

Conference Paper

The Significance of Boundary Construction at Land Border between Indonesia-Malaysia in Temajuk Village, Sambas Regency as Manifestations of Indonesia's Sovereignty

Muhammad Rizki and Agustina Merdekawati

International Law Department, Faculty of Law, Universitas Gadjah Mada, Jl. Socio Yusticia No. 1 Bulaksumur Yogyakarta 55281, Indonesia

Abstract

This paper aims to study the importance of the physical boundary at the Indonesian and Malaysian Border in Temajuk Village, as a manifestation of effective implementation of Indonesia's sovereignty in the area. This research is a legal research. Therefore, the data collecting method applied for this research mainly focuses on literature and field research to obtain primary legal materials, secondary legal materials and non-legal materials. These materials are analyzed using qualitative method with a statutory approach. The results of the research showed that the absence of several physical border markers, worsen by its worrying condition in Temajuk, often trigger legal issues and potential threats toward national security. As consequences, many issues have arisen, such as: a border dispute regarding the right to utilize the land, smuggling of commercial products and services, traffic of goods and services without customs tax, illegal logging, international marriage without complying to legal procedures, foreign influence infiltration, natural resources theft and undocumented residences or immigration. Ultimately, the Authors highly recommend the Government of Indonesia to be more serious and take necessary steps in constructing physical permanent border markers considering both legal and practical significance of the boundary line on the livelihoods of people living in the border area.

Keywords: Border Markers, Coordinate points, Indonesia's sovereignty, Indonesia, land border, Malaysia

Corresponding Author:

Muhammad Rizki
muhammad.rizki93@mail
.ugm.ac.id

Received: 2 April 2018

Accepted: 17 April 2018

Published: 23 May 2018

Publishing services provided by
Knowledge E

© Muhammad Rizki and Agustina Merdekawati. This article is distributed under the terms of the [Creative Commons Attribution License](#), which permits unrestricted use and redistribution provided that the original author and source are credited.

Selection and Peer-review under the responsibility of the 1st ICSEAS 2016 Conference Committee.

 OPEN ACCESS

1. Introduction

State has supreme authority over its territory. As consequences, state is able to implement the law considering "the notion of state cannot be separated from sovereignty".

Sovereignty of a state embodies matters related to territorial as well as state responsibilities of defense security, economic, political and socio-cultural aspects.

Indonesia as a sovereign state, has responsibilities toward its territorial [1]. This includes border region as state's front gate. Border regions are the outer limit of state territorial. They are the paramount manifestation of territorial sovereignty. Further, territorial borders are inseparable part of a unified state, as far as they are recognized by a treaty or commonly acknowledged without any state formal declarations. Besides, they are the "face" of Indonesia for its early impressions of Indonesia at forefront, therefore they should be getting equitable attentions from government.

Aside from that, border areas are also strategic and vital in terms of the Unitary Republic of Indonesia (NKRI) framework. This is considering, border regions have promising opportunity due to geographical matters, with potential of overflow natural resources as well as market opportunities due to proximity with neighboring countries. Moreover, the regions are politically vital, because they are very essential to the extent of state sovereignty aspect [2]. Hence, in order to swift the paradigm from the ones which assumed the border areas are merely as a backyard, then it would be crucial to guarantee a better primary needs, housing, education, health and decent occupation for these areas. In addition, it is also necessary to facilitate these regions in order to alleviate undeveloped areas by accelerating state proactive action within the area [3]. The constitutional rights compliance should be facilitated to its fullest and as equal as manifested in urban areas.

The border regions remain as one of crucial issues, which located between West Kalimantan and Malaysia likewise. In the early years, before the introduction of modern state concept (after Westphalia treaty 1648), there were no clear official border between countries due to their cultural background. This is in the view of Indonesia's chronicle which shares cultural similarities with Malaysia from ethno linguistic family, namely Austronesian (Malayo Polynesian) that has its same roots of languages [4].

Border in a legal term was later created along the island of Kalimantan with a total length of 2 004 km. With the border markers existence on the field, it was expected both state are able to fully perform their sovereignty without any claims over certain section. However, since its establishment in 1970's, specifically in Temajuk village. Based on authors' field research, there were no proper restoration of the border markers. Moreover, the condition of current physical border markers are in worrying situation. Besides, their functions are often disregarded by the locals. Thus, it can be assumed that border markers merely act as symbol without having its power of legal enforcement. Further, the state officials who are deployed within the area are very

minimum in terms of their quantity of personnel as well as supporting infrastructure. Accordingly, this devastating condition has led to impact on not only the legal and security issues but also civil law aspects [5]. In addition, this has even triggered to national security threat as well as transnational organized crimes.

Among the problems occurred within the area are as following: cross-border land utilization, smuggling of commercial products and services, traffic of goods and services without customs tax, illegal logging and international marriage without complying with legal procedures, foreign influence infiltration and undocumented residences. Aside from those problems, the most critical is border markers shifting. This occurrence might have tremendous influence on territorial and sovereignty stability of Indonesia.

