

# Law Enforcement Authority In The Country Border Region

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**Abstract:** *In the regulation of law enforcement especially law enforcement in the border region of the country in particular the region of the sea, almost all legislation has the authority of each institution to conduct law enforcement in the region the borders of the State, therefore must be well done so as to realize security in the borders of the country. The type of research used in this writing is the normative juridical law research, which is the legal research on the regulatory authority and implementation of the Authority provided by the positive legal provisions in factual Any particular legal event occurring in the country's border region. The research approach used is a statutory approach, the source of the legal material used is the source of secondary and tertiary legal materials as well as the collection of legal materials in this study is normative empirical. The arrangement of the Authority and implementation of the Authority on the legislation given to each law enforcement institution in the border region of the country in the sea region becomes ineffective and efficient in its implementation field by law enforcement institution due to the existence of a sectoral ego on every law enforcement institution so that there is a coordinated in the implementation of law enforcement in each law enforcement sector.*

**Keywords:** *authority, law enforcement and state territory*

## 1. INTRODUCTION

Indonesia is an archipelago (Archipelagic state) whose territory is comprised of oceans with islands, both large and small with a total of about 17,504 islands with an area of about 7.7 million km. Two-thirds of the area is 5.8 Million km is made up of seas, while the remaining 1.9 million km is land. With a coastline of approximately 81,000 km, Indonesia has become the country that has the second longest beach after Canada. Vast Indonesian waters extend from inland waters, archipelago waters, territorial waters and the exclusive economic zone of Indonesia (ZEEI) as well as the continental shelf, it often poses complex problems, whether Issues relating to the legal and economic and state security areas, all of which require comprehensive handling (Sondakh, 2004).

As the largest archipelagic country in the world, Indonesia has borders both land borders and sea borders with many countries. The Indonesian land borders borders Malaysia, Papua New Guinea, Singapore and East Timor. (Law of the territory of the State, law No. 43 year 2008, Ps. 6 (1) b). While the Indonesian sea is bordered by ten countries, namely India, Malaysia, Singapore, Thailand, Vietnam, the Philippines, the Republic of Palau, Australia, Timor-Leste and Papua New Guinea (PNG). (Indonesia, national territory Law, law No. 43 year 2008; LN No. 177 year 2008, TLN No. 4925, Ps. 6 (1) a). Borders with other countries, can occur when the land, internal water or territorial sea of the two countries are located adjacent (Sumardiman, 2014).

Arrangements regarding the determination of the territorial boundary of a country and activities in the sea have actually been formulated in a comprehensive international treaty known as UNCLOS 1982 (United Nations Convention on the Law of the Sea 1982 or the United Nations Law Convention 1982). In UNCLOS 1982 are known eight setting zones (regime) prevailing at sea, namely (1) Inland Waters, (2) Archipelago Waters (archipelagic Waters), (3) territorial seas (territorial Waters), (4) additional zones (contiguous Zone), (5) Exclusive economic Zone, (6) continental Shelf, (7) The High seas, and (8) International seabed Area (the international Sea of the areas).

Indonesia has ratified UNCLOS 1982 through Law No. 17 of 1985 and enacted law No. 6 of 1996 on Indonesian waters replacing law No. 4/PERP. 1960 which was adjusted to the soul or provisions of UNCLOS 1982. Further, for the purposes of determining the boundaries of Indonesian water region has been set forth in government Regulation No. 38 year 2002 on the geographical coordinates list of points of the Indonesian archipelago. However, the fact to date, the determination of the boundary of the Sea region of Indonesia with neighboring countries still have not been completed. In the absence of certainty the boundaries of the territorial waters, will be very influential in marine economic activities, such as capture fisheries, aquaculture, biotechnology industry, maritime tourism, sea transportation and more specifically to Exploration and exploitation of natural resources of oil and gas, which will certainly be hampered.

