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1 Indonesia's unilateral action: Juridical restoration of the sovereignty of the outer islands

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1 Abstract

Indonesia as an archipelagic state. The legal status as an archipelagic country is determined under Article of UNCLOS 1982. If the size limit marine areas reference to UNCLOS 1982 meaning the country legally Indonesia has around 17,508 islands. Indonesia has 111 outermost islands with the starting point that borders with 10 neighboring countries. There are 12 islands that are vulnerable to foreign domination and disrupt the sovereignty of the territory of Indonesia. Research using normative juridical to approach the International Convention and national legislation, eventually concluded that the implementation of the country's sovereignty is in the mainland including the Outermost Islands in Indonesia is carried out through the establishment and affirmation of the base point borders with neighboring countries.

Keywords: juridical restoration, sovereignty, outer islands

Introduction

Indonesia has developed the concept of an archipelago through a unilateral declaration. This concept is actually not without reason but based on the principle of unity of land and sea. For Indonesia, the official recognition of the principles of the archipelagic state is important in order to realize a territorial integrity in accordance with the Declaration of December 13, 1957 and the archipelagic right as stipulated in the MPR-RI Decree on the Guideline of State Policy (GBHN) which forms the basis for the realization of the Indonesian archipelago as one political, economic, social, cultural and security unity. Finally, the legal status of the archipelago formally determined based on Article 46, and Article 47 of the UNCLOS (United Nations Convention on the Law of the Sea) 1982^[1]. This UNCLOS provision is binding on the Indonesian state because it was officially signed on December 10, 1982 in Montego Bay Jamaica which was then ratified it with Law Number 17 of 1985^[2].

If the size of the maritime boundary has been referred to 1982 UNCLOS and Law No.17 of 1985, it means that legally the Indonesian state has about 17,508 islands. Of the total number of islands, the islands that have not been named are mostly located in the provinces of Riau Islands, Maluku, North Maluku, East Nusa Tenggara, West Nusa Tenggara, Bangka Belitung, and North Sulawesi. From the number of islands, there are outer islands which are the direct border of Indonesia with neighboring countries. Indonesia has 111 outer islands with a starting point bordering 10 neighboring countries, namely Australia, Malaysia, Singapore, India, Thailand, Vietnam, the Philippines, Palau, Papua New Guinea (PNG) and Timor Leste. The islands are spread over 9 provinces, mostly in the Riau Archipelago and Maluku^[3].

The 111 outer islands bordered by the country's territory, most of them are small islands which have enormous economic potential. From the 111 outer islands above, there are 12 islands that are vulnerable to foreign control. The islands are generally classified as outer small islands,

namely: Rondo Island, Berhala Island, Nipa Island, Sekatung Island, Marore Island, Miangas Island, Fani Island, Fanildo Island, Bras Island, Batek Island, Marampit Island, Dana Island. The outer small islands are small islands that have basic geographical coordinates that connect the baselines of the islands. Now the Republic of Indonesia's Presidential Decree No.6 Year 2017 concerning Determination of Outermost Islands, has established 111 Outermost Islands^[4]. As the basic point of coordinates, the outer small islands above are also expected to be the front guard in maintaining the country's sovereignty. The Outermost Small Island is the frontline in protecting Indonesia's sovereignty because of its strategic position to draw the territorial sea boundaries, additional zones, continental shelf boundaries, and exclusive economic zones. The outer islands as the basic point of coordinates and frontline and the basic point for fencing the jurisdiction of the territory of Indonesia as described above is very important for further understanding.

Based on the explanation provided, it is necessary to carry out further discussion in a research with the following issues:

1. How is the implementation of state sovereignty according to international law?
2. How are juridical fencing efforts carried out in the outer islands of Indonesia?

Material and Methods

The approach used in this study is the normative juridical method. Data collection and analysis techniques are carried out through library research with the approach of the International Convention and national legislation (statutory approach). Legal research sources for this writing are divided into primary legal materials, secondary legal materials, non-legal materials. The primary legal material is legislation, in the form of laws and regulations related to the Law of the Sea. Secondary materials include textbooks by academics or practitioners, legal journals (including online ones).

