

## **RESEARCH ARTICLE**

# An Overview of Indonesia's Serious Efforts to Resolve Border Conflict with Malaysia: A Case Study of Camar Bulan and Tanjung Datu Period 2011-2014

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#### ABSTRACT

Indonesia's border areas are underdeveloped areas with limited infrastructure and social and economic facilities. Moreover, some areas tend to be poor people and are oriented toward neighbouring countries. This study aims to determine the background of the border dispute between Indonesia and Malaysia in Camar Bulan and Tanjung Datu and to determine the basis of Indonesia's demands for border disputes in Camar Bulan and Tanjung Datu. Additionally, the research method used is descriptive analysis, and library sources are conducted to collect the data. The results show that the prospect of dispute resolution in the Camar Bulan and Tanjung Datu areas will be slow. This condition is because the government's development is not accompanied by the affirmation of boundaries, maintenance of the boundary markers, and strengthening of Indonesia's diplomatic power, so thus the development will certainly be obstructed.

### **KEYWORDS**

Indonesia, Malaysia, Conflict, Camar Bulan, Tanjung Datu

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#### 1. Introduction

The territory of Indonesia is directly contiguous to the surrounding countries. For example, the Tanjung Datu area is an attractive place for tourism that is still in dispute over the border between Indonesia and Malaysia. However, according to the Indonesian Ministry of Defense, those areas are Outstanding Boundary Problems (OBP), which are still in negotiations between Indonesia and Malaysia. In this case, dealing with the state borders is essentially part of the effort to manifest the space of the archipelago as a geographical, political, economic, socio-cultural, and security defence. Another effort that needs to be conducted is accelerating the completion of boundary lines in the border islands. Nevertheless, the implementation of MCS (Monitoring, Controlling, and Surveillance) in the small border islands are required to work up the supervision and monitoring of the area (Mustafa, 2006). Accordingly, one of the development programs that should get the main concern is the affirmation of the borders between countries facing each other, or side by side, starting from each country's base point and baseline.

The affirmation of the boundaries between two countries that face each other requires a mechanism that must be agreed upon by the two countries. The international legal system has generally undertaken and followed, including (1) Assign and agreeing on the base map used for boundary delimitation activities by the two countries during the negotiation process. (2) Determine the base points and or baselines used by the two countries. (3) Agree on the method the two countries will use to take the boundary point and boundary line. (4) Each State submits a claim under a mutually agreed method. (5) If the agreement has not been found, it should attempt to find a technical meeting point until a mutually beneficial agreement is obtained. However, if there is still no technical agreement, the confirmation process is carried out through a high-level meeting between the two countries. Then, the final step is to file a case with the International Court of Justice (ICJ) based in The Hague, the Netherlands, or the International Tribunal on the Law of the Sea (ITLOS) based in the Hanseatic Free City of Hamburg, Republic of the German Federation (Mustafa, 2006).

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According to the above mechanism, Indonesia and Malaysia have no explicit agreement regarding the determination of boundary markers, even though the last negotiations were held in 1978. Thereby, the problem arises in which map and which agreement is used as the basis for determining the border of the two countries? Thus, negotiations seem to have to be resumed so that no party feels aggrieved and both countries can preserve the integrity of their respective territories.

#### 2. Literature Reviews

#### 2.1 National Interests Theory

The national interest can be explained as a fundamental goal and the final determining factor that directs the decision-makers of another country in formulating its foreign policy. The national interest is typically the elements that establish the country's most vital needs, such as defence, economy, and military. (Jack C & Otron, 1999). On the other hand, the national defence is all efforts that take on to defend the sovereignty of the state, the territorial integrity of a country, and the safety of the entire nation from threats and disturbances to the integrity of the nation and state. According to the 2008 defence white paper by the Ministry of Defense of the Republic of Indonesia, threats are every business and activity, both from outside and from within the country, which is considered to threaten or endanger the sovereignty of the state, the territorial integrity of the country, and the safety of the nation. Based on the nature of the threat, it is essentially classified into military threats and non-military threats. In this case, Indonesia is required to defend its territorial integrity and national sovereignty from all forms of threats since it is in the national interest to mandate the constitution as the ideals of Indonesia.

#### 2.2 International Law Theory of Borders

The provisions of international law are mainly associated with States' rights, obligations, and interests. It is generally the provisions that States must comply with, and in the same case, treaties may impose obligations that are themselves agreed to be brought by the signatory States. However, this does not mean that there are no entities or persons, whether natural or other legal entities, which can be included in the control or abundance of international law. (Starke, 2010). Hence, it implies that the state is a legal subject.

