



## **Jurnal Pertahanan**

Media Informasi tentang Kajian dan Strategi Pertahanan yang Mengedepankan *Identity*, *Nationalism* dan *Integrity*  
e-ISSN: 2549-9459

<http://jurnal.idu.ac.id/index.php/DefenseJournal>



### **IMPACT OF UNDELIMITED AREA IN THE MALACCA STRAIT ON INDONESIA-MALAYSIA RELATIONS**

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#### **Article Info**

##### **Article history:**

Received : February 3, 2022

Revised : April 4, 2022

Accepted : April 30, 2022

##### **Keywords:**

EEZ,  
Indonesia-Malaysia Relation,  
Malacca Strait,  
Maritime Border,  
Undelimited Waters

DOI:

<http://dx.doi.org/10.33172/jp.v8i1.1590>

#### **Abstract**

Indonesia has a border dispute in the Malacca Strait with the neighboring country, Malaysia, which results in undelimited waters areas. This research aims to analyze the impact of Indonesian government policies on Malaysia related to undelimited waters in the Malacca Strait according to the Theory of Sovereignty. This study is a qualitative study that uses a case study approach. The data obtained from the literature study came from several scientific articles and government documents, interviews with several informants, and direct observations of the object under study. In this research, the level of problems will be seen through the impact of incidents in undelimited waters in the Strait of Malacca on Indonesia-Malaysia relations. The incident is already at an alarming stage because there have been clashes that threaten the safety of ships and lives, that might cause conflict/use of violence, and threaten bilateral relations. This study found that the priority of the Government of Indonesia's policy in upholding sovereignty in border areas in Indonesia is carried out using a security and community welfare approach. To minimize incidents that occur between the two countries in overlapping areas, bilateral relations are enhanced through coordinated patrols.

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#### **INTRODUCTION**

Borders have an incredibly significant role to describe the form of national sovereignty and security of a country. National boundaries also determine the foreign policy attitude of a country as an effort to

manage constructive interactions between countries in a geographical area. Traditional issues related to national boundaries are always dominating the agenda of foreign policy and the dynamics of contemporary international relations. This is closely

related to issues of territorial sovereignty, national security, and the role of diplomacy. One of the weaknesses of Indonesia's diplomacy is when there was a polemic over the ownership of the islands of Sipadan and Ligitan with Malaysia (Gerke & Evers, 2011). This includes the case of a border dispute in the Ambalat waters, which is a case study related to the issue of state borders playing a particularly significant role in international relations.

Contextually, the legal status of the territory of a country is inseparable from the borders of the country itself. The maritime boundary issue will arise because the territory of a country will be side by side with the territory of another country that has different sovereignty or jurisdiction over the maritime boundary in a particular area. An allocation that is not based on physical use or ownership, but on geographical estimates is called *ab initio*, which means that the part of the area that is owned from the beginning, is a part that has already been merged into the country and there is no need for a specific effort for the coastal country to get it.

Indonesia has maritime boundaries in the form of marine waters that are directly adjacent to 10 (ten) neighboring countries: India, Thailand, Malaysia, Singapore, Vietnam, the Philippines, Palau, Papua Niugini, Australia, and Timor Leste (Raharjo, 2016). One of the countries bordering Indonesia is Malaysia. Indonesia borders Malaysia side by side on the island of Borneo, and the opposite in the Strait of Malacca. In 2011, an incident occurred in the Strait of Malacca. The incident involved two countries, namely Indonesia and Malaysia (Darmawan, 2020). The chronology of this incident begins with the presence of two Malaysian-flagged vessels catching fish in the Indonesian Exclusive Economic Zone (EEZ) in the Malacca Strait area. The two ships were later caught by the Pengawas Hiu 001 Ship belonging to the Director-General of Marine Resources and Fisheries Supervision of the Ministry of Marine and Fisheries on April 7, 2011. The

captured ships are KM. KF 5325 GT 75, 80 with the captain's initials Mr. KLA, and KM. KF 5195 GT 63, 80 with the captain's initials Mr. NHOI. The two ships were arrested because they did not have a Fishing Business License (*Surat Izin Usaha Perikanan* or SIUP) and a Fishing Permit (*Surat Izin Penangkapan Ikan* or SIPI) from the Government of the Republic of Indonesia. Both also use a prohibited fishing tool, namely the Trawl. After the capture of the two ships, they were then taken to Belawan Harbor (Srihandriatmo, 2011).

