

LEGAL INSTRUMENTS OF THE REPUBLIC OF INDONESIA IN BORDER MANAGEMENT USING THE PERSPECTIVE OF ARCHIPELAGIC STATE

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ABSTRACT

Indonesia is an archipelagic state and has gained its recognition internationally. The existence of an archipelagic state has received its regulation in the United Nations Convention on the Law of the Sea (UNCLOS) 1982. The definition of an archipelagic state is a country that consists a series of islands forming an archipelago. Indonesia region shares land borders with other countries, both on land borders and on maritime borders. Indonesia shares land borders with three pleasant countries, whereas Indonesia's maritime borders across ten other countries. In running full diplomatic relations with other bordered states, Indonesia has had the rule of law or legal instrument as the basis of implementing the sovereignty over the territory bordering Indonesia. The purpose of the national legislation is to create legal certainty over the boundaries of each country, thus avoiding overlapping claims among the border regions of each country. Thereby avoiding conflicts and disputes with other countries and the creation of diplomatic relations of mutual aid, mutual, and do not cause divisions, especially in the border areas of the country.

Keywords: Border, Archipelagic State, UNCLOS 1982

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. Historically Indonesian land boundaries with its neighbors had been delimited during the Dutch colonialization. There are three neighboring countries have land borders with Indonesia, i.e. Malaysia in Borneo (Kalimantan) island, Papua New Guinea (PNG) in New Guinea (Irian) island, and Timor-Leste in Timor island (Sobar; 2006; 1).



Map Indonesia
Source : www.menlhk.go.id

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.

Conditions in borderlands worldwide vary considerably because of profound differences in the size of nation-states, their political relationships, their levels of development, and their ethnic, cultural, and linguistic configurations. Despite this heterogeneity, however, it is possible to generalize about features common to all and to posit a classification scheme based on cross-border contact. As the world has evolved geopolitically, more and more borderlands have tended towards convergence rather than divergence, but unfavourable conditions in many areas still keep neighbouring borderlanders in a state of limited interaction. Thus in categorizing borderlands it is essential to assess cross-border movement and the forces that produce it. With such considerations in mind, four paradigms of borderlands interaction are proposed: alienated borderlands, co-existent borderlands, interdependent borderlands, and integrated borderlands (Oscar J. Martinez; 1994; 1).

An archipelagic state is any internationally recognized state or country that comprises a series of islands that form an archipelago. The term is defined by the United Nations Convention on the Law of the Sea in order to define what borders such states should be allowed to claim. In various conferences of the UNCLOS (Preamble to the United Nations Convention on the Law of the Sea: Article 46) Fiji, Indonesia, Papua New Guinea, the Bahamas, and the Philippines are the five sovereign states that obtained approval in the UN Convention on the Law of the Sea held in Montego Bay, Jamaica on December 10, 1982 and qualified as archipelagic states.

Archipelagic states are states that are composed of groups of islands forming a state as a single unit, with the islands and the waters within the baselines as internal waters. Under this concept ("archipelagic doctrine"), an archipelago shall be regarded as a single unit, so that the waters around, between, and connecting the islands of the archipelago, irrespective of their breadth and dimensions, form part of the internal waters of the state, and are subject to its exclusive sovereignty (https://en.wikipedia.org/wiki/Archipelagic_state).

The approval of the United Nations for the five sovereign states as archipelagic states respect existing agreements with other countries and shall recognize traditional fishing rights and other legitimate activities of the immediately adjacent neighboring countries in certain areas falling within archipelagic waters. The terms and conditions for the exercise of such rights and activities, including the nature, the extent and the areas to which they apply, shall, at the request of any of the countries concerned, be regulated by bilateral agreements between them. Such rights shall not be transferred to or shared with third countries or their nationals (Part IV archipelagic states: Article 51 UNCLOS).

That the Republic of Indonesia as an archipelagic country has abundant natural resources which is mercy and grace of God almighty for the entire nation of Indonesia that must be managed in a sustainable manner to promote the general welfare, as mandated in the Constitution of the Republic of Indonesia Year 1945. That sea area as the largest part of the territory of Indonesia, which has a position and strategic value of the various aspects of life that includes political, economic, social, cultural, defense, and security is the basis of national development.

