

Indonesia's Efforts in Law Enforcement for Transgressors of Indonesia - Malaysia Borders in Nunukan Regency

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Abstract

The government of Indonesia's efforts to reduce violations and enforce public law in Nunukan Regency, which is the border area or border between Indonesia and Malaysia, continue to be improved and maximized. Problems related to the situation and conditions in border areas include illegal cross-border activities and limited infrastructure. The writing method used is qualitative by expanding and sharpening the analysis combined with the experience (empirical) of the author who has served as a Legal Officer in the 614th Infantry Battalion/Raja Panditih Task Force to guard Indonesia's land border with Malaysia in Nunukan Regency by discussing in detail related to border problems or social phenomena that exist and occur at the border. In its implementation in law enforcement efforts by the government at the border against border violators many are influenced by several factors including law enforcement, regulations that are not widely understood by the community, culture and local wisdom, as well as infrastructure and facilities for law enforcement itself. The central government needs to rebuild policies through a constructivist approach to be more progressive and focused in taking concrete actions to overcome and resolve the problem of lawlessness on the border in the Borneo Island.

Keywords: law enforcement, border transgressor, Indonesia-Malaysia

Background

Kalimantan Island is geographically located between 109°10'-114°05' east longitude and 0°30'-2°10' north longitude. Its geographical location is directly adjacent to East Malaysia (States of Sarawak and Sabah). The island of Borneo, bordered by Indonesia and Malaysia, stretches for 2000 KM which includes about 1,035 KM for the Provinces of North Kalimantan and East Kalimantan, while about 965 KM for West Kalimantan. Being a national strategic area on the border, it is not surprising that problems often arise related to security, defense, economy, law and socio-culture so that Indonesian government must really focus on border issues. It is to anticipate problems that arise in the border areas between Indonesia and Malaysia, in particular in Nunukan district. In addition to being strategic from a geographical location, the potential of natural resources in the border area and market (trade) opportunities are very vital and strategic too, because the distance is so close to

Malaysia which is politically within the territory of Indonesia which is closely related to aspects of defense and security, state sovereignty, ideology, economy, socio-culture and the spirit of nationalism (Lahnisafitra, 2005).

The high mobility of the population both from North Kalimantan (Nunukan Regency) or from outside Kalimantan on the border between Indonesia and Malaysia is very vulnerable. It is sometimes followed by violations of the laws especially those related to immigration and trans-crime activities such as drug smuggling, illegal alcohol, human trafficking, terrorism, shifting regional boundaries, and other potentials issues. The dynamics of the border issue between Indonesia and Malaysia has increased capacity due to the large number of people crossing both by land and sea/river when compared to other countries such as the border between Indonesia and Papua New Guinea, and the State of Timor (Yovinus, 2017).

Due to the complex and varied problems that arise at the Indonesia-Malaysia border in Nunukan Regency, North Kalimantan, the government should review in law enforcement for border violators in the area. The political attitude of the Indonesian government is needed in asserting and protecting its territory from disturbances that can disrupt order and security stability at the border. Otherwise, this can make it difficult for the government in the future in addition to the many problems that must be resolved on the border with neighboring countries which are faced with Indonesia's geographical conditions that allow this happen. From the description above, the question in this study is: what are the government's efforts for law enforcement to border violators between Indonesia and Malaysia in Nunukan Regency?

Methods

The writing method used is qualitative approach by expanding and sharpening the analysis combined with the empirical experience of the author who has served as a Legal Officer in the 614th Infantry Battalion/Raja Panditiha Task Force to guard Indonesia's land border with Malaysia in Nunukan Regency by discussing in detail related to border problems or social phenomena that exist and occur at the border. In addition, the author also uses a legal approach and conceptual approach by selecting data or information that can be obtained in terms of the quality and truth of the data. It is combined and linked to the reality in the field that the author can get from the literature and when accomplishing missions.

