

Land Border Dispute Resolution Model in the Involvement of Customary Leaders Between Indonesia and Timor Leste in the Oecussi Enclave Area

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Abstract

Indonesia and Timor Leste still have 4% of the land border that has not been agreed upon by the two countries, the fact is that the people who live on the border that is still being disputed have not accepted the implementation of international law which is the basis for resolving the border. However, this is precisely an obstacle when the state takes the main role, without considering the Traditional Leaders. This research will focus on efforts to reconstruct the role and existence of traditional leaders in the cultural dimension and the interconnectedness of local institutions, so that later a model for resolving state border disputes will be built with structured, legitimate cultural values that can be accepted by all components of society on the land border between the two countries, especially the Oecussi Enclave area. The outputs (products) of this research are the spectrum of the existence of traditional figures as local institutions based on religion in resolving disputes, a draft model for resolving

land boundary disputes between Indonesia and Timor Leste in the Oecussi Enclave area, a draft mechanism for engineering public policies that are based on the cultural diversity of the Indonesian and Timor Leste communities, and scientific articles and intellectual property rights (IPR) on soft security based on culture in the role of traditional figures in resolving land boundary disputes between Indonesia and Timor Leste.

Keywords

Customary Figure; Cultural Protection; Soft Security; Customary Village; Customary Law.

Introduction

Maintaining sovereignty, security and realizing prosperity for all regions and people of Indonesia, including in the land border area between Indonesia and Timor Leste, is essentially an integral part of the main effort to realize national goals. This goal is clearly mandated in paragraph IV of the Preamble to the 1945 Constitution, namely the government protects all the people and all of Indonesia's homeland, advances public welfare, educates the nation's life and participates in implementing world order. Border areas have a very strategic meaning as the front page for creating security in border areas that will make a positive contribution to the condition of defense and security both regionally and nationally. The area determines the validity of state sovereignty over society and the validity of a particular government. Therefore, territorial boundaries are very important because territorial boundaries are the initial markers of the validity and end of the *sovereignty function* of a country, as well as the initial markers of the validity and end of the *sovereignty function* of another country, thus the regulation in the border area must exist and take place properly otherwise it will cause a problem.

Indonesia and Timor Leste still have 4% of the land border that has not been agreed upon by the two countries according to the National Border Management Agency (BNPP), the two countries are still questioning 3 (three) border segments, namely (a) the segment in Noel Besi-Citrana, North Netemnanu Village, East Amfoang, Kupang Regency, (b) the segment in Bidjael Sunan, Oben, in North Central

Timor Regency, and (c) the segment in Dilumil-Memo, Belu Regency.¹ On the land border between Indonesia and Timor Leste, the role played by traditional leaders actually appears to be greater and more decisive than the government.² As for the border areas, the role of these traditional institutions appears to be on par with formal institutions. This condition occurs mainly because these institutions are very close to the community and to a certain extent determine the activities and daily lives of the people there.³

Based on preliminary studies, it was found that the community inhabiting the border that is still being disputed has not accepted the implementation of international law as the basis for resolving the border, the community there still trusts the community and customary leaders there.⁴ Almost the majority (81.5%) of traditional villages in each district/city government have local institutional organizations, including customary leaders.⁵ The rules in international law have not been fully accepted by the community on the border between Indonesia and Timor Leste to be applied in resolving existing problems.⁶ That the community inhabiting West Timor (Indonesia) and the community inhabiting East Timor (Timor Leste) have the same socio-cultural background, it can be ascertained that the customary legal system that

¹ Badan Nasional Pengelolaan Perbatasan. 2011. *Desain Besar (Grand Design) Pengelolaan Batas Wilayah Negara dan Kawasan Perbatasan Tahun 2011-2025*, BNPP Pusat, Jakarta.

² Bujra, A. 2002. *African Conflicts: Their Causes and Their Political and Social Environment*, Development Policy Management Forum (DPMF) Occasional Paper, No. 4, Development Policy Management Forum (DPMF) United Nations Economic Commission for Africa (UNECA) P.O. Box 3001 Addis Ababa, Ethiopia.

³ Shaw, M.N. 2003. *Internasional Law*, Cambridge University Press., Cambride

⁴ Materi Situasi Aktual Pengamanan Perbatasan RI – RDTL dalam Rapat Koordinasi Perbatasan Pada Tanggal 2 Desember 2014 disampaikan oleh Korem 161/Wira Sakti, Kupang.

⁵ Loisel, S. 2004. *The Europe Union and Africa Border Conflicts, Assessing the Impact of Development Cooperation*, Working Papers Series in EU Border Conflicts Studies, July 2004, Institut d'Etudes Politiques de Paris.