Law of The Republic of Indonesia Number 32/2014 about The Sea, sea water is space on earth that connects the mainland to the mainland and other natural forms, which is the geographical and ecological unity and all its associated elements, and the limits and the system is determined by the legislation and international law.

The island is the area of land that formed naturally and is surrounded by water on the surface of the water at high tide. Islands are a group of islands, including parts of the island and the waters between the islands, and other natural beings do to each other so closely that the islands, waters and other natural form it is a unity of geography, economic, defense, and security and political intrinsic or that has historically been regarded as such. State of the Islands is a country that is entirely made up of one or more islands and may include other islands.

Indonesia is an archipelago based on the UNCLOS 1982, Indonesia has borders with many countries both sea and land. In this article will discuss about the Legal Instruments of the Republic of Indonesia in Border Management Using the Perspective of Archipelagic State.

Research Methods

Based on the features of legal research, Soekanto (1986; 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 (Soekanto & Mamudji; 2003; 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. (Soekanto; 2012). This research is descriptive research that provides the data as accurately as possible about *Legal Instruments of The Republic of Indonesia in Border Management Using the Perspective of Archipelagic State* 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, and establish conclusions and *ius constituendum*.

Understanding Border

In the six celebrated English dictionaries – Webster’s Unabridged Dictionary, Collins English Dictionary, the America Heritage Dictionary, Oxford Dictionary, the Merriam – Webster Unabridged Dictionary, and Macmilan Dictionary, there are quite similar definitions on the term “border”, in brief, border is defined as : (Guo; 2015)

- a) “the line that separates one country, state, province. etc., from another” (Webster’s Unabridged Dictionary, 2013);
- b) “the dividing line or frontier area separating political divisions or geographic regions” (Collins English Dictionary, 2009);
- c) “the line of frontier area separating political divisions or geographic regions” (the America Heritage Dictionary, 2009);
- d) “a line separating two countries, administrative divisions, or other areas” (Oxford Dictionary, 2014);
- e) “a line separating one country or state from another” or “a boundary between places” (the Merriam – Webster Unabridged Dictionary, 2014);
- f) “the official line separating two country or states” (Macmilan Dictionary, 2013).

Obviously, “border” refer as to a *line* in all these definitions. However, “border” sometimes has been defined as a narrow strip (or district or region) along or near the border between two areas. In addition, it is also usually defined as the part or edge of a surface or area that forms its outer boundry or the edge or boundary of something. or band or pattern around the edge of something, or the part near it. In some unusual cases, “border” also refers as to ‘the frontier of civilization’ (Guo, 2015).

In the English language, the word “border” has a sister word “boundary”. Both words can be used interchangeably. In addition, there is another similiar word “frontier” : meaning ‘a border between two countries’. In Chinese language, ‘border’ (or “boundary”) and ‘frontier’ are written as ‘biajie’ and ‘biajiang’ in Pinyin forms, respectively. In both Chinese and English languages, ‘border’ has wider meaning in political geography than ‘frontier’-a term that refers to a special case of border used to denote the sovereign limits of and divisions between independent states. However, this difference may not exist in other languages. For example, in some European languages, only a single word is used for the terms ‘border’ and ‘frontier’, such as ‘*frontiere*’ (French), ‘*Grenze*’ (German), ‘*frontera*’ (Spanish), and ‘*fronteira*’ (Portuguese).

Indonesia Borders

Map is showing Indonesia, the largest archipelago in the world, situated between the Indian Ocean (to the South) and the South China Sea (Pacific Ocean, in North). The country consists of more than 17,000 islands, the largest are Sumatra, Java, Borneo (known as “Kalimantan” in Indonesia), Sulawesi, and New Guinea, most of the larger islands are mountainous, with peaks ranging between 3,000 and 3,800 m.

