

The Maritime Border Management of Indonesia and Timor Leste: By Military Approach or Welfare Approach?

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Abstract: Indonesia is not currently facing the traditional threat of facing a possible war with Timor Leste. Both countries are building good relationships with various bilateral cooperation in various fields. Border area development policy covers two aspects of development, namely prosperity and security. Nowadays, the view of border management begins to develop by rejecting the assumption that security must be achieved through the accumulation of forces. On the contrary, the foundation of security is social justice and economic prosperity. Security is when the society is liberated from poverty and free from fear. Not by force and certain security arrangements that tend to limit the society freedom. The purpose of this study is to review the management of maritime border between Indonesia (Maluku Province) and RDTL (Timor Leste) for evaluation of border handling that has been done. The methodology undertaken is the literature review by study of border conditions and various opinions on border area governance. Marine border areas in general, still need more intensive management because there are various problems with neighboring countries.

1 INTRODUCTION

Indonesia is an archipelagic country with a coastline of about 81,900 kilometers, has border areas with many countries both land border (continent) and sea (maritime). Indonesia has an international land border with 3 (three) neighboring countries, namely Malaysia, Papua New Guinea, and Timor-Leste. The land border is spread over three islands, namely Kalimantan, Papua, and Nusa Tenggara. The islands are located in 5 (five) provinces of West Kalimantan, East Kalimantan, North Kalimantan, Papua and Nusa Tenggara Timur. While in the sea territorial, Indonesia borders on sovereign rights with 10 neighboring countries namely Malaysia, Papua New Guinea, Timor-Leste,

India, Thailand, Vietnam, Singapore, Philippines, Palau, and Australia. The scope of the border area refers to two laws and regulations, namely Law no. 26 of 2007 on Spatial Planning as detailed in Government Regulation no.26 of 2008 on National Spatial Plan, and Law No.43 of 2008 on State Territory. Law No.43/2008 provides detailed guidance on the territory of the border areas in more

detail. The definition of border areas is "part of the territory of the country which lies on the side within the borders of Indonesia with other countries, in the case of border areas on the land, in the sub-district". Land border areas include districts that border directly with neighboring countries in the land area, while the marine border area in addition to the territorial waters of Sea Territorial, Continental Shelf and ZEE bordering, also including sub-districts maritime boundary .

The border area is a strategic area related to the integrity and sovereignty of the territory of the country that requires special management. The management of states boundaries and border areas is necessary to provide legal certainty on the scope of state territory, the authority of state territory management, and sovereign rights. It is carried out with a common approach to welfare, security and environmental sustainability. Based on PP. 26 of 2008 on the National Spatial Plan, the border area is a national strategic area from the standpoint of defense and security, covering 10 areas (3 border areas as well as 7 areas of sea border and outer islands).

In the MPR session in October 1999, the MPR Decree was issued, no.V/MPR/1999 on the revocation of MPR Decree no.IV/1978, which contains the Timor-Leste Integration. The result of the popular consultation of the Timor-Leste people has chosen independence as the Democratic Republic of Timor Leste (RDTL). As a logical consequence, the Government of Indonesia and Timor-Leste shall determine the boundaries of the country for land, sea and air areas, that follow the existing land and sea boundaries and must be agreed upon by both countries. The basis for the determination of land borders is the 1904 Treaty between the Netherlands and the Portuguese. When Timor-Leste is still under the Portuguese Government the territory consists of: Oecussi, East Timor, Goat Island (Atauro) and Yako Island. Timor-Leste's independence from the Indonesian occupation made the border with the State of Timor-Leste an international border.²

The Indonesian Land Border Area with Timor-Leste is located in Nusa Tenggara Timur Province. While the maritime boundary between the State of Timor Leste-Australia with the Province of Maluku and Papua are 20 small outer islands (Ararkula Island,² Direktorat Jenderal Strategi Pertahanan, (2007).

Study of Optimization of Maritime Border Area Handling of RI-RDTL in the Framework of Maintaining the Unity of NKRI.

Karaweira, Panambulai, North Kultubai, South Kultubai, Karang, Enu, Rock Goyang, Larat, Asutubun, Selaru, Batarkusu, Masela, Miatimiarang, Leti, Kisar, Liran, Kolepon, and Laag). Specific to the Indonesian Sea Border Area with Timor-Leste State are the 5 (five) small outermost islands (Alor Island, Batek, Dana, Ndana, and Mangudu). In the determination and settlement of boundaries, Indonesia has three areas requiring the delimitation of maritime boundary locations with the Democratic Republic of Timor Leste. The three potential locations are the Ombai Strait, the Wetar Strait and the Timor Sea. These maritime boundaries include covering the Territorial Sea, Continental Shelf, and ZEE Boundary. So far, the settlement of maritime boundaries between Indonesia and the Democratic Republic of Timor-Leste still have to wait for the completion of the land border between the two countries.