The escort of the two ships did not go smoothly, in the middle of the journey three Malaysian helicopters hindered the arrest process. The officer in the helicopter asked the Pengawas Hiu 001 Ship to release the two Malaysian-flagged vessels because the two vessels were deemed to be fishing in Malaysia's EEZ area. This problem later became the beginning of the EEZ border problem in the Malacca Strait waters between Indonesia and Malaysia because there had been no arrangements agreed upon by both parties. As explained about the arrest of two Malaysian-flagged vessels, it is stated that the area where Malaysia fishes are their EEZ area, even though the EEZ area is part of Indonesia's EEZ area. This tragedy and claims of both countries regarding the EEZ caused a maritime dispute between Indonesia and Malaysia in Malacca Strait.

The claims made by these two countries are certainly not arbitrary, because the two countries make claims based on a special agreement and provisions. Malaysia's claim is based on an agreement between Indonesia and Malaysia in 1969 which at that time stipulates the continental shelf of the two countries as well as the EEZ line. Meanwhile, Indonesia's claim is based on the 1982 United Nations Law of the Sea Convention by using the median line between Indonesia (Sumatera) and the Malaysian peninsula as the EEZ boundary line. Indonesia has also firmly demonstrated its claim by issuing the

Ministerial Regulation or *Peraturan Menteri* (Permen) of Maritime Affairs and Fisheries Number 1 of 2009 concerning Fisheries Management Areas or *Wilayah Pengelolaan Perikanan* (WPP). The difference in claims by the two countries has resulted in the emergence of maritime disputes between Indonesia and Malaysia in the form of overlapping claim areas. These claims are also a factor causing the Exclusive Economic Zone border dispute in the Malacca Strait between Indonesia and Malaysia (Simon, 2011). According to Simon, the existence of border disputes in the Malacca Strait makes the level of vulnerability in the strategic waters high. This encourages several actors involved both from user countries and coastal countries to actively maintain the security of the waters with the authority and capabilities they have. The purpose of this study is to examine the impact of the security strategy carried out in the activities of securing the waters of the Malacca Strait.

## METHOD

This research is a study of international relations that analyzes the policies of the Government of Indonesia in the management of the Border Area (Case Study of the Indonesian and Malaysian Borders). This research is analytical descriptive which begins by describing the phenomena that occur related to development conditions in the border area. After that, it will continue by analyzing the policies of the Government of Indonesia in the management of the Border Area (Case Study of the Indonesian and Malaysian Borders). The theory of sovereignty is one of the main concepts used in this research. According to Thontowi, the state is the most important legal subject compared to other subjects of international law. In Article 1 of the Montevideo Convention of 27 December 1933 regarding the rights and obligations of the state, it is stated that the state as a subject in international law must have four elements, namely: permanent residents, a certain area, sovereign

government, and the capacity to relate to other countries (Thontowi, 2008). A country will be sovereign if it has criteria that are accepted by the international community. A country can be born and live but that does not mean that the country has sovereignty, sovereignty is the highest power possessed by a country to freely carry out various activities according to its interests as long as these activities do not conflict with international law. The research technique used in this research is library research and interviews with research informants. Informants interviewed in this study included Operation Assistant to the Chief of Staff of the 1st Fleet Command (Koarmada I), Batam Naval Base Commander, and Intelligence Assistant Main Naval Base Commander IV (Danlantamal IV) Tanjungpinang. In this method, data related to the problems discussed are secondary data obtained from books, magazines, journals, newspapers, bulletins, annual reports, and other sources. The researchers also use internet facilities in the process of collecting data related to the research problems to be discussed.

