmo (2002) categorize the border between Indonesia and Malaysia, including the type of coexistent interdependent border regions and border regions. Papua New Guinea and East Timor, including the border regions of type coexistent and interdependent border regions. The border region has several functions. First, the legal function that is the boundary line that serves to define the boundary of an area with a standard of jurisdiction and applicable state regulations. Secondly, the control function, which is any movement of people and goods in and out of a border region organized and became the state's control. Third, fiscal function, which is complementary to the control functions that give the right of a country to implement a fiscal price of a destination country (Saru Arifin). In connection with these functions, each country needs to take action to ensure security in the border region. This is important because the ability of the state to safeguard the security of its borders, can guarantee the continuity of the country.

Border State Land Indonesia With Three Neighbors

1. Border between Indonesia and Malaysia

The border between Indonesia and Malaysia on the Island of Borneo and the island of Sebatik, the long line of the border is approximately 2004 km that extends from the west towards timr island of Borneo. The length of the state border between the province of West Kalimantan to Sarawak, Malaysia about 966 km and the state border between the province of East Kalimantan with the states of Sabah and Sarawak Malaysia around 1,038 km. Borneo island is divided in two by the Dutch colonial authorities by the British colonial government and later confirmed by both countries Indonesia and Malaysia, the provisions of which bisects the territory of the island of Borneo is: (Kasianus Daud, 2008)

- a) The Boundary Convention between the Kingdom of the Netherlands to the United Kingdom is signed in London on June 20, 1891;
- b) The Boundary Agreement between the Kingdom of the Netherlands to the United Kingdom is signed in London on 28 September 1915;
- c) The Boundary Convention between the Kingdom of the Netherlands to the United Kingdom signed at The Hague dated March 26, 1918;
- d) Memorandum of Understanding between the Government of the Republic of Indonesia and the Government of the Kingdom of Malaysia, signed in Jakarta on 28 November 1973;
- e) Document of the First Meeting of the Joint Between Indonesia and Malaysia Boundary Committee signed in Kota Kinabalu, Sabah, Malaysia November 18, 1974.

While the state border on Sebatik Island organized by The Boundary Agreement between the Kingdom of the Netherlands to the United Kingdom in London on 28 September 1915. This Agreement contains, among other arrangements regarding the geographical position of the border on the island.

Although the agreement governing the border line between the two countries have long existed, but the position or signs of nature set both sides (colonial) still need to be verified by both countries for possible signs of these have been lost, different interpretations of the coordinates or the method of determination of the point the base of the border (Badan Koordinasi Survey dan Pemetaan Nasional, 2004).

2. Border between Indonesia and Papua New Guinea

Indonesian state has a land border with the territory in the country of Papua New Guinea (PNG) on the island of Irian or Papua. Border region this land stretching from the north to the south island of New Guinea along approximately 800 km, the border line dividing the island of New Guinea into two parts contained in the Convention between the UK Government and the Government of the Kingdom of the Netherlands on May 16, 1895, under this agreement divides the island of New Guinea became western part controlled by the Government of the Netherlands east Indies and subsequently by the Government of Indonesia and the eastern part dominated the British Government which then submitted to Australia and is now the country of Papua New Guinea. After the western region of the island of Irian go back into the Unitary Republic of Indonesia by the New York Agreement dated August 15, 1962, the Government of Indonesia and the Government of Australia (at that Papua New Guinea was still under the protectorate of the Australian state in 1973 returned to the border treaty between the two countries.

The two countries formed a survey team to verify the coordinates of points as well as signs that exist in accordance with the agreement made by the two former colonial ruler. The results of the team which is the base material for both the Indonesian government with Australia making a border treaty between the two countries called the Agreement between Indonesia and Australia Concerning Certain Boundary Lines Between Indonesia and Papua New Guinea signed in Jakarta on 12 February 1973. Furthermore, this border agreement ratified by Law No. 6 of 1973 on the Agreement between Indonesia and Australia Outline Regarding Certain Boundary between Indonesia and Papua New Guinea (David).

