

Obstacles to the enforcement of sovereignty in the land border area of the Unitary State of Republic Indonesia (NKRI) with the Republic Democratic Timor Leste (RDTL)

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Abstract

Purpose: This paper aims to determine the extent of the enforcement of the sovereignty of the territory of the Republic of Indonesia in North Insana District, North Central Timor Regency, and Oecusse District, Democratic Republic of Timor Leste (RDTL). In 1999, following a UN-supervised referendum, Timor Leste seceded Indonesia after 24 years, marking its transition to independence. The nascent state is now tasked with delineating its borders with adjacent nations, notably Indonesia, to affirm its sovereignty and preempt potential territorial disputes.

Method: This study employed a dual-methodology approach, integrating library research—comprising an analysis of books, international treaties, seminar proceedings, correspondence, online resources, and other scholarly materials—with empirical fieldwork conducted in the border region under investigation.

Results: The research findings highlight two primary issues in the RI-RDTL border area, particularly in the North Insana District. First, indeterminate territorial boundaries result in frequent illegal cross-border activities by border communities, who feel marginalized in the developmental agenda and often turn to neighboring countries for their needs. Second, development in the border region, exemplified by the micro-level traffic at Haumusu Wini Village, calls for a broader, more inclusive developmental approach. Challenges to sovereignty in this context stem from constrained resources, inadequate infrastructure and facilities, limited accessibility and insufficient funding.

Limitations: Two significant limitations of this study could be addressed in future research: the authors' time constraints and the distance of the research location.

Contributions: This contribution highlights the significance of territorial sovereignty in comprehensive state protection.

Keywords: *State borders, enforcement, sovereignty, state territory, North Central Timor, Oecusse*

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1. Introduction

Sovereignty is a fundamental component of a state's existence. Etymologically, sovereignty can be defined as the highest authority or control over the administration of a nation, territory, or similar entity (Dhesy A Kase, 2020). Jumly Asshiddiqie stated that sovereignty is the concept of supreme power in a

country. In the science of law, there are 5 (five) theories or teachings regarding who is sovereign: God Sovereignty Theory, King Sovereignty Theory, State Sovereignty Theory, People Sovereignty Theory, and Legal Sovereignty Theory (Indra, 2013). The absolute sovereignty of a state has diminished, and it is now necessary to adhere to specific boundaries and acknowledge the sovereignty of other states, as stipulated by international law. This concept is commonly referred to as a state's relative sovereignty. According to international law, a sovereign state is obligated to adhere to and uphold international law as well as the sovereignty and territorial integrity of other states (Hadiwijoyo, 2011).

After being part of the sovereign territory of the NKRI for twenty-four years, Timor Leste decided to separate and declare its independence in 1999. This decision was made through an opinion poll held on August 30, 1999, under the supervision of the United Nations Mission in East Timor (UNAMET). The poll results indicated that the people of Timor Leste chose the option to become independent, and, as a result, NKRI must accept this fact and promptly end its rule over the region. Following separation from the Republic of Indonesia, the United Nations administered a provisional government under the UNAMET until the handover of full political control in 2002. Following the transfer of complete authority from UNAMET to the new government of Timor Leste on May 20, 2002, the people of Timor Leste established their government as a sovereign nation. The administration of the RDTL, in accordance with the people's mandate, made concerted efforts to safeguard all territories, encompassing land, sea, and air borders, in order to uphold its sovereignty. With the attainment of independence, it is indisputable that a newly formed nation confronts a multifaceted array of nearly inevitable obstacles.

An issue that RDTL encounters is the challenge of boundary demarcation, especially regarding the land border with NKRI. The land border between the two countries was divided into two parts. The first is the border around Oecusse, a semi-enclave within the Republic of Indonesia. Oecussi is a coastal exclave of Timor Leste located in the western part of Timor Island. It is separated from the rest of Timor Leste by West Timor, which is part of the East Nusa Tenggara (NTT) Province in Indonesia. West Timor surrounds Oecusse in all directions except the north, where it is bordered by the Sawu Sea (Krogh, 2018). Oecussi is separated by about 80 km from its mother territory, the two 149.9 km long borders that divide the island of Timor into West Timor and Timor Leste in the east (Wuryandari, 2009).