Formation of national integrity, among other, can be carried out in the form of a solid territory depicted by fixed borders, including by the delimitation of a definitive boundary lines with the neighboring countries both in land and at sea. For an archipelagic state like Indonesia the existence of the outermost small islands is one of the important gographical condirions they may also affect boundary delemitation (Etty R. Agoes; 2011; 1).

Within the framework of national integrity the ocean possesses two key aspects that is, of security and prosperity. The demarcation of the outer limits of national maritime territory and jurisdiction including delimitation of boundaries with neighboring countries will provide a legal basis for a number of marine activities such as defense, fisheries, navigation, seabed and subsoil exploration and exploitation, marine tourism and others.

Boundary issues for Indonesia, whether on land, at sea even in the air, have always been a matter of national priority (Michelle (eds.); Havas Oegroseno; 2009; 49). One of Indonesia’s foreign policy objectives is establishing stable, fixed land and maritime boundaries with all of its neighbors. Indonesia has concluded treaties and agreements with almost all of its neighbouring countries, except with Timor Leste, the Philippines and Palau.

Jones 'S Boundary Making Theory

In 1945, an American political geographer named Stephen B Jones published a book entitled *Boundary-Making : A Handbook for Statesmen, Treaty Editors and Boundary Commissioners*. In his book, Jones formulates a theory concerning the existence of the historical borders of a state. Within the theory, Jones suggests that there are four main stages of the existence of the borders of a state, namely: (1) allocation, (2) delimitation, (3) the demarcation of boundaries in the field, and (4) boundary administration. Jones gave a cautionary note that the boundary making is a continuous process, starting from the initial stage to the final stage of the administrative allocation, so that errors in one stage will affect the next stage (Sumaryo, *et al*; 2014;3).

After more than sixty years the theory of Jones (1945) published and applied, many questioned the relevance of the theory for the 21st century, especially associated with the borderless view, the development of geospatial technology and dispute resolution cases Eritrea - Ethiopia boundary (Donaldson and Williams, 2008). Then Donaldson and Williams (2008) conducted an analysis of the relevance of the theory of boundary making of Stephen B. Jones in 1945 for the 21st century. The results of the research

that has been conducted is presented in the article entitled: Delimitation and Demarcation: Analysing the Legacy of Stephen B Jones 's Boundary Making and published in the journal *Geopolitics*, 13:4, 676-700. Donaldson and Williams conclude that the delimitation and demarcation stage is a fundamental stage in the boundary making, and practical is still used as a guideline in determining the boundary and resolving boundary disputes in various parts of the world. On the basis of the results of the analysis conducted by Donaldson and Williams in 2008, the boundary making theory proposed by Jones in 1945 and used as a framework of reference in this study (Sumaryo, *et al*; 2014;5).

Based on UNCLOS 1982 Indonesia is a Archipelagic State

Indonesia which proclaimed its independence on 17 August 1945 is geographically an archipelagic state. Regulation of its territorial waters began during the Dutch colonial times through the enactment of *Territorial Zee en Maritieme Kringen Ordonantie 1939* (TZMKO or Territorial Sea and Maritime Zones Ordinance of 1939) which provides that the Indonesia territorial sea is measured 3 miles from the low water lines of the islands and part of island will have its respective territorial sea, and the waters lying outside the territorial sea and connecting those islands will be considered as high seas (Etty R. Agoes; 2011; 4).

On December 13, 1957 the Indonesian govermet proclaimed that Indonesian territory consisted as one unit covering land and sea, which are insparable elements of the archipelagic state and serve as an integral unit. This government proclamation which is also known as the *Djuanda Declaration*, was then strengthened by the enactment of Law No. 4/Ptp. of 1960 on Indonesian Territorial Waters.

The territorial concept as is expressed through the *Djuanda Declaration*, is based on the Peoples Congress (MPR) Decree No. II/MPR/73 of 1973 has been established as the basic outlook in achieving the national development and termed as *Wawasan Nusantara* (the archipelagic outlook), which view the archipelago as one political, economic, social cultural, defense and security unit.