Border security by Indonesia is classified as a "*hard-border security regime*" or a strict border security arrangement. In this type of arrangement, borders are closely guarded by armed forces, while border crossings are limited in number and kept not

only by immigration officers but also by armed police and armed forces. Countries that enforce the "*hard-border security regime*" tend to limit the inflow of crossers to national security grounds. The opposite of "*hard-border regime*" is a border arrangement called "*soft-border security regime*". The state does not limit the border crossers very much because it does not consider this to pose a threat to national security. Border posts are not limited to a small number of places. Border guards need not involve fully armed troops. This system is usually adopted by countries in the region that develop peaceful co-existence, countries in the region are not disturbed by the presence of neighboring countries. Two friendly countries do not feel threatened.

2 OBJECTIVES AND METHOD

The purpose of this paper is to examine the handling of maritime border between Indonesia and RDTL Country as material for evaluation of border handling that has been done. The methodology used is literature review and discussion (forum group discussion), by studying border conditions and various opinions and arguments on border area governance. The area of the sea border in general, still requires more intensive management because there are various problems with neighboring countries.

3 DISCUSSION AND ARGUMENTS BORDER MANAGEMENT

The land border areas in Indonesia are generally far from the centers of economic growth and governance. The imbalance of economic and social development is a prominent feature of the regions of the region characterized by the limitations of various basic facilities and infrastructure necessary for regional development efforts. The socioeconomic imbalances that occur in Indonesia's border regions can lead to the emergence of various issues that at some point may lead to disruption of the stability of the Unitary State of the Republic of Indonesia. This phenomenon can occur because the border areas are less touched by the country's economic activity and the lack of state control over the border regions. Market mechanisms working in the region ultimately provide opportunities for certain parties from

neighboring countries to expand their economic activity covering border areas in Indonesia. In addition to socio-economic imbalances, Indonesia's border regions are also characterized by socio-cultural characteristics of people who have a kinship ties with other community groups of neighboring countries. To some extent, such characteristics can be an obstacle to the management and development of areas in border areas.

Addressing issues in border areas, the border area development model should refer to a welfare approach and a security approach. The combination of these two approaches mainly lies in the direction of policy, strategy and plan of border area development implementation program. Welfare can not be achieved without the support of security which in this case not only focuses on the security of the state, but also human security in a unified whole as a national security. Conversely, security in all aspects can not be achieved without the welfare of the socio-economic field. These two effects are the main orientations in the developed border area development models.

Managing Indonesia's borders for the Indonesian government is not enough just to rely on traditional security approaches based on a mere military approach. Military approaches remain important, particularly in dealing with maritime boundary issues or criminal offenses on land borders such as illegal logging, smuggling, or human trafficking. But the military approach alone is not enough because the issue of the physical borders of Indonesia with neighboring countries is much more complex than mere military problems (goes far beyond military threat).

Indonesia's border area is managed through a security approach that makes TNI (Indonesian National Army) as the main actor. This is based on Law No. 34/2004 on TNI mentioned that the TNI is in charge of securing the border area. However, this approach is not suitable to be applied under current conditions. This is feared by the abuse of authority by the TNI, for example some TNI personnel involved in criminal acts of border such as illegal logging, smuggling of goods, and human rights violations. Whereas the complexity of border issues can not be solved by security forces alone, but should be handled multisectorally and involving various actors (civil and military).

The security approach used in managing border areas is now no longer applicable, because: TNI is a state security and defense force not equipped with expertise in managing social, economic, cultural and political aspects of the border; There is a tendency of

abuse of authority by some TNI elements in the field; and The process of strengthening national identity in border communities will be more effective if done through non-coercive, persuasive but accommodative ways

A good border management model should pay attention to: Strictly separating the socio-economic aspects management authority to security aspects; Build the professionalism of TNI as a border guard; Establish a border management agency at national and regional levels as border area management authority.