As a sovereign state, the provisions of the 1945 Constitution (UUD 1945), Article 25A, are an archipelago characterized by territory boundaries and rights determined by law. Article 30 Paragraph 2 (2) State defense and security efforts are implemented through a universal people's defense and security system by the Indonesian National Army, with the Indonesian National Police as the main force and the people as the supporting force (MK, 2008). As a follow-up, Law No. 43/2008 on State Territory Article 6 states the following.:

The territorial boundaries of NKRI Indonesia, as referred to in Article 5, include:

1. On land, it is bordered by the territories of Malaysia, Papua New Guinea, and the Timor Leste.
2. At sea bounded by the Territories of Malaysia, Papua New Guinea, Singapore, and Timor Leste; and
3. In the air, it follows the boundaries of state sovereignty on land and at sea, and its boundary with outer space is determined by the development of international law.
4. The State Territorial Boundary, as referred to in paragraph (1), including its coordinate points, is determined based on bilateral and/or trilateral agreements.
5. In the event that the State Territory does not border other countries, Indonesia establishes State Territorial Boundaries unilaterally based on laws, regulations, and international law.

Under Law Number 3 of 2002, as a replacement for Law Number 20 of 1982 and Law Number 1 of 1988 concerning National Defense, all efforts were made to defend the sovereignty of the state, the territorial integrity of the Republic of Indonesia, and the safety of the entire nation from threats and disturbances to the integrity of the nation and state.

The same applies to the RDTL, which has an obligation to defend its territory. Article 4 of the *Constitusaun Republica Democratica Timor Leste* 2002 states

1. The territory of the Republica Democratica Timor Leste consists of land area, maritime zone, and airspace defined by the borders of the state, which historically comprised the eastern part of the island of Timor, the enclave of Oecusse, the island of Atauro, and the small island of Jaco.
2. The Law defines the extent and delimitation of territorial waters, the exclusive economic zone, and Timor Leste's rights to the adjacent seabed and the continental shelf.

The RDTL Government is committed to exerting utmost efforts to uphold its territorial sovereignty, especially over the Oecusse area. Despite being located in the Republic of Indonesia, the Oecusse area remains under the sovereignty of the RDTL. Consequently, the initial measure taken to achieve independence was to renegotiate the boundary between West Timor and the RDTL. On February 2, 2002, the Indonesian Foreign Minister Hasan Wirayuda and the United Nations Transitional Administration in East Timor (UNTAET) representative Sergio Vierra de Mello signed an agreement to establish the principle of *uti possidetis juris*. This principle is based on the Convention on the Delimitation of the Dutch East Indies and Portugal in 1904, which was signed by Dutch and Portuguese parties, as well as the legal decisions made by the Permanent Court of Arbitration in 1914. These legal foundations govern the border between Timor Leste and the Republic of Indonesia. The agreement was signed by officials representing Indonesia and the UN in Denpasar and Bali. Furthermore, the Republic of Indonesia and Timor Leste agreed to form a joint team to identify several changes in the border area, including the disappearance of border markers, topographical changes in the border area, and land swaps by local communities.

The physical limits of a country play a crucial role in international relations as they establish the domestic sovereignty of a nation, which in turn affects its legal framework (Indra, 2013). The border region is at the forefront of national security. Hence, ensuring the security of the region, which is situated in close proximity to neighbouring countries, must be given utmost importance in order to safeguard the territorial integrity of the Republic of Indonesia as a whole (Tirtamulia, 2008).

2. Metodology

This research is normative legal research, which is legal research that examines written law on the enforcement of state sovereignty in border areas and data collection (observation) by directly visiting the border area in Haumus Wini Village, North Insana District, North Central Timor Regency (TTU).

3. Result and Discussion

Mochtar Kusumaatmadja asserted that sovereignty is a fundamental attribute of a state in which the state possesses supreme power, but within certain constraints. Specifically, the exercise of this supreme power is confined to the boundaries of a state's territory. Beyond its territory, the state no longer wields such an authority. In this context, sovereignty is not perceived as complete or unbroken. Nevertheless, it is important to note that there are limitations to its implementation, as it is bound by international legal principles and the authority of other nations. Consequently, a sovereign nation is bound by international law and must refrain from infringing upon or jeopardizing the autonomy of other nations (Kusumaatmadja, 2021). In politics, sovereignty refers to the supreme authority in making and executing political choices with no superior power above it. In the international arena, sovereignty refers to the highest authority of a nation to govern independently and completely. The concept of territorial sovereignty entails that the state bears the obligation for its area (Dhesy A. Kase, 2020). One way to maintain sovereignty is by safeguarding and advocating for the State's territory. The government of the Republic of Indonesia established state policies to safeguard and uphold the nation's territory. These policies are in accordance with international law, which grants the government full rights and authority to regulate domestic issues within territorial boundaries. One key aspect of these policies is the recognition that sovereignty encompasses three main elements (Boer, 2005):