Furthermore, in international law, it is well known as the principle of uti possi detis ("because you have, you will still have") (Starke, 2010). It means that the territory and boundaries should follow the territory and boundaries of its predecessors/colonizers. That principle has been used as the basis by Indonesia and Malaysia when setting boundaries around Tanjung Datu.

#### 2.3 State Sovereignty Theory

Sovereignty underlies several rights that have been recognized by international law. These are the right to equality, territorial jurisdiction, the right to determine the nationality of the population in its territory, the right to allow and refuse or prohibit people from entering and leaving its territory, and the right to nationalize (Riyanto, 2012). According to the cases in Camar Bulan and Tanjung Datu, the government must be responsible for the interests of the people living in the border areas. Therefore, sovereignty here leads to how a country can assert the law over its territory and be responsible for the interests of its society.

#### 2.4 Diplomacy Theory

Diplomacy is closely related to the entire process of foreign policy and relations, including formulation, implementation, and evaluation. Furthermore, foreign policy, diplomacy, and relations between countries are three things that cannot be separated to form a policy taken by a country. In addition, each subject cannot function without coordination with one another. On the one hand, foreign policy concerns the substance and content of foreign relations and determines strategy. On the other hand, diplomacy regulates how to implement or determine tactics to achieve strategic objectives. In this case, the diplomacy process has been carried out several times, but the MoU produced by the two countries is only temporary. Therefore, there is no agreement and understanding regarding the border issue between the two countries.

#### 3. Research Methodology

This research employs the descriptive analysis method. In this case, descriptive research is applied to measure certain social phenomena. It develops the concepts, collects the existing facts, and then verifies the data, but the hypotheses are not tested. The data collection technique used is the library method that supports this scientific paper by utilizing the available libraries. The researcher also searches on the internet to find the source data. Meanwhile, the data processing technique used is quantitative. It is rooted in a natural background as a whole, relying on humans as the research tools, conducting inductive data analysis, descriptive, directing its research objectives to find out a fundamental theory, limiting the study with focus, and establishing criteria for checking the validity of the data (Moleong, 1989).

#### 4. Results and Discussion

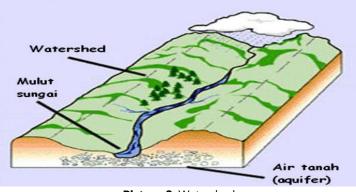
Indonesia and Malaysia are very close and even intersect. Of course, it will cause conflict between them, both soft and hard. The conflict that will quickly occur between these two countries is about the territory. In this case, Indonesia's border areas in West Kalimantan, precisely in Camar Bulan and Tanjung Datu, are currently areas that often receive attention because issues state that there has been a shift in the boundary markers. That area is still in the negotiation process between Indonesia and Malaysia

(Outstanding Boundary Problems/OBP). Minister of Travel and State Heritage, Datuk Seri Abang Johari Tun Openg, said The kingdom (Malaysia) had spent 20 million ringgit on building the Santubong area, including the Tanjung Datu area. Particularly, Malaysia is trying to make Santubong and Tanjung Datu one of their tourism flagships. Recent developments in the concept of Malaysia's maritime strategy (by building at least three large sea bases in Teluk Sepanggar, Sandakan, and Tawau) show that they are increasingly serious about "heading east", a.k.a. It is the waters between Kalimantan and Sulawesi (Mursito, 2012).



Picture 1. Boundary Segments That are Issued

The boundary segment, which is the issue of boundary disputes in Camar Bulan (around Tanjung Datu), can be seen in the picture above. This boundary segment is currently still in Outstanding Boundary Problems (OBP) status. Britain and the Netherlands have determined the boundary segment as the former owners of the territory, where Malaysia has a former British colony and Indonesia has a former Dutch colony. In the treaty between England and the Netherlands in 1891, it was stated that the boundary line of the Camar Bulan border and Tanjung Datu was along the watershed. In short, the watershed is a ridge of land that separates water flow. If an area is a long hill, then the watershed is along the top of the hill (Mursito, 2012). However, it is not easy for Indonesia and Malaysia to interpret the descriptions of 1891, 1915, and 1928 treaties to determine an accurate position due to the changing landscape of one country.



Picture 2. Watershed

The picture above shows the watershed as a boundary line that separates the two areas. Remarkably, there is a river flow separated by a hill ridge; thus, the determination of the watershed is above the top of the hill. However, it will be challenging to determine the watershed if there is no river flow or a relatively flat area. Accordingly, the difference in perspective between the two countries in determining the watershed to place the boundary markers is the trigger for the difference in the placement of the boundary stakes. Here, the problem of different perspectives in determining the location of the boundary stakes in Camar Bulan can be seen in picture 3.