Geographically, the Indonesian archipelago is located between two continents of Asia and Australia and two oceans of the Pacific and Indian Oceans. Indonesia is the largest archipelago in the world with large and small islands reaching 17,504, and a total area of water reaches 5.8 million km<sup>2</sup>, and coastline length is approximately 95,181 km (Numbery, 2006), and has undergone additions with Long coastline (99,093 km). Indonesia also has a characteristic archipelago with sovereignty over land, sea and air and has sovereign rights outside the region of its sovereignty that is the natural resources to be managed and utilized for the prosperity of all people. With a strategic geographical position and wide geographical location will make Indonesia as a nation that can affect the various events in the world, and certainly will affect the management and utilization of natural resources in the region Sea.

The existence of Indonesia as the unitary State of the Republic of Indonesia (NKRI) will be influenced by the conditions and geographical location so that the governance of natural resources, border areas, and good defense are indispensable. The Indonesian sea areas are bordered by ten countries, namely India, Thailand, Vietnam, Malaysia, Singapore, the Philippines, the Republic of Palau, Papua New Guinea (PNG), Australia, and the Democratic Republic of East Timor. While the Indonesian land area is directly adjacent to three countries, namely Malaysia, Papua New Guinea, and Timor Leste with the overall length of the land border line is (2914.1 km.) (Madu et al, 2010).

History shows that its strategic location makes Indonesia contested by large countries to serve as colonies since the first. Several noted countries have sought to master Indonesia, such as Portugal, the Netherlands, Japan, the United States, and the Soviet Union during the Cold War era. To date, Indonesia is still a region of struggle for influence by major countries, including China and Korea as well as border disputes, such as Australia, the Philippines, Malaysia, Papua New Guinea, and Timor Leste are also potentially large occurred in Indonesia.

Borders, especially the country's borders are one of the crucial aspects of the world's geopolitics. Country borders are a major manifestation of country's territorial sovereignty. The borders of a country play an important role in determining the boundaries of sovereignty, utilization of natural resources, and maintaining the security and integrity of the region. The borders of the country in many respects are determined by the national and international historical, political, and legal processes (Moeldoko, 2014).

**1. The border area becomes an "urgency" region, both in internal and external context (international).** Some issues that have always been discourse on the frontier area are: (Moeldoko, 2014)

- a) Potential invasion of ideology and foreign cultures;
- b) The potential for transnational crimes;
- c) Illegal logging;
- d) Illegal fishing;
- e) Illegal exploitation of natural resources;
- f) Trafficking in human trafficking, especially women and children;
- g) Dark immigrants (illegal immigrants);
- h) Human trafficking (people smuggling);
- i) Narcotic circulation;
- j) The entrance of terrorists and robbers;
- k) Socio-cultural conflicts.

**2. In general, the border area issues include the following three aspects: (Moeldoko, 2014).**

- a. The socio-economic aspect of the border area is a less developed area (backward). It was due to a relatively isolated/remote location with a low accessibility level; Low levels of public education and health; The low level of social welfare of the Community's border areas (the number of poor people and villages left behind); And the rare information about the government and the development received by the community in the border area.
- b. Aspect of security defence of border area is a broad territory with uneven pattern of population distribution. It caused control by the government to be difficult. In addition, the oversight and development of the Territory is quite difficult to implement synergistically, steadily, and efficiently.
- c. The socio-economic aspects of society in the border region are generally influenced by socio-economic activities in neighboring countries.

Until now there are many cases related to Indonesian fishermen who were arrested by neighboring state authorities in the border waters that have not completed its maritime boundary determination. Among them were the arrest of 22 Indonesian fishermen by Australian authorities executed by the warship HMAS Wollongong. The arrest was carried out after Australian border guards found four Indonesian fishing boats within 14 miles of the territorial waters of the Australian exclusive economic zone while surveying in the northern regions. The Australian authorities subsequently held a detention of 22 Indonesian fishermen and seized 135 kg of catch fish and carried four fishermen belonging to Darwin Harbour (ABC Radio Australia, 2019). This is because Indonesia with Australia essentially has an exclusive economic zone agreement but there are some waters that have not been ratified.

Fishing cases around border waters also occur in Indonesian border waters with neighboring Malaysia. Where the Royal Malaysian authorities took the arrest against nineteen Indonesian fishermen who were caught in search of fish in the border waters area.

