Indonesia-Malaysia Border Conflict

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Abstract

Border management is seen as less than optimal and integrated, especially on the Indonesia-Malaysia border. There are border areas that are still unfinished, starting from Sebatik, Nunukan, Sanggau, and Entikong. Nine points need to be resolved to strengthen the legitimacy of the borders of each country. The difficulty is that Malaysia and Indonesia have very close borders. The research question raised in this study is how to regulate legal and political policies in determining borders according to international law and managing the Indonesia-Malaysia land border area. The theory used in this research is the concept of borders and international law. This study uses a qualitative method and comprehensively describes the Indonesia-Malaysia border conflict resolution. The findings obtained from the study are that Indonesia, as a sizeable sovereign country, must continue to strive to resolve border conflicts so as not to disrupt relations between the two countries.

Keywords
international borders; international treaties; conflict

I. Introduction

The Unitary State of the Republic of Indonesia (NKRI) is an archipelagic country with a coastline of about 81,900 kilometres, has border areas with many countries, both land (continental) and sea (maritime) borders. The land boundary of the Republic of Indonesia is directly adjacent to the countries of Malaysia, Papua New Guinea, and Timor Leste. Indonesia's land borders are spread over 3 (three) islands, 4 (four) provinces, and 15 (fifteen) regencies/cities, each of which has different border characteristics. Likewise, neighbouring countries have social, economic, political, cultural, and conditions orders. Meanwhile, Indonesia's maritime territory is bordered by 10 (ten) countries, namely India, Malaysia, Singapore, Thailand, Vietnam, the Philippines, the Republic of Palau, Australia, Timor Leste, and Papua New Guinea. Sea border areas are generally outermost islands, 92 (ninety-two) islands, and small islands. Indonesia's borders can be seen from the north; Indonesia is bordered by Malaysia in the form of land on the island of Borneo, precisely in West and East Kalimantan. In addition to land borders, it also borders the sea with Singapore, Malaysia, and the Philippines. In the east, it is bordered by land and sea, with Papua New Guinea on the island of Irian Jaya. In the south, it borders on land with Timor Leste in East Nusa Tenggara and borders on the sea with Australia in the Indian Ocean, and on the west, it borders the Indian Ocean.

Indonesia is also referred to as an archipelagic state as stated in the Djuanda Declaration on December 13, 1957, which reads: "That all waters around, between and connecting the islands that are part of Indonesia's State. Regarding the extent or width are natural parts of the land area of the State of Indonesia. Thus, part of the interior or national waters are under the sovereignty of the State of Indonesia. The final State of Indonesia. Peaceful traffic in these inland waters for foreign ships is guaranteed as long as it does not conflict with/disturb the sovereignty and safety of the State of Indonesia. Determination of

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the boundaries of the territorial sea shelf (12 miles wide) is measured from the line connecting the outermost endpoints on the islands of the State of Indonesia. These provisions will be regulated as soon as possible by law”.

The Djuanda Declaration provided a solid political and legal basis for Indonesia, facing formidable challenges in fighting for its territory in international forums. According to Moh. Mahfud MD, the declaration emphasized three essential things. First, as the official stance of Indonesia, which faced difficulties in unifying Irian Jaya because the surrounding seas were widely considered international waters that were free to be used by anyone. Second, to emphasize that the earth, water, and natural resources contained therein and the air space above them must be used for the greatest prosperity of the people by the mandate of Article 33 of the 1945 Constitution (Article 33 of the 1945 Constitution, n.d.). Third a statement about the natural form of Indonesia, which is the basis for the insight of the archipelago in national development. The aim is to realize Indonesia as a political, social, economic, cultural, defence and security unit (MD, 2009). In the conception of International Law, Indonesia's land borders after independence in 1945 cover the entire territory of the former Dutch colony as the first country to rule in the archipelago. The Dutch East Indies government set a boundary with the UK for the land boundary segment in Kalimantan and Papua. Meanwhile, the Dutch East Indies set a land boundary with the Portuguese on the island of Timor.

It is based on the principle of Uti Possidetis Juris in International Law (a country inherits its colonial territory), so Indonesia and neighbouring countries only need to reaffirm or reconstruct the established boundaries. Reaffirmation of distinction is not as easy as one might think. The problem of Indonesia's territorial borders is no longer a new thing. Since Indonesia became a sovereign country, the border has become a problem with a bright spot. The border problem concerns the agreed physical boundaries and concerns the people's way of life in the area, for example, traditional fishers or other activities around the border area (Arifin, 2014).