Therefore, based on this phenomenon, these problems are repressive to have a high urgency to be explored further, primarily concerning on the issue of border markers shifting. It is very crucial to draw the baseline upon the problems, considering border markers factual condition. In addition, since they are only established in semi-permanent form, these markers are highly vulnerable to damages as well as can be easily moved by any irresponsible parties. Nevertheless, technological developments allow for each country to define the border area both on land by using coordinate points. The existence of coordinate points which show the limits of state sovereignty seen from satellite images provides a relatively stable reference point legally. Further, it may prevent the loss of territorial sovereignty as well, since coordinate points are a favorable way and legally safe to ensure state's territorial sovereignty.

However in reality, the recognition of coordinate points as state borders is not sufficient to guarantee that the state could perform its sovereignty within the area. This is considering that, in practice, coordinate points are not easily interpreted by the locals. Therefore, they would traditionally be relying on the physical borders, such as stakes, fences, rivers or other physical boundaries as a definitive reference point of the border areas. Moreover, the locals are lack of capacity to read Global Positioning System (GPS) or to detect the coordinate points of specific border markers on the field. Thus, it would be significant to accelerate the permanent border markers installation. This regards to border markers are not solely important in legal framework, but they also play vital role toward the locals in all aspects.

Therefore, in this research paper, the authors focus on the problems located in Temajuk, West Kalimantan, Indonesia which share direct border with Kampong Teluk Melano, Sarawak, Malaysia, particularly on the urgency of revitalizing border markers for its significance toward the livelihood of the local community within the area as well as implications on Indonesia's sovereignty implementation. The authors will observe

straight facts on the ground relates to previously described issue. In addition, the authors will provide data report and propose recommendations toward the governments based on field research.

Based on the aforementioned issues, the authors perform a further analysis to obtain solutions on the following problems. What are the condition of border markers between Temajuk Village, West Kalimantan and Kampong Telok Melano, Sarawak? What are the possible impacts of permanent physical borders installation and optimization of border supervision on various sectors in the effort of enforcing Indonesian sovereignty?

This paper is a legal research which use a juridical-empirical approaches. Juridical-empirical studies discuss the principles in legal studies by further analyzing theories through fieldwork to look at the facts on the ground and perform interviews with parties related to the subject of the research. This study is also enhanced by a subsequent-practice interpretation in order to understand materials drawn from books, journals, papers and articles as well as reports of previous studies to supplement materials from the international treaties related to the subject of the research [6].

The research focuses on literature research. However, field research are performed to further analyze the factual situation. Data collection methods are processing by obtaining primary legal materials, secondary legal materials and non-legal materials. Findings from this study are drawn from a field research in Temajuk Village, Sambas, West Kalimantan to support the primary data, the authors gather secondary data from materials obtained in the library of the Faculty of Law Universitas Gadjah Mada and Integrated Library of Universitas Gadjah Mada. Besides, the authors performs in-depth interview through state officials relating to border region managements: Ministry of Foreign Affairs, Ministry of Home Affairs, Geospatial Information Agency, Directorate Land Border Topography of Indonesian Army and National Agency for Border Management.

In this research, the authors perform a qualitative analysis with a statute approach, which involves collecting and selecting the data obtained both from primary and secondary sources which are relevant to the problems researched. The data collected will be further processed and analyzed in a systematic way and eventually linked with border bilateral treaty as well as border regions management theory [7].

This research will primarily focus on the urgency of border markers construction and revitalization, which discuss the key feature of historical backgrounds of Temajuk as border regions, recent across-sector problems and issue as the main roots before drafting recommendations as proposing idea based on the Authors' field research.

2. Result and Analysis

Temajuk village comprises of Dusun Camar Bulan, Dusun Sempadan and Dusun Maludin. This village is administratively located in the District (*Kecamatan*) of Paloh, Sambas Regency (*Kabupaten*) which has a total area of 23 683 km². Geographically, Temajuk is situated at the northwest of Kalimantan Island and share land border with Sarawak, East Malaysia. Demographically, it is populated by 2 170 inhabitants in 2015. The majority occupations of locals are fishermen and farmers. Besides, there are locals who run small retail shops in order to add earnings. In terms of village infrastructure, there are four schools from elementary to high school level. Also, there are local public health, administrative office, military post traditional market, subsector police station and multipurpose buildings. However, most of teachers and doctors are assisted from province due to insufficient local's intellectual capacity. Besides, regarding to educational background, most of locals only achieved high school level at its highest, yet there are very few number of those accomplished higher education studies [8]. Notwithstanding, this village has wonderful tourism potential which may attract tourists from foreign countries, yet tourism management are not well-organized. Hence, this situation may trigger threats toward locals such as cultural infiltration from neighboring countries which may diminish locals' nationalism. Further, the tourism potential can be completely exploited by foreign investors and expropriate locals' rights and interest. Hence, this possibility is certainly huge matter that needs to be taken into account by relevant state institutions.