⁶ Jadesola. 2012. Nigeria-Cameroon Boundary Dispute: The Quest for Bakassi, Peninsular, Internasional Affairs and Global Strategy, Vol. 4, 2012 (online).

applies in both groups of people is the same.⁷ The substance of the customary law can regulate land issues, as well as customary boundaries, the potential of the Customary Leaders can actually play a role in negotiating to resolve the problem.⁸ However, this is precisely an obstacle when the state takes the main role, without considering the Traditional Leaders who have the potential to determine the peaceful resolution of state boundaries in a family atmosphere.⁹ The development and empowerment of traditional leaders that have been carried out by the regional government have not been optimal and tend to be seasonal.¹⁰ The function of the traditional leader's dialogue by each traditional village has not been carried out much and is relatively "just for the sake of it and just for the sake of it", so that its effectiveness is very low in relation to the development of soft security of traditional villages, especially since the district/city government does not yet have a model of traditional leader dialogue in order to strengthen the soft security of traditional villages as a symbol of the community in resolving land boundaries.¹¹

Based on empirical studies and preliminary research findings that have been conducted, it seems that a strategic effort is needed to build the integrity and harmony of the Traditional Village community as a socio-cultural symbolism.¹² One alternative that is worthy of being put

⁷ Hagerdal, H . 2006. *Servião and Belus: Colonial Conception and Geographical Partition*. Studies on Asia, Serial III, no 3, Vol. 1 Asian studies Center, Michigan State University

⁸ Sumarsono. 2012. *Kebijakan Umum Pengelolaan Lintas Batas Negara*, Buku 1 Paket Sosialisasi Pengelolaan Lintas Batas Negara, Badan Nasional Pengelolaan Perbatasan Republik Indonesia, Jakarta.

⁹ Sumner, B.T. 2004. *Territorial Disputes at The International Court of Justice*, Duke Law Journal, Vol. 53, No. 6, Duke University School of Law

¹⁰ Fachrurozy, D., et al. 2001. *Kajian Akademik Masalah Batas Daratan Indonesia – Timor Lorosae Dalam Mengoptimalkan Peran dan Fungsi Survei Pemetaan Dalam Pengelolaan Batas Wilayah*, Bakosurtanal Bekerjasama Dengan Depdagri, Forum Komunikasi Dan Koordinasi Teknis Batas Wilayah, Bogor.

¹¹ Aghemelo, A. T. & Ibhasebhor, S. 2006. *Colonialism as a Source of Boundary Dispute and Conflict Among African States : The World Court Judgment on the Bakkassi Penninsula and its Implications for Nigeria*, J. Soc. Sci. No. 13 V. 3.

¹² Rai Yuliartini, N. P., Sudika Mangku, D. G., & Kbarek, L. N. (2024). Customary law and justice: Protecting the rights of women victims of sexual violence in Bali.

forward is optimizing the simpatirama (cultural function) of traditional figures in order to help the government resolve land border disputes to improve moral defense and cultural fortifications of the two countries, so that traditional figures do not lose their identity and existence. Thus, seen from its urgency, empirically and academically contextually, this research is very useful for the development and improvement of soft security of the community, especially the indigenous community on the land border of the Oecussi Enclave.

Method

Based on its nature, legal research is divided into 3 (three) types, namely exploratory, descriptive and explanatory research. Exploratory research is research that is intended to test certain hypotheses, what is meant by descriptive research is research that is intended to provide data that is as accurate as possible about humans, conditions or other symptoms, the intention is mainly to emphasize hypotheses in order to help strengthen old theories or in the framework of compiling new theories, while explanatory research is research that is conducted when knowledge about a symptom to be investigated is still very lacking or even non-existent.¹³ Furthermore, from the perspective of its form, diagnostic, prescriptive and evaluative research types are known. Diagnostic research is an investigation that is intended to obtain information about the causes of a symptom or several symptoms, then prescriptive research is research that is intended to obtain suggestions on what should be done to overcome certain problems, while evaluative research is generally conducted when someone wants to assess the programs being run. Reviewed from the purpose of legal research itself, there are types of normative research (library) and empirical research (field). Normative research (library) is legal research conducted by examining library materials or secondary data alone, while empirical research (field) is legal research conducted primarily by examining

¹³ Sumardjono, Maria SW. (1997). *Pedoman Pembuatan Usulan Penelitian Sebuah Panduan Dasar*, Jakarta: PT. Gramedia Pustaka Utama.

primary data.¹⁴ Based on the division of the types of research, then based on its nature this research is descriptive research, namely research that intends to provide data that is as accurate as possible regarding the role of traditional figures in helping to resolve land border disputes between Indonesia and Timor Leste, the purpose of this legal research is normative legal research and literature and empirical research (field).

Results and Discussion

A. History of Land Border Disputes in the Oecussi Enclave Region

The Portuguese first set foot on Timor Island on August 18, 1512 with a Portuguese expedition led by the famous *Conquistador* Alfons de Albuquerque, in Oecussi the Portuguese began to establish their governmental power around Timor Island. In the governance system of the Portuguese overseas autonomy, Oecussi¹⁵ is one of 12 districts with the capital Pante Makassar and to commemorate that historic day the Portuguese Government built a monument in Lifau, Oecussi whose inscription depicts Alfonso de Albuquerque.¹⁶ In Oecussi the head of government *concelho* (district) is held by an administrator.

The colonial history of Oecussi began with the arrival of the Portuguese in the 16th century. This region became one of the early centers of Portuguese colonization on the island of Timor, playing an important role in trade and the spread of Catholicism. In the 17th century, Timor was controlled by two European powers, the

¹⁴ Soekanto, Soerjono. & Mamudji, Sri. (2003). *Penelitian Hukum Normatif; Suatu Tinjauan Singkat*, Jakarta:PT. Rajagrafindo Persada.