The main problems still being experienced by regions on the border of Malaysia and Indonesia, precisely in the East Kalimantan area, include regional isolation, basic infrastructure, and community economic welfare. Indonesia's border areas are generally areas far from the centre of government with specific social, national, and state life aspects. The border areas are very remote and challenging to reach, and the accessibility of transportation is not adequate, causing the region's isolation. It is still difficult to find transportation access in most border areas, although the costs required are still prohibitive. However, there are conditions such as Indonesia's isolated border areas, such as those in Nunukan Regency, such as Krayan Island and Sebatik Island. They have access to Malaysia's sovereign territory, which is more easily accessible. Conditions like this certainly cause problems where the Indonesian people at the border point tend to enjoy access to socio-economic services in the border areas of neighbouring Malaysia, which are more easily accessible (Creswell, 2003).

The high number of low-income families in the border areas implies the low quality of human resources, poor socio-economic infrastructure, low community productivity, and not optimal utilization of natural resources. This condition is exacerbated by differences in welfare levels with neighbouring countries, especially in areas where the welfare conditions of the people are lower than those in neighbouring countries, in this case, Malaysia. Negotiations to reach a mutual agreement. Although the agreement has been mutually agreed upon, there are often disputes due to unilateral recognition of interest and the lack of discipline of a country in carrying out the agreement. The state border area is the primary manifestation of a country's territorial sovereignty. The border area has a vital
role in determining the boundaries of its sovereign territory, utilization of natural resources, security, and territorial integrity. The border problem has a complex dimension. Several crucial factors include jurisdiction and state sovereignty, politics, socio-economics, and defence and security. There are three main issues in the management of border areas between countries, namely (1) Determination of both land and sea boundaries, (2) Security of border areas, and (3) Development and management of border areas. The handling of various problems in the three main issues above faces various obstacles.

II. Review of Literature

The new paradigm, the development of border areas, is to change political development policies, which tend to be "inward-looking" oriented to "outward-looking" so that these areas can be used as a gateway for economic activity and trade with neighbouring countries. The current state border development approach uses a prosperity approach without abandoning the security approach. The objectives of developing border areas are: to (a) maintain the territorial integrity of the Unitary State of the Republic of Indonesia through the determination of the sovereign rights of the Unitary State of the Republic of Indonesia, which are guaranteed by international law; (b) improve the welfare of the local community by exploring the economic, social and cultural potentials as well as the advantage of a very strategic geographical location to connect with neighbouring countries. A border is generally a demarcation line between two sovereign states. A border is an imaginary line that separates two or more political areas or jurisdictions such as countries, states, or subnational territories. Land boundaries can be marked by boundary markers, placement of border guard officers, and immigration offices. On the other hand, sea and air boundaries are more imaginary lines mutually agreed upon through bilateral agreements.

According to T. May Rudy, "International treaties are agreements entered into between members of the community of nations and aim to result in inevitable legal consequences. They include agreements between countries and between an international organization and other international organizations. Then, what can be considered an international agreement? It was an agreement between the holy throne and countries (Rudi, 2020).

In a narrow sense, Treaty is an international agreement often used in political or economic matters. In a broad sense, Treaty is the most standard tool used to record agreements between countries with comprehensive provisions. The Treaty's purpose is to lay down binding obligations for the participating countries, both bilaterally and multilaterally.

First the Convention. The term Convention is usually used for official and multilateral documents. It also includes documents used by international agencies. Second, the Protocol is an agreement that is less formal than treaties or conventions and is generally not made by heads of state. Third, agreements are less formal than treaties or conventions and are generally not carried out by heads of state. Usually, this form is used for narrower agreements, and the parties involved are fewer than ordinary Conventions. This form is also used only for technical and administrative agreements. In general, the agreement does not require ratification and takes effect after exchanging notes. Fourth, arrangement, this form is more or less the same as agreement. Generally, it is used more for regulated and temporary transactions.
III. Research Methods

This study uses a qualitative method. According to (Creswell, 2003), a qualitative approach is an approach to constructing statements of knowledge based on a constructive perspective (for example, meanings derived from individual experiences, social and historical values, to build a particular theory or pattern of knowledge) or based on a participatory perspective. (e.g., orientation towards politics, issues, collaboration, or change), or both. The type of research used is normative juridical. The nature of the research is descriptive-analytical, describing and describing the laws and regulations related to the management of land border areas between countries (Amiruddin, 2006). The normative juridical research method is also called doctrinal research, which analyzes the law written in the legislation and the judge's decision in court (Amiruddin, 2006).