1. The external aspect of sovereignty is the right of each country to freely determine relations with other countries or groups without restraint, pressure, or supervision from other countries.
2. Sovereignty refers to the inherent rights and authority of a state to decide the structure and functioning of its institutions as well as the power to enact necessary laws and actions to ensure compliance.

3. The territorial dimension of sovereignty refers to the complete and exclusive authority that states possess over individuals and objects within their territories.

External aspects refer to government policies or acts that involve two (bilateral) or more than two countries (multilateral). Internal features refer to unilateral government policies or activities, which are characterized by being limited to a single country. In the realm of international literature and practice, a country may adopt two fundamental methods to safeguard its national interests. These strategies involve the pursuit of unilateral acts or implementation of collaborative efforts with other governments. The initial fundamental approach (external dimension) is the conduct of a specific nation, referred to as a unilateral action in the realm of international law. The geographical aspect might manifest as either binational activities involving only two countries or multinational actions involving more than two countries. Examples of tangible expressions of unilateral activity encompass legislative measures, official government pronouncements, declarations, executive decrees, and other similar actions undertaken by the heads of state. International treaties serve as the primary means of conducting business between countries that have dual or multiple nationalities (Kurnia, 2006). One prerequisite for a state to be recognized as a legal entity is its capacity to establish diplomatic relations with other states (Starke, 1984). Based on the given description, it can be inferred that the policies of the Republic of Indonesia can be categorized into unilateral policies, which are formulated solely by the Indonesian government for the internal interests of the nation; bilateral policies, which are jointly made by two countries; and multilateral policies, which involve more than two countries and are aimed at serving their respective interests. These policies also encompassed the Indonesian government's efforts to safeguard its territory.

In addition, the author identified several pressing concerns regarding the implementation of sovereignty in the land border region between RI and RDTL. These include the unresolved determination of the boundary in the TTU Regency, spanning 104.5 km, and lacks permanent boundary markers. In addition, the Aplal River serves as a border in this area. The Aplal River in TTU, serving as a border between countries, has given rise to several issues that require resolution, particularly with the use of water resources from the river basin. The process of demarcation, which began in 2004 to establish boundary markers, is ongoing. However, over time, several monuments have started to deteriorate and even vanish. The finalized boundary maps were disseminated and sent to local governments at the provincial, district, and sub-district levels in the border regions. Nevertheless, the distribution of the map among communities was not equitable.

The uncertainty and indecisiveness of land borders in these segments are potential security threats that will continue to occur on the borders of the two countries. The unclear boundary lines have been proven to give rise to overlapping claims over border areas, which often erupt violent conflicts, security, and order disturbances in the form of criminality of illegal trade, smuggling, fish theft, people smuggling, livestock theft, illegal entry of firearms, gambling, and other legal violators involving citizens and security forces in both countries.

Additional issues that arise include widespread illicit trade operations originating from Surabaya and directly distributed to Dili, subsequently affecting Oecusse. These activities have resulted in various problems such as the disruption of the established traditional market and a decrease in revenue for the NTT Regional Government, particularly in the TTU district. Traditional border crossers are individuals who cross borders because of social and cultural factors in the surrounding community. This is often due to insufficient infrastructure and lack of government attention, particularly in implementing the rule of law by the RDTL Government (not in accordance with the agreement).

Both countries have engaged in bilateral endeavors to address the geographical boundaries between them. To address this border dispute, Indonesia has implemented a border area arrangement that seeks to mitigate geographical and cultural disparities among the residents in the region. This arrangement facilitated the establishment of familial and amicable relations between the residents of Timor Leste and Indonesia residing in the border regions (Utomo, 2010).

One factor supporting the enforcement of sovereignty is the existence of adequate facilities and infrastructure. However, the author found a different result. The limited facilities and infrastructure in the border areas, including transportation, energy, telecommunications, settlements, and clean water, have isolated and underdeveloped the border areas.