Result and Discussion

1. The Islands and Regime of the Islands

"Island" is land surrounded by water (at sea, in a river, or in a lake). "Islands" means a group of islands; According to Article 121 of UNCLOS 1982, the island is a naturally formed terrestrial area surrounded by water and which is above the water surface at high tide. This provision was actually adopted from Article 10 paragraph (1) of the 1958 Geneva sea law convention, the exact formulation. Paragraph (1) states that the island definition is generally the same as the definition in the Indonesian Dictionary as land, but added to the condition of "naturally formed area of land", meaning that land is naturally formed (not land reclaimed) and is always above water level height (may not sink in high water). Paragraph (2) naturally formed islands, based on UNCLOS, can be used as a starting point for determining the territorial sea width, additional zones, Exclusive Economic Zones, and continental shelf. Paragraph (3) is related to Paragraph (2) except what is called Paragraph (3), about rock (stone). The condition "rock" is considered an island, must meet the requirements as a land surrounded by water and must always be above the high water level, can be used as a starting point to determine the width of the Territorial Sea and Additional Zones. In all definitions, the term "surrounded by water" (permanently), as a condition of an island, meaning, if at low tide (low water) the land is no longer surrounded by water then the condition as an island is not fulfilled, meaning that it is not an island. If it is close to the land, it can be a headland or tip. There is no stipulation on how high the water is at low tide. The word "Island" in the 1958 Territorial Sea and Additional Zones Convention refers to Article 10 paragraph (1) which states "An island is an area formed naturally from land, surrounded by water, which is above water at high tide."

Artificial islands, installations and buildings that are on artificial islands do not have legal status as "islands", although the area has established security zones around the artificial islands. The main requirements of the island are "naturally formed". Island characteristics, according to International law there are at least 7 traditional characteristics that must be fulfilled by an island, namely: A land area; Naturally formed; The size is quite wide; Surrounded by water; Above the surface of the water at high tide; To be inhabited by humans; and Having survival in the economic field. Some precedents where islands are important objects have developed since the 19th century. The existing cases are raising issues concerning islands which in principle states that islands with other features can be used as a point of withdrawal of the territorial waters baseline. The 1930 Hague codification conference for the first time defined the island legally as being adopted from a precedent that legally the island is one of the conditions for measuring territorial waters. The islands are not always submerged by the sea, the islands can also be formed naturally. The sea zone must be measured from these islands. This definition includes tides as a permanent rise in the seabed. The seabed, which is only affected by tides, is not considered an island. Because of the long history the development of an island's definition, the consensus of the 1958 territorial sea convention and additional zones actually explains the boundaries of the island. Article 10 paragraph (1) states that the "island" is a naturally formed land area surrounded by water at high tide^[5]. The Archipelago

Regime is a normative framework that can be used to determine territorial sovereignty and jurisdiction over the islands. According to Jawardene, the framework of applying island norms in international law relates to the acquisition of sovereignty, territorial territory and the nature of its jurisdiction or provisions in relation to its boundaries, which generally concern the area of a region called the island regime^[6]. In the context of the UN-III maritime law conference this island regime was specifically interpreted by UNCLOS 1982 as an area of natural form surrounded by water at high tide^[7]. The immediate elements are regarding the determination of the Territorial Sea, Additional Zones, Exclusive Economic Zones (EEZ) and Continental Shelf which are forever related to the islands. Implications of artificial islands as well as restrictions. Islands located in border areas are usually the subject of disputes. Problems arise when an island or group of islands from one country is located at a crossing location (cut off). In addition there is the will of other countries which expand jurisdiction^[8]. UNCLOS Conference III 1982, the island regime has been given a separate place. The definition of an archipelago regime is restricted to islands formed naturally from higher land surrounded by tides^[9].

The elements that are directly related to the island regime are the territorial sea, additional zones, EEZ and continental shelf. Another implication is that it does not include artificial islands as part of the archipelagic regime elements. The definition of territorial sea in this case covers the outermost area of the island nation. The archipelago regime was then standardized in the formal provisions of the 1982 UNCLOS UN Convention Chapter VIII Article 121 which states that the island is a naturally formed terrestrial area surrounded by water and which is above the surface of the water at high tide. Except in cases provided for in paragraph (3), territorial seas, additional zones, EEZ and continental shelf are determined in accordance with the provisions of this Convention that apply to other land areas^[10]. The archipelago regime is the basic norm for the settlement of demands that are often submitted by island nations regarding the legal issues of the islands in the national borders. The island nation as a conception of law, was completely unknown in the fifth and previous decades. At that time, due to the influence of the International Court Decision in the Anglo-Norwegian Fisheries Case in 1951, coastal countries that were geographically similar, like or resembling Norway and countries consisting of islands adopted a straight line from the end to the tip in the measurement of the respective territorial sea width so that the entire island and the waters between and around it become a unified territory^[11].

Thus the decision of the International Court of Justice in the 1951 British and Norwegian disputes could be used as a reference for the development of the legal conception of "archipelagic states". Legal restrictions for the status of the island nation itself have actually been determined in the 1982 UNCLOS Convention, Chapter IV. Likewise, the base line of the islands. Article 46 states that for the purposes of this Convention: (a) "Archipelagic State" means a state which consists entirely of one or more islands and may include other islands; (b) "archipelago" means a group of islands, including parts of the island, the waters between which and other natural forms which are so closely related to each other that the islands, waters and other natural forms constitute a geographical, economic and political entity

essential, or historically thought to be so.