## RESULT AND DISCUSSION

According to the concept of international law, sovereignty has three main aspects, namely:

1. External aspects of sovereignty are the right for each State to freely determine its relationship with various countries or other groups without pressure or supervision from other countries.
2. The internal aspect of sovereignty is the exclusive right or authority of a State to determine the form of its institutions, the workings of these institutions, and the right to make the laws it wants and the actions to comply with.
3. The territorial aspect of sovereignty means the full and exclusive power possessed by the State over the individuals and objects contained in the territory (Thontowi, 2008).

Border issues in the sea area are related

to the territorial aspect of sovereignty. This often causes conflict or dispute, because in general, the sea borders are less clear will result in conflicts over natural resource management. The dispute in the use of the sea and its natural resources is not a new thing in relations between countries. For this reason, it is necessary to clarify the boundaries of an area of countries bordering other countries, not only on territorial boundaries land but also the sea.

Ratification or determination of Indonesia's territorial boundaries will have juridical consequences for other countries to respect the sovereignty of the Republic of Indonesia, meanwhile for Indonesia will have an impact on the responsibility for implementing and managing natural resources and regional spatial arrangements at the border, so that the people of the border area are not isolated and isolated compared to other regions in Indonesia. Indonesia and Malaysia are two countries that have historically close relations. As cognate countries, the identity of Malaysia which cannot be separated from the Malays has a long history with the Malays in Indonesia. The identity of the Malays is even easier to draw from its long historical roots with the arrival of the first Mining people in Negeri Sembilan around 1467 AD. The diplomatic relations between Indonesia and Malaysia, which are unique and thick, empower the argument that Indonesia and Malaysia are sisters. In addition to culture, kinship, symbols, religion, and the long history of Indonesian and Malaysian fraternity, apart from being the main actors in the establishment of ASEAN, they also influenced the Malacca strait region as the safest region from conflicts and struggles in ASEAN countries.

Diplomatic relations between Indonesia and Malaysia have also become lessons for various models of conflict resolution in various regions of the world. Malaysia and Indonesia as cognate countries have a fairly strong historical relationship. For example, Indonesia is the first country that open

diplomatic relations with Malaysia since this country became independent in 1957 (Firda, 2016). Indonesia has a geographical condition dominated by relatively shallow seas. Indonesia, dubbed the Maritime Continent, is fenced off by three types of maritime boundaries, namely the Territorial Sea Boundary, Continental Shelf, and Exclusive Economic Zone. The determination of these three maritime boundaries is regulated in the United Nations Convention on the Law of the Sea (UNCLOS) I and III.

As with other developing countries in the Asian region, border issues are a problem that is often faced. The overlapping of EEZ arrangements with several neighboring countries also has the potential to create friction and disputes that can lead to international conflicts. Concerning Indonesia-Malaysia relations, border issues can be seen in the case of the Malacca Strait where the territorial waters are claimed by several countries, namely Singapore, Malaysia, and Indonesia. (Interview with Intelligence Assistant Commander of Main Naval Base IV, 2022)

The Malacca Strait is a trade traffic route that connects western countries with eastern countries, so this area is a strategic area for trade routes. The main obstacle faced by the Indonesian government internally is the complexity of Indonesia's maritime security governance stemming from overlapping regulations and authorities across marine management agencies/institutions and shipping issues. The Indonesian government has attempted to overcome this problem by issuing the Omnibus Law. Although this Omnibus Law had caused controversy among policymakers (Darmawan, 2020). The problem of the Malacca Strait was about to be internationalized, but it didn't happen because enough coastal countries were guarding the waters, namely Singapore, Malaysia, and Indonesia. Until now, the protection of the Malacca Strait area is carried out utilizing cooperative security, in which each of the navies of the coastal

countries conducts joint patrols around the waters of the Malacca Strait. Until now, it is still not clear which country Malacca Strait is part of (Raharjo, 2016).