Accessibility to border areas is insufficient, leading to the limited production of goods and services. This in turn hinders the potential for greater income from the industrial sector, which offers significant market opportunities. The economic progress of the border community is intricately linked to the presence of regional economic infrastructure, access to skilled labor (including high school and vocational school graduates who are unable to enter the workforce due to limited skills and financial constraints), technical assistance, financial support, and the prevalence of illicit economic activities, all of which contribute to socioeconomic instability in the NKRI-RDTL border area.

Development in border areas should prioritize spatial principles. Consequently, engaging in spatial planning for border regions is imperative, particularly in both nations' land border areas in the TTU Regency. The absence of a spatial plan (RT/RW) in the border region poses difficulties for site development. Furthermore, the lack of awareness within the community regarding the significance of land certificate ownership status and the presence of Timor Leste community land ownership within the territory of the Republic of Indonesia, and vice versa, leads to regular occurrences of illegal border crossings.

The NKRI government has implemented numerous measures to safeguard the integrity of its territorial jurisdiction. These measures encompass proactive actions taken to anticipate any potential challenges to territorial sovereignty as well as the enactment of legal instruments that align with international law. Aside from proactive measures, the NKRI administration has also implemented reactive measures, specifically, actions taken after a crisis has occurred. Repressive measures are implemented using a strategy known as border diplomacy. Border diplomacy refers to the execution of foreign policy in relation to the resolution of border matters, encompassing the delineation of national boundaries on land and sea as well as the management of diverse border issues with international implications. Despite significant advancements in managing border areas since the initiation of the National Medium-term Development Plan, there are still lingering challenges. Specifically, development in border areas continues to be sluggish.

The author's research findings reveal numerous impediments and challenges encountered in the endeavor to enhance the development of border regions between nations, encompassing the following:

1. The human resources. This region is characterized by small and low-quality population welfare, which is unevenly distributed relative to the area's size and the length of its boundary. The village's inhabited area constitutes only 70% of the total village area. The Haumusū–Wini border gate region has the densest concentration of dwellings. The border area serves as a gardening field, which has consequences for illegal border crossings, illicit trade, cattle theft, and even disputes over land ownership among state citizens.
2. The limited availability of artificial resources, such as transportation and telecommunication systems, electricity, clean water services, as well as health, education, and market facilities, in border areas leads residents to rely on neighboring countries with higher levels of physical and informational accessibility. The lack of adequate education and healthcare facilities compels the majority of border dwellers to seek guidance from neighboring countries that are perceived as more prestigious and technologically sophisticated than the NKRI.
3. The occurrence of conflicts or overlapping space utilization, such as between cultivated and protected areas, as well as between different types of cultivated areas, such as mining and forestry activities, indicates the need for effective spatial planning and utilization of natural resources. These conflicts are related to regional economies and societies.
4. The declaration of the status of border areas involves creating subdistricts that are directly adjacent to neighboring nations. This is achieved through cross-border agreements between the two countries, mainly focusing on prohibiting the management and development of buffer zones along

the boundary line. The Cross-Border Post (CIQS) exists physically, but its optimal utilization could be improved by the complex administration of inspections, leading to a preference for illegal ways.

5. The scarcity of institutions and authorities allocated to border regions, coupled with insufficient infrastructure, leads to comparatively deficient provision of services to local residents.

Regarding the prevailing conditions in the land border area of North Insana Sub-district, particularly at the border gate of Haumus Wini Village, three potential scenarios can be devised for the development strategy of the border area between Indonesia and Timor Leste (Yani, 2008):

1) Security Approach

The development scenario of land border areas with a security approach emphasizes efforts to create political, economic, sociocultural, defense, and security stability. This approach emphasizes the development of infrastructure and space utilization, as well as defense and security functions. This security approach directs efforts to develop land and sea defence and security systems. The Security Approach, which focuses on security-oriented development programs, is implemented through a strategy that anticipates the occurrence of

- a. Positional Boundary Dispute (disputes caused by shifting the position of boundary lines)
- b. Resources Boundary Dispute (Disputes over the management of natural resources such as forests, fish, mines and water); and
- c. Territorial boundary disputes (disputes over the ownership and sovereignty of a territory).