In fact there are a number of countries that meet the qualifications specified in Article 46 of the 1982 UNCLOS Convention which claims to be an archipelagic country and of course some are not, so even though such a country qualifies as an archipelago, it does not claim to be an archipelago, then that country cannot be classified as an island nation. Regarding which country claims to be an island nation and which does not, there is no definitive data. Among the countries in the world that claim to be an archipelago, namely Indonesia which declared its status as an archipelagic country which was declared on December 13, 1957^[12]. The criteria for archipelagic states as determined in Article 46 above are found in, 45 archipelagic countries in the world according to an area. While the island nations which consist of an island, archipelago or part of a large group of islands each with an area can be mentioned as: Antigua and Barbuda (7 km, 2 ha), Bahamas (6 km, 3 ha), Bahrain (12 km, 4 ha), Barbados (11 km, 2 ha), Dominica (5 km, 3 ha), Fiji (12 km, 9 ha), Philippines (22 km, 24 ha), Bailiwick Guernsey (2 km, 1 ha), Iceland (15 km, 4 ha), Japan (24 km, 61 ha), Galapagos Islands (1 ha), Solomon Islands (10 km, 3 ha), Comoros (11 km, 6 ha), Cuba (14 km, 3 ha), Madagascar (15 km, 11 ha), Maldives (8 km, 3 ha), Malta (11 km, 3 ha), Palau (11 km, 6 ha), Saint Barthelemy (1 km, 1 ha), Samoa (11 km, 2 ha), New Zealand (18 km, 12 ha), Seychelles (10 km, 1 ha), Singapore (19 km, 22 ha), Sint Eustatius (2 ha), Sri Lanka (12 km, 6 ha), Cape Verde (11 km, 3 ha), Republic of China (2 km, 3 ha), and Tonga (12 km, 4 ha)^[13].

Concerning archipelagic baselines is determined based on Article 47 paragraph (1) of the Convention which states that an island nation can draw straight archipelagic baselines that connect the outermost points of the islands and the outer dry reefs of the archipelago with eight conditions. The eighth condition stipulates that an archipelagic country must declare as such a map or list of such geographical coordinates and must deposit one copy of each map or list to the UN Secretary General.

2. Outer Islands

The term "Outer Island" is implied in Article 47 of UNCLOS 1982. The important essence of Article 47 is: First, the word outermost islands which when translated into Indonesian into "outer islands" actually exists in the marine system of an island nation, including Indonesia. Second, the term outermost island is an international standard term for an archipelagic state, including Indonesia, which has recognized this convention of the International Law of the Sea. Third, the terminology of the outer islands cannot be determined as a terrestrial term because it is of significant importance in the issue of maritime delimitation. The use of the term outer island, which is prevalent since the beginning of the formulation of policies regarding the area, and the frontier island or edge island / border island, depends on the context. If in the context of the maritime boundary issue, the term outer island is more appropriate than the frontier island. Because, the outer islands are used as a determinant of physical clarity of boundaries with the existence of a base point (base point). For the territory of the State of Indonesia, of the 92 outer islands, the position is not at the same distance, but rather a cluster of distances between groups of hundreds of kilometers. Of these there are 12 islands of which are the most worrying, this is related to its position

and the absence of fresh water and life on these islands. The condition of the land border is also not better, in Kalimantan there are boundaries along 2004 km, in Papua 820 km and Timor Leste 300 km, while the villages or villages that are attached to or around the border are only a few; in Papua there are no more than ten villages, in Kalimantan and Timor Leste^[14]. The outer islands are usually remote areas, poor and even uninhabited and far from the attention of the government. The existence of these islands geographically is very strategic, because it is based on this island that our country's borders are determined.

These islands should get serious attention and supervision so as not to cause problems that can interfere with the territorial integrity of Indonesia, especially islands located in the border region with countries that do not yet have an agreement with Indonesia.

3. Sovereignty

The word sovereignty comes from the Latin word "superanus" which means the highest or highest^[15]. According to its origin, sovereignty does indeed mean supreme power. sovereign state means that it does not recognize a power higher than its own. In other words, the state has a monopoly on power; a characteristic of today's community and state organizations that no longer justifies an individual taking his own actions if he is harmed. Nevertheless, this supreme power has its limits. Kusumaatmadja stated that the definition of sovereignty as the highest authority contains two important limitations in itself, namely: (1) that power is limited to the territorial borders of the state that has that power and (2) that power ends where the power of another country begins. The state is a political institution where sovereignty is realized. the state as a group of people permanently occupying a fixed territory, bound by legal provisions through its government, is able to exercise its independent sovereignty and oversee its people and property within its borders^[16].

Based on this theory of state sovereignty, the highest authority lies with the state. The state as the highest institution that has power. The sovereignty of the state arises with the establishment of a state. State sovereignty is sovereignty that comes from the country itself. It is the state that creates the law, so the people must submit to the state. Yudha Bakti adiwisatra in Hadiwijoyo said, the notion of sovereignty underwent various changes in which the state was said to be sovereign if the country was able and entitled to regulate and manage its own domestic and foreign interests without being dependent on other countries^[17].