Since then, the Indonesia government has struggled to gain recognition by the international community of its territorial concept. Through maritime territorial and jurisdictional boundary agreements several countries such as Australia, India, Malaysia, Singapore adn Thailand have indirectly recognized the archipelagic state concept, by agreeing to use provisions of Law Number 4/Prp. of 1960 as the Indonesian legal bases for boundary negotiation (Etty R. Agoes; 2011; 6)

On December 31, 1985, Indonesia ratified the 1982 UN Convention on the Law of the Sea (UNCLOS) through the enactment of Law No. 17 of 1985 on the ratification of the 1982 United Nations Convention on the Law of the Sea. The Convention recognizes the achipelagic state concept throug the inclusion of Part IV on Archipelagic States (UNCLOS 1982, Articles 46 – 54).

On August 8, 1996 the Indonesian Government enacted Law No. 6 of 1996 on Indonesia Water which confirms the outer limits of Indonesia's maritime sovereignty and jurisdiction and provides the bases for the determination of its boundary with opposite or adjacent neighboring countries. This law is then complemented with Government Declaration No. 38 of 2002 on the List of Geographical Coordinates of Base-point of the Indonesian Archipelagic Baselines. Geographically, Indonesia's maritime territory and jurisdiction directly bordered with teh neihboring countries, namely Australia, the Philippines, India, Malaysia, the Republic of palau, Papua New Guinea, Singapore, Timor Leste (East Timor), Thailand and Vietnam (Etty R. Agoes; 2011; 6).

Indonesia is an archipelagic island country in South east Asia, lying between the Indian Ocean and the Pacific Ocean. It is in a strategic location astride or along major sea lanes from Indian Ocean to Pacific Ocean. Indonesia's different cultures have been shaped—although not specifically determined—by centuries of complex interactions with the physical environment (Irsan; 2016).

Indonesia is an archipelagic country extending 5,120 kilometres (3,181 mi) from east to west and 1,760 kilometres (1,094 mi) from north to south. According to a geospatial survey conducted between 2007 and 2010 by National Coordinating Agency for Survey and Mapping (Bakosurtanal), Indonesia has 13,466 islands. However, according to earlier survey conducted in 2002 by National Institute of Aeronautics and Space (LAPAN), the Indonesian archipelago has 18,307 islands. According to the CIA factbook, there are 17,508 islands. The discrepancy of the numbers of islands in Indonesia was caused by the earlier survey includes "tidal islands"; sandy cays and rocky reefs that are appeared during low tide and submerged during high tide (Irsan; 2016).

There are 8,844 islands have been named according to estimates made by the government of Indonesia, with 922 of those permanently inhabited. It comprises five main islands: Sumatra, Java, Borneo (known as "*Kalimantan*" in Indonesia), Sulawesi, and New Guinea; two major archipelagos (Nusa Tenggara and the Maluku Islands); and sixty smaller archipelagoes. Four of the islands are shared with other nations: Borneo is shared with Malaysia and Brunei, Sebatik, located off the eastern coast of Kalimantan, shared with Malaysia, Timor is shared with East Timor, and the newly divided provinces of Papua and West Papua share the island of New Guineawith Papua New Guinea. Indonesia's total land area is 1,919,317 square kilometres (741,052 sq mi).

Included in Indonesia's total territory is another 93,000 square kilometres (35,908 sq mi) of inland seas (straits, bays, and other bodies of water). The additional surrounding sea areas bring Indonesia's generally recognised territory (land and sea) to about 5 million square kilometres. The government, however, also claims an exclusive economic zone, which brings the total to about 7.9 million square kilometres. Latitude = 5.00 S & Longitude = 120.00 E. Because part of New Guinea is Indonesian territory,

the country can be said to straddle two continents, Asia and Oceania (or, by another definition, Asia and Sahul). This of course is an arbitrary definition by culture and language on the Asian side, since Indonesia has no territory on the Asian mainland.