¹⁵ Oecussi ketika masih menjadi bagian dari NKRI, berkedudukan sebagai salah satu Kabupaten Timor Timur, yaitu Kabupaten Ambeno dengan ibukota Oecussi. Kemudian ketika Timor Timur Merdeka, Oecussi menjadi salah satu distrik setingkat kabupaten di wilayah negara Timor Leste. Lihat dalam Marnixon R. C. Wila, 2006, *Konsepsi Hukum Dalam Pengaturan dan Pengelolaan Wilayah Perbatasan Antarnegara (Kasus : Wilayah Enklave Negara Timor Leste di Dalam Wilayah Negara Indonesia)*, PT. Alumni, Bandung, hlm. 50

¹⁶ Hendro Subroto, 1996, *Saksi Mata Perjuangan Integrasi Timor Timur*, Pustaka Sinar Harapan, Jakarta, hlm. 2

Portuguese and the Dutch, who competed for control of the region. This competition was fruitless until they finally decided to divide the island into two parts: the Portuguese controlled the eastern part of Timor, while the Dutch controlled the western part and all of Indonesia. Unlike the western part of Timor which fell to the Dutch (and later became part of Indonesia), Oecussi remained under Portuguese control until 1975. When Portugal withdrew from East Timor (now Timor-Leste) in 1975, a power vacuum was created that was immediately exploited by Indonesia. Indonesia then invaded East Timor and annexed the territory as its 27th province in 1976. However, Oecussi remained part of East Timor under Indonesian control until Timor-Leste's independence referendum in 1999.¹⁷

An enclave is a country or part of a country surrounded by the territory of another country. Exclaves can occur at the subnational level when a subdivision emerges outside the parent division. The word "enclave" comes from the French word, the lingua franca of diplomatic vocabulary, which originally came from the Latin word *inclavatus* (meaning 'enclosed, locked'). The word entered English diplomatic jargon in 1868. The word "exclave" is a logical extension of the word that was coined three centuries later. Enclaves can also arise for various historical, political or geographical reasons. Some areas are simply abandoned as enclaves due to changes in river flows. An enclave country must resolve issues, such as mailing addresses, electricity and rights of way, with its neighbouring country so that the people of both countries can live in peace.¹⁸

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¹⁷Sakti, V. K. (2012). *Remaking a World Beyond State Demarcation: Emotion, Violence and Memory in Post-conflict Oecussi, East Timor*.

¹⁸Wila, Marnixon R. C. (2006). *Konsepsi Hukum Dalam Pengaturan dan Pengelolaan Wilayah Perbatasan Antarneegara (Kasus : Wilayah Enklave Negara Timor Leste di Dalam Wilayah Negara Indonesia)*, Bandung:PT. Alumni.

¹⁹ *Ibid* . p. 50

Portuguese Government built a monument in Lifau, Oecussi whose inscription depicts Alfonso de Albuquerque.²⁰ In Oecussi the head of the *concelho* (district) government is held by an administrator or equivalent to a regent, while the armed forces are 350 strong consisting of one Tropaz company as *Primaria Linhna* and *Segundha Linha*.

The arrival of the colonizers always brought suffering to its people, thus the arrival of the Portuguese in Oecussi with various actions that only benefited the Portuguese was felt by the Oecussi people to be truly miserable. Therefore, the Oecussi people tried with all their abilities to oppose the Portuguese who were considered colonizers. The Oecussi people were known to be persistent in opposing the Portuguese colonizers, in 1637 Ornai and Dominggos da Costa led the Oecussi rebellion. The Oecussi people's rebellion was only stopped after the Portuguese brought in reinforcements from Goa India which was also a Portuguese colony, then this people's rebellion occurred again in 1700 with assistance from the Kings of Kupang, Rote and Solor. This fact shows that since 300 years ago there has been an emotional relationship between the people of West Timor (NTT Province) and the people of Oecussi, Timor Leste. Moreover, there have been marriages that have produced several generations and the people on Timor Island, both in East Timor (Timor Leste) and in West Timor (NTT), come from the same ancestors.²¹

Based on the explanation above, it shows that the Oecussi District is a historical area in the history of East Timor because East Timor existed or was born from Lifau, Oecussi. Therefore, it can be understood that even though the Oecussi District is in the NTT Province as an enclave area of the country of Timor Leste until now, it is still maintained by the country of Timor Leste. If the Oecussi District together with other areas of the country of Timor Leste is determined or regulated explicitly in the Constitution of Timor Leste. Article 4 paragraph (1) of the Constitution of Timor Leste (Timor-Leste's Constitution of 2002) states that the territory of the Democratic

²⁰ Hendro Subroto, 1996, *op. cit.*, pp. 171-172

²¹ Tadeus, Dhey Wego, (2010). *Prinsip Hubungan Bertetangga Baik Antara Negara Berkenaan Dengan Adanya Enclave Oecusi Timor Leste Dalam Wilayah Negara Indonesia*, Disertasi, Program Doktor Fakultas Hukum, Bandung: Universitas Padjadjaran.

Republic of Timor Leste consists of land areas, maritime zones and airspace determined by state borders which historically consist of the Eastern Part of Timor Island, the Oecussi enclave, Atauro Island and Jaco Small Island, then paragraph (3) emphasizes that the state will not release any part of the territory of Timor Leste or its sovereign rights over its land, without confirming the borders.