The state is an area within a country that is bounded by the ocean and / or land. The country's territory can also be limited by walls or fences built to increase security. J.L. Brierly in Adolf gives a state boundary as an institution, as a place where humans reach their goals and can carry out their activities^[18]. Fenwick in Adolf defines the state as a political society that is permanently organized, occupies a certain area, and lives within the boundaries of that region, free from the supervision of other countries, so that it can act as an independent body on earth^[19]. Black gives a definition of a state which in principle is a group of people who occupy a territory permanently, bound together by common customs, customs and law with one political unit, has an organized, sovereign, independent government while at the same time overseeing the population and other matters within the boundaries; Able to declare war and peace; Able

to carry out international relations with other world communities. The state is also defined as an organization of social life that exercises sovereign power on behalf of the people, occupies certain territories and is politically organized under one government [20]. According to Friedmann, the state is not only an organization or center of power, but the highest embodiment of individual and community relations. There are four functions of the state namely: the state as the provider, the state as the regulator, the state as the entrepreneur and the state as the referee. In the capacity of the state as a provider it means that the state makes itself responsible for social service obligations such as guaranteeing a minimum standard of living for all people. The state as a regulator functions using various control methods to regulate economic development. The function of the state as an entrepreneur is to run certain economic sectors through semi-autonomous government bodies and legal entities owned by the state. The state as the referee carries out the functions of legislative, administrative and judicial authority [21]. The categories of countries according to the Convention on International Law of the Sea are: a. Coastal state; b. Landlocked state; c. Geographically disadvantaged countries; and d. Archipelagic state. It is called a seaside country because [22]. 1. The coastline is very short compared to land size, for example Iraq and the Democratic Republic of Congo; 2. Neighboring countries have much larger maritime areas or much longer coastlines, for example: Germany, Singapore and Togo; 3. Countries because the EEZ is very poor in natural resources, for example: Jamaica, Nauru, Tanzania. From the data of 190 countries, 42 countries were recorded as Landlocked state. Countries have no beaches in certain parts of the world such as Africa, namely Botswana, Burkina Faso, Burundi, Central African Republic, Chad, Ethiopia, Lesotho, Malawi, Mali, Niger, Rwanda, Swaziland, Uganda, Zambia, Zimbabwe, Europe namely Andorra, Austria, Belarus, Czech Republic, Holy See, Hungary, Liechtenstein, Luxemburg, Macedonia, Moldova, Monaco, San Marino, Slovakia, Switzerland; Asian countries such as Afghanistan, Armenia, Azerbaijan, Bhutan, Kazakhstan, Kyrgyzstan, Laos, Mongolia, Nepal, Tajikistan, Turkmenistan, Uzbekistan; Countries in Latin America such as Bolivia and Paraguay. As stipulated in Article 1 of the 1933 Montevideo Convention, that one of the elements that must be fulfilled by a country is the existence of a permanent territory which is an absolute element that must exist. A territory is an area that is controlled or territorial from a sovereignty. In the past, often an area was surrounded by natural physical conditions, such as rivers, mountains or the sea. Whereas after colonialism, the boundaries were made by the state that occupied the area, and subsequently with the existence of a nation state, the more commonly used term is National boundaries. Region is an important attribute for the existence of a country [23]. On its territory the state has the rights to exercise sovereignty over people, objects as well as legal events or actions that occur in its territory. For this reason, the principle of respect for territorial integrity is that the state is one of the supports of the international system, as is the norm that prohibits interference in other countries'

internal affairs. In international law there are additional territories obtained by means including occupation, annexation or conquest, accretion, prescription, cession, referendum [24].

4. Implementation of State Sovereignty According to International Law

State sovereignty is exercised in the regions of the State territory, as follows:

a. Land area including the land below

The land area is part of the territory of the country where the people or residents of the country live permanently. Likewise in the mainland region the state government implements and controls all its governmental activities. The land area between one country and another must be strict in its boundaries. The problem occurs in countries that border or close to each other who often face problems determining maritime boundaries when there are differences in the basis, reach, boundaries and jurisdiction. There is also a boundary line between two countries in the form of a river that flows at the border of the countries concerned. In such case, the boundary line is between the two countries in the middle of the river flow. There is also a boundary area on the river set at the deepest parts of the river flow. This is called Thalweg. Included also in the scope of the mainland is land under the mainland. Regarding the depth limit of the land under the land area which is part of the territory of the country, there is no or no regulation in positive international law [25]. The most important thing is the country's sovereignty over the land under its land territory to an unlimited depth. State sovereignty includes the natural resources contained therein. In general, land boundary lines are determined based on land line boundary agreements between bordering countries. The international maritime boundary agreement is not only facing or adjacent to the territorial sea but also with the maritime zone to the outer boundary of the territorial sea. For example, the maritime boundary agreement made between Chile and Peru in 1952. The following 10 territorial maritime boundary agreements were made between countries that border each other: Denmark-Sweden, January 30, 1932, Poland-USSR, March 18, 1958, Indonesia-Malaysia, March 17, 1970, US-Mexico, November 23, 1970, Canada-France, March 27, 1972, Turkey-USSR, April 17, 1973, Indonesia-Singapore, May 25, 1973, France-Spain, January 29, 1974, India-Sri Lanka, January 26-28, 1974, FRG-GDR, January 29, 1974 [26].