As one of Indonesia entrance gate, Temajuk surely requires accelerated development, particularly for inavailable both infrastructure and primary needs, for example 24 hours running electricity, telecommunication lines, internet provider, inter-connected paved roads from district, terminals, fishing port and proper bridges. Currently, it takes about 12 hr drive from Pontianak (capital city of West Kalimantan) in order to arrive in Temajuk, compared to 5 min to 10 min to reach neighboring village in Malaysia. In fact, the traveling time can be reduced into half normally if interstate highway have been built. However, seeing from the facts today that Temajuk remains left behind, despite its better condition rather than past years. Prior to road access were opened in 2012, Temajuk locals had to take the route along the coast. This access relies heavily on weather and sea currents. Even, in rainy season, the access can be isolated for high sea currents and tidal wave. This conditions led the locals had to survive or highly depends on supply from village next door. Therefore, as what are stated in Nawa Cita of Jokowi's

government that focuses primarily on rural areas development, it can be interpreted, this also covers Temajuk as one of strategic area list in governments action plan.

In Kalimantan, Indonesia and Malaysia share the borders to the extent of 2004 km from western part in Tanjung Dato to Sebatik Island, separated from Kalimantan mainland. As two countries occupy territory of colony predecessors, the succession of both states were following *Uti Possidetis Juris* principle. As consequences, regarding on either territorial sovereignty or border regions must comply with former colonial area. This principle was acted as cornerstone of both states to further demarcate upon their territory. The demarcation process were conducted pursuant to provisions in delimitation agreements consented by both British and Dutch colonial governments. In colonial era, delimitation process had been undertaken by both states in order to divide their occupancy. To signify legal status, three legal documents were agreed upon parties, namely: Convention in determining the boundary line in Kalimantan, signed in London on June 20, 1891; Protocol on the borderline of North of Kalimantan State and Dutch Territory in Kalimantan, signed in London, on 28 September 1915; and Convention related to the continuation delimitation of boundary line between the states in Kalimantan under British protection and Dutch in the island region, signed in The Hague, on March 26, 1928 [9].

In accordance to Stephen B. Jones on boundary making theory, there are four steps in order to divide state's border, which are allocation, delimitation, demarcation and management. Both allocation and delimitation process had been performed by Dutch and British colonials [10]. Hence, based on those three colonial legal documents, Joint Indonesia-Malaysia Boundary Committee (JIMBC) was formed by both Indonesia and Malaysia in order to technically apply provisions in related agreements on the field. Subsequently, field demarcation and technical survey were performed in the specific area as consented from east to west Kalimantan [10].

Specifically in Temajuk, field demarcation and survey were executed by JIMBC from 1975 to 1978. The borderline was demarcated upon the provisions in Dutch-British Convention 1891, particularly in Article 3, the borders demarcation in Bordeo was stated as follows: *"the boundary-line shall follow the watershed of the rivers running to the south-west and west coasts, north of Tanjung Datoe, and of those running to the west coast south of Tanjung Datoe, the south coast, and the east coast south of 4' 10" north latitude"*.

Border markers were constructed during demarcation process as separators of both states territorial sovereignty. JIMBC's field data reports and maps were formulated into three Memorandums of Understanding (MoUs) in order to enforce its legal supremacy.

These three MoU are as following: MoU Kinabalu on borders markers with registered number from A1 to A98 in 1976, MoU Yogyakarta on A156 to A231 in 1976 and MoU Semarang on A98 to A156 in 1978. These legal documents were expected to underline definitive recognition and implementation of sovereignty on territorial borders between Indonesia and Malaysia. In addition, these 221 border markers stretching from Tanjung Datoe to Camar Bulan area, were perhaps able to fully perform its function and be highly regarded by related parties.

The authors have conducted field research within the border markers from June to August 2016 in Temajuk. These table below are border markers list in Temajuk, based on authors field research as well as data collected from Border Military Forces, as summarized in the following table:

TABLE 1: Under task force of Temajuk Border Military Post-registered number from A1 to A105.

Condition	Border Markers Registered Number	Type of Border Markers
Good	A.1, A.2, A.4, A.5, A.6, A.7, A.8, A.9, A.10, A.11, A.12, A.15, A.16, A.17, A.18, A.20, A.21, A.23, A.24, A.25, A.26, A.27, A.28, A.29, A.30, A.32, A.33, A.34, A.35, A.36, A.37, A.38, A.39, A.40, A.41, A.42, A.44, A.46, A.48, A. 49, A. 51, A.53, A.54, A.55, A.57, A.59, A.61, A.62, A.65, A.66, A.67, A.69, A.71, A.71/1 A.72, A.73, A.75, A.76, A.77, A.78, A.79, A.80, A.81, A.82, A.83, A.84, A.84/1D A.85, A86, A.88, A.89, A.91, A.92, A.93, A.96	A. (A. 35) B (A.66) C (A.97) and D (All other border markers)
	A.97, A.98, A.99, A.100, A.101, A.102, A.105	
Minor damaged Heavily damaged Not Found	A.52, A.87 and A.70 A.3, A.13, A.14, A.19, A.22 (in the form of wood), A.31, A.43, A.45 (in the form of wood), A.47, A.50, A.56, A.58, A.60 (in the form of wood), A.63, A.64, A.68, A.74, A.94 (covered by paved roads), A.103, and A.104 A.90 and A.95	D D -
Details:		
(1) Good condition: 82 border markers		
(2) Minor damaged condition: 3 border markers		
(3) Heavily damaged condition: 20 border markers		
(4) Not found: 2 border markers		
(Souces: Temajuk Border Military Post, Temajuk Village, June 2016)		

TABLE 2: Under task force of Camar Bulan Border Military Post-registered number from A106 to A221.

