

BORDER MANAGEMENT BETWEEN INDONESIA AND MALAYSIA IN INCREASING THE ECONOMY IN BOTH BORDER AREAS

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Abstract

Border governance is a necessity for Indonesia as an archipelagic country bordering maritime and / or land with other countries. Indonesia is located geographically between two continents and two oceans and no less than 17,504 islands. the border region has a very strategic multifunctionality. Politically, border areas provide legal certainty for internal and external sovereignty, both in the context of managing government administration and applying national law and in engaging with other countries. The existence of clarity of this border region will also provide legal certainty for a country for the utilization and management of natural resources contained in its territory for the benefit of the prosperity of the whole community. Border management must also be aimed at the prosperity of the people, especially those living on the border. The development of socio- economic activities to improve the socio-economic well-being of people at the border is very important because it will directly and indirectly strengthen the security aspects at the border. As a "front page" the creation of prosperity at the border will contribute positively to the conditions of security and defense, both regionally and nationally.

Keywords: borders, boundary management, economy

Introduction

The territory of the Unitary State of the Republic of Indonesia, hereinafter referred to as the state territory, is one of the elements of the state which constitutes a unit of land area, inland waters, archipelagic waters and territorial seas along with the seabed and land beneath, and the air space above them, including all wealth assets. contained therein (Law of the Republic of Indonesia Number 43 Regarding State Territory). The unitary state of

the Republic of Indonesia has sovereignty over its territory and has sovereign rights outside its sovereign territory and certain other authorities to be managed and utilized as much as possible for the welfare and prosperity of the Indonesian people. Regulations concerning the territory of a country include land areas, inland waters, archipelagic waters and territorial seas along with the seabed, and the land beneath it, and the air space above it, including all sources of wealth

contained therein, to provide legal certainty and clarity to citizens regarding the territory country.

As the largest archipelago in the world, Indonesia is known as the country with the second longest coastline in the world with a coastline of 108.00 km²(<https://www.jawapos.com/>). Indonesia is faced with a complex border problem. The challenges and problems facing Indonesia domestically are more structural-administrative in nature. In accordance with the conception of international law, the territory of the Unitary Republic of Indonesia (NKRI) is the entire territory inherited from Dutch colonialism. This is in accordance with the legal principles of the *Uti Possidetis Juris*, which means that a country inherits the territory of its occupying power. In national law, the scope of Indonesian territory is listed in various laws and regulations. Article 25A of the 1945 Constitution states that "The Unitary State of the Republic of Indonesia is an archipelagic country characterized by the archipelago with boundaries and rights stipulated by law". Another regulation, UNCLOS 1982, which took effect on November 16, 1994 and was ratified through Law No. 17 of 1985, affirms the international recognition of the archipelagic state concept which has been championed by the Indonesian people since the 1957 Juanda Declaration.

Indonesia is located between two continents (Asian Continent and Australian Continent) and two oceans (Pacific Ocean and Indian Ocean) have strategic positions in regional and global geopolitics and geoeconomics. This position on the one hand provides a great opportunity for Indonesia, but on the other hand also presents various challenges and threats. Indonesia with an archipelago consisting of 17,504 islands with territorial waters reaching 5.8 million km² has a great vulnerability in territorial / border issues (<https://id.m.wikipedia.org>).

Indonesia's land border is directly bordered by Malaysia, Papua New Guinea (PNG) and Timor Leste. While Indonesia's sea area is bordered by 10 countries, namely India, Thailand, Malaysia, Singapore, Vietnam, the Philippines, the Republic of Palau, Papua New Guinea (PNG), Timor Leste and Australia. The sea border area includes the outermost small islands with a total of 92 islands. Some of the islands still need more intensive management and arrangement because they have a tendency to have problems with neighboring countries.

The border area is a strategic area in maintaining the integrity of the country's territory, so special management is needed. The management of national borders and border areas is needed to provide legal certainty

regarding the scope of the country's territory, authority to manage state territories, and sovereign rights, and be carried out with a joint welfare, security and environmental sustainability approach. Theoretically, border management consists of 4 (four) stages, namely allocation, delimitation, demarcation, and administration (development management). The allocation, delimitation, and demarcation stages are more related to the management aspects of national boundaries. While the administrative stages are more related to development activities in the border area (boundary area).