According to current international law, Indonesia has several boundaries, namely land, maritime, including the seabed area, and airspace. The protection of the space within the national boundaries for the safety and security of Indonesia, and of all the resources therein, either living or nonliving, is within the sovereignty, sovereign rights, and jurisdiction of Indonesia. Equally, the security of shipping passing through (and of aviation) within the boundaries of the archipelagic state of Indonesia, including in and through the archipelagic sea-lanes, is also within its sovereignty and jurisdiction, taking into account Indonesia national legislations, bilateral agreements, and the relevant international laws. It is therefore essential to understand the nature of Indonesia national boundaries in order to appreciate the challenges it faces in managing its maritime resources and the security of shipping (Hasim Djalal;2012).

According to international law, Indonesia has sovereignty over the “airspace” above its land, archipelagic waters, and territorial sea up to the point where the airspace meets with “outer space.” Until now, there has been no international agreement on the vertical limit of the airspace, although there has been general agreement that the airspace does not include outer space. The airspace of Indonesia covers an area of about 5,000,000 sq. km. However, problems may arise if the territorial sea boundaries of Indonesia are not clearly delimited with the relevant neighboring countries.

The land boundaries of Indonesia are basically those agreed upon by the Government of the Netherlands (Dutch East Indies), which colonized Indonesia, the British Government, which colonized Sarawak and North Borneo (Sabah) and Papua New Guinea, and Portugal, which colonized East Timor. Although the stipulations in those agreements maybe clear on paper, it has not been easy to determine the exact locations of these boundary lines in the field, particularly in the middle of the deep jungle, such as in Papua, or in relation to the flow of rivers, either because of marsh and swamp areas, or because rivers may have changed their course over the years. It is therefore essential to have effective cooperation between neighboring states to jointly conduct survey for border mapping on land and for constructing markers in agreed areas and locations.

The maritime boundaries of Indonesia include the boundaries of (1) internal waters, (2) archipelagic waters, (3) territorial seas, (4) contiguous zones, (5) exclusive economic zones and (6) continental shelves. In addition, according to new legislation on autonomy and the devolution of power from central to local governments, there are also maritime zones of the districts and provinces in Indonesia.

Indonesians often refer to their archipelago as the ‘cross-road location’ (posisi silang) between the Indian and Pacific Oceans and between the Asian and Australian continents (Evan Laksmana; 2011; 96), emphasising that geographical position should be viewed not only in terms of physical location, but also in terms of perceptions of status, power and national aspirations. The geopolitics of Indonesia is informed by its national identity and its aspirations. For example, considering its archipelagic nature, Indonesia is a ‘maritime nation’, although much less a seafaring one. The Archipelagic Outlook constitutes the self-identity of Indonesia as based on territorial integrity stretching ‘from Sabang to Merauke’ (dari Sabang sampai Merauke) (Sebastian, Supriyanto and Arsana, 2014; 69).

Archipelagic waters fall within the sovereignty of a state regardless of the breadth of distance between its islands (UNCLOS, Article 49 (1)). In Indonesia’s case, for example, there are no longer high seas between Java and Kalimantan; maritime areas previously regarded as part of the high seas and which were used for international navigation now belong exclusively to Indonesia. To avoid situations in which such an interpretation would hinder previous freedom of navigation in archipelagic waters, it was necessary for Indonesia to designate archipelagic sea lanes. Archipelagic Sea-Lanes ASLs are the trade-off recognised by a state in return for being granted archipelagic state status and for being able to exercise sovereignty over archipelagic waters. Such an arrangement allows for compromise between coastal states with growing jurisdiction over maritime areas adjacent to them and other maritime states insisting on retaining their historical right to freedom of the seas (Penny Campbell, ‘Indonesian Archipelagic Sea Lanes’, in Papers in Australian Maritime Affairs No.5).

Indonesia determined that the concept of archipelagic sea lanes would be appropriate to its maritime domain because the archipelago is located on the major shipping routes between the Indian and Pacific Oceans. However, although designating archipelagic sea lanes in Indonesian waters would permit the government to concentrate its efforts on providing navigational safety and security in relation to foreign vessels, the promulgation of UNCLOS would not permit the government to prevent foreign vessels transiting through the routes they used to navigate. From Indonesia’s perspective, the fact that vessels could continue arbitrary transit meant that the security benefits of archipelagic status were not sufficient. Foreign vessels, civilian or military, remained able to sail through Indonesia waters regarded sensitive to national security and safety, such as the Java Sea, located in close proximity to the vastmajority of Indonesia’s population and key economic centres (Sebastian, Supriyanto and Arsana, 2014).