Condition	Border Markers Numbers
Good	A.106, A.107, A.108, A.111, A.112, A.113, A.114, A.116, A.119, A.121, A.122, A.123, A.124, A.125, A.127, A.128, A.129, A.131, A.133, A. 134, A.135, A.136, A.137, A.138, A.139, A.140, A.141, A.142, A.143, A.144, A.145, A.146, A.148, A.149, A.150, A.151, A.152, A.153, A.154, A.157, A.158, A.159, A.161, A.162, A.163, A.165, A.167, A.168, A.169, A.170, A.171, A.174, A.175, A.176, A.179, A.180, A.181, A.182, A.185, A.186, A.188, A.189, A.190, A.191, A.192, A.193, A.194, A.196, A.199, A.202, A.203, A.205, A.206, A.207, A.208, A.209, A.210, A.211, A.212, A. 216, A.217, A.218, A.220, A.221
Minor damaged	A.110, A.117, A.147, A.183, A.184, A.195, A.213, A.214, A.215, A.219,
Heavily damaged Not Found	A.109, A.118, A.120, A.126, A.130, A.156, A.166, A.197, A.115 (in the form of wood), A.132 (in the form of wood), A.155 (in the form of wood), A.160 (in the form of wood), A.164 (in the form of wood), A.172 (in the form of wood), A.173 (in the form of wood), A.177 (in the form of wood), A.178 (in the form of wood), A.187 (in the form of waterpipe), A.198 (in the form of wood), A.200 (in the form of wood), A.201 (in the form of wood), A.204 (in the form of wood,
Details:	
(1) Good condition: 84 border markers	
(2) Minor damaged condition: 10 border markers	
(3) Heavily damaged condition: 8 border markers	
(4) Not Found: 14 border markers	
Details: marked with woods: 13 border markers	
Marked with waterpipe: 1 border marker	
(Souces: Camar Bulan Border Military Post, Temajuk Village, June 2016)	

It has been more than 60 years since Indonesia’s independence, yet, border regions managements remain one of unresolved matters. The problems were still laying in various aspects. These facts indicate that the acceleration of development for the prosperity and welfare of border communities are not as simply as general thought. Further, it requires paradigm reformation in terms of development orientation perspective on border areas. The development should not rely on security approaches alone, but it should also take into account prosperity and welfare-oriented approaches. Therefore, border regions could not be easily handled by one or two institution, but instead should be a responsibility of parties across sectors [11]. Considering the issues in the border areas are not only concerning aspects of border security, but also should be considered holistically, as it also covers a wide range of aspects, especially in terms of economic, social, cultural and other sectors which are very closely related

and having significant role in constructing the pillars of NKRI sovereignty as a whole [12].

From defense and security perspectives, it is also critical to draw more intensive attention to this issue. As reported by the media, there have been problems due to border markers shifting. Also, it was reported the annexation by neighboring communities as well as suggestions on coordinates of existing border markers are not at the same locations as they were during colonial era specifically in Camar Bulan area [13]. Besides, it was widely broadcasted that Malaysia has unilaterally constructed a lighthouse in Tanjung Dato in 2014 [14]. Within the area, there was a triangular marker labeled NKRI as well. It is believed to be the original A-1 markers [15]. In addition, historic cemetery of Indonesians was found. It was trusted by locals that he was shot during confrontation against Malaysia in Pasir Merumput Area. This area was apparently part of Malaysia jurisdiction today [16].

Indeed, the accuracy of issues are still questionable. It certainly needs further investigation in terms of the reasons as basis of claims by irresponsible parties who spread these so-called hoax. However, despite its controversy, this cannot be separated for various factors, one of which relates to improper conditions as well as lack of supervision toward the border markers. Hence, the conditions are being exploited by irresponsible parties to widely spread such issues and to provoke the locals who are lack of technical and juridical knowledge.

Based on the field report about border markers in Temajuk, it can be concluded from 223 markers (including markers with type A.71/1 and A.84/1D), 166 markers were in good condition, 13 markers with minor damages, 28 were heavily damaged and 16 markers were not yet found. Despite in majority, it can be summarized the condition of existing border markers are in good condition. However, these border markers have been constructed since 1970's, without any either proper physical repair or data re-checking regarding on border markers coordinate points. If it was said to be a "repair", the activities carried out, were simply to repaint few border markers and to clean surrounding area from bushes, conducted by border military forces during regular inspection.

Geographically, most of border markers are located in hilly area and dense forest. Except, in Camar Bulan area, where the surroundings are planted with pepper, rubber and palm oil plantation. The farm itself may extend to dozens of hectares area. Further, the farm was not only owned by locals, but also temporary migrants from various regions in Sambas Regency. The reason behind the temporary migrants are an expectation to seek better fortunes, since Temajuk is very well-known for its pepper

commodity. In fact, this commodity is considered as highly potential productivity as well as profitable commodity in West Kalimantan Province.