Indonesia and Malaysia are not yet completed. However, there is no significant detention of Indonesian fishermen by Malaysia, but often the capture of fishermen between the two countries is often a gravel disorder in bilateral relations between the two countries.

That if you pay attention to the problem in the country's borders, especially in the territory of the unitary State of the Republic of Indonesia, then the problem of law enforcement in the country's border area is something to be addressed in the form Policy between two countries bordering.

The problem that is quaint and should get the attention of the unitary Republic of Indonesia, is the problem of law enforcement authority. Therefore, in order to follow up on issues and problems that often occur in the border area, then the authors feel the need to do a thorough and comprehensive research on "Law enforcement authority on the border area Country ". Research objectives: To find out and find the concept of law enforcement authority on the country's border area. The benefit is, practically, as a contribution of thought to the Indonesian government in order to make a better policy on regulatory and law enforcement in the border region of the country.

## 2. RESEARCH METHODS

Research is a systematic, directional and purposeful scientific activity. Therefore, the materials or information collected must be relevant to the problem faced. This means that the data is relevant, about and precise. (Kartini, 1990). A method is a way of working or governance to be able to understand the object that is the target of science in question. The method is a guideline on how a scientist learns and understands the steps faced (Soekanto and Mamudji, 2007).

### A. Research type

In accordance with the problem and research objectives of the research, the type of research that will be used is normative research, which is a study that mainly examines the provisions of the positive legal, legal principles, Principles and legal doctrines to answer the issues of the law. (Marzuki, 2005)

This research is related to the problem of the borders of the country, especially the regional cooperation in the unitary State of the Republic of Indonesia, so that the problem of law enforcement in the country border area is something to be addressed in State policy or policy between the two bordering countries. The problem is quaint and should get the attention of the unitary Republic of Indonesia.

### B. Problem approaches

In this study the author examines law enforcement authorities on country border areas and the approach to problems used in this research is the approach of legislation (of approach), and conceptual approaches ( Conceptual approach) and case approach. (Marzuki, 2005).

The main approach in this research is the approach of legislation (of approach) and conceptual approach, it remembers the approach of legislation (of approach) as the basis for The law in analyzing the problems in this study is strengthened by the conceptual approach to obtain the argument of the law in answering the problem.

### C. Type and source of legal material

Research materials in the form of primary legal materials and secondary legal materials. The primary legal material referred to in the form:

The Constitution of the Republic of Indonesia year 1945, ACT number 43 year 1008 on the territory of the State, presidential regulation related to the country's border area, namely: Regulation 179 year 2014 about spatial plan of national border area in East Nusa Tenggara province; The 31-year presidential Decree 2015 on the spatial plan of the national border area in Kalimantan; Presidential Decree 32 year 2015 on the spatial plan of the national border area in Papua province; Presidential Decree 33 year 2015 on the spatial plan of the State border area in Maluku province; Presidential Decree 34 year 2015 on the spatial plan of the national border area in North Maluku province and West Papua province; 11 year presidential Decree 2017 on Spatial plan of national border area in North Sulawesi province, Gorontalo Province, central Sulawesi province, East Kalimantan Province, and west Kalimantan province; and Presidential Decree 49 year 2018 on the spatial plan of the national border area in Aceh province and North Sumatra province. In accordance with the regulation 49/2018, the spatial plan of the national border area is a role as an instrument of operationalization of regional spatial plan, and as a coordinating tool for development implementation in the national border and supporting areas of Aceh Province and North Sumatra province as well as the territory of Indonesia's territorial sea, the exclusive economic zone, and the continental shelf.

Secondary legal materials include materials supporting primary legal materials such as textbooks, articles in a variety of scientific magazines or journals of research results in the field of law, papers delivered in various forms of meetings such as discussions, seminars, workshops, and others.

The primary legal material in the form of legislation is collected by conducting inventory and catagorisation codes. Secondary legal material is collected with a card system, either with a summary card (containing a summary of the original text, in an outline and a subject with the original opinion of the author); A quote card is used to contain the subject record of the issue), as well as a review card (containing the analysis and author-specific notes).