Attention to interstate border areas and their implications for economic growth tends to increase along with the function of this region as a resource boundary. The economic opportunity arises because of the use of resources in the two adjacent territories and their spatial proximity (Van Well, 2005; Niebuhr and Stiller, 2001). In addition, the increase in economic growth opportunities is influenced by changes in the conditions of the two countries towards cooperation which tends to increase the potential for movement with the motive of economic opportunities (companies and individuals) due to the high market potential in accommodating the various resources owned by both regions (Vassilieva, 2005).

Maintaining the sovereignty of the Republic of Indonesia, both land, sea and air including citizens, maritime boundaries, islands and natural resources is an absolute thing to do. However, the reality is that there are still some boundary segments that have not yet been agreed upon with neighboring countries so that they can threaten the sovereignty and integrity of the Unitary Republic of Indonesia. Border areas are also characterized by a variety of transboundary law violation activities such as illegal trading, illegal mining, illegal dredging / sand. Illegal migration, illegal logging, human trafficking, people smuggling, smuggling of goods, illegal fishing, piracy (sea piracy), and so on. These cases are very detrimental to the state because it damages the environment, violates human rights and causes state losses because it damages the environment, violates human rights and causes state economic losses. Meanwhile, from the perspective of regional development, there are still many areas in the border region whose development is slow with low accessibility and is dominated by disadvantaged areas with very limited social and economic facilities and infrastructure. These areas are generally less touched by the dynamics of development so that the general condition of society is in poverty, even in some areas bordering

neighboring countries in terms of social and economic services.

The increasing flow of people, goods and information has become a real implication of the phenomenon of globalization. This makes the border region a very strategic aspect for a country, both in terms of social, economic, political and defense and security. Of course, this requires an accountable area management system.

Based on the description above, this paper will explore how to manage land boundaries between Indonesia and Malaysia to improve the economy on the border of the two countries.

Research methods

This research is a normative juridical research, which is a scientific procedure to find the truth based on scientific logic from the normative side whose object is the law itself (Ibrahim. 2011). This study uses a statutory approach. Primary and secondary legal materials obtained by the author were analyzed using qualitative descriptive techniques.

Results and Discussion

Land Border Arrangement Between Indonesia and Malaysia

Border management is a form of border management architecture seen from the aspects of defense and security, social economy and

politics that exist in a country in managing border areas. Border management can be understood both from the meaning of the system and function. In terms of the meaning of the system, border management is nothing but a border management system that is deliberately designed to be able to ensure that border policies by the government can be used effectively and efficiently in accordance with the objectives to be achieved (Jackson J.H. 2008).

The issue of boundaries between the two countries today, where the world has entered the 21st century, is a problem that still persists. Each boundary between two countries must be stated in a form of binding international legal product between the two countries so as not to cause a dispute. Likewise with Indonesia which borders both land and sea with several countries. Indonesia and several countries bordering both land and sea also set boundary regulations between countries in a form of international legal products. However, even though it has been stated in a form of binding international legal products, there are still boundary disputes involving Indonesia and its neighbors.

Determination of the boundaries between Indonesia and Malaysia at the stage of determining the

location and delimitation carried out by referring to the principle or principle of *possidetis juris* can be said to be successful. This is indicated by the formation of an MOU between Malaysia which uses an agreement between the Netherlands and Britain as its orientation. Previously, Indonesia and Malaysia had made a 1973 MOU which is an international legal product that binds Indonesia and Malaysia as the legal basis for the boundaries of the two countries. This MOU is also inseparable from the principle of international law namely *uti possidetis juris* which states that the new state inherits the territory and wealth of the previous ruling state. This means that Indonesia and Malaysia inherited the territory of the previous occupiers. Indonesia inherited Dutch territory and Malaysia inherited British territory. This has also become an international practice that has been applied in many former colonial countries.