However, in terms of sovereignty limitation, it is common that the locals may extend their crops crossing Indonesian border, regardless the border markers existence. The authors conducted an interview with one of the local farmers at the time. It is said that he was obviously aware of the border markers existence. In addition, he did understand on border markers consequences that he is not allowed to conduct any activities beyond the borders since it has exceeded Indonesia sovereignty. Further, he also realized that he had committed a cross-border farming. Moreover, he knew the consequences that may occur at any time as well. For example, a sudden inspection or perhaps further investigation by Polis Diraja Malaysia (PDRM). Yet, he and other farmers had comprehension as well as prior notice by irresponsible personals [Zakaria - Temajuk, personal communication, Agust 9,2016]. Believed by local understanding that their current farming area were part of NKRI territory in colonial era. In addition, Camar Bulan was commonly known as outstanding boundary problems (OBP) area. Hence, due to its ongoing debatable, it would be better for them to exploit related area rather than to leave it abandoned.

In practical, the existence of border markers are frequently ignored and merely regarded as a symbol. Besides, the status of land ownership remain questionable, because apparently, there are illegal cross-border land transaction. Further, the transaction was granted limited clearance letter. Also, the procedure was undertaken informally upon both parties consent. The consensus was based on mutual trust, considering the verification on land status was merely relying on so-called land owner's trust. Hence, relevant agencies, in this case Sambas Regency Land Agency (*Badan Pertanahan Nasional*) were not able to clarify the land status along the border line. Further, due to its location in Malaysia territory, as legal consequences, the lands are not able to be certified [Zulrahmatsyah – Temajuk, personal communication, July 30, 2016]. This reality is indeed very detrimental toward the farmers.

Basically, since Temajuk was opened in late 1970's, cross-border activities had been executed for generations, from illegal logging to illegal farming. As many years went, the area exploited were increasingly spread. However, from its opening to today, the supervision of border markers were not strictly conducted by border military forces and various related stakeholders. This is considering, their work description as well as functions are practically overlapped and unclear in terms of which institutions possess such authority. However, the facts are residents of the neighboring village, comprise

of less than 100 families as well as limited personnel of border guards, and land isolated access to the district. These facts may be the reason why repression action of the neighboring countries did not create any deterrent effect toward the Indonesian farmers.

The ignorance toward border markers do not only affect natural resources utilization. Yet, it is also linear with other sectors, such as human and goods traffic aspects. Basically, both states had applied Border Trade Agreement (BTA) in 1970. This BTA allowed citizens of both neighboring villages to fulfill their daily needs by having import duty-free policy for basic needs with threshold limit value. Besides, both citizens are not required to show their passport when crossing to the neighboring country with certain sub-district as the limit and vice versa. They are only obligated to show their cross-border ID card through the border-crossing post (PLB) Temajuk. However, in practice, the provisional rules are then exploited by locals as well as brokers to smuggle Malaysian goods and vice versa. The smuggling was done in huge amount, far exceeding the allowed threshold limit, either for personal needs or further trade to greater areas without customs tax. Until today, it is easy to get Malaysian goods, for instance sugar, milk, rice, flour, cooking oil, snacks and even cooking gas in Temajuk traditional market. Ironically, those goods entered Indonesia in illegal way. Illegal as in the goods are exceeding allowed threshold, pursuant to Customs Laws No. 17 year 2006, as amendment from Laws No. 10 year 1995.

The authors have also directly observed the facts in the field. The supervision and law enforcement are very minimum. It was found that border-crossing post (PLB) is completely ineffective. Besides, there is no any running activities despite its physical buiding existence. Aside from that, the location of PLB is quite far from the border entrance. In contrary, there is in fact border military forces post guarded from 8 am to 5 pm every day. However, activity of ID card checking and daily goods that crossed the border are rarely done. Even if they are regular-inspection, there will be no juridical control and law enforcement. Otherwise, there will be a direct settlement on the spot in the form of friendly warning. This condition is even happened in an official border-crossing where illegal export and import are obviously took place.

The practice of human and traffic goods violations had in fact happened in an official border-crossing. Therefore, it can be imagined how the practice in unofficial border crossing, where there are numbers of shortcuts access between the border markers without routine inspection. Thus, this phenomenon is very vulnerable for illegal activities. Even though, the today's practice are only daily needs and natural resources smuggling. However, seeing the facts of border markers conditions with the height

of only 10 cm and their existence cannot give any expected benefit. Then, especially with the ASEAN Economic Community (AEC) era and the goods and services traffic become uncontrollable. In the next era, the shortcuts can be used for drugs, weapons and humans smuggling, or even the worst scenario is terrorist infiltration as well as foreign influence. These occurrences surely can ruin the morality and the nationalism of border citizens. Moreover, land access from neighboring village to the district will be soon opened within few years. Hence, Indonesia government should brace themselves to guard the border region in various aspects, including revitalization of border markers in order to give benefits as expected. In addition, in order to make the border markers more functional, it requires appropriate border military forces quantity as well as supporting infrastructure.