#### **D. Processing and analysis of legal materials**

The primary legal material and the secondary legal material has been collected (inventory), then grouped. This is then examined by a statutory approach to obtaining an overview of the synchronisation of all legal materials.

The material that has been classified and stimulated is studied, examined and compared with the theoretical and legal principles expressed by experts, to finally be analyzed normatively.

In the processing and analysis of legal materials, the use of normative legal research type is used to address the law enforcement issues in the border region of the country, law enforcement obligations on the country's border region and Implementation of law enforcement in the border area.

Analysis of legal materials by using normative legal research type is intended to get a more optimal picture relating to the law enforcement Authority in the border area of the country.

### **3. RESULTS AND DISCUSSION**

#### **A. Law enforcement authority in the State border region**

##### **1. Government authority in law enforcement in state border territories**

Law enforcement according to Satjipto Rahardjo is an attempt to manifest ideas into reality, while Suryono Soekanto citing the opinion of Purnadi Purbacaraka said that law enforcement is the activity of organizing the relationship Steady and posturing values and attitudes of acts as a summary of the description of the final stage values to create (social engineering), nurture and maintain (control) the Peace of life.

Furthermore, according to Soewardi M the general sense of law enforcement is an activity to enforce or enforce provisions. Furthermore, it is further explained that the good legal system is concerned with the invasion of the value with the rules and with the real behavior (Tobing and Sriwulan Rios, 1998). The book of the Fifth Sea Law Seminar (1990) stated that in the sense of law enforcement implies that the ability to maintain and monitor the requirements of certain legal provisions both nationally and internationally in the waters In the Indonesian national jurisdiction and other waters in order to defend and protect other national interests (national legal Development Agency, 1990). Thus along the intensity of the threat is considered disturbing the orderly and legal interests, then the action taken in the face of the threat is law enforcement. Furthermore, it is stated that the general definition of law enforcement is interpreted as a state activity/its apparatus based on the sovereignty of the State and or under the provisions of the international law in order to ensure the prevailing laws of the sea, both national law rules and international law can be heeded or obeyed by any person and entity and State as the subject of law. Thus can be created order of national law and Order of international law.

Law enforcement at sea cannot be released from sovereignty enforcement issues at sea. The definition of law enforcement on one party and the enforcement of sovereignty on the other party can be distinguished but both cannot be separated because the enforcement of sovereignty in the sea includes law enforcement at sea. Enforcement of sovereignty can be implemented not only within the country, but it can also net out the boundaries of the country, while law enforcement in the sea is a process of arrest and investigation of a case arising as a result Violation of the sea on the provisions of the law that applies both international and national law, so that in the implementation of sovereignty and law enforcement in the sea is done simultaneously. Thus there are differences in law enforcement with enforcement of sovereignty depending on the intensity of the threat encountered. As long as the threat is considered to harm a country's existence, the action that can be taken against the threat is the enforcement of sovereignty (Tobing and Sriwulan Rios, 1998).

The authority to enforce sovereignty and the law is sourced to the sovereignty and jurisdiction owned by the state in question, in accordance with international law provisions. On the essence of sovereignty is the supreme and full power of a comprehensive nation (Book II B, Department of Defense and Security 1980), to undertake an act deemed necessary for the national interest of the country itself under national law With regard to international law (Book II B, Department of Defense and Security 1980).

The sovereignty of the country is spelled out in the form of authority or right of the state in question, among other jurisdictions, namely the authority of the State to establish and enforce legal regulations (Sondakh, 2004). Thus, the enforcement of law in the sea by the State through its authorities is the implementation of sovereignty itself because the authority and enforcement capabilities of the law are essentially sourced to the sovereignty of the State And is also a budding of sovereignty (Book II B, Department of Defense and Security 1980),. In the implementation of law enforcement in the sea differentiated between (i) Law enforcement functions relating to certain criminal acts at sea, and (ii) Law enforcement functions relating to general criminal acts occurring at sea (Sondakh, 2004).