3. Border between Indonesia and Timor Leste

The land border between Indonesia and Timor Leste has a length of 268.8 km, across three districts in East Nusa Tenggara province, namely Belu District, North Central Timor and Kupang. Land border between Indonesia and Timor Leste is divided into two sectors: 1. Sector East (main sector) in Belu directly bordering on Covalima and Bobonaro Timor Leste along 149.1 km; and 2. Sector West (District of Kupang and Timor Tengah Utara) that is directly adjacent to the Oecussi District which is the

East Timorese enclave along the 119.7 km. Almost as large land boundary between the two countries in the form of natural boundaries such as watershed and thalweg, delimitasi boundary between Indonesia and Timor Leste on Timor Island refers to a treaty between the Government of the Netherlands East Indies and Portugal in 1904 and the Permanent Court Award (PAC) in 1914 and the Interim Agreement Indonesia and Timor Leste started since 2001 with the holding of the first meeting of the Technical Sub-Committee Transitional Administration and Regulation (TSCBDR) between Indonesia and UNTAET (United Nations Transitional Administration for East Timor). The state border between Indonesia and East Timor as much as 907 points koordin set out in the approval of the Provisional Agreement signed by Indonesia and Timor Leste on June 8, 2005 in Dili, but there is still a segment that has not been resolved and that has not been surveyed by the two countries (Decentralization Support Facility, 2011).

Border Management Indonesia With The Neighbors

Indonesia border management previously handled by the 29 ministries and 75 central office that handles echelon 1 sectorally at a cost of Rp 2.5 trillion annually (DPD, 2012). In 2008 Indonesia issued Law No. 43 of 2008 on the territory of the State and Peraturan Presiden Nomor 12 Tahun 2010 tentang Badan Nasional Pengelolaan Perbatasan (BNPP). BNPP has the primary responsibility to manage the nation's borders, BNPP is structural and permanent institution with four tasks is to set policies border development program, establish budgets needs plan, coordinate and implement the evaluation and implementation supervision (Media Perbatasan, 2011;3, Saru Arifin, 2014;125).

Border Dispute Settlement

According to Malcolm Shaw (1986) crucial issues often become the trigger of the dispute is on a border treaty that has been made in the colonial period, such as differences in the interpretation of the agreement, recognition secretly and so forth. Results of research conducted by Saru Arifin (2014) relating to the potential dispute occurred on the border of Indonesia and Malaysia is concerned the position of the border markers point that today is not done by both countries. Deal of survey and mapping together are still partial as outlined in the MoU based on an agreement in the meeting of all 31 The Joint Malaysia-Indonesia on the Demarcation and Survey of the International Boundary in Genting Highland, 5-7 July 2004. On that occasion, Indonesia and Malaysia have agreed to document the process of delimitation or stakes land border between the two countries conducted from 1973 to 2000 in the interest of both countries in the future. Associated with it, then if there is a dispute on the position of the border markers between the two countries, then there are two mechanisms for dispute resolution that can be achieved is the legal process and the process of non-law. Legal procedures that can be done is through negotiations via forums General Border Committee (GBC) and Indonesia Malaysia Joint Boundary Committee (JIMBC), as a formal body in resolving the bilateral border issue between the two countries which can be optimized. In the case of land border between Indonesia and Timor Leste of incompatibility stated in the legal basis (Treaty PAC 1904 and 1914) with the reality in the field and is known by the public. The explanation given by the citizens of Indonesia and Timor Leste citizens conflicting and opposite, on the other hand there are still groups of people who have different views. They traditionally have a limit recognized hereditary by tribes residing in both countries other than those stated in the legal basis of the Treaty of 1904 and PAC 1914 (Decentralization Support Facility, 2011) and in resolving disputes and land boundary between Indonesia and Timor Leste should involve indigenous peoples who live in the area and this is a challenge in doing agreement in determining the land border between the two countries.

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