30 Water area

The sovereignty of a coastal country aside from its land and inland waters, the waters of its islands, also includes the territorial sea, the air space above it and the seabed and the subsoil below. Provisions concerning the Territorial Sea are regulated in Article 3 and Article 33 of UNCLOS 1982. In this provision, the territorial sea limit does not exceed the 12 nautical mile boundary measured from the normal baseline. Inland waters occur as a result of drawing straight lines from end to end. With the application of this straight line on a winding beach or on the beach in front of which there is an island or group of islands, it will result in the existence of water or sea parts that are located on the inside of the straight baseline. These waters are called inland waters or internal waters. The cross regime through the straits used for

international shipping does not affect the legal status of its waters or the exercise of sovereignty or jurisdiction by the state bordering the straits on the waters, the seabed, the land beneath and the airspace above it. This section also discusses cross-transit. This provision is regulated in Article 41 of UNCLOS 1982^[27].

c. Juridical Fencing Efforts in Indonesia's Outer Islands

The base point of the boundary area with neighboring countries, there are 183 points located on 111 outer islands, the rest are in the outer cape and in the coastal region. Of the 111 outer islands, there are 12 islands that are vulnerable to foreign control. These islands are generally classified as outer small islands, as follows: 1. Rondo Island. The island is located at the northwestern tip of the Nangro Aceh Darussalam Province (NAD), as the outer islands in the western part of Indonesia bordering Indian waters. 2. Berhala Island. The island is located in the eastern waters of North Sumatra directly adjacent to Malaysia. This island is the outermost island of Indonesia in the Malacca Strait, a very crowded strait as an international shipping lane. 3. Ipa Island. The island is directly adjacent to Singapore. Administratively, the island is included in the area of Pemping Subdistrict, Rear Padang, Batam City, Riau Islands Province. 4. Sekatung Island, is the outermost island of the Riau Islands Province in the north, directly facing the South China Sea. On this island there is a Base Point in the measurement and determination of the boundaries of Indonesia and Vietnam. 5. Marore Island. The island is in the northern part of North Sulawesi Province, directly adjacent to Mindanao Philippines. 6. Miangas Island. The island is located in the northern part of North Sulawesi Province, directly adjacent to the Philippines Mindanao Island. 7. Fani Island. The island is located in the Asian Islands, Northwest of Bird's Head in West Papua Province, directly adjacent to the island nation of Palau. 8. Fanildo Island. The island is located in the Asian Archipelago, Northwest of the Bird's Head of West Papua Province, directly adjacent to the island nation of Palau. 9. Bras Island, which is an island located in the Asian Archipelago, Northwest of the Bird's Head of the Province of West Papua, directly adjacent to the Palau Islands. 10. Batek Island. The island is located in the Ombai Strait, on the north coast of East Nusa Tenggara and Oecussi Timor Leste. 11. Marampit Island, located in the northern part of North Sulawesi Province, is directly bordered by the Philippines Mindanao Island. 12. Dana Island, located in the southern part of East Nusa Tenggara Province, is directly adjacent to Australia's Coral Island Ashmore. Of the 111 outer islands bordered by the country's territory, most of them are small islands which have enormous economic potential. The outer small islands are small islands that have basic geographical coordinates that connect the baselines of the islands. As the basic point of coordinates, the outer small islands above are expected to be the front guard in maintaining the country's sovereignty. The Outermost Small Island is the frontline in protecting Indonesia's sovereignty because of its strategic position to draw the territorial sea boundaries, additional zones, continental shelf boundaries, and EEZs. Concerning the outer small islands, out of 183 Base Points which are used as a benchmark to draw baselines, there are 92 Base Points recorded on the outer small islands. This shows that the existence of small outer

islands is very vital in the framework of state sovereignty. In the framework of the country's sovereignty, the position of the outer small islands was followed up with Government Regulation (PP) No. 38/2002 concerning the Geographical Coordinating List of Indonesian Archipelagic Lines which now has been amended by the issuance of PP No.37/2008 concerning Amendment to Government Regulation No.38 of 2002 concerning the Geographic Coordinate List of Indonesian Archipelagic Lines. In PP No.37 Year 2008 there was a change in the number of Outermost Islands from 92 to 111. Although the outermost small islands are declared as the forefront of the country's sovereignty territory, but the outer small islands are also a starting point for border conflicts. Issues that border the country's territory that are quite prominent lately include: Various violations of sovereignty over state territory, unilateral claims to the ownership of natural resources / islands / territorial territories of a country by other countries, various violations of human rights in border areas (such as trafficking in person or better known as human trafficking), various criminal acts/ crimes at the border (illegal logging, arm smuggling, illegal fishing), the threat of terrorism.