The implementation of law enforcement in the sea relating to certain criminal acts listed in certain legislation is a special provision of criminal program law (lex specialis) (Book II B, Department of Defense and Security 1980). Referring to these

provisions, it can be concluded that in relation to the law enforcement function in the handling of general criminal acts (listed in the criminal CODE) occurring at sea, the law enforcement authorities in the sea have the Authority to act Initial completion in relation to law enforcement functions in the handling of certain criminal acts including a particular article in the criminal CODE, the general criminal law enforcement officers have the authority as a preliminary oppressing, which Further resolved by law enforcement officers in the sea who have authority in accordance with certain legislation (BPHN, 1990).

Judging from the field of activities, the implementation of law enforcement in the sea can be sorted sequentially, namely the field of Polysionyl and the field of judicial (investigation). In the field of polysionyl carried out daily sea operations (marine security) through the control/supervision of the national legislation and regulations. If the operation of the sea is found to be a violation of national law, the case is resolved through investigation of the activities of the judicial field (BPHN, 1990).

In a yutisial sense, law enforcement is interpreted as a process of activity in the completion of a case arising out of the breach in the sea on the provisions of the applicable law, both international and legal provisions National. Based on the above definition, the implementation of law enforcement in the sea is activities that include supervision, ship termination including boarding and inspection (investigation and inspection), and investigation when There is a criminal offence, while further settlement is carried out on land (BPHN, 1990).

Law enforcement at sea is necessary for security in the sea considering the existence of various forms of threat or disruption to the use or utilization of marine activities, among others:

- a. Threats of violence, namely threats using organized armed forces and have the ability to disrupt and harm personnel or countries. The threat can be piracy, piracy, sabotage of vital objects, the continuation and action of terror.
- b. Threat navigation, which is the threat posed by the condition of geography and hydrography as well as lack of compacted navigation aids, such as flare, buoy and others, so as to harm the safety of the cruise.
- c. The threat to marine resources, namely the pollution and destruction of marine ecosystems, and the conflict of marine resources management, which has a tendency to be easily politicized and hereinafter followed by the deployment of military forces, such as In islands disputes.
- d. Threat of violation of law, which is not fulfilled by national and international laws that apply in the waters, such as illegal fishing, illegal logging, smuggling and others (Purnomo, 2004).

The handling of law enforcement in the border region of the state is not detached from the legal authority attached to a state or an institution/organization of law enforcement, in the exercise of its authority in the law enforcement sector. The authority referred to herein is the legal authority, which is the act of taking discretion on the rights used to perform the law enforcement in the Sea (Purnomo, 2004).

Broadly, the government has the authority in law enforcement, and the authority is performed by the institutions associated in the implementation of law enforcement in the sea include, (i) The authority of the investigation, (ii) The authority of Prosecution, and (iii) the judicial authority as described below:

#### **A. Investigation authority**

According to the investigation experts is the first act or action of law enforcement to be authorized for that which is done after it has been discovered or suspected of a criminal offence, in which the investigation in Concreto begins after A criminal offence, so that the act is an application of criminal law and is repressive.

Investigation is conducted to seek and collect evidence that in the first phase should be able to give confidence, although still a temporary nature, to the prosecution of what is actually happening or about what criminal acts have The suspect (BPHN, 1990). The criminal Procedure Code distinguishes between legal acts called investigations and investigations, although the investigation is not a standalone function and is separate from the investigation function. Article 1 KUHAP formulates an investigation as a series of investigations in the matter and in the manner set forth in the criminal CODE to seek and collect evidence, which with such evidence makes the light (clear) about the crimes occurring and to find Suspects.

Understanding of the sea investigation due to the nature of the situation and because conditions in the sea itself is not possible after the criminal act. Therefore, the sea investigation is almost always in the case of criminal acts that caught hands. Thus the authority of law enforcement in the sea provided by the provisions of the legislation includes the investigation authority, so that if found crimes or violations in the sea can immediately take immediate action necessary for the most.

In the Armed Forces (PROTAP) handling of the Sea criminal act by the Indonesian Navy of the Navy the investigation is a set of investigators to seek and find an event alleged to be a criminal offence to To determine whether or not the investigation can be conducted in the manner stipulated in the criminal CODE and certain laws.