Picture 3 Placement of boundary stakes

It can be seen in the picture above that the problem of placing the boundary stakes occurs at points A88-A156. When referring to the Dutch Van Doorn map boundary line in 1906, the Sambas Borneo map (N 120 E 10908/40 Greenwich), and the Federated Malay State Survey map in 1935, then the placement of the boundary markers are not appropriate and must be reviewed to determine the placement of the stakes. Nonetheless, Umar Affandi, a Master of Law Student at the University of Tanjungpura (UNTAN), has observed the legal history of the land borders in West Kalimantan from 2005 to 2007 on behalf of Umar Affandi, which is legal history research on land borders in West Kalimantan. Suppose we refer to Affandi's work. That may be the only research that has been conducted. In that case, it points out that the unilateral placement of SRTP 01 pillars by a Malaysian surveyor in Tanjung Datu legally outcomes legal consequences detrimental to Indonesia. There is a shift in the coordinates of 1 second north latitude (30,866 meters x 12 Nautical Miles of the Sea x 1.852 meters = 685.980.799 m2 hectares in the territorial Sea Zone), and its implications for the borderline of Niger Gosong shallow (Mursito, 2012). Hence, the steps of the Indonesian government should include submitting a protest note to Malaysia.

The government's homework that must be a priority is to enact a National Boundary Law and complete a map of the sea and land areas (by empowering the role of the Army Topography Directorate, the Naval Hydro-Oceanography Service, the Air Force Mapping Survey Center, the Ministry of Home Affairs, the Ministry of Foreign Affairs and other agencies). Also, the government must deposit the database of geographic coordinates of baseline and basepoints to UN international agencies by Article 16 paragraph (2) of UNCLOS III 1982 as soon as possible. Various problems arise after the local community discovers the destruction of boundary markers in the area allegedly carried out by the Malaysian.



Picture 4. One boundary marker found in the Moon Camar

The picture above shows the damage to one of the boundary markers found in the Camar Bulan. To address this, the government should move quickly to repair the damaged boundary markers to reaffirm the boundaries of Indonesia's sovereign territory. It is just that the supervision that has been taken to guard the border areas still relies on the TNI (Indonesian National Army) and POLRI (Indonesian Republic Police). At the same time, local government officials and the community have not fully assisted.

Indonesian Perspective on Boundaries at Camar Bulan and Tanjung Datu

Local Government Responses to Boundaries at Camar Bulan and Tanjung Datu

The local government has been responsive to the conflict in Camar Bulan and Tanjung Datu. This situation can be seen from the role of the Governor of West Kalimantan, Cornelis. He gave instructions to the regents to minimize the widespread conflicts and urged the central government to conduct a review of boundary markers that became conflict issues.

#### 4.1 Central Government Response to Boundaries at Camar Bulan and Tanjung Datu

The finding of Commission I of the DPR regarding the annexation of territories in the hamlets of Camar Bulan and Tanjung Datu has been supported by the Constitutional Justice who served at the time, Akil Mochtar. According to him, Camar Bulan and Tanjung Datu people are fully aware of the annexation. The public is aware of the existence of infrastructure development in the territory of Indonesia brought out by the Malaysian side. Residents then welcome this program because they feel that neighbouring Malaysia cares more than the Republic of Indonesia. Akil also adds the importance of developing infrastructure to pay more attention to the people in the area(No Title, nd).

The issue of shifting boundary stakes and the annexation of Camar Bulan and Tanjung Datu prompted Commission II of the DPR to review the locations that are the issue. The results of the monitoring of five members of the DPR-RI from the Border Committee of Commission II, namely Ramadhan Pohan and Nanang Samodra (Democratic Party faction), Rahadi Zakaria (PDIP faction), Aus Hidayat Nur (PKS faction), and AW Thalib (PPP faction), do not find any changes or shifts of boundary stakes. Team reviews are carried out at points A-104, A-54, and A-53. Ramadhan Pohan, who is included in the team, denies that there has been a shift in stakes and annexations (Gustaman, nd). The issue eventually becomes confusing, and there is a lack of clarity in handling this problem.

The Tanjungpura XII Military Regional Command (Kodam XII/TPR), Major General TNI Geerhan Lantara, denied the disappearance or shifting of several border markers between Indonesia and Malaysia in the West Kalimantan region. According to him, the boundary markers are not missing but have not been found. There are about 600 more stakes that have not been found (Suryanto, 2011). Due to the difficulty of monitoring and maintaining these boundary markers, these points may have the potential to get a shift. The search for these boundary points must be found immediately to maintain the sovereignty of the territory of the Republic of Indonesia. The chief of Kodam XII/TPR staff, Brigadier General TNI Armyn Alian, explained that the boundary markers prone to shifting are type C stakes because they are only planted 50 centimetres deep with a height of only one 30 centimetres above the ground (Suryanto, 2011). It will be straightforward to shift the peg from its original position within this circumstance. The shallowness of the stakes allows humans to shift the placement of the stakes without even using heavy equipment.