Another problems in Temajuk is cross-border marriage. The problem arises due to its citizenship as well as the marriage administration requirement. People in Temajuk do not have any idea on legal rules as well as procedures regarding interstate marriage. Thus, in practical, they only follow the local custom. Besides, this citizenship problem also has a correlation with the flow of Indonesians, crossing to Malaysia in order to get employed. Ironically, the border traffic is relatively porous and has allowed a huge influx of illegal immigrant workers from Indonesia to Malaysia. Another problem is regarding the citizenship identity. There are dual-nationality locals in Temajuk. This is proven by ownership of Malaysia identity card (IC). Therefore, the aforementioned citizen can freely pass the country border. This must be considered as a serious problem. Considering the reality is not only correlating with the weakness of citizenship administration, but also correlates with the country's sovereignty and nationalism [17].

At the end, this phenomenon can critically be considered by seeking the root cause of the actual problem. As the authors said in the beginning that the problems in border region have to be observed holistically by transforming paradigm from the buffer zone of defense (security oriented) through prosperity approach. In addition, border regions managements must be conducted from across sector, especially with regard to urgency of revitalization border markers in terms of repairing or re-establishing through Investigation Refixation Maintenance (IRM) team. Although with border markers shifting will not diminish state territorial sovereignty. However judging the facts on the field, with the local's lack of the understanding in juridical and technical aspects through coordinate points as well as lack of socialization may lead them by absorbing irresponsible issues without any filter by irresponsible parties.

Moreover, the facts on the field regarding both the existence and function of the physical border markers are not spread known particularly to farmers as well as there

are number of border markers with unfeasible condition or not found. Thus, this is highly needs to be critical concern for Temajuk in order to be prioritized in development in terms of revitalization border markers with more visible as well as fully functioning. These actions perhaps will be able to enforce legal certainty on the boundary.

Therefore, the authors are going to give recommendations to the government through the Ministry/Institution (K/L) relating to the management of border areas such as the Ministry of Foreign Affairs, Ministry of Home Affairs, Ministry of Defense, Ministry of Trade, Geospatial Information Agency, the National Agency for Border Management as well as specifically the Local Government from Province to sub-district level. Besides, it needs to be encouraged with fully support and highly prepared Temajuk locals themselves, which are as follows

3. Recommendations

Defense and Security. Repair existing border markers, especially those which are in condition of heavily damaged or not found by the Investigation, Refixation, and Maintenance (IRM) team as soon as possible and to upgrade border markers' type in several areas, especially in densely populated areas, and to re-establish new border markers with excellent quality which can last for years and is not easily damaged or removed by any irresponsible parties. The border markers should be more visible and fully functioning.

Ensure full understanding of the functions of border markers and coordinate points—based on the MoU between Indonesia and Malaysia—among the locals in Temajuk, as well as government officials at the village, district, regency, and provincial levels of thorough outreach in order to protect the sovereignty of Indonesia and address misleading information proliferated in the region, especially regarding border markers with registered numbers from A98 to A115. Further, all relevant entities, primarily local residents, need to be provided with an official release delivered by the central government through a ministry or agency authorized in border management. Hence, the locals are no longer subject to misleading information regarding national boundaries.

Improvement of Border Security and Defense Forces as a security belt by increasing the number of security personnel drawn from the Army and Navy, Strategic Intelligence Agency (BAIS) and by constructing adequate security facilities for the Air Force. Procurement and improvement of security and defense equipment along the border, as well as optimization of the capacity of security forces are also crucial.

Extra facilities and supporting equipment's of fundamental duty implementation as well as their functions of security and defense at the border. As well as improving the quality from the assigning border military forces. In addition, to maximize the participation of the locals through training on *Pemuda Penjaga Batas* (Youth Guard Borders), *Pemuda Perbatasan*, (Borderline Youth) and *Forum Pemuda Perbatasan Kujang Temajuk*, FPPKT (Youth Forum on Borderline of Temajuk). This is necessary in order to improve the performance of the security apparatus and defense synergized with local communities as a frontline for the stability of the sovereignty and territorial integrity of the Republic of Indonesia.

In the future, when the population of both countries increasingly dense, the traffic of goods and people are more crowded and control towards the shortcut lines could not be performed optimally so it is vital to build a bribed fence to replace the markers' role that exist today in order to give more legal certainty and stability of the homeland security and defense of the boundaries. However, the idea has to be considering the interests and needs within a few years by taking into account the socio-cultural aspects of the local community.

With regard to the border markers in practice in which also have implications on other aspects, thus, it is crucial do a holistic settlement without simply focusing on the infrastructure from the border markers which are comprise of the following aspects:

Economy. Transformation of paradigm and approaches to the border areas from the buffer zone of defense (security oriented) of potential threat from the outside (external threat) into prosperity oriented, comprise of the following measures:

- i. As the 'front yard' of State and International gateway for the Asia Pacific region, by alleviating of poverty and improving the welfare of border society. These are very highly crucial to be prioritized in first place.
- ii. Providing adequate access and assets to market and distribution of local commodity to the greater area.
- iii. Assistance and training of craft products and handmade arts as unique souvenirs from Temajuk.
- iv. Assistance to the unions in Temajuk such as the Fishermen Unions and Women Unions (PKK) in order to promote and expand marketing special products from Temajuk to various regions.
- v. Fulfillment of basic needs such as food supply to reduce dependence on basic food from neighboring countries.