Sources of data were obtained from secondary data. Secondary data in this paper consists of primary legal materials (all regulatory documents that are binding and determined by the competent authorities relevant to the research problem, namely in the form of laws, international agreements, the Djuanda Declaration, United Nations Convention on the Law of the Republic of Indonesia). Sea (from now on referred to as UNCLOS), Etc, secondary legal materials (all documents which are the writings or works of legal experts in textbooks, theses, dissertations, journals, papers, newspapers, magazines, articles, and the internet), as well as tertiary legal materials (legal dictionaries, language dictionaries, encyclopedias, and others both in the field of law and outside the field of law). The technique used in data collection is library research or literature study. It is done to analyze the data obtained from various reliable sources, directly or indirectly (internet). Thus, a more focused conclusion will be obtained from the subject matter. The data collection tool used in this paper is a study of documents related to the problems discussed in this study.

IV. Results and Discussion

One of the main obstacles is the institutional aspect, where so far, the management of borders between countries has been partially handled by various ad-hoc border committees and sectoral relevant central agencies. It causes the solutions to deal with the problems offered tend to be partial and not comprehensive. An interstate border management agency must realize effective national border area management. There has never been an assessment and evaluation of institutions' capacity to manage border areas. Therefore, this ad-hoc institution's actual performance is needed to manage border areas at each state border, not harming both parties and damaging good relations between the two countries.

Managing regional borders is a work that never ends as long as the country exists. Naturally, border areas require an integrated and sustainable management mechanism because, in the border space, there will always be friction or interaction with neighbouring countries, both positive and negative. In formulating an integrated and sustainable border management policy, identifying problems and their scope is an essential first step. Regarding border management policies in Indonesia, Indonesia has established the National Border Management Agency (from now on referred to as BNPP) by the mandate of Law Number 43 of 2008 concerning State Territory and Presidential Regulation Number 12 of 2010, which is expected to become the legal umbrella for the central government. Moreover, regions have a high commitment to developing and managing border areas (Amiruddin, 2006).
Border management is seen as less than optimal and integrated, so it is hoped that the management of border areas will be more synergized with this institution. BNPP is a mirror or reflection of land border institutions between Indonesia and neighbouring countries. It directly borders Indonesia, including the so-called General Border Committee (from now on, GBC) for cooperation between Indonesia and Malaysia. The Joint Border Committee (from now on referred to as GBC), called JBC) for cooperation between Indonesia and Papua New Guinea, Timor Leste, and the Border Committee for cooperation between Indonesia and the Philippines (Www.Kompas.Com, nd). Judging from the several border institutions above, the GBC is the border institution that gets more attention because it often brings conflict between the two countries. The birth of GBC began with cooperation in defence with Malaysia through the Security Arrangement in 1972, which later formed a border committee. This forum was initially formed to bring the two countries closer together, especially their armed forces, after being involved in a confrontation in 1963.

GBC initially only faced the forces of communist separatist groups along the border area of West Kalimantan and Sarawak. This institution deals with the latest threats, namely global terrorism, illegal logging, illegal mining, illegal fishing, illegal immigration, human trafficking, smuggling of weapons/drugs/alcohol/groceries, piracy, and others who may take advantage of border areas. Therefore, this border institution is helpful for security issues in border areas, not only for border management and development. However, the presence of GBC will not have a significant impact on Indonesia in particular because if we look back, the border conflict between Sipadan Island and Ligitan Island must be brought to the International Court of Justice. There have been institutions that both countries have established to regulate and resolve border conflicts so as not to damage relations between the two countries. It is very unfortunate for Indonesia because the decision of the International Court of Justice stated that it was Malaysia that managed the islands of Sipadan and Ligitan, not Indonesia. For this reason, the role of BNPP is very much needed to manage and develop Indonesia’s border areas so that Indonesia does not lose the islands that become borders with neighbouring countries.

The London Convention of 1891, signed by the Netherlands and the United Kingdom, stated that the eastern end of the border was at 4° 10’ N. It continued westward across Sebatik Island off the coast of Sabah. The island was divided into two, the northern part being controlled by British North Borneo, while British North Borneo controlled the northern part. The Dutch East Indies controlled the southern part. The border then crosses the strait between Sebatik and the mainland, which runs along the Tambu and Attitude midlines to the hills that form the watersheds of the Simengaris (in Indonesia) and the Serudung (in Malaysia). This border generally stretches to the northwest towards 4° 20’N, then follows the mountain line along the watershed that flows into the South China Sea, Java Sea, and Karimata Strait, and ends at Tanjung Datu, coordinates 109° 38’.8 east longitude 02° 05’.0 north latitude at the western tip of Sarawak. The border between Indonesia and Malaysia in Southeast Asia includes a land border separating the two countries on the island of Borneo and a maritime border along the Malacca Strait, South China Sea, and the Sulawesi Sea. The land border between Indonesia and Malaysia stretches 2,019 km from Tanjung Batu in West Kalimantan. The sea passes through the inland highlands of Kalimantan to the Sebatik Bay and the Sulawesi Sea to the east of Kalimantan. This border separates North Kalimantan and West Kalimantan provinces in Indonesia from the states of Sabah and Sarawak in Malaysia. The border area in Kalimantan has 8 (eight) regencies directly adjacent to the Malaysian state, namely Sarawak and Sabah.
Initially, the survey and confirmation of international boundaries between Indonesia and Malaysia in Kalimantan in 1973 resulted in the survey and demarcation of the boundaries of the two countries. There is also cooperation in other security, disaster management, and social and economic cooperation. Completing the border affirmation program between countries has several segments that cannot be agreed upon, of course, the two countries, especially Indonesia. Do not hesitate to implement spatial planning and development in border areas even though in reality. There are still many development imbalances in various sectors and sectors. The level of life or welfare of its people compared to Malaysia.