The legal approach is used by the author to examine all regulations relating to Indonesian national legal politics for law enforcement in border areas. The regulations studied are carried out starting from the highest to the lowest legal standing, underpinning the order in which the law is enacted. The conceptual approach is

studied by the author of doctrines and concepts in legal science and principles related to legal problems and issues that develop in society. The conceptual approach is expected to give birth to legal arguments that can solve legal problems and issues that the researchers examine, especially those related to Indonesian national legal politics for violations of law in border areas. In addition, it is also carried out to provide answers related to legal issues that the authors examine, especially those related to violations of law in border areas in accordance with the principles of the rule of law and based on the constitution in Indonesia.

Contemporary Law Violations on Indonesia-Malaysia Border

The economic activities across the border between Indonesia and Malaysia by the people of Nunukan and Sebatik Regencies or Malaysian citizens on the border (Sebatik Island) are becoming more intensively. It also becomes trans-national interactions because they feel there are cultural similarities and social heredity. Hence, their interaction becomes somewhat natural. The close distance and the not so wide area of Sebatik Island and the similarity of the society make both citizens at the border easier to communicate, even though the mobility of residents within the island is relatively limited. This causes the interaction and mobility of border residents to be carried out outside the island, especially with Malaysians, considering that Nunukan and batik are relatively close to the center of economic activity in the state of Sabah. The Nyamuk River, Sancang River and Aji Kuning River are of small ports and waterways often used by the communities to go to Tawau and return to Sebatik. For the people of Tawau, Sebatik is the only place to trade their product, while most of the people's daily necessities are imported from Malaysia, such as milk, cooking oil, sugar, various types of snacks, and other basic needs. Tawau has become a market in the border area for the Sebatik community and other communities in East Kalimantan Province (Sari, 2009, pp. 198-199).

This phenomenon occurs every day, Nunukan and Sebatik are no longer a stopover for immigrant communities. Both are places and destinations to seek livelihood and economic business by utilizing the location and position of Sebatik Island which incidentally borders Malaysia (Siburian, 2012).

The Sebatik and Nunukan communities have interacted intensively so that the people of the two islands are oriented towards Malaysia in meeting their needs and survival in the form of purchasing and procuring daily necessities from Tawau (Malaysia). The goods are carried out illegally without going through the procedures set by the government. This is done routinely and contemporaneously by the community which is actually very detrimental to the Indonesian government in terms of indirect state revenues (taxes). It's not only about basic necessities that are in the

spotlight in the border area between Indonesia and Malaysia. Smuggling of alcoholic beverages (non-excise liquor) through irregular routes (small rivers) using high-speed boats is common and needs serious handling in law enforcement.

Law Enforcement for The Violators

Underlying Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia, it is determined that "the State of Indonesia is a State of Law". Indeed, the Law shall regulate Indonesian citizens who live on the border between Indonesia and Malaysia (Nahak, Widia, & Perman, 2020). The reality and function of law can be realized into force if law enforcement can be implemented properly. Legislative matters that formulate into regulations or laws are what it should be. Law enforcement has an important role in the success of maintaining security in society. It becomes a very simple problem if we look at the normative perspective of law enforcement and justice. Yet, seen from a sociological perspective, it will be a fairly long process because it involves law enforcement agencies that have authority in law enforcement and justice (police, public prosecutors, judges) if law enforcement and justice are enforced (Morehouse & Blomfield, 2011).

Whether or not the law is effective is influenced by the legal structure of law enforcement. Several agencies such as investigators, judges and prosecutors are actually most responsible for the law enforcement. The existence of mafia and the influence of the other country's cultures on people in the border area are consequences of the adjacent location to state borders. In this sense, law enforcement is influenced by the transnational nature of the crime or law violation (Noviati, Hikmawati, Widayati, & Saputra, 2019). All economic activities of the Indonesian community at the border between Indonesia and Malaysia are carried out in the neighboring country. The lack of optimal efforts that can be made by local and central governments on this phenomenon raises the public perception that these activities are commonplace. Unscrupulous stakeholders even try to take advantage of community activities in the border by providing permits that violate regulations.