4 CROSS-BORDER ACTIVITY CONDITIONS

Under conditions of defense, security and law enforcement, the border of the State bears a very strategic and important status for a country. From the perspective of defense and security, the state border is the front fence supporting the entry of obstacles that can threaten the sovereignty of the Unitary Republic of Indonesia (NKRI). Therefore, border security becomes a necessity that can not be negotiable. TNI is asked or not to comply with the prevailing laws and regulations that are always present at the border to maintain the security of the State.

From a welfare perspective, the border of the State must be built and treated, so as to give an impression that the Indonesian nation has sovereignty and dignity to be defended and raised. Therefore, the welfare of border communities should be enhanced through sustainable economic development activities. Economic development is closely linked to regional and local socio-cultural development. From the perspective of international law, the borders of the State have a high complexity. When two countries face conflict with each other, the settlement is not done through uncivilized, means such as agitation and war. But through productive diplomacy process and must be grounded in the ethics and principles of international law.

Currently, the territorial sea border areas between Timor-Leste and Indonesia are patrolled by the Navy and the Border Patrol Unit (BPU) of the Timor-Leste police force in Timor-Leste. The BPU was limited to its role only to maintain the order of crossing the border, deterring and pursuing looters and burglars, and, if possible, to resist crossborder clashes between villages as the clashes did not spread.

Constraints which is encountered in the process of law enforcement of border maritime violations RI-RDTL among others are: Natural limitation in the form of land territory of Timor-Leste which is 'tucked' in the territory of Indonesia that is Oekusi; The lack of quantity and quality of patrol vessels owned by TNI-AL Post, most of which are unsuitable for use in the task of patrolling the territorial sea border of the State; and A few number of border security personnel in the sea area, thus raising the threats in terms of defense.

The condition of cross-border activities describes the type of cross-border interaction occurring at the border regions, which is distinguished by the conditions of crossborder activities in the terrestrial border areas and the conditions of cross-border activity in marine border areas. Cross-border activities have different dimensions to the "development" of border areas, because cross-border activity is a condition that occurs with the interaction of two adjacent areas. The adjacent area is divided into border areas on land and at sea. The area bordering on the sea is then divided into areas facing the strait seas and the ocean. An overview of cross-border activity conditions is described in the table below.

Table 1: Description of Cross-border Activity Conditions.

No	Aspects	Cross-Border Activity Conditions
1	Cross-border Facilities and Infrastructure	<ul style="list-style-type: none"> ■ Inefficient condition of basic facilities and infrastructure, social, trade, etc. in the border area. ■ Inadequate condition of CIQS (Customs, Immigration, and Quarantine infrastructure in border area. ■ Condition of the absence/limited of security personnel in the border area
2	Cross-border Economy	<ul style="list-style-type: none"> ■ Activity delivery of basic necessities from Priority Locations to neighboring countries, and vice versa. ■ Production activities of local fisheries/agricultural/plantation production individually on border communities from Priority Location to neighboring countries and vice versa. ■ Procurement activities of interstate trade cooperation in border areas (eg joint market).

Table 1: Description of Cross-border Activity Conditions (cont.).

No	Aspects	Cross-Border Activity Conditions
3	Cross-border Defense and Security	<ul style="list-style-type: none"> ■ The condition of unavailability of PLB (cross-border post) in the border area. ■ Unavailability of defense and security infrastructure equipped with advanced technology in border area. ■ Inadequate condition of CIQS infrastructure in border area. ■ Condition of the absence / limited of security personnel in the border area
4	Cross-border Socio Culture	<ul style="list-style-type: none"> ■ Activities of border community visits (with close kinship) from Priority Location to neighboring countries, and vice versa. ■ Temporary migration activities between border communities from Priority Location to neighboring countries and vice versa for work, school, etc.

Source: Master Plan for State Border Management 2015-2019 (BNPP,2015)

Such views on threats from other countries are expressed when TNI commanders speak. Speaking concretely about the problems encountered on the border, commanders were clearly very understanding of what they were dealing with and did not speak doctrinally. For example, when talking about violations in the maritime area, the crimes that occurred were regional offenses, trafficking, illegal logging, illegal fishing, and smuggling.

Regarding the problems that occurred at the Indonesian border with Timor-Leste, the Korem commander 161 mentioned that the forms of the offenses were:

- Timber smuggling to Timor-Leste via cross-border mail or through "rat roads"
- Illegal sale of subsidized fertilizers to Timor-Leste (sold at much higher prices than in Indonesia)
- Smuggling of essential goods that cost more in Timor-Leste than in Indonesia, such as sugar
- Illegal border crossings due to the kinship relationship between East Timorese and the Indonesian population
- The plantations of the people of the two countries that cross the border line
- Intentional or unintentional shifting of border crossings by Timorese citizens for private farming purposes.