Other problems such as violations of boundary agreements between countries. It is known that up to December 10, 2015 of 4,708 international agreements made by Indonesia, 18 of them were maritime boundary agreements. According to Arif Djohan, during 1969-1982 there were 16 border agreements/ agreements that had been completed by Indonesia with neighboring countries^[28]. The act of regional expansion because of the unclear status of the country's boundary lines could potentially be done. Potential conflicts can also occur because of the unclear legal status of around 11,801 outer islands which have not yet been named; Potential conflicts can occur due to the lack of historical evidence and regulations regarding the protection and guarantee of economic welfare of the community which shows the existence of an effective occupation of the country's border regions. Potential conflicts in the outer islands can be avoided if the state party can prove the legal status of the boundary line between the state, various law enforcement, defense and security regulations, the conduciveness of various economic, social and cultural activities.

The cases of Sipadan Island and Ligitan Island, whose status now belongs to Malaysian sovereignty, are bad lessons for the sovereignty of the Indonesian state. On December 17, 2002, the International Court of Justice (ICJ) ruled that Malaysia had full sovereignty over the two islands. ICJ Set a 1969 critical date limit, which means that actions taken by the parties after that year are not considered, and concludes^[29]. 1. Indonesia and Malaysia do not have treaty-based titles on the two islands; 2. Both islands have never been Indonesian territory obtained from the Netherlands, nor from the Bulungan Sultanate, and are not included in the map appendix UUNo.4 / Prp / 1960 concerning Indonesian Waters; 3. The two islands were never part of the Malaysian Chain of Title theory from the Sultan of Sulu – Spain – USA – England; 4. Effective mastery is considered a stand-alone problem. In terms of effective tenure, evidence of Malaysian effective tenure varies in character, including legislative, administrative and quasi-judicial actions: 1. Actions of the British North Borneo Colony (UK) controlling turtle egg collection activities on Sipadan Island and Ligitan Island (1917); 2. Designation of Sipadan Island

as a bird sanctuary (1933); 3. British lighthouse construction on Sipadan Island (1962) and Ligitan Island (1963). Regarding the Dutch / Indonesian effective tenure claim, ICJ believes: 1. Factually, Law Number 4/Prp/1960 does not list the two islands as relevant starting points; 2. The Netherlands and Indonesia did not protest management actions by Britain / Malaysia until before 1969; 3. In 1962 and 1963 Indonesia did not take any action, including protesting the actions of BNBC (Britain), which later became Malaysia, that the construction of the lighthouse was carried out in Indonesian territory. Facts of potential conflicts in the outer islands between Indonesia and neighboring countries such as [30]. 1. Indonesia and Singapore have problems regarding territorial sea boundaries. 2. Indonesia and Malaysia have problems in understanding the different sea regimes. 3. Indonesia and the Philippines have fundamental differences regarding maritime boundaries. 4. Indonesia and Australia need to restructure the sea boundary line between the two countries after East Timor's independence. 5. Border [25] a area between Indonesia and Vietnam. 6. Indonesia and the People's Republic of China also have differing views on water borders, especially in Natuna waters. 7. Indonesia and India also harbor potential territorial waters border conflicts around Andaman and Nicobar Islands. 8. Indonesia and Palau also do not agree on the boundaries of the Exclusive Economic Zones of the two countries. 9. Border sea area between Indonesia and East Timor. Indonesia and Singapore have issues regarding the territorial sea boundary even though there are actually border agreements between the two countries. Excessive sea sand mining also has an impact on the sinking of Nipa Island which is the Base Point in determining [10] e territorial borders of Indonesia with Singapore. Indonesia and Malaysia have problems in understand [18] the differences of the sea regime with Malaysia in the northern part of the Malacca Strait, the Singapore Strait and the South China Sea. In addition, after the Sipadan and Ligitan Island cases, the issue of boundaries in the waters east of Sebatik Island and around Sipadan and Ligitan Island will also be a "homew [18] assignment" that must be resolved immediately. Indonesia and the Philippines have fundamental differences regarding maritime boundaries. Another island bordering the Philippines is Miangas Island. There is a majority population of the Talaud Tribe, marriages with Filipinos are inevitable. This region is prone to terrorism and smuggling. Marampit Island is also the outermost island bordering the Philippines. Marampit Island is located in Karatung Island District, [10] ud Regency, North Sulawesi. Republic of Indonesia Government Regulation No. 38/2002 concerning the Geographic Coordinate List of Indonesian Archipelagic Lines, along with amendments, namely Government Regulation No. 37/2008 has not been socialized to the international community, as a revision after the disputes between Sipadan and Ligitan Island. After East Timor's independence, the sea boundary line between Indonesia and Australia needs to be restructured, although the approval of the Continental Shelf line was carried out in 1971 and 1972, as well as the approval of the Exclusive Economic Zone boundary line in 1981. Dana Island is the outer island directly bordering with Australia. The island is located south of Rote Island, its location is strategic because it is the entrance of an international shipping lane, uninhabited. Distance with Kupang City 120 kilometers and with Rote