Geographically, the territory of Timor Leste when it was still one of the Provinces in the Republic of Indonesia was located at the eastern end of the Nusa Tenggara Islands, or precisely located in the eastern part of Timor Island stretching between 123° 25' - 127° 19' East Longitude and between 8° 17' - 10° 22' South Latitude. The total area of Timor Leste is approximately 14,609.38 Km² (approximately 0.78% of the area of Indonesia) which includes a land area of 13,670 Km², the Oecussi area of 787.50 Km², Atauro Island of 140, 625 Km² and Jaco Island of 11,250 Km². The Oecussi District area when it was still integrated with the Republic of Indonesia was Ambenu Regency with its capital in Oecussi in East Timor Province which is located within the NTT Province, precisely surrounded by the North Central Timor Regency area to the East and South and the Ombai Strait (part of the Alor Regency area) to the North, meaning that Oecussi District became an enclave area of Timor Leste which is located within the NTT Province area.

B. The Role of Traditional Figures in the Border Dispute Resolution Process

On the land border between Indonesia and Timor Leste, the role played by customary elements seems to be greater and more decisive than the government. In the border areas, the role of these customary institutions seems to be on par with formal institutions. This condition occurs mainly because these institutions are very close to the community and to a certain extent help determine the activities and daily lives of the community there.²² Customary instruments have been

²²Mangku, D. G. S., Yulianti, N. P. R., Dewi, K. R., & Arta, K. S. (2022, September). Disclosure of crime cases through CCTV: How does technology help police performance?. In AIP Conference Proceedings (Vol. 2573, No. 1). AIP Publishing.

formed hundreds of years before the republic was founded.²³ They are present in all aspects of life, from the moment of birth, household life, social punishment, to building a house, seeking fortune, migration, or war. The presence of customs is considered as something given and inevitable, which makes them feel it is natural if customs then determine their lives. A number of customary rights of a member of society will also automatically be lost if he takes action to distance himself from the customary community that gave birth to him. This strong role of customs ultimately gives rise to a strong sense of collectivism. Consequently, activities that are considered to be against collective “agreements” or “traditions” are avoided by border communities. The motive is clear, to avoid alienation from their community. The strong role of custom causes an irreplaceable bond between society and its customs and customary territory. Custom has placed society socially and culturally as part of the network or customary body as a whole, which causes them to always feel bound by customary ties. Rather than being detached, the central role of custom where the customary networks operate becomes a need for each individual who lives in it. This feeling of fulfilled needs is what ultimately creates dependency and creates a comfortable area for each individual on the border.²⁴

The need to pay attention to the interests of the people living in the border area by facilitating the maintenance of traditional land ownership and its management, the continuation of family, kinship and friendship relationships, and the freedom to carry out traditional ceremonies.²⁵ The steps that have been taken as an effort to resolve the border point agreement in the form of a cultural/customary approach

²³ Sedyawati, Edi (1995). *Konsep Tata Ruang Suku Bangsa Dayak Kenyah di Kalimantan Timur*, Jakarta:Departemen Pendidikan dan Kebudayaan Republik Indonesia.

²⁴ Yulianti, N. P. R., Mangku, D. G. S., & Darayani, N. M. C. (2022, September). The cyberporn and its challenges for information and electronic transactions law. In *AIP Conference Proceedings* (Vol. 2573, No. 1). AIP Publishing.

²⁵ Hartana, H., Abdullah, D., Mulyati, S., Mangku, D. G. S., Yulianti, N. P. R., & Sucandrawati, N. L. K. A. S. (2024, September). Online-based marketing information system for handicrafts from water hyacinth. In *AIP Conference Proceedings* (Vol. 3065, No. 1). AIP Publishing.

between the Kupang Regency Government, the TTU Regency Government and the Oecussi District Government, namely: a meeting on October 18, 2012 in Kupang Regency then a traditional meeting on November 9-10, 2012 in Oecussi involving the Regent and traditional leaders from Kupang Regency, TTU Regency and Oecussi District. The Kupang Regency Government facilitated and designed a meeting of traditional leaders and Amfoang community leaders to resolve the border between Indonesia and Timor Leste in Noel Besi - Citrana (unresolved) in a socio-cultural manner. This was carried out on June 28, 2013 which took place in Oepoli, East Amfoang District, the meeting of traditional leaders resulted in several agreements, including the following: all Amfoang leaders agreed on the boundary between the former. The Amfoang and Ambenu kingdoms witnessed by the Dutch and Portuguese governments were the Noel Besi River; the boundary agreement in question was not marked by a boundary marker or man-made object but rather by natural marks, namely from the direction of the large pool to Bidjael Sunan via the Noel Besi River; all meeting participants agreed that the settlement of the boundary dispute between Amfoang and Ambenu (East Timor) would be carried out according to custom after the results of the meeting were submitted to the King of Amfoang (presentation material of the Deputy Regent of Kupang at the 2014 NTT Province BNPP Coordination Meeting in Kupang).