The description shows that observations field

differ from threat analyzes that borders as areas prone to external or internal threats that endanger the unity of the unitary Republic of Indonesia. The descriptions derived from these field observations indicate that violations occurring at the border are ordinary crimes, namely smuggling, illegal crossings, and territorial violations for personal use (not territorial expansion by other countries). The description also indicates that some of the source of the violations came from Indonesia itself, smuggling of essential goods and timber to Timor-Leste.

5 SECURITY MARITIME BORDER OF INDONESIA AND TIMOR LESTE

The affirmation of land boundaries is more pronounced and clear when compared with the affirmation of the sea boundary. However, the handling of border cases at sea and on land is equally complex. The problems are not only about the technical limits (Delimitation), but also cross border violations, illegal trading and illegal fishing. The problem of maritime border RI-RDTL although not as heavy and as much as land border problems, should still be the government's attention, so as not to cause conflicts between neighboring countries and the decrease of the love of the border population towards NKRI.

Indonesia imposes a "hard-border security regime" which tends to limit the inflow of crossers to national security. Common security posts or by agreement between the two countries have been ranked along the border. The 4 (four) border crossings between Timor-Leste and Indonesia namely: for the eastern border in Mota Ain-Batugade and Mot. In addition to Immigration, Customs and Quarantine posts (CIQS), on the border also placed TNI posts (Satgas Pamtas) and Police posts. Examination of persons and goods traveling across the border is not only done by Immigration, Customs and Quarantine officers, but also by TNI and Police officers in their respective posts. In addition to checking the passports of every person crossing the border, the TNI and Police officers also recorded their names.

The tight guarding of the border by the TNI is rather unusual. Usually "hard-border security regime" is enforced by hostile countries with bordering countries. For example border security between the Democratic People's Republic of Korea (North Korea) with the Republic of Korea (South

Korea). It is also enforced by a country concerned about a large influx of incoming migration. An example is border security by the United States on its border with Mexico to prevent the entry of illegal immigrants seeking to enter the United States to seek employment.

Timor-Leste's border security is very different. The troops in charge of guarding the border are not from the military but from the police ie from Unidade Patroilhamento Fronteira Policia Nacional de Timor-Leste (UPF PNTL-National Police Deployment Patrol Unit of Timor-Leste). UPF's strength is less than half of the power of the RDTL-RI Task Force Pt. These small troops not only served to guard the western (Oecusse) and eastern (Covalima and Bobonaro) borders, but also served to maintain the international airport of Nicolau Lobato in Dili. Differences are also seen in the arrangement of the exits and entrances of the border between the two countries. If crossing the border from Indonesia entered Timor-Leste, there was a difference in attitude between Indonesian and Timor-Leste officers. The Timorese border officers examined more relaxed and friendly treats of people who wanted to enter or leave the territory of Timor-Leste.

This difference in border treatment seems to reflect the differing views of East Timorese leaders on borders. For example, Prime Minister of Timor-Leste, Mari Alkatiri said, "The border is a territory that must be free of the military because the border is our door of contact with friendly countries, not the place of our enemies."

Indonesia is clearly not at war or facing a possible war with Timor-Leste. Both countries are actively building good relationships. A wide range of bilateral cooperation is being established, both in the fields of economy, health, education, and gender equality promotion. The Commander of the armed forces of the two countries visited each other.

Timor-Leste's military strength is clearly not a threat to Indonesia. When compared to the TNI, the strength of FALINTIL-Força de Defesa de Timor-Leste (F-FDTL) is very small. The East Timorese armed forces have no air power, the element of land force is only two infantry battalions, and the force of the sea is only two patrol boats. While the TNI's army forces in West Timor alone have 6-10 infantry companies, and in Kupang there is an Indonesian Air Force National Army (TNI AU) base and a substantial naval base for the Indonesian Navy (TNI AL). The Air Force Base in Kupang is equipped with radar and other surveillance equipment to monitor space in Indonesia's border region with Timor-Leste and Australia. Regular border space

patrols are conducted by F-5E supersonic fighter aircraft from this base. The base personnel are including Kopaskhas (Komando Pasukan Khas), a special command-qualified force.