Indonesia’s effort to implement Archipelagic Sea-lane Passage (ASLP) in its archipelagic waters commenced immediately subsequent to its ratification of UNCLOS, which culminated in a National Working Group meeting in Cisarua in early 1995. The meeting managed to establish consensus on a proposal of three north–south ASLs that had been proposed during the Indonesian Navy Strategic Forum in 1991 (NP Ello; 2005). Puspitawati (2005) has noted that the proposal was submitted to the International Maritime Organization (IMO) (IMO is considered as the ‘competent international organization’ as governed by UNCLOS, Article 53 (9) for the purpose of the designation of ASLs. There are views that question the legitimacy of IMO to be considered as ‘competent international organization’ on this matter. For an argument on this, see for example, Chris Forward; 143–156, in 1996 during the 67th meeting of the Maritime Safety Commission (MSC–67). Three related institutions and 22 states provided

their responses, with a majority of states commenting on the lack of east–west ASLs. The proposal was reconsidered in order to address these concerns, but Indonesia subsequently failed to implement a plan that included east–west ASLs. In its London proposal to MSC–69 Indonesia maintained its original position, designating only three north–south ASLs, which were approved by the IMO on 19 May 1998.

However, even though Indonesia’s original ASL submission did not opt for a partial designation, its proposition was deemed only ‘partially designated’ since it did not include all normal passage routes used for international navigation, and in particular because it excluded east–west ASLs (Puspitawati; 2005; 4). During consultations with other user States – namely, the Maritime states–prior to the submission, Australia and the United States specifically proposed possible east–west ASLs that Indonesia should include in its submission to the IMO, but which it omitted. In making their own proposals concerning east–west ASLs, Australia and the United States were motivated by their concern regarding the application of innocent passage rules to east–west routes (Puspitawati; 2005; 6).

The problems of an archipelagic state, according to Hasim Djalal (2012) say, with such extensive land and areas, maritime zones, including the seabed area, and airspace, along with the complexities of its natural resources, it is difficult to protect and maintain law and order in Indonesia maritime zones. This is complicated by Indonesia currently facing many other problems, while having limited financial and other resources to meet its challenges. In addition, Indonesia is a country with multiple distinct local culture, which in some cases are keen to project their own identities to the nation, the region, and the international audience.

Being geographically, politically, and legally an archipelagic state, Indonesia is also confronted by other various factors, including, its geographical position at the crossroads between the Indian and Pacific oceans, as well as between the Asian and Australian continents. Indonesian maritime zones are heavily navigated by various kinds of vessels, including giant oil tankers, ships carrying nuclear and other dangerous materials, and military vessels, including submarines and other nuclear powered vessels. Indonesia is also crisscrossed by international aviation, both commercial and military. These factors have made Indonesia, together with its maritime zones and airspace, a very important strategic consideration in the minds of the regional and global powers. While this strategic geographical position is significant for other countries, it has not, however, brought significant benefits to Indonesia. In fact, it has made Indonesia becomes more sensitive to outside power maneuvers and pressures that in some cases have brought political instability to Indonesia.

While Indonesia is strategically important in the crossroads of international navigation and transportation, the geographical structure of Indonesia as an archipelagic state consisting of thousands of islands with very long coastlines and extensive sea areas between, has made Indonesian maritime zones and coast lines open and “porous,” which makes it relatively easy for foreign subversion and the intrusion of smugglers, drug dealers, pirates, poachers, and terrorists, which may also upset Indonesian domestic stability.