### **Government Policy in the Management of Border Areas Between Indonesia and Malaysia**

The border area plays an important role in the national development framework. The border area—in its development—acts as the front porch of the Unitary State of the Republic of Indonesia (*Negara Kesatuan Republik Indonesia*). Which reflects the whole country and is a benchmark for national development. Its strategic position makes the development of border areas one of the national development priorities. Indonesia as an archipelagic country and has a long boundary line that is open from everywhere holds the potential for vulnerability due to the difficulty of monitoring the border areas and the outermost islands, especially those bordering neighboring countries on land, sea, and air. Based on UNCLOS 1982, Indonesia was recognized as an archipelagic country, and therefore, Indonesia had to immediately draw up laws and regulations. In responding to the movements of other countries in expanding their territory, Indonesia must be firm and must no longer lose its territorial area. The issue of border disputes between Indonesia and Malaysia stems from the determination of the exclusive economic zone (EEZ), in which Malaysia draws a baseline from Pulau Distance to Pulau Perak as far as 123 nautical miles. If you look at the current convention, this is not by the provisions in UNCLOS 1982 Article 47 paragraph (2) which only allows a maximum of 100 nautical miles. So, as a coastal country, not an archipelagic country, Malaysia should draw a line from the main island, not from Pulau Jarak to Pulau Perak, which is very far from the coast. This is where the main cause of the emergence of overlapping areas is, Indonesia claims the median line between Indonesia (Sumatra) and the

Malaysian peninsula as the EEZ boundary line. Meanwhile, Malaysia unilaterally considers that the boundaries of the continental shelf that have been resolved earlier are also the boundaries of its EEZ in the Malacca Strait.

The preservation of the vast territory of Indonesia is a manifestation of the sovereignty of a country so we must defend it at any cost. The Indonesian government and neighboring countries such as Malaysia, Singapore, Timor Leste, etc. must agree to resolve border disputes through negotiations. For issues relating to territorial boundaries with neighboring countries, they must be followed up through bilateral agreements. Indonesia has now described the 1982 UNCLOS as outlined in Law no. 6 of 1996 concerning Indonesian Waters, PP No. 61 of 1998 concerning Changes in Base Points and Baselines around the Natuna Islands, and Government Regulation No. 38 of 2002 concerning the List of Geographical Coordinates of the Baseline Points of the Indonesian Archipelago. Indonesia's government's policies in managing the border area with Malaysia are as follows:

#### **1. Policy on Empowerment of Indonesia's Outer Islands**

To maintain the territorial integrity of the country, as well as to improve the welfare of the people in the border areas of Indonesia, it is necessary to manage the outermost small islands in Indonesia by considering the integrated development in the social, economic, cultural, legal, human resources, defense, and security.

Efforts made by the government in empowering and protecting the outermost islands are by:

- a. Completing border negotiations with neighboring countries so that Indonesia has clear boundaries and is recognized by the international community. In the signing of this latest agreement, the agreed sea boundary is the boundary between countries in the waters of Nipa Island

and Tuas Island, which is 12,1 kilometers long.

- b. The government added several new security posts at the border, as well as relocated the Indonesian Navy (TNI AL) bases to the leading points of Indonesian territory.
- c. Conduct surveillance operations in border areas by relevant agencies, such as Police, Indonesian National Armed Forces (TNI), and Marine and Fisheries Services (DKP). The outer islands of Indonesia have a strategic value as the Base Point and Baseline of the Indonesian Archipelago in determining the territorial waters of Indonesia, Indonesia's exclusive economic zone, and the Indonesian continental shelf. (Interview with Operation Assistant Commander of the 1st Fleet Command, 2022)

Based on the above considerations, the government has stipulated Presidential Regulation Number 78 of 2005 concerning the Management of the Outermost Small Islands. The management of the outermost small islands is carried out with the aim of:

- a. Maintaining the territorial integrity of the Negara Kesatuan Republik Indonesia, national security, national and state defense, and creating regional stability.
- b. Utilizing natural resources in the context of sustainable development.
- c. Empowering the community to improve welfare. (Interview with Operation Assistant Commander of the 1st Fleet Command, 2022)

In the program of securing and guarding border areas and outer islands, the central government has implemented several technical policies such as increasing military bases in border areas, increasing development in border areas, and establishing special and autonomous institutions that manage development issues in border areas. With regional autonomy, the responsibility for the process of accelerating development in

border areas falls not only to the central government but also to the regional government. Therefore, the central government has instructed all regional governments whose territories are in border areas such as Riau Province, Riau Islands Province, and Kalimantan Province to form agencies to manage the development of border areas in their region (Interviews with Commander of Batam Naval Base, 2022). Several districts in the Riau Archipelago Province, such as Natuna District and Kalimantan Province, have established Development Boards in the border areas. Intend to be able to manage, maintain, and accelerate development in border areas and outer islands.

## 2. Defense Policy in Border Areas

Defending Indonesian territory is our collective responsibility. So far, we may think that the person in charge of efforts to defend Indonesia's territorial sovereignty is the TNI. That's not right. We are all responsible for assisting the government in defending Indonesia's territorial sovereignty. Cooperation between government agencies, between the central government and local government, between government and private sector, and between government and the community must be strengthened following defending the border areas. Several main strategies can be carried out in maintaining Indonesia's territorial sovereignty:

### a. The mapping of Indonesian Border Points

Re-mapping the border points of Indonesia's territory must be carried out. The results of the new mapping must be compared with the previous mapping. The coordinates of border points are very important for inventory and are included in the law regarding Indonesia's territorial borders.

### b. Constructing of Military Bases on the borders.

Currently, the TNI troop's

deployment is inadequate to make efforts of keeping the borders. The troops are instead deployed in densely populated areas that have already been developed. The concept of thinking about troop deployment like this must be changed. Battalions located in areas safe from outside disturbances should be relocated to border areas. In addition, security and order matters are now the responsibility of the police. This is not easy and will require a significant effort. However, this proved to be quite effective on Indonesia – Papua New Guinea border. The deployment of military force will hinder the policies of other countries such as Malaysia which violates the border area because armed conflict (if there is one) is relatively more difficult to resolve so any country tends to avoid armed contact.

c. People-based economic sector development.

With natural resources and socio-economic conditions of the community, this welfare approach is outlined in the development of two economic zones: the development of natural resource-based industrial zones and the development of agriculture and agro-industry-based economic zones. In the past, management of border areas focused on security (security approach), while the current regional security conditions are relatively stable, so the development of border areas should also emphasize other aspects outside the security aspect such as social, economic, cultural, and environmental aspects.

Management of border areas with a prosperity approach is needed to encourage the improvement of local communities' welfare, increase state income, catch up with the development of neighboring countries, and—at the same time—

capture economic opportunities from neighboring countries. Therefore, the development of border areas through a welfare approach as well as a harmonious security approach needs to be used as the basis for the preparation of various programs and activities in the border area in the future. The security and prosperity approaches emphasize the combination of the two approaches, including the security approach and the welfare development approach. Thus, the development of the defense and security system will go hand in hand with the development of community welfare.

3. Inter-State Agreements as a Form of Dispute Resolution

The 1982 Law of the Sea Convention provides various methods for resolving maritime law disputes. Judging from the development of the international justice system, the mechanism of this Convention is the first to direct the participating countries to accept compulsory procedures. With The Convention System, there is no longer any room for state parties to postpone their disputes over the law of the sea by hiding behind the concept of state sovereignty because the Convention in principle requires state parties to resolve their disputes through the mechanism of the Convention. Dispute settlement is regulated in Chapter XV concerning Settlement of Disputes, Article 279 essentially states that state parties are given broad freedom to choose the desired procedure as long as it is mutually agreed upon. This article directs the settlement of disputes as recommended in Article 33 (1) of the United Nations Charter. Article 33 (1) of the UN Charter states that if a dispute occurs, it should be resolved by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement resort to regional agencies or arrangements, or other peaceful means

of their own choice.