Island 4 kilometers. Border of sea area between Indonesia and Vietnam. Sekatung Island, located in Air Payang Village, Pulau Laut Village, Bunguran Barat District, Natuna Regency, Riau Provi [25], is the outermost island bordering Vietnam. Indonesia and the People's Republic of China also have differing views on water borders, especially in Natuna waters. Indonesia and India also harbor potential territorial waters border conflicts around Andaman and Nicobar Islands. This needs attention from both parties because it can be a trigger for greater conflict. Indonesia and Palau also do not agree on the boundaries of the Exclusive Economic Zones of the two countries, especially on the islands of Asia and the islands of Mapia (the territory of the Republic of Indonesia) located in northern Papua. Fani Island in Ayau Subdistrict, Raja Ampat Regency, Papua Province is one of the outermost islands that are included in the Asian Islands. Indonesia and East Timor do not yet have a maritime boundary agreement. East Timor's post-independence impact on the Timor Gap management agreement, although this has not yet surfaced, it needs to be immediately anticipated by the Government of Indonesia. The Warasmol case and the use of Fly River for shipping traffic and natural resources by residents of the two countries who live on both sides of the river on the Papua-PNG border, often cause problems that have implications for border disputes. In addition to Papua-PNG, also North Sulawesi-Southern Philippines, North Sumatra/ Aceh with Malaysia and Timor Leste. The determination and affirmation of several segments of the border area of the country with neighboring countries, both land and sea boundaries have not been completed. This is often the cause of problems.

Indonesia Land Border and Sea Border

Settlement of the Indonesia-Malaysia border through negotiations, still faces the Outstanding Boundary Problems (OBP). Among them the Tanj [32] Datu case is one that requires serious attention. Common Border Datum Reference Frame (CBDRF) and Joint Border Mapping (JBM) activities are only able to produce data in the form of measurement books, azimuths and distances, which are required by Comp Sheet data. Settlement of the Indonesian - Papua New Guinea land border through negotiations, still leaves problems. The legal source which forms the basis of [45] boundaries of the two regions, namely Treaty 1973 which was ratified by Law Number 6 of 1973. When the treaty was signed, there were 14 Nautical Mile. The settlement of the land border between Indonesia and the Democratic Republic of East Timor (RDTL) is still problematic in the field. There are 3 unresolved segments, 4 Iron Noel, Manusation, and Memo. Other problems related to Border Crossing Pas [43] that are not uniform and contain information that is not in accordance with the agreement of the two countries, cumulatively becoming part of the current border strategic issues that require serious attention.

A number of maritime boundary segments, both borders with neighboring countries and the outer boundaries of the state's jurisdiction in which Indonesia has sovereign rights to use, many have not been agreed upon. The development of maritime boundary negotiations in which Indonesia has agreed on some segments of the maritime boundary, namely: Sea Region with Malaysia, Singapore and Papua New Guinea; Exclusive Economic Zone with the Philippines, Australia and Papua New Guinea; Continental

shelf with India, Thailand, Malaysia, Vietnam, Australia and Papua New Guinea. Sea boundaries that still need to be negotiated are: Sea Territory with Malaysia and Timor Leste; Exclusive Economic Zone with India, Thailand, Malaysia, Vietnam, Palau and Timor Leste and Continental Platform with Malaysia, the Philippines, Palau and Timor Leste. Weak effort⁴⁴ to prevent and enforce law against illegal activities (illegal logging, illegal fishing, illegal mining, human trafficking, etc.) as well as security disturbances in border areas. In addition, the low accessibility of information has the potential to weaken the horizons and national sense of citizens at the border. The still lack of facilities and infrastructure in most of the exit entry points (border crossings) of land borders and sea borders, the number of cross-country "rat roads" as well as traditional cross border posts that are less effective in monitoring, are associated with the phenomenon of increasing cases of human trafficking and terrorism, becoming part of other strategic problems at the border of a country that requires special handling.