Legal Instruments In Border Management

Article 25A of the 1945 Constitution has asserted that the Republic of Indonesia is an archipelagic nation that is characterized by some areas which the boundaries and rights are stipulated by law. UNCLOS 1982 has been prevailing since 16 November 1994 and has been ratified through Law No. 17 in 1985, confirming the international recognition of the conception of an archipelagic state championed by Indonesia since 1957 Juanda Declaration.

Management of borders and border areas associated with several documents of national legislation, which among other things:

- a. Law No. 17 of 2005 on the National Long-Term Development Plan (RPJPN) Year 2004-2025;
- b. Presidential Decree No. 5 of 2010 on the National Medium Term Development Plan (RPJMN) 2010-2014;
- c. Law Number 43 Year 2008 on the territory of the State;
- d. Law Number 26 Year 2007 on Spatial Planning;
- e. Law No. 27 of 2007 on the Management of Coastal Areas and Small Islands;
- f. Presidential Regulation No. 78 Year 2005 on the Management of Small Island Outer; and
- g. Presidential Regulation No. 12 Year 2010 on National Authority for Border Management.

The border management in the whole areas of Indonesia is an integral part of the state management, which its operation needs a clear direction and a comprehensive long-term dimension. Border management is defined as an activity management in handling the border, meaning that border management works as an effort on how to move people and the potential of the border area through the establishment of a policy determination planning program, determines budget requirements, coordinates of implementation, evaluates and supervises the state and areas’ borders handling to achieve the required purposes that have been set.

The state and areas’ border management are principally directed to achieve the main purpose of border management, namely: (1) maintaining the integration of Indonesia as a constitutional mandate; (2) building a balanced, integrated, and comprehensive border areas for the welfare of the people; (3) strengthening the capacity of Indonesia in the border region in the context of global competition.

In the Presidential Regulation No. 12 Year 2010 on the National Authority for Border Management (BNPP) Article 3 states that "BNPP has the task to stipulate the policy of border development program, set a plan of needed budgets, coordinate the implementation, and carry out the evaluation and supervision Boundary Country and Region border management".

Border management is an indication of a country’s seriousness in managing its borders. It is one of which is indicated by the presence of a set of rules in the form of formal legal rules that mark and comprehensive. The seriousness is shown by Indonesian

Government by issuing Law No. 43 of 2008 on the territory of the State. However, the legislation does not define the boundaries of the country, accompanied by the coordinates of the border, because international law cannot justify the established state borders unilaterally, but it must go through the agreements set forth in the form of border treaty among corresponding countries. Nevertheless, the legislation describes every country Indonesia bordered with both in land and sea borders. It also includes border management settings in both countries in central and local government that happens to be the country's borders

The authorities of the Central Government in the management of territory and border areas according to this law are as follows:

- 1) Establishing policies management and utilization of the country and the border region;
- 2) Conducting negotiations with other countries regarding the establishment of state borders in accordance with the provisions of legislation and international law;
- 3) Establishing or making the sign of state borders;
- 4) Collecting data and naming the island or islands and other geographical elements;
- 5) Giving permission for international flights to cross the territorial airspace on a path that has been specified in the legislation;
- 6) Giving permission to the innocent passage of foreign ships to traverse the territorial sea and archipelagic waters on a track that has been specified in the legislation;
- 7) Carrying out surveillance in additional zones needed to prevent violations and punishing violators of legislation in the field of customs, fiscal, immigration or sanitary laws within the territory or territorial sea;
- 8) Establishing prohibited airspace crossed by international flights to defense and security;
- 9) Creating and updating maps of the country that will be delivered to the Parliament at least every five (5) years; and
- 10) Maintaining the integrity, sovereignty and security of the country and the border region

In Article 11 (1) states that in the management of border areas of the country, provincial government authorities are as follows:

- a) Implementing government policies and other policies in order to establish autonomy;
- b) Coordinating development in the border region;
- c) Developing the border areas between regional governments and / or between local governments and third parties; and
- d) Supervising the implementation of the development of border areas of the government district / city.