The understanding of Protap's investigation is a series of investigators in accordance with the criminal CODE and specific provisions governed by certain laws and is intended to seek out and collect evidence to make a light of criminal acts occurring and to

find their suspects. In case of an investigation of the Indonesian Navy National Army does not know *Locus Delicti* in the sense that the ship/suspect can be brought to the nearest port or in the port where the matter can be further processed.

## **B. Prosecution authority**

The prosecution's authority is the general Prosecution authority to file a suspect in the future of the trial based on the results of the investigation of what is actually happening or what crime has been done as well as who the suspect is accompanied by With existing evidence. As stated in article 1 paragraph 1 of Law No. 16 of 2004 concerning the Prosecutor of INDONESIA, a law enforcement officer whose main duty as a public prosecutor is prosecutors. Thus the authority of the prosecution is the authority given by Law No. 8 of year 1981 to prosecute and enforce the determination of judges.

## **C. Judicial authority**

The judicial authority is the authority of the Court handed over to the judicial bodies and is set by law with the principal duty to receive, inspect and prosecute and resolve any matters submitted in his presence In accordance with Law No. 4 of 2004 on judiciary. According to article 1 This Law of judicial authority is the power of the independent state to administer the judiciary to uphold the law and justice based on Pancasila, for the implementation of the Law State of the Republic of Indonesia. Pursuant to article 18 of the Court has the power to inspect, prosecute and break the criminal matter with the presence of the defendant unless the law determines otherwise.

The authority of this judicial body also covers cases of criminal acts and violations in the sea. If the difficulty in determining which State judicial law is authorized to deal with the consequences of crime and violation at sea, then the provisions of Article 85 and 86 of Law No. 8 year 1981 concerning criminal proceedings.

## **2. Regional Government special authorities in law enforcement in the border region of the country**

Since Indonesia has become a sovereign country, borders are already a problem that has not even found a bright point to date. The most common problem is the boundary dispute with neighboring countries directly adjacent to the land area and the Indonesian sea. In addition, the problem of community welfare residing in border areas is also worth noting. The border area is the entrance of a country, therefore it takes more attention. Development and also facilities such as education, health, transportation, information and so on must be adequate. People in the border area should be more concerned about their needs, so they are not isolated from the outside world.

The border area is an integral part of the territory formed by the law hence the arrangement, development and development of the frontier area is something that is very important and fundamental in order to accelerate the implementation of national development and community services, and aims to improve the welfare and living standards of society. Border of an area is a major manifestation of regional sovereignty/region, where borders play an important role in determining the boundaries of sovereignty, resource utilization and legal certainty for the implementation of governance activities.

Country borders have potential and opportunities to develop well, if a number of fundamental constraints and obstacles have also caused various fundamental problems, such as the low level of community life, the high social and economic gaps, political problems, security and order can be managed for the resolution well, through a better policy in a more integrated and thorough sense with the spirit of renewal and change in various aspects/dimensions , as it changes and paradigms of thinking and strategy, rules, organizations and governance include management areas; and resource support. In such a way the process of all of these things, so that the creation of conditions that better guarantee the process and achievement of the objectives of the national development generally and the management of borders of the country and border areas in particular (Rupidara, 2010).

In addition, in this border area also keeps many latent problems that if not resolved will be detrimental to both parties, especially the people who dwell on the region. The latent danger is one of the conflicts of land that often occurs between people in the region. There are four types of borders that often bring about conflict, namely:

1. Territorial, where a country/region claims a certain region as a legitimate possession,
2. Positional, where a country/region disputed the definition and demarcation of its boundaries with other countries/regions,
3. Functional, a country has a dispute about the use of functions of objects in the border area,
4. Resources Based, where a country/region competes to gain mastery over a country/region competing to gain mastery over an area of a poultrice boundary.

In the perspective of defense, country borders are the sovereignty of the country, these two things have a very close connection that the realization of the sovereignty of the State can well maintain the borders of the country, likewise also vice versa with the defense State borders Well then it is an embodiment of State sovereignty. However, border management is not only up to the safety and orderly sense in the region but includes many dimensions including human development in the economic, educational, health and infrastructure aspects of the frontier. Likewise, with the dimensions of public political life need to be done so that the

people who dwell in the area understand the political rights and participate actively in the process, planning, implementation and development that Implemented in the region.