Indigenous communities on the Indonesian border have on several occasions held meetings to agree on several things in order to resolve boundary determination issues that occurred at several points. The meeting resulted in a joint agreement and was signed by the local community elders. The agreement that was made on 07-09 September 2016 resulted in several things, including:

1. Requesting the central government to immediately take serious steps in handling border areas, especially the Noel Besi-Citrana border by looking at source documents that have been collected and submitted to the Central Government by paying attention to the local cultural wisdom of the people of both countries (Indonesia and Timor Leste);
2. Requesting the Central Government to conduct a Joint Field Survey between the Government of Indonesia and the Government of Timor Leste in the Noel Besi River in 2016;

3. Requesting the Central Government to immediately facilitate traditional figures between Indonesia and Timor Leste in the problematic segment to hold meetings so that a peaceful resolution of the dispute in the border area can be realized;
4. Requesting the Central Government to send a Protest Note to the Timor Leste Government regarding the infrastructure development that has been carried out, evicting the Timor Leste residents who have settled there and prohibiting the placement and activities of new residents in the disputed area (Free Zone) in Naktuka;
5. If the data held by the Government is not convincing, then the Central Government is requested to facilitate the Liurai, the Kings of Timor and Traditional Leaders to meet with the President of the Republic of Indonesia in Jakarta;
6. The community in the Amfoang border area continues to maintain security and order in the border area together with the Indonesian National Army.

The six (6) points of recommendation above were agreed upon by the Traditional Figures in the State Border and Border Areas which were then signed by Liurai Malakan Wehali (King in the Kingdom of Malacca); King Sonbay (King in the Kingdom of Kupang), King Amfoang, the Loro (small kings under Liurai Wehali, who controlled conquered areas), Para Fetor (regional leaders at the sub-district level) and the traditional figures/traditional community figures in the Indonesian border areas.

Therefore, there needs to be steps to optimize customary institutions, especially by involving customary leaders in both countries to conduct negotiations or local diplomacy. Thus, through local diplomacy, the role of customary leaders is optimized, so that it is not impossible that it will produce agreements made by indigenous peoples or customary leaders from Indonesia and Timor Leste. The steps taken by the community and customary leaders on the border between Indonesia and Timor Leste.²⁶

²⁶ Mangku, D. G. S., Yulartini, N. P. R., Rajagukguk, K. P., Solong, N. P., Lestari, N., & Hula, I. R. N. (2024, September). Online learning system design for Citizenship

In fact, it is strong enough to have a legal basis as stated in *the Provisional Agreement between the Government of the Republic of Indonesia and the Government of the Republic Democratic Timor Leste on the Land Boundary* which was signed in Dili on April 8, 2005.

Article 6 Point (b) of the 2005 Provisional Agreement clearly states that: “Each party shall take into account the considerations of local communities living in the areas directly affected by the unresolved segment in the process of amicable negotiation of the said segments and inform them on the legal and technical aspects of the delineation process.”

The provisions of the 2005 Provisional Agreement indicate that local communities, in this case indigenous communities/Traditional Leaders, on the country’s borders are given space to participate in the process of resolving international disputes that occur on the border, especially concerning state border disputes.²⁷ In resolving these disputes, peaceful means without violence must be prioritized as regulated in Article 8 of the 2005 Provisional Agreement as follows: “The parties shall resolve any dispute arising out of the interpretation, implementation or application of the provisions of this Provisional Agreement through amicable consultation or negotiation” (The parties shall peacefully resolve any disputes arising out of the interpretation, implementation/application of any provisions in the Provisional Agreement through consultation or negotiation).

C. Actions Taken in Dispute Resolution

The Indonesian and Timor Leste governments have agreed to an international convention or agreement made by the Portuguese-Dutch, namely by using the principle of *uti possidetis juris*, which means that a new country in implementing or making an agreement with another country can refer to the old agreement made by the colonial country or

Education subjects. In AIP Conference Proceedings (Vol. 3065, No. 1). AIP Publishing.

²⁷ Rahmat, A., Abdullah, D., Natsir, N., Mangku, D. G. S., Saputra, M., & Yulianti, N. P. R. (2024, September). Designing an online-based human coordination system learning application for middle and high school levels. In AIP Conference Proceedings (Vol. 3065, No. 1). AIP Publishing.

the country that was formerly part of it or with a simpler explanation the new country inherits all the old agreements.²⁸ Indonesia and Timor Leste, which were formerly colonies of the Netherlands and Portugal, can use the 1904 Treaty and the 1914 Arbitration Decision, because both countries inherited what is related to the borders of the two countries.²⁹

Indonesia has taken various actions to resolve this problem. In resolving the conflict that occurred in 2012, TNI officers from Korem 161 Wirasakti Kupang succeeded in stopping the construction of the QIC office carried out by Timor Leste. According to the Korem Commander, the construction had crossed the Indonesian border by 20 m so the TNI asked Timor Leste to immediately stop the construction. While waiting for further resolution, the TNI together with the Timor Leste army succeeded in stopping the conflict between residents of the two countries' borders and creating conducive conditions again.³⁰ From the case above, Indonesia learned that the strength of the TNI placed at border points was still lacking in stopping conflicts between residents of the border, so the Korem Commander in Kupang needed to come to the conflict location himself.³¹ Therefore, in the long term, the strength of the TNI at each border point needs to be increased so that in the future these conflicts can be anticipated.