#### 4.2 The Strength of Indonesia's Diplomacy in Defending the Camar Bulan and Tanjung Datu

Indonesia's diplomatic power can be said to be weak against Malaysia since it cannot maintain Indonesia's dominant influence over this smaller and slower independent country. This situation can be seen in the cases of Sipadan and Ligitan, where the two islands changed ownership, which initially belonged to Indonesia and now belonged to Malaysia. Indonesia should strengthen itself in all fields. Indonesia must have the power and resources that support the success of diplomacy. One way is to build infrastructure to support community activities in border areas, such as building infrastructure for education, health, and other supporting aspects.

The diplomacy approach to defending the national interest is one part of the instruments in foreign policy. Maintaining territorial integrity and empowering people at the border are also part of the national interest that must be stood up. Indonesia should strive to uphold the integration and sovereignty of its territory.

The issue of Sipadan and Ligitan clearly illustrates the weakness of Indonesia's diplomacy in defending its territorial sovereignty. Indonesia's defeat in an argument at the International Court of Justice with Malaysia regarding the claims of Sipadan and Ligitan is a hard slap that Indonesia has to accept as the former owner of the islands. The Malaysian side, which won the claim to the two islands, takes advantage of Indonesia's negligence from an administrative point of view. Malaysia has undertaken planned developments to secure ownership of the two islands, and Indonesia seems to have lost ground. Reflecting on this experience, Indonesia must strengthen itself and carry out diplomacy along with the development of border areas. The Indonesian JIMBC (The Joint Indonesia-Malaysia Boundary Committee) team, which takes the function of diplomacy with the Malaysian side, should have been able to convince that the 1976 MoU in Kinabalu (Malaysia) and the 1978 MoU in Semarang (Indonesia) are still in the form of an agreement between the two officers.

The absence of a signing by the heads of government of each country makes the MoU still subject to review. Due to the factors mentioned earlier, the weak diplomatic power of Indonesia, represented by the JIMBC Indonesia team, has not been able to exert influence on the Malaysian side regarding the affirmation of boundary markers at Camar Bulan and Tanjung Datu. However, the progress of human thought and international law cannot reduce the aggressive desire of a country to keep conflicts between countries resolved by peaceful means or diplomacy alone. (S, 2005). Therefore, the development of the border areas oriented towards the welfare of the people and state security is significant to be carried out together with strengthening diplomacy. This condition is because the nation and state that experiences the minor disturbance or threat show that they have taken care of their sovereignty and effectively protected the national interest.

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#### 4.3 Negotiations between Indonesia and Malaysia on the Camar Bulan and Tanjung Datu

In the case of Camar Bulan and Tanjung Datu, it can be interpreted that the territory of Indonesia and the territory of Malaysia is an area that has been abandoned and inherited by the Dutch and British as the previous rulers of the two regions. Initially, in 1891, 1915, and 1928 border agreements between the Dutch and British over Indonesia-Malaysia in Kalimantan only included determining territorial boundaries following natural boundaries (watersheds) such as the line of the highest mountains, mountain ridges, the river flows, and forests. At that time, the inclusion of straight lines and the determination of the base point for drawing the baseline between Kalimantan and Sarawak had not been stated in detail.

The changes in the landscape have made it difficult for the two countries to determine the watershed's location and establish a baseline jointly. These changes provide a different interpretation between Indonesia and Malaysia in determining the boundary segment in the region. Thus, Indonesia and Malaysia are faced with problems inherited by the Dutch and British regarding the placement of boundary segments in the Camar Bulan and Tanjung Datu areas. Malaysia claims the Camar Bulan area based on the 1976 MoU in Kinabalu (Malaysia) and the 1978 MoU in Semarang (Indonesia). Meanwhile, in the Tanjung Datu area, Malaysia, measuring and placing stakes unilaterally by Malaysian measuring officers on the SRTP 01 pillar. This condition started the boundary dispute in Camar Bulan and Tanjung Datu. This condition is inconsistent with the State Map of Malaysia and the Federated Malay State Survey of 1935, the Dutch Van Doorn maps of 1905 and 1906, and the Sambas Borneo map (N 120-E1098/40 Greenwid). So that Indonesia lost 1,499 ha in Camar Bulan and 800 square meters in Tanjung Datu.