- vi. The development of growth centers that have a response from the neighboring countries. Local government is expected to cooperate with foreign investors to support and develop the Temajuk as industrial hubs and commerce.
- vii. Improvement of bilateral cooperation in the economical, social and cultural rights through the improvement of socio-economic programs Malindo (SOSEK Malindo) with neighboring villagers.

Infrastructure

- i. The construction of state border posts with facilities of Customs Immigration Quarantine and Security (CIQS), as well as other physical infrastructure considering the widening and paving of the main road heading towards borders from Sambas Regency to Temajuk as well as parallel road jeep from Tanjung Datu in Temajuk and continue eastward Kalimantan are now underway. Further, on the other hand Malaysia is now working on the project of road access from Kampung Teluk Melano to the District in Sematan. This is highly significance to be installed since the traditional border-crossing traditional (PLBT) on its implementation both supporting infrastructure that must be possessed and functions are not in accordance with the mandate of Minister Regulation No. 18 year 2007 Standardization Facilities, Infrastructure, Services and State Border-cross. The function that should be carried out in the form of immigration, customs, quarantine, and security. Yet, in practical it did not run as expected. Instead, the functions are replaced by *Pos Pamtas* (Military Border Forces Post) which only possess security function. Moreover, there has been a practice of the illegal export-import traffics and problems in other sector.
- ii. For current facilities and infrastructure borders need to be standardized and be prioritized of quality improvement. Other physical infrastructure required are in electricity, communications and information through the development of a relay station or radio and television transmitters, the tower of base trans receiver system (BTS) to support improved-network capacity to communicate as well as procurement of internet access for local residents.
- iii. Restoration of the road and bridges. Considering the facts are in alarming situation at some areas, primarily during the rainy season that could endanger the safety of the riders or this lead to cut the access to the district.

Tourism. Temajuk Village has been acknowledged as a National Strategic Tourism Region, with programs have been planned by the central government to boost infrastructure facilities and tourism promotion. This requires a massive follow-up from relevant village government in order to accelerate programs implementations as well as transparency on programs goals and plans. This automatically will enable the locals to boost economical growth through services, accommodation, entry fees, transportation services, facilities of tourist attractions, culinary and craft products as well as traditional foods as local souvenirs. If the programs can run as expected, it will indirectly improve the infrastructure and development of Temajuk as frontline of Indonesia.

Institution and Capacity Building, Borders area management is a shared responsibility between the central government and local government in accordance with the principle of concurrence through:

- i. Improvement of institutional government and society in the region, considering the local government at district level to the village do not have sufficient capacity to manage the border area, primarily related to aspects of the substantial documents administration regarding respective village, lack of technological knowledge, as well as the complexity of development that involves many groups and sectors. Besides, the conflict of interest between the central and regional authorities in the implementation of various development plans and management of border areas.
- ii. The division of clear and transparent authority between the central government and local governments. This is due to there are numbers of regional authority who have not been decentralized because sectorial regulation and legislation are not adjusted to the law on local government. This resulted in various problems, which are in terms of authority, budget management, management of a particular region, relations between executive and legislative areas, natural resource revenue, sharing arrangements and taxes. While the central government's authority is only applicable for borders gate covering the aspects of customs, immigration, quarantine, security and defense.
- iii. Socialization and trainings on raising national awareness toward borders residents. Through government and local governments to formulate priority programs that focus on national awareness as state defense (*bela negara*).

In connection with these recommendations in order to support implementation of the programs in the border region as well as the to guarantee sovereignty and territorial integrity of Unitary Republic of Indonesia, then the regulations pertaining to the

national sovereignty is indispensable. In the absence of clear regulation and regulation, it is feared a disharmony in the relationship between countries. This would also be an impact on attitudes and patterns we follow in securing the state. This is a logical and juridical consequences from border region existence. In other words, in border region, a nation's sovereignty will come into force and ends.

4. Conclusions

Based on previous explanation on Temajuk problematics, Temajuk surely plays vital role as border gate in northwestern of Borneo. Further, the recent report of border markers condition showed a number of border markers in damaged condition or not found situations.

The problems have arised from across-sectors due to worrying condition or disregard from the locals toward border markers functions. These problems might have escalated to national security in nearest future if the government do not set action to prevent such unexpected issue.

Seeing the facts of border markers condition, this definitely requires quick response from related state institutions considering today's problems in Temajuk are not only based on the security and defense aspects, but also has impacts on across sector in a holistic approaches.

From the description above on recent phenomenon in Temajuk, the recommendations listed by the author perhaps are able to resolve the matters toward the livelihood of border communities as the frontline of Indonesia.