In an effort to resolve the long-term issue, Indonesia is conducting diplomacy to resolve the delimitation of the segments that have not yet been agreed upon. Based on the 2012 land border agreement, the two countries have agreed on 907 coordinates of land

²⁸ Yuniarti, E., Wahyuni, F., Fadillah, N., & Sudika Mangku, D. G. (2023). Characteristics of plants in public areas of green open spaces in Padang City, Indonesia. *Caspian Journal of Environmental Sciences*, 21(3), 517-521.

²⁹ Dantes, K. F., Mangku, D. G. S., & Yulianti, N. P. R. (2022, September). The future impact of electronic signature (e-signature) in the E-GMS of limited liability companies. In *AIP Conference Proceedings* (Vol. 2573, No. 1). AIP Publishing.

³⁰ Yohanes Seo, "Kantor Imigrasi Timor Leste Lewati Perbatasan", 27 Juli 2012, diakses dari <https://m.tempo.co/read/news/2012/07/27/058419671/kantorimigrasi-timor-leste-lewati-perbatasan>, pada tanggal 23 November 2016.

³¹ Sudiarawan, K. A., Karunian, A. Y., Mangku, D. G. S., & Hermanto, B. (2022). Discourses on Citizen Lawsuit as Administrative Dispute Object: Government Administration Law vs. Administrative Court Law. *JILS*, 7, 449.

border points or around 96% of the total length of the border. The land border is in the Eastern sector (Belu Regency) which directly borders the Covalima District and Bobonaro District along 149.1 km and in the Western sector (Kupang Regency and TTU Regency) which directly borders the Oecussi enclave area along 119.7 km.³² These diplomatic efforts are not only focused on resolving the demarcation line of the unagreed border segments, but also on introducing arrangements in the border area that allow Indonesian and Timorese citizens on each side of the border to continue their social and family relations that have existed between them.

In the temporary agreement, what was negotiated was not only the border issue between the two countries but also the maritime border issue between the two countries. In the end, the two countries only agreed on approximately 907 border point coordinates or only about 96% of the total length of the land border or about 4% of the border line between the two countries that had not been negotiated. Several border points that had not been resolved in this first agreement were as follows on the border between Noel Besi District and Kupang Regency, Bidjael Sunan with TTU Regency and Dilumil and Memo with Belu Regency.³³

Meanwhile, to resolve the three unresolved boundaries, the two governments then held further negotiations in 2013 in Jakarta on June 21, 2013. The meeting resulted in an “Addendum No. 1 between the Government of Indonesia and the Government of Timor Leste concerning Basic Borders”, signed by Jose Luis Guterres as Senior Minister and Foreign Affairs of Timor Leste and Minister of Foreign Affairs of the Republic of Indonesia Marty Natalegawa. In the follow-up negotiations between the two countries, what was discussed was the boundary in the border area between Dilumil and Memo (Timor Leste) with Belu Regency (Indonesia), the result was that the two countries agreed to resolve additional delineation points, re-establishment of demarcation boundary pillars, and Vertex coordinates for the Dilumil

³² Ganewati Wuryandari, *Persoalan Demarkasi Dan Keamanan Perbatasan Indonesia – Timor Leste*, dalam Ganewati Wuryandari, *et al.*, *op. cit.*, hlm. 138

³³ Hermen Batubara, *Perbatasan RI - Timor Leste Masih Terbelakang Dan Terisolasi*, diakses dari <http://www.wilayahperbatasan.com/perbatasan-ri-timor-leste-masih-terbelakang-dan-terisolasi/>, pada tanggal 1 April 2017

and Memo segments with Belu Regency as stated in Article 1 of the Addendum.

D. Challenges and Prospects for Settlement of Border Disputes in the Future

The problems that occurred in the border area of Indonesia and Timor Leste since the beginning left various problems. Not only because all border points were successfully resolved by bilateral negotiations between Portugal and the Netherlands, but the issue of changing dynamics in the border area that made the Portuguese and Dutch agreement create various problems.³⁴

Another problem is that the unclear boundary determination carried out by the two countries has caused conflicts between communities living in the border area, and also mutual claims to land in the border area between communities. As happened in Oecussi following the claim of Oecussi residents against the Indonesian territory that was used as an agricultural area.³⁵

The Oecussi community argues that their claim to the land is based on the 1904 Treaty made by the Portuguese and the Dutch. They claim to have worked the land for generations until 1999, when a number of refugees from Passabe who are now living in Indonesian territory claimed the territory. Meanwhile, the community in the Indonesian territory argues that the boundary lines in the 1904 Treaty are no longer appropriate to current conditions, because the boundary lines have been shifted through customary land exchange processes, and some are no longer there or have disappeared. East Timor accuses former pro-integration militia members of worsening the situation by getting involved in the conflict, while the TNI is also considered to have deliberately allowed the entry of West Timorese people into East Timorese territory during the conflict. Meanwhile, Indonesia also considers the East Timorese police to have provoked the situation and

³⁴ Mangku, D. G. S., Yuliartini, N. P. R., & Suandita, I. (2022, September). Implementation of e-court in settlement of civil cases in Singaraja district court. In AIP Conference Proceedings (Vol. 2573, No. 1). AIP Publishing.

not taken action against East Timorese who were involved in land destruction and theft of crops.³⁶