6 THE DIRECTORATE GENERAL OF DEFENSE STRATEGY VIEWS

Border area development policy is formulated with the same vision and mission that the border area is a part of the territory of the Unitary State of the Republic of Indonesia. The regions and their communities have equal rights and obligations in terms of receiving services from the Government in a broad sense, through the efforts of equitable distribution of development.

The border area development policy covers two aspects of development, namely prosperity and security, which has three objectives: (1) Supporting efforts to improve the living conditions of the socio-economic community, in order to improve the living standard and welfare of the community; (2) Supporting efforts to improve the capacity of managing the potential of existing areas; (3) Support the strengthening of security in the framework of coaching and enhancing the resilience of the region towards the creation of national resilience.

In order to support the optimization of the handling of maritime border areas in the face of the problems, opportunities and constraints, the policies that need to be done are as follows: "Optimizing the handling of maritime border RI-RDTL through the provision of basic facilities and infrastructure of border areas and the application of science and technology by exploiting the potential area in order to maintain the unity of NKRI from all threats".

Handling of state borders has not been able to run optimally and less integrated. There are still conflicts between various parties (both horizontally, sectorally, and vertically) that can not be avoided. Perception with the assumption that the handling of border areas only belongs to the government (center) only, should be straightened out, corrected and reorganized, related to the running of the era of regional autonomy, even though the border area is a national strategic area.

The strategic value of the border area is determined, among others, by activities that take place within the region, namely: (1) Have the potential resources that impact on the economy and the utilization of space region significantly; (2) Have

strong linkages with activities in other adjacent areas, both nationally and regionally (between countries); and (3) Have political impact and national security defense function.

Some of the things expected in the handling of the maritime border RI-RDTL can maintain the unity of the Republic of Indonesia. The handling of maritime borders between RI- RDTL can be said to be successful if:

1. The absence of a Maritime Boundary that reduces the territorial rights of the Indonesian Republic which should be owned, and all delimitation is settled under an equitable international agreement.
2. The absence of potential and factual threats like illegal fishing, illegal trading and illegal trafficking that conducted by other nations as well as their own nation. Make the border area with a conducive security situation, so that the border community can run the economic activities at sea safely and optimally.
3. The development can grow the potential component of national defense, the main components, reserves, and supporters and can grow the economic potential of the surrounding community.
4. The use of the sea for the defense and welfare interests of the local community, does not cause conflict of relations between various elements of local society or with other nations. But instead as a reference to build a sense of the nation unity.
5. The inter-state maritime border issues can be resolved peacefully. It does not lead to inter-state conflicts, and even the relations between the two countries grows closer and mutually respects the sovereignty of their respective countries.
6. The welfare level of the population around the maritime border, includes education, health and economy is increasing. There is no more hunger and unemployment.

From some discussion forums (FGD) conducted in this issue, shows that the role of the TNI on the border of Timor-Leste is still needed. Because, however, TNI is still trusted by the border community in addition to religious leaders and traditional and community leaders.

7 CONCLUSIONS

The border area development should refer to the welfare approach and the security approach. Welfare can not be achieved without the support of security.

Conversely, security in all aspects can not be achieved without the welfare of the socio-economic field.

Problems encountered in border areas are not a military threat of invasion or infiltration from abroad, but ordinary crimes such as smuggling of goods and crossing illegal borders, or land disputes due to the disagreement of some segments of the border by the state's youth, and border violations by security officers resulting from the absence of such agreement. Handling these issues requires police expertise and other skills that are non-military and should involve others with appropriate powers and competencies.

It is recommended to the Governments of and Indonesia and Timor-Leste to establish a border management apparatus with border guards only from police individuals; proactive and provide information to each of its citizens regarding the development of defense and military relations by both countries; every issue and answer related to the border only with the system of peace and dialogue; authorities from Indonesia and Timor-Leste along the border to hold regular meetings in Dili-Jakarta, Dili-Kupang, and in districts along the border.

The increase of the TNI on the Timor-Leste border is no longer due to the real threat of Timor-Leste, but rather the perception of Indonesia over the border as a vulnerable area where there is a threat to the unity of the Unitary State of the Indonesian Republic. In order to support the optimization of the handling of maritime border areas in the face of problems, opportunities and constraints, the policy is to optimize the handling of maritime border RI-RDTL through the provision of basic facilities and infrastructure of border areas and the application of science and technology by utilizing the potential of territory in order to maintain the integrity of NKRI from all threats. TNI is the main actor in managing security based on Law No. 34/2004 on TNI, which states that TNI is in charge of securing border areas.

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