Commonly, the strategies pursued include

- a. Enhancement of land security checkpoints and establishment of defense and security infrastructure in coastal areas
- b. The strategy involves establishing security outposts, namely, in one border sub-district, to bring the security monitoring coverage closer and reduce the likelihood of security disruptions originating from adjacent nations.
- c. The objective of this study was to establish a maritime security system for coastal regions. This strategy involves the establishment and enhancement of defense and security infrastructure along the coastal areas that share borders with neighboring countries, such as Timor Leste. Furthermore, it enables sea fishermen to engage actively in upholding maritime security.
- d. Enhancement of immigration facilities to regulate and facilitate the seamless movement of products and individuals
- e. Enforcement of stringent penalties for infractions as a means of regulating the use of space in different criminal activities

2) Prosperity Approach

The regional development scenario emphasizes the prosperity aspect and efforts to raise the standard of living in the local community. Thus, the direction of the area's development was allocated to obtaining community welfare. The Prosperity Approach, which focuses on people-oriented development programs, is carried out through the strategy of

- a. Acceleration of the settlement of territorial delimitation issues
- b. Fulfillment of regional economic infrastructure needs
- c. Advancement of regional accessibility acceleration
- d. Enhancing education and healthcare facilities and infrastructure to enhance the quality of human capital.;
- e. Improvement of basic regional facilities and infrastructure
- f. Commodity development of regional leading sectors and investment opportunities
- g. Economic activities focus on the production, processing, and distribution sectors.
- h. Advancement of economic sectors centered on human capital.

3) Security and Prosperity Approaches

Security and Prosperity Approaches emphasize combining both approaches, including security and prosperity development approaches. Thus, developing defense and security systems will go hand-in-hand with the development of community welfare. The combined Security and Prosperity Approach is

carried out to improve the quality of financial and market resources needed to maintain the level of community welfare and state strength, considering that the territorial area needs to be built and managed for the benefit of welfare as well as for the interests of national defense. The strategies that can be used to implement this scenario are as follows:

- a. The goal is to improve existing strategic sectors and create new hubs for economic growth that have the potential to expand rapidly. These hubs will be located in areas with geographical advantages and will focus on manufacturing high-quality products for the local, regional, and global markets. In addition, efforts will be made to highlight the importance of these hubs as critical contributors to regional economic advancement and drivers of economic activity in the surrounding areas.;
- b. Enhance the proficiency and competitiveness of company operations and the efficiency of local high-quality products in a sustainable manner in strategic and rapidly developing locations across different areas.
- c. Enhance the economic conditions of communities located close to borders.;
- d. Enhancement of social amenities and infrastructure in the domains of education and healthcare.
- e. Enhancing transportation facilities and infrastructure in border regions and rural areas through land, sea, and air routes.
- f. Intensified political initiatives to bolster nationalism and foster a stronger sense of Indonesian national identity.
- g. Establishing an investment-friendly environment that promotes investment inflows into border regions.

4. Conclusion

4.1 Conclusion

Obstacles to enforcing sovereignty in the NKRI-RDTL border area still need to be fully overcome because of the unavailability of human resources for both border communities, which are not prosperous. The lack of apparatus assigned to the border area, infrastructure to support the welfare of the community, and institutional facilities that are alarming, spatial planning and utilization of natural resources that have not been maximized, affirmation of boundaries and status of border areas that have not been fully agreed upon, and vital are the limited funding and unclear which institutions play an essential role in the management of border areas.

4.2 Limitation

As with the majority of studies, the design of the current study was subject to limitations. This study has two major limitations that should be addressed in future research. The first is the time constraints of the authors, and the second is the distance of the research location. This situation should be addressed in future studies.

4.3 Suggestion

The governments of both NKRI and RDTL should maintain a strong focus on fostering positive relations with each other and expedite the completion of the demarcation and delimitation process, which is still pending agreement. This is anticipated to provide significant advantages to both governments and residents in the border region. The Indonesian government is anticipated to prioritize the development of facilities and infrastructure in border areas to enhance the well-being of its residents. This is crucial for preventing feelings of neglect and fostering a strong sense of nationalism among the citizens of the Republic of Indonesia. Additionally, it is important for people living in border areas to demonstrate mutual respect towards one another to prevent any potential conflicts. Furthermore, the proper utilization of cross-border passes is essential to ensure that they serve their intended purpose effectively. The security forces of the NKRI and RDTL, responsible for the border region, adhere to the customs regulations of the border villages and aim to enhance the relationship between security forces and the community. It is anticipated that the security forces of Timor Leste and the Republic of Indonesia will collaborate and enhance their relations to ensure security in the border region.

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