The prospect of resolving the land border dispute between Indonesia and Timor Leste, especially in the Oecussi enclave, has quite promising opportunities if various diplomatic, legal, and cultural approaches can continue to be managed synergistically. The main challenge faced in resolving this dispute is related to the complexity of the boundaries which are often determined not only by administrative maps, but also by historical, social, and cultural factors. As a region with a long history of conflict, resolving the border in the Oecussi enclave requires a more holistic approach, in which traditional figures play an important role as mediators in conflicts between communities on the border.³⁷

The success of resolving this dispute in the future is highly dependent on the continuation of dialogue between the governments of Indonesia and Timor Leste, as well as the commitment of both countries to continue strengthening diplomatic channels. International legal instruments such as the principle of *uti possidetis juris* (recognition of territorial boundaries based on colonial maps) and bilateral approaches in territorial boundary negotiations need to be continuously optimized to reach an agreement that benefits both parties. The use of modern mapping technology and accurate geographic surveys can also provide more valid data, reducing the potential for misunderstandings in determining boundaries. In addition, cross-border cooperation in the economic, social, and security sectors is expected to create a more conducive atmosphere for the creation of peace in the border region.

However, one of the challenges that needs to be overcome is the potential for dissatisfaction from local communities regarding the results of the boundary agreement. Therefore, the involvement of traditional leaders in resolving this dispute remains relevant and important in the future. The traditional approach based on deliberation and consensus has strong legitimacy in border communities, who are

²⁴ *Ibid.*

³⁷ Yulianti, N. P. R., Mangku, D. G. S., & Yasa, I. (2022, September). The utilization of digital technology for rehabilitation of drug users by SADAR application: A creative breakthrough for the victims of drugs abuse in Buleleng Regency. In AIP Conference Proceedings (Vol. 2573, No. 1). AIP Publishing

often more receptive to solutions resulting from the traditional mediation process compared to decisions made solely by the central government. Traditional leaders serve as liaisons between local communities and the government, so their role in facilitating communication and managing social conflict is very significant.

In addition, joint development initiatives in border areas can be one of the long-term solutions to prevent new conflicts. By creating special economic zones jointly managed by both countries, and strengthening social and cultural relations between border communities, it is hoped that disputes over territorial boundaries can be minimized. Cross-border infrastructure development projects such as bridges, border markets, and other public facilities can strengthen relations between citizens of both countries, thereby reducing the potential for future disputes.

On the other hand, the success of the prospects for resolving this dispute also depends heavily on domestic political stability in both countries. Any significant political changes, such as a change of government or internal tensions, could affect foreign policy and the approach to the border dispute. Therefore, a long-term commitment from the governments of Indonesia and Timor Leste is needed to maintain political stability and the continuity of dialogue. The involvement of the international community, such as ASEAN and the UN, can also help mediate and provide a fair and sustainable solution for both countries.

E. Dispute Resolution Model with the Involvement of Traditional Leaders

The dispute resolution model involving traditional leaders is one approach that combines local wisdom values in the conflict mediation process, especially in the context of borders between countries. In areas such as the border between Indonesia and Timor Leste, where traditional culture is very strong and still highly respected by the community, this model is relevant and effective. Border disputes often involve social, cultural, and historical factors that cannot always be resolved only through formal legal approaches or international

diplomacy. In this case, the role of traditional leaders as mediators or facilitators in resolving disputes becomes very important. Traditional leaders are recognized as having high social legitimacy in the eyes of the local community, so that decisions resulting from traditional mediation tend to be more acceptable to the communities involved in the conflict.

In the context of the land border between Indonesia and Timor Leste, especially in the Oecussi enclave, the involvement of traditional leaders can provide a more holistic and sustainable solution. The customary-based dispute resolution model utilizes local traditions such as deliberation, consensus, and restorative approaches that aim to restore relations between the disputing parties. This process usually involves a face-to-face meeting between the two parties involved, where the traditional leader acts as a neutral mediator. In the meeting, each party is given the opportunity to express their views, complaints, and hopes, while the traditional leader is tasked with finding a solution that is fair and does not harm either party. Because traditional leaders are seen as guardians of community traditions and norms, they often have a strong moral influence in ensuring that decisions taken are complied with by all parties.

One of the advantages of the dispute resolution model involving customary leaders is its ability to defuse tensions quickly and effectively. In many cases, border disputes can trigger greater tensions, even potential armed conflict, if not handled properly. A customary approach that prioritizes dialogue and peaceful resolution can be a more humanitarian alternative compared to the formal approach that is often rigid and bureaucratic. In addition, this approach also respects the identity and cultural values of border communities, who often feel alienated from central government decisions that do not always understand local conditions.