Border areas need to get serious attention because the condition will support the sovereignty of a region. Awareness of the differences between regional border areas has encouraged bureaucrats and policy-makers to develop a study on the arrangement of frontier areas equipped with the formulation of Its systems that will Be a strategic issue because of the arrangement of border areas associated with the nation state building process against the emergence of internal conflict potential in a region and even with neighboring territories. Therefore, the region that has a direct border with other countries should be given special authority in the management and enforcement of law because it borders directly with other countries and is a very important region and To maintain the country's border needs with other countries.

The granting of different autonomy over one region or region of some areas is a governance practice that is quite common to be found in the experience of political arrangements in many countries. This experience takes place both in the form of a devolved unitary state, as well as in federative setting format. In the treasures of political science and governance, these incomparable regulatory patterns are referred to as asymmetrical decentralization, asymmetrical devolution or federalist asymmetrical, or in general asymmetrical intergovernmental arrangements. Principally, the various forms of asymmetric-patterned power are one of the policy instruments intended to address the two fundamental fundamentals facing a country, which are issues of political patterns, including those is sourced to uniqueness and cultural differences; And the problems of the technocratic-medical pattern, namely the capacity of a region or an area in carrying out the basic functions of government.

The reasons for the technocratic-managerial pattern are generally related to the capacity of the local government. This arises when the area is unable to provide adequate and efficient public services as other areas of the same level. The asymmetric approach allows authorized government officials at the national level to maximize its function range and power. This range of functions and powers can be restricted in the later days when the capacity has awakened adequately enough. Therefore, measurement of capacity is required. Asymmetric-related political arrangements were taken as policy strategies to maintain the basic boundaries of a country's political units and or as an assimilation of a particular cultural uniqueness. With varying degrees of success, minority representation at sub-national level as well as privileged/special status provision for one region or region area can encourage groups/regions, demanding privileged/specificity status, negating/minimizing violence and maintaining territorial integrity.

The special autonomy or asymmetric decentralization in Indonesia is a historical sustainability that has begun from the colonial period and affirmed in three constitutions that have occurred in Indonesia. The basis of the policy can be referenced in the constitution as the highest legal entity. Special autonomy regarding fundamental affairs related to the pattern of central and regional relations concerning the design of authority, institutional, financial and different control. Special autonomy can at least be given in consideration: conflict, history and culture, border areas, state capitals and economic development. Research shows there are at least five reasons why asymmetric decentralization should be conducted in Indonesia.

**First**, the reasons for conflict and the demands of separatism. It is undeniable that two districts (three provinces), Aceh Province, Papua Province and West Papua province get special treatment in the form of special autonomy due to conflicts between the two areas and the national government, among others Due to resource scramble. Special autonomy for both regions is governed by, for ACEH enacted LAW No. 44 year 1999 on the implementation of privileges of the province of Aceh and ACT No. 11 year 2006 concerning ACEH government; And for the provinces of Papua and West Papua enacted LAW No. 21 of 2001 on special autonomy in Papua province. If summarized, special autonomy for ACEH and Papua is principally comprised of: first, the Special Autonomy Fund as compensation for the three provinces can still be joined in the Republic of Indonesia. Secondly, recognition of the local identity manifested in political institutions. In ACEH the process is characterized by a new institution representing customs and religion. In Papua, authority is given to customs and churches. Third, recognition of local symbols such as flags, languages and others. Fourth, local political party. Aceh made use of local party momentum with the growth of the local party and won the elections, while in Papua it did not exist even though the space for this already existed. Fifth, there is affirmative action to become a local leader. In Aceh its form can read Al Quran, in Papua the leader must be indigenous Papuans who are denied by the Papua People's Assembly. Sixth and perhaps most importantly, the resource-related settings. In addition to large amounts of otsus, regional resource management is a specific issue. ACEH has some specific specificity related to resource management, such as land, forest and oil exploitation. Because of the exciting affairs of this resource, the Government has not submitted to ACEH in the form of supporting regulations such as government regulation according to the deadline stated in the LAW.