In the dispute between Indonesia and Malaysia, the two countries use the negotiation method or diplomatic negotiations as the first step to resolve their dispute. This can be seen from the meetings that have been carried out by representatives of the two countries. Looking at the history of Indonesia-Malaysia relations, this negotiation method is the right step in resolving disputes. Indonesia – and Malaysia are two big countries in Southeast Asia that are friendly, and this friendship can be used as the basis for holding a negotiation to find the right solution. Malaysian Foreign Minister, Syed Hamid Albar, in his statement in Indonesia's national print media, said that Indonesia and Malaysia have a very close and tight relationship, there is nothing that cannot be resolved by sitting together to discuss a problem (Firda, 2016).

The dispute resolution method through this negotiation mechanism is a conventional method that is always used in the context of dispute resolution efforts by any party to the dispute. This method sometimes takes a long time, which is the risk that must be accepted by the parties if they take this method. But this method has a positive side, where the sovereignty of the parties is maintained. This method of dispute resolution through negotiations includes non-jurisdictional settlement methods, where disputing parties are not bound.

## **CONCLUSION, RECOMMENDATIONS, LIMITATIONS**

Based on the results of research and discussion, it can be stated that there are several problems, namely the unfinished process of determining the border between the Indonesian and Malaysian governments, especially in the waters of the northern segment of the Malacca Strait, causing overlapping areas, causing uncertainty in

the implementation of operations and securing sovereignty at the maritime border. The existence of these overlapping areas is exacerbated by the still complicated management of maritime security which causes unclear tasks, principles, and functions in the implementation of marine security operations. However, the government is trying to overcome this gap by optimizing coordinated patrol operations between the two countries.

This study recommends that the government needs to immediately form a special task force to carry out the final stage of the negotiation process regarding the determination of maritime boundaries in the northern segment of the Malacca Strait. The government also needs to develop maritime potential in the Malacca Strait area, especially in the shipping sector, because so far the government's focus has only been on the problem of illegal fishing and the passage of illegal migrant workers. The potential in the field of transportation and shipping is proven to provide significant state income after optimizing the potential for sea transportation. Finally, it is necessary to update the main defense equipment system on patrol boats and surveillance equipment that is up-to-date and adequate to monitor shipping traffic in the Malacca Strait.

## **REFERENCES**

- Darmawan, A. R. (2020, March 7). Omnibus Law For Indonesia's Maritime Security. Retrieved March 29, 2021, from The ASEAN Post website:  
<https://theaseanpost.com/article/omnibus-law-indonesias-maritime-security>
- Firda, A. (2016). *Kerjasama Indonesia, Malaysia, dan Singapura Mengenai Isu Keamanan di Selat Malaka* (Universitas Muhammadiyah Yogyakarta). Universitas Muhammadiyah Yogyakarta, Daerah Istimewa Yogyakarta. Retrieved from



- <http://repository.umy.ac.id/handle/123456789/2629?show=full>
- Gerke, S., & Evers, H. D. (2011). *Selat Melaka: Jalur Sempit Perdagangan Dunia*. Jakarta: Akademika.
- Raharjo, S. N. I. (2016). Menegosiasikan Batas Wilayah Maritim Indonesia dalam Bingkai Negara Kepulauan. *Masyarakat Indonesia*, 41(2), 227–232.
- Simon, S. W. (2011). Safety and Security in The Malacca Straits: The Limits of Collaboration. *Asian Security*, 7(1), 27–43.
- Srihandriatmo, M. (2011). Kembali Kapal Ilegal Fishing Ditangkap. Retrieved from Tribunnews.com website: <https://www.tribunnews.com/bisnis/2011/04/11/kembali-kapal-ilegal-fishing-ditangkap>
- Thontowi, J. (2008). *Hukum Internasional Kontemporer*. Jakarta: PT Refika Aditama.