The settlement of the land border dispute between Indonesia and Timor Leste that has not been resolved until now is in the Noel Besi - Citrana segment, the Bidjael Sunan - Oben segment and the Subina segment. The two countries have formed a Joint Border Committee as a forum to resolve land border disputes which was then continued to form the TSC - BDR which has agreed to use the 1904 Treaty and the 1914 PCA as the legal basis for determining and affirming land borders between Indonesia and Timor Leste. In 2013 the Government of

Indonesia - Timor Leste succeeded in agreeing on the border line of the two countries in the Dilumil - Memo segment, however this was not followed up in other segments that are still disputed by the two countries, such as the land border dispute in the Noel Besi - Citrana Segment, the Bidjael Sunan - Oben segment, and the Subina segment. Based on the 2005 Provisional Agreement Article 6 point (b) which implies that local communities in this case indigenous communities/traditional leaders on the border are given space to be involved in the process of resolving disputes that occur on the border of the two countries by prioritizing peaceful and non-violent methods in accordance with Article 8 of the 2005 Provisional Agreement. That the communities inhabiting West Timor (Indonesia) and the communities inhabiting East Timor (Timor Leste) have the same socio-cultural background, it can be ascertained that the customary legal system applicable in both groups of communities is the same. The substantive system of customary law can regulate land issues, as well as customary territorial boundaries, the potential of Customary Leaders can actually play a role in negotiating to resolve these issues. However, this is precisely an obstacle when the state takes the main role, without considering Customary Leaders who have the potential to determine the peaceful resolution of state boundaries in a family atmosphere.

In relation to the state boundary dispute, attention is needed to the interests of the people living in the border area by facilitating the maintenance of traditional land ownership and its management, the continuation of family, kinship and friendship relationships, and the freedom to carry out traditional ceremonies. The role of traditional leaders in resolving the state boundary dispute has been demonstrated in efforts to resolve the boundary point agreement in the form of a cultural/customary approach between the Kupang Regency Government, the TTU Regency Government and the Oecussi District Government, namely: a meeting on October 18, 2012 in Kupang Regency and then a traditional meeting on November 9-10, 2012 in Oecussi involving the Regent and traditional leaders from Kupang Regency, TTU Regency and Oecussi District.

Traditional meeting on December 16, 2013 in Kefamenanu involving the Regent and Traditional Leaders from Kupang Regency, TTU and Oecussi District. Informal meeting between the Regent of

TTU and the Regent of Oecussi on November 22, 2013 at the Livero Hotel Kefamenanu in order to resolve the conflict between the Nelu community - Indonesia and the Leolbatan community - Costa Village, Timor Leste. Coordination meeting and dialogue on resolving the borders of Indonesia and Timor Leste in 2014 on August 6-7, 2014 at the Ariesta Hotel Kefamenanu which was opened by the Deputy Regent and attended by the Dandim 1618/TTU, the TTU Police Chief, the Head of the Kefamenanu District Court, the Head of the NTT Provincial Border Management Agency as resource persons, and sub-district heads, village/head of border villages, heads of agencies, departments, offices, sections and community/traditional leaders. This shows how important the role of traditional figures is as an institution for resolving state boundary disputes while still prioritizing the legitimacy of local cultural wisdom.

Some of the advantages of traditional figures as institutions for resolving state boundary disputes include:

1. Strong Social Influence:

Traditional leaders have significant authority and influence among local communities, which enables them to mediate and facilitate dialogue more effectively.

2. Local wisdom:

In-depth knowledge of local cultural values and norms, which can be used to formulate solutions that are appropriate to the cultural context of the community.

3. Mediation Skills:

Traditional leaders are often trained in mediation and conflict resolution techniques, making them effective mediators in resolving disputes.

4. Extensive Social Network:

Having a strong network with various stakeholders, both at local and regional levels, which facilitates coordination and collaboration.

5. Non-violent Approach:

Using dispute resolution methods based on dialogue and negotiation, reduces the risk of armed conflict or violence.

Conclusion

The importance of a customary-based approach in resolving land border disputes between Indonesia and Timor Leste in the Oecussi Enclave. Border conflicts often arise due to differences in views on territorial boundaries influenced by colonial history, political dynamics, and local community perceptions. Formal approaches through diplomatic channels and international law often take a long time and are less flexible in dealing with local social and cultural complexities. Therefore, the involvement of customary leaders in resolving border disputes provides a more effective solution because it is able to accommodate local wisdom values, traditions, and norms held by communities on both sides of the border.

In the context of the Oecussi Enclave region, the involvement of traditional leaders has proven to be able to create a more conducive dialogue space between the disputing parties. Traditional leaders have strong social legitimacy and are seen as fair mediators by the community. They also have a deep understanding of the history of the border that is often not formally documented, but lives in the collective memory of the community. Through deliberation and consensus mechanisms, traditional leaders are able to facilitate negotiations that not only consider legal aspects, but also prioritize a sense of justice based on tradition and relations between community groups. This process strengthens the sense of togetherness and social cohesion among border communities, which are often divided by territorial disputes. The success of this approach is inseparable from the mutual trust between the disputing parties and the traditional leaders who lead the resolution process. Openness and flexibility in customary deliberations allow for faster resolution.

The land border dispute resolution model involving traditional leaders is an effective and relevant approach in the Oecussi Enclave area. This model is not only able to resolve disputes by considering the local context, but also strengthens social relations and maintains the stability of the border area. Therefore, this model has the potential to be adopted in resolving other border disputes in areas with similar cultural and social characteristics. However, further development is needed regarding the harmonization between customary and formal legal

resolutions to ensure sustainable settlement results that are legally recognized by all parties.

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*Quicquid est in territorio,
etiam est de territorio*

Acknowledgment

None

Funding Information

None

Conflicting Interest Statement

The authors state that there is no conflict of interest in the publication of this article.

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.