Each country in the world has proclaimed management of border areas. It is just that Indonesia is only now taking serious action on the border since the islands of Sipadan and Ligitan were declared to belong to Malaysia through the International Court of Justice (ICJ). The Hague in 2002 is like a red report card for Indonesian diplomacy. The current policies show the government's efforts to pay more attention to border areas, one of the essential policies is. Within this case, Indonesia is starting to get serious about managing the border area to maintain the Unitary State of the Republic of Indonesia (referred to as the Unitary State of the Republic of Indonesia). The development of border areas is currently carried out with a development approach that places border areas as backyards but as front porches of Indonesia. Border areas are critical as an integral unit of regional development throughout Indonesia. The border management approach also does not prioritize the security aspect alone. Still, it emphasizes the prosperity approach with the issuance of Law no. 43 of 2008 article 14, which states that to manage state boundaries and manage border areas at the central and regional levels, the government will establish BNPP. It is reinforced by Presidential Regulation no. 12 of 2010 concerning BNPP.

BNPP itself, through the Deputy for Management of Border Area Potential, has several strategic tasks, including conducting an inventory of potential resources and making recommendations for establishing zones for economic development, defence, socio-cultural, environmental, and other zones in the Border Area. Based on the results of identifying strategic locations for land border areas carried out. There are 111 (one hundred and eleven) priority locations (LOKPRI) that have been identified for the development of land borders that are integrated with 38 (thirty-eight) Development Concentration Areas (WKP) and Border Area Coverages (CKP). Considering the handling strategy, LOKPRI is divided into 3 (three) focus areas of handling that will be carried out from 2011-to 2014.

The management of border areas is currently given to border institutions formed based on countries with direct borders. These border institutions are authorized to manage the borders of their respective regions. Until now, the management of border areas has been handled by 3 (three) institutional forms, namely first, border committees which are a forum for cooperation between Indonesia and neighbouring countries, including GBC between Indonesia and Malaysia, JBC between Indonesia and Papua New Guinea. And Timor Leste and the Border Committee between Indonesia and the Philippines. Second, related government institutions, sectorally and technically. Third, special units or agencies in the regions that handle border area management collaborate with neighbouring countries.

GBC is an institution or agency for bilateral cooperation commissions between the Indonesian and Malaysian governments that handle the management and resolution of border issues. The cooperation agreement is based on the 1972 and 1984 Security Arrangements. Part of the GBC itself is the Socio-Economic Working Group (from now on, better known as Sosek Malindo), formed in 1985. In general, Malindo's Socio-Economic objective is to improve welfare in the border areas of the two countries. The fact
is that there is a significant difference in the level of welfare between the people in the West Kalimantan region and the people in the Sarawak region.

V. Conclusion

Border conflicts that often occur between the two allied countries of Indonesia-Malaysia always impact the political situation of the two countries. To minimize conflict, especially in border areas still under negotiation, Indonesia and Malaysia signed a joint agreement (MoU) on standard guidelines for handling maritime security issues by the maritime security forces of the two countries in Nusa Dua and Bali 2012. Mutual agreement Emphasizes operational and tactical issues in the field between the maritime security forces of the two countries in dealing with problems that occur in the negotiation area of overlapping claims in the Indonesia-Malaysia maritime areas. This agreement is significant for the comfort and welfare of fishers operating in areas whose sea boundaries have not been determined. However, there are still specific coordinate points that are still in negotiations to resolve border issues. With these standard guidelines, Indonesia-Malaysia is expected to avoid minor conflicts, misunderstandings, and inappropriate actions so that they do not have a national impact and involve the two heads of state. After the signing, both parties are expected to immediately socialize it to the operational ranks below them to take the same action to maintain good relations between the two countries.

Based on the description above, it is essential to conduct an in-depth review and assessment of international law. The management of the land border area between Indonesia and Malaysia by the GBC border agency for good management and development in two neighbouring countries creates the principle of a good neighbourhood policy.

References