References

- [1] Tsani MB. Hukum dan hubungan internasional [Law and international relations]. Liberty, Yogyakarta; 1990. p.32. [in Bahasa Indonesia] <http://lib.ui.ac.id/file?file=pdf/metadata-20107870.pdf>
- [2] Batubara H (2015). Wilayah perbatasan, Apakah kita memang tidak becus menjaga batas negara kita [The underdeveloped region, are we not capable of protecting our state borders?,Online] from <http://www.wilayahperbatasan.com/wilayah-perbatasan-apakah-kita-memang-tidak-becus-menjaga-batas-negara-kita/> . [Accessed 9 Sep 2016,in Bahasa Indonesia]
- [3] Lamb A. Treaties, Maps, and the Western sector of the Sino-Indian boundary dispute. Australian Yearbook of International Law Publisher, London; 1965. 37-52.

www.austlii.edu.au/au/journals/AUYrBkIntLaw/1965/4.pdf

- [4] Arifin S. Pelaksanaan asas *Uti Possidetis* dalam penentuan titik patok perbatasan darat Indonesia dengan Malaysia [*Uti Possidetis* principle implementation in demarcating land border markers between Indonesia and Malaysia]. *Jurnal Hukum* 2009;2(16): 183-204. [in Bahasa Indonesia]. <http://jurnal.uui.ac.id/index.php/IUSTUM/article/view/3847/3423>
- [5] Soekamto S. Pengantar penelitian hukum [Introduction to the study of law]. Universitas Indonesia, Jakarta; 2010. p.11. [in Bahasa Indonesia] <https://www.belbuk.com/pengantar-penelitian-hukum-p-15572.html>
- [6] Ali HZ. Metode penelitian hukum [Legal research methods]. Sinar Grafika, Jakarta; 2009. p.24. [in Bahasa Indonesia] <https://www.belbuk.com/metode-penelitian-hukum-p-8612.html>
- [7] Report from Pemerintah Desa Temajuk [Temajuk Village Administration], June 2016. [in Bahasa Indonesia]
- [8] Direktorat Jenderal Strategi Pertahanan-Dephan [Ministry of Defense]. Pedoman penyelesaian 10 (sepuluh) permasalahan perbatasan RI-Malaysia [10 guidelines on border problems resolution between Indonesia-Malaysia]. Ditjen Strahan-Dephan, Jakarta; 2006. p.10. [in Bahasa Indonesia] <http://etd.repository.ugm.ac.id/downloadfile/107268/potongan/S1-2017-333977-bibliography.pdf>
- [9] Jones SB. Boundary-making on maps function in border dispute. Columbia University Press, Washington; 1945. p.7. <https://www.cambridge.org/core/journals/american-political-science-review/article/boundarymaking-by-jones-stephen-b-washington-carnegie-endowment-for-international-peace-distributed-by-the-columbia-university-press-1945-pp-xv-268-300/ECCFEA7AE85ACB2BA1721FA4BABD3517>
- [10] Kahler M, Walter BF. Territoriality and conflict in an era of globalization. Cambridge University Press, New York; 2006. <https://www.cambridge.org/core/books/territoriality-and-conflict-in-an-era-of-globalization/4B5C7978DBC3E5B65AB166ED5D364E3F>
- [11] Lutfi M. Prolog: Keadilan di tanah-tanah perbatasan [Justice in border region]. In: Keadilan di tanah-tanah perbatasan. Mahendra Putra Kurnia, et. al. (Eds.), Jurnal Intrans Institute, Malang; 2011. p.ii [in Bahasa Indonesia] <https://www.bukalapak.com/p/hobi-koleksi/buku/sosial/3501h7-jual-keadilan-di-tanah-perbatasan-mahendra-putra-kurnia-dkk>
- [12] Jusnadi A, Saksono H, Suryo Sakti RM. Platform penanganan permasalahan perbatasan antarnegara [Handling platform in border areas between countries].

- Ditjen Pemerintahan Umum-Depdagri, Jakarta; 2005. p.55-68. [in Bahasa Indonesia] https://books.google.co.id/books/about/Platform_penanganan_permasalahan_perbata.html?id=-TB2NAAACAAJ&redir_esc=y
- [13] Arsana MA. Understanding border issues in Camar Bulan, Tanjung Datu [Online] from <http://www.thejakartapost.com/news/2011/10/20/understanding-border-issues-camar-bulan-tanjung-datu.html>. [Accessed 31 Oct 2016]
- [14] Nik, Ndr. Komisi I DPR: Ada bangunan milik Malaysia di Tanjung Datu [the First Commission of the state legislative: There is Malaysian building in Tanjung Datu,Online] from <http://news.detik.com/berita/d-1740374/-komisi-i-dpr-ada-bangunan-milik-malaysia-di-tanjung-datu>. [Accessed 31 Oct 2016,in Bahasa Indonesia]
- [15] Huda E, Adam M. Ke Camar Bulan, DPR tunggu Pemerintah [Online] from <http://nasional.news.viva.co.id/news/read/255328-ke-camar-bulan-dpr-tunggu-pemerintah>. [Accessed 31 Oct 2016,in Bahasa Indonesia]
- [16] Berita Satu Editor. Camar Bulan dan Tanjung Datu harus dipertahankan [Camar Bulan and Tanjung Datu must be defended,Online] from <http://www.beritasatu.com/ekonomi/13543-camar-bulan-dan-tanjung-datu-harus-dipertahankan.html>. [Accessed 31 Oct 2016,in Bahasa Indonesia]
- [17] Pailah SY. Kedaulatan NKRI vs silent occupation [The Unitary State of the Republic of Indonesia Sovereignty vs Silent Occupation,Online] from <http://images.google.co.id/imgres?imgres>. [Accessed 30 Oct 2016]