The negotiations between Indonesia and Malaysia in 1976 in Kinabalu (Malaysia) and 1978 in Semarang (Indonesia) were not final agreements. The absence of a signing by the heads of government of the two countries makes the agreement still premature. The role of diplomacy to defend Indonesian territory in Camar Bulan and Tanjung Datu, carried out by the Indonesian JIMBC Team over Malaysia, failed to influence Malaysia strongly. As a result, joint negotiations and measurements in 1976 and 1978 could not confirm the Camar Bulan and Tanjung Datu areas as Indonesian sovereign territories. However, because the negotiations are still in the form of an agreement between teams in the field, the negotiations can still be carried out again.

#### 4.4 Political Development in Camar Bulan and Tanjung Datu

#### 1. Establishment of the National Border Management Agency (BNPP)

The National Border Management Agency (BNPP) was born to reflect the responsibility and commitment of the 2nd United Indonesian Cabinet government to the existence of the border. This condition is actualized in the strict and proportional division of tasks between the three ministries, namely the Ministry of Foreign Affairs, the Ministry of Defense, and Home Affairs. The Ministry of Foreign Affairs deals with diplomatic tasks and borderline agreements between Indonesia and neighbouring countries. The Ministry of Defense is concerned with maintaining state sovereignty, territorial integrity, and the safety of the nation and the Unitary State of the Republic of Indonesia. In this case, the Ministry of Home Affairs, BNPP, is concerned with the task of border development on the economic and welfare aspects.

The formation of the BNPP is a response by the government to protect the country's sovereignty from all forms of threats. The border issues that continue to develop recently have forced Indonesia to have a firm and responsive attitude in maintaining its territorial integrity. BNPP is expected to be able to bring its duties as mandated by law without any conflict of interest between the three institutions.

#### 2. Establishment of the Border Area Management and Cooperation Agency (BPKPK) of West Kalimantan Province

The provincial government of West Kalimantan has tried to overcome the border issue between Indonesia and Malaysia. This situation is indicated by Governor Regulation (Pergub) No. 161 of 2005 concerning the Establishment of the Preparatory Body for the Development of Special Border Areas of West Kalimantan Province. Initially, this was still a non-structural Regional Apparatus Work Unit (SKPD). Furthermore, the Governor of West Kalimantan issued the Regional Regulation of West Kalimantan Province Number 10 of 2008 concerning the Organizational Structure of the Regional Apparatus of the Province of West Kalimantan, which formed a structural SKPD under the name of the West Kalimantan Province Border Area Management and Cooperation Agency (BPKPK). In the same year, the Governor of West Kalimantan issued Pergub Number 65 of 2008 concerning Main Duties (Sutisna et al., 2011).

The policy direction of the local government program is none other than that border areas can become gateways for economic activity and other cooperation with neighbouring countries. Affirming regional boundaries, administrative issues, and management of border areas has become a very strategic issue regarding borders. Therefore, there is a need for good cooperation between BNPP and BPKPK to solve problems such as setting boundaries, increasing defence and security efforts, increasing economic growth, improving social services, and strengthening institutions in the development of border areas.

#### 5. Conclusion

The difference in perspective between Indonesia and Malaysia in describing the agreements between Britain and the Netherlands in 1891, 1915, and 1928 became the root cause of boundary disputes in Camar Bulan and Tanjung Datu. Negotiations conducted

by Indonesia and Malaysia to resolve disputes in Camar Bulan and Tanjung Datu were carried out in 1976 in Kinabalu (Malaysia) and 1978 in Semarang (Indonesia). However, the resulting MoU did not find agreement on the placement of boundary markers at Camar Bulan and Tanjung Datu. This condition is because the agreement only occurs between the two officers in the field who represent their respective countries without signing from the head of state. Hence, the MoU can still be reviewed.

Indonesia's diplomatic power over Malaysia regarding resolving the problems in Camar Bulan and Tanjung Datu is still weak. This situation can be seen in the failure of Indonesia to assert its territory in Camar Bulan and Tanjung Datu. Thus, the development of border areas oriented towards people's welfare and state security can be used as capital to strengthen Indonesia's defence diplomacy. Meanwhile, efforts to resolve Camar Bulan and Tanjung Datu dispute have gone through the allocation and delimitation stages. At this stage, the Netherlands and the UK have agreed. It is just that the demarcation and administration stages have not been completed by Indonesia, which inherited the problem after the death of the Dutch, who became the Indonesian colonizers. This condition is the step that obstructs the process of developing and managing border areas effectively in Camar Bulan and Tanjung Datu.

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