Before Indonesia and Malaysia became independent, the Netherlands and the United Kingdom had also made an international legal product in the form of a treaty, called the London Treaty. However, in international law there is also the principle of *pacta tertiis nec nocent nec prosunt*,

which states that an agreement does not give rights or impose obligations to parties who are not bound to the agreement. This means that Indonesia and Malaysia cannot have rights and cannot be held responsible for the London Treaty.

Based on existing history, from colonial times to independence, the legal basis for the agreement on the boundaries of Indonesia and Malaysia includes:

a. The Dutch English Convention in 1981

This convention was signed by the Netherlands and the United Kingdom on June 20, 1981 in London. This convention regulates various matters relating to the determination of boundaries in general such as the determination of watershed or special matters relating to cases in certain areas.

b. Dutch-English Convention 1928

This convention was signed by the Netherlands and the United Kingdom in the Hague on March 28, 1928, subsequently ratified by the two countries on August 6, 1930. The core of this Convention contains the ways of determining the boundaries of the two countries in the Jagoi region between the Volcano and Gunung Raya , which was part of Traktar 1981

c. Indonesian and Dutch MOUs in 1973

The document of agreement between Indonesia and Malaysia is based on the

1981 and 1928 conventions. In this MOU agreed matters relating to the alignment of the survey and confirmation of the boundaries of Indonesia and Malaysia, include:

1. Organization of The Joint Technical Committee
2. Determination of priority areas
3. Survey procedure
4. Stages of implementation
5. Financing
6. Support security units
7. Logistics and communication
8. Immigration
9. Customs and Excise Provisions

Seeing some of the conditions above in Indonesia, the government has tried to overcome the border problem by issuing several national legislation related to border management, including the following:

1. 1945 Constitution
2. Government Regulation No. 47 of 1997 concerning National Spatial Planning
3. Law Number 27 of 2007 concerning Management of Coastal Areas and Small Islands
4. Presidential Regulation Number 78 Year 2005 concerning Management of Outermost Small Islands
5. Law Number 17 of 2005 concerning the National Long-Term Development Plan 2004-2025
6. Law Number 43 of 2008 concerning State Territories

7. Presidential Regulation Number 12 of 2010 concerning Border Management

Border issues are part of the country's defense and security issues, therefore each country has the authority to determine the boundaries of its respective jurisdiction. However, the demarcation of territorial boundaries must also take into account the authority of other countries' authorities through bilateral cooperation and agreements.

Efforts to Improve the Economy at the State Border

The border region of a country has a strategic value to support national economic growth. Regional development is an effort to encourage harmonious regional development through a comprehensive approach that includes physical, economic and social aspects.

Development of border areas is carried out by utilizing existing resources, especially local resources. These resources include in the form of human resources, local social culture, and also natural resources. Since most of the border areas are conservation forests and nature reserves that need to be protected, the development of border areas must be adjusted to the carrying capacity and the capacity of the environment.

Border areas are generally areas that have vulnerabilities. However, one of the efforts to overcome this vulnerability is to develop economic potential through investment activities in the friend so that interaction between the neighbors of the two neighboring countries occurs, but still must pay attention to the applicable regulations. The security approach views the border region as an area that is in direct contradiction with other countries so that there needs to be oversight of security to maintain the integrity of a country. The security approach will see the border region as an area that has strategic value for national interests in accordance with its function in national defense and security

The border area and outer small islands are areas that are left behind in terms of development, both economic and social. The lack of infrastructure support is one of the causes of the backwardness in addition to the lack of community capacity in managing the results of resources, therefore various development efforts are needed to overcome the backwardness of the border region. In addition to infrastructure development, the development of border areas and outer small islands can be done through

productive economic approaches, strengthening local institutions, capital and empowering community capacity.

Regarding economic growth in the border area the governments of Indonesia and Malaysia continue to strive to enhance bilateral cooperation in the development of rural areas. The Ministry of Villages, Development of Disadvantaged Areas, and Transmigration and the Ministry of Progress Outside the Bandar and Territory of Malaysia agreed to form a joint Task Force, to accelerate the development of border areas and improve the quality of human resources (HR) in the region (<https://nasional.tempo.co>).

Conclusion

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