Conclusions

1. Implementation of State Sovereignty according to International Law are in the territories of the State such as land area including the land underneath, in the inland waters, the waters of the islands which include the territorial sea, the air space above and the seabed and the subsoil underneath. Provisions on the Territorial Sea are regulated in Article 3 and Article 33 of UNCLOS 1982.
2. Juridical Fencing Efforts in the Outer Islands of Indonesia are carried out through the establishment and affirmation of the boundary points of the territorial borders with neighboring countries, namely 183 points located on the 111 outer islands, the rest are in the outer headlands and in the coastal region. The determination and affirmation of several segments of the border area of the country with neighboring countries, both land and sea boundaries have not been completed. This is often the cause of problems.

References

1. Adolf Huala. Aspects of the State in International Law, Ed.1, Cet.1, Publisher C.V. Rajawali, Jakarta, 1991.
2. Anonymous, 2008. Archipelagic State. <https://imanprihandono.files.wordpress.com/2008/06/archipelagic-state.pdf>
3. Batubara Harmen. Determination and Confirmation of National Boundary, Publisher Wilayahperb Batas.com, Bandung, 2015.
4. Black Henry Cambell. Black's Law Dictionary, Fifth Edition, St. Paul Minn West Publishing Co, 1979.
5. Briscoe John. Boundary Delimitation, Rights to Oceanic Resources, Edited by D.G. Dallmeyer and L. DeVorsey, Publications on Ocean Development, Volume 13, Published by Martinus Nijhoff Publishers, Dordrecht, The Netherlands, 1989.
6. Charney Jonathan I and Lewis M. Alexander International Maritime Boundaries, Volume I, The American Society of International Law, Martinus Nijhof Publishers, Dordrecht, The Netherlands, 1993.
7. Djalal Hasjim. Indonesia and the Law of The Sea, Center for Strategic and International Studies, Jakarta, 1995.
8. Friedmann W. The State and The Rule of Law in A Mixed Economy, Stevens & Sons Limited, London, 1971.
9. Fu Kuen Chen. Equitable Ocean Boundary Delimitation, on equitable Principles and Ocean Boundary Delimitation, National Taiwan University Law Books No.58, Taipei: Taiwan.
10. Hadiwijoyo Suryo Sakti. State Border in the Dimension of International Law, First Edition, First Printing, Graha Ilmu, Yogyakarta, 2011.
11. Jayawardene Hiran W. The Regime of Islands in International Law, Publications on Ocean Development, Martinus Nijhoff Publishers, Dordrecht / Boston / London, 1989.
12. Kusumaatmadja Mochtar, Ety R Agoes. Introduction to International Law, 2nd Edition, 1st Edition, Publisher P.T. Alumni, Bandung, 2003.
13. Law Number 17 of 1985 concerning Ratification of the United Nations Convention on the Law of the Sea, 1982.
14. Massie Cornelis Djelfie Determination of the Legal Status of the Outermost Islands and its Relationship with the Implementation of State Sovereignty, Dissertation, Postgraduate Law Studies Program at Sam Ratulangi University, Manado, 2016.
15. Massie Cornelis Djelfie. Introduction to the Law of Border Areas and Outer Islands of Indonesia, International Law of the Sea Perspective, Reference Library, Yogyakarta, 2019.
16. Parthiana I Wayan, 129. International Maritime Law and Indonesian Maritime Law, Publisher Yrama Widya, Bandung.
17. Parthiana Wayan. Introduction to International Law, Publisher CV. Mandar Maju, Bandung, 1990.
18. Pratomo Eddy. Legal Developments in International Treaties and Indonesian Maritime Boundary Agreements (Case Study), Sam Ratulangi University Postgraduate Program, Manado, 2015.
19. Presidential Decree No. 6 of concerning the Designation of Outermost Small Islands, 2017.
20. Sefriani. International Law an Introduction, Rajawali Pers Higher Education Division PT RajaGrafindo Persada, Jakarta, 2011.
21. Shaw Malcolm N. International Law, Fifth Edition, Cambridge University Press. United Kingdom, 2003.
22. Smith Robert W, Geographic Considerations in Maritime Boundary, Edited by D.G. Dallmeyer and L. DeVorsey, Rights to Oceanic Resources, Publications on Ocean Development, Published by Martinus Nijhoff Publishers, Dordrecht, The Netherlands.
23. Sondakh Bernard Kent. The Role of the Indonesian Navy in Safeguarding and Empowering the Outer Islands, Journal of Law and Development, ISSN: 0215-9687 Number 1 Year XXXIII, January-March 2003, Faculty of Law, University of Indonesia, 2003.
24. Tunggal Arif Djohan, Question and Answer on the Law of the Sea complemented by the Law of the Sea Regulation, Harvarindo, Jakarta, 2011.
25. Wila Marnixon RC. Conception of Law in the Regulation and Management of Border Areas between Countries, First Edition, 1st edition, Publisher PT. Alumni. Bandung, 2006.

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