Stated in Article 12, regency/city government is responsible in the management of the country and the border region authorities, which includes implementing government policies and other policies in order to establish regional autonomy and duty of assistance; keeping and maintaining the boundary markers; coordinating in the implementation of development tasks in the border region in its territory; and constructing the border region between regional governments and/or between local governments and third parties. State borders and border areas are managed at the level of central and local government and local government formed a national management agencies and regional management bodies. The management board led by a head of the body is directly responsible to the President or the head of the region in accordance with an arbitrary.

Institutional element membership is derived from the government and local authorities in the view of the strategic position of the border regions involved in things like national sovereignty, territorial integrity, rule of law, and the welfare of the people. Border management agency is tasked to establish border development program policies, establish a budget plan requirements, coordinate the implementation, and carry out the evaluation and supervision. In the Act No. 43 In 2008 a commitment to take over management of the country, especially in the border line, feels stronger. This law clearly defines that goal setting area of the country is to ensure the territorial integrity, sovereignty and order for the welfare of the entire nation. The legislation also underlines authority of both central and local governments in the border regions to achieve the development and coordination in the border region. Even this law has set the establishment of a special agency that handles management of border areas.

Conclusion

Indonesia is an archipelago state with 17,499 islands and an extent of water territory that reaches 5.8 million km. The coastline is 81,900 km in length, and two thirds of the Indonesian territory is made up of sea. As a consequence, Indonesia has only three land borders, whereas the rest are sea borders. Indonesia shares its sea borders with 10 states, namely Malaysia, Singapore, the Philippines, India, Thailand, Vietnam, the Republic of Palau, Australia, Timor Leste and Papua New Guinea. Regarding the land border, Indonesia shares it with the following three states: Malaysia, Papua New Guinea and Timor Leste. The land border is 2,914 km in length.

UNCLOS 1982 has provided archipelagic states like Indonesia with varied and extensive maritime zones for either territorial purposes or jurisdictional and resources purposes. At the same time, the interests of shipping communities, particularly foreign shipping communities, have also been protected. The Indonesian constitution mandates that Indonesia strives to achieve peace and harmonious relations with every nation in the world. In order to fulfill this mandate, Indonesia needs to be able to take innovative actions or activities that could make the most of the nation's maritime potentials. Innovative actions that are directly linked to cultural bonds national prosperity, defending the strong of the nation for the purpose of the sovereignty of the state, nurturing the unity of the state just humanitarian in a and reaffirming and strengthening law enforcement to fight every legal manner, as well as in violations, including corruption and manipulation. In addition, these innovative actions carrying out stringent diplomacy defend the national must also serve the purpose of to interests of Indonesia, establishing friendly relations fostering peace including in and with all nations of the world firm political attitudes Also important are in facing the in the border areas with our neighboring countries numerous issues that occur.

The vast border territory of Indonesia has real consequences for the strategic meaning of the border area for the dynamics of social life, politics, economy, culture and security. The border area then becomes a principal way for different values, influences

and even threats to come and yield a significant impact on Indonesian society. However, in a contextual meaning, the Indonesian government has not yet considered the border issue to be one of major significance. The vast border territory is seen as a 'back' and not a 'front' door. It is a pity that the centralisation paradigm is still applied to the border area oriented policy, although the decentralisation paradigm has been applied through a regionally autonomic concept all over Indonesia. In general, it can be said that the border territory has not been touched by a specific policy, in the sense of a management contribution as a positive influence, on either the social, political, economical and security levels, up to now.

Indonesia in the context of border management has had many legal instruments to regulate and manage its borders. Border management is entrusted to the National Authority for Border Management to work as: First, the establishment and affirmation about state borders' disquisition problems which can be solved. Second, the establishment of border crossing state activities management system through *Pos Lintas Batas* (PLB) which ensures a safe, comfortable, and pleasant investment, Third, the issue of basic social needs, the increased efforts on border area development through infrastructure development and region's potential utilization, in order to overcome isolation and underdevelopment of the region and increase the welfare of border areas. The welfare approach needs to be done through the development of social and economic infrastructure, assuming that the development undertaken will trigger economic activity and generate investment climate, thus will have an expanding employment as a result. This approach is then expected to improve the welfare of people in the region.

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