On Drug Trafficking & Fisheries

The implementation of law for drug traffickers on the Indonesian-Malaysian border is not always as expected due to several factors. Efforts to enforce legal justice and a sense of deterrence against sanctions for suspects will always go through many obstacles. In a paper by Nur Ayuni addressing the role of Customs in combating narcotics circulation at Tunon Taka Nunukan Port, it is found that the Customs team's performance is only focused on guarding large ports, namely Tunon Taka Nunukan Port. Consequently, the small ports in Sebatik and Simanggaris are not monitored as

a whole. It is not surprising that most of the suspected drug dealers were arrested and secured when they crossed the border (Syarif, 2020).

This activity is associated with an action that will impose sanctions on any person or legal entity that violates the provisions contained in the legislation in the field of fisheries. Usually, it is called an investigation if a legal process is a criminal offense before it is submitted to court. In order to create, maintain peaceful social life, law enforcement must be in harmony with the values described in the stability of the rules which are embodied in attitudes and actions as the final stage of a series of values elaboration (Hong, 2016).

The difficulty of supervision for border fishermen who sell their marine products to Malaysia (Tawau) and small Malaysian fishermen who take fish in Indonesian waters adds to the complexity of the problem at the border. The implementation of criminal law as regulated in Constitution Number 31 of 2004 concerning Fisheries is rather difficult in practice. This is due to the geographical location of the waters of the two countries that are bordering with each other.

Law Enforcement for Immigration Violators

The arrival or presence of a person in the territory of Indonesia who is not registered as a citizen and does not have proper documents from the immigration authorities is an immigration crime. To anticipate the transnational crimes, the Indonesian immigration authorities monitor border crossers who falsify cross-border / immigration documents or passports (Putra, 2016).

The dynamics of border political conditions are colored by the problem of the unfinished agreement on the boundaries of the territory of the unitary state of Indonesia with the neighboring country, both land and sea boundaries. This condition raises strategic issues that hit the problems of state sovereignty, national security, defense, the release of the Indonesian islands (Sipadan and Ligitan), illegal migrant workers, illegal fishing, smuggling, economic, social and cultural gaps. Therefore, one of the objectives of the border area development program formulated based on the 2015-2019 RPJM (Indonesia's Medium Term Development Plan) is to "build Indonesia from the periphery by synergizing regions and villages within the scope of the unitary state" (Syafei, 2011).

The implementation of a strict and indiscriminate criminal law is a mechanism that is taken and chosen by the government of Indonesia in overcoming immigration problems. This is criminal law as clearly regulated in Article 113 of the Law of the Republic of Indonesia Number 6 of 2011 concerning Immigration. The consequence is imprisonment and fines for immigration violators. Another problem that is quite crucial in the border area between Indonesia and Malaysia is the mobility

of illegal workers (*Tenaga Kerja Indonesia /TKI*). Exiting and transiting Illegal TKI from other areas in the border is a convenient place because it is the exit/entry gate and makes the place for the return of TKI (deportation). Another phenomenon is the existence of permits to visit Malaysia which are given by the Cross-Border Post (*Post Lintas Batas*) which are widely used by the community to settle and find work in Malaysia. This is actually very vulnerable to the practice of human trafficking because without complete documents a person can become a target for crime to be exploited by being traded for the benefit of irresponsible people.

Conclusion

The problems that have arisen between Indonesia and Malaysia on the Kalimantan border have not been handled optimally. Indonesia has not yet accommodated the Border Crossing Check Point. It makes the rise of various illegal cross-border activities, illegal groceries, illegal liquor which has become a transnational violation. Limited infrastructure also makes the border areas being left behind in terms of social and economic development. It needs comprehensive handling and strategic steps in various fields, including through border diplomacy by Indonesia. The handling of border area problems has a strategic meaning not only for the progress of the border area itself which is expected to be the home front of Indonesian territory, but it also in line with the national interest of Indonesia, namely to maintain state sovereignty.

Indeed, cooperation between existing law enforcement officers at the border in combating legal issues for border violators at the Indonesia-Malaysia border continues to be improved. It includes cooperation between the National Border Area Management Agency and regional Management Agency including the Maritime Security Agency. They also work with other law enforcers such as the police, prosecutors and the judiciary. Hence, maximum law enforcement can be carried out by the Government of Indonesia at the border if there is support and improvement of facilities and infrastructure which is an aspect of the approach to be able to prosper border communities.

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