**Second**, the country capital reasons. This special treatment is only given to the province of DKI with the province of DKI Jakarta with the enactment of LAW No. 29 of 2007 about the provincial government of special region of Jakarta Capital as the capital of the unitary Republic of Indonesia. Given that the region is affordable with the best infrastructure in the country, special treatment is realized in the absence of the owner for the Regent/mayor and there is no district DPRD/city appointed by the governor. Consequently, the governor's election uses an absolute system majority where the winner is at least 50% of the vote. In other regions, except Yogyakarta, get more than 30% of the vote.

**Third**, historical and cultural reasons. Special areas of Yogyakarta have a special treatment given its history in the revolution and the scramble for independence. In the course of history, the position of the special region of Yogyakarta as the provincial autonomous Region in accordance with the meaning of article 18 of the Constitution 1945 (before the change) is governed by the LAW No. 22

year 1948 on the main law of local governance. As a follow-up then the special region of Yogyakarta was formed by Law No. 3 of 1950 on the formation of special regions Yogyakarta Government Regulation number 31 year 1950 as amended, and plus the last with Act No. 9 Year 1955 (Government Gazette year 1959 number 71, addition to Government Gazette number 1819) is still valid. In such legislation, DIY includes Yogyakarta NgaHadiningrat Sultanate area, and the Duchy of Paku Alam. In each law governing local government, the privilege of Special region of Yogyakarta (DIY) is still recognized, as the last stated in Law number 32 year 2004. Currently DIY privileges is governed by Act No. 13 of 2012 which includes (LAW No. 13/2012 on the privileges of Yogyakarta Special Region article 7 paragraph (2): 1. Procedures for filling the position, position, duties, and authority of the Governor, and the deputy Governor; 2. Institutional regional Government of DIY; 3. Culture; 4. Land; and 5. Spatial planning. This special authority is located at the provincial level in the procedure of filling the position of Governor, and the deputy governor of one of the conditions that must be fulfilled by the prospective governor, and the deputy governor is ruled as Sultan Hamengku Buwono for prospective governor, and reigned as the Duke of Paku Alam for prospective deputy governor. Institutional authority.

The DIY regional government is organized to achieve effectiveness, efficiency and governance, and community service based on the principles of responsibility, accountability, transparency, and participation by paying attention to the form, and The arrangement of the original government which is further regulated in *Perdais*. Cultural authority is held to preserve, and develop the results of copyright, flavor, carcass, and the works of values, knowledge, norms, customs, objects, art, and the sublime traditions that are rooted in the next DIY society Arranged in *Perdais*. In the implementation of the authority of Yogyakarta Sultanate, and the Duchy of Pakual securities expressed as a legal entity. Sultanate, and the duchy was authorized to manage, and utilize the land of sultanate, and the land of the duchy aimed at the enormous development of culture, social interests, and welfare of society. Authority of the Sultanate, and the duchy in the spatial confined to the management, and utilization of the land of Sultanate, and the land of the duchy which is further arranged in *Perdais*. *Perdais* is a special regional regulation established by the Parliament of DIY and the Governor to arrange the implementation of special Authority. In addition, the Government provides funding in order to conduct the affairs of DIY privileges in the income budget, and State expenditure in accordance with the needs of DIY and financial capabilities of the State.

**Fourth**, the reason for the border, the border needs to get special treatment considering its role as boundary with neighboring countries. The border areas hold important functions because of the complexity of the problem encountered. The border area should be treated as a front page instead of the RI's backyard. Treat the border areas, for example in West Kalimantan should be different, for example by requiring the governor to come from the military because of the potential of high border crossing in addition to the strengthening of and education services and Health. The details about asymmetrism of borders still require further study. That is, the new provincial plan should include asymmetric settings related to border functions. Provincial expansion is not only the same as other regions in Indonesia but already have to pay attention to the specificity that is held concerning the different authorities, institutions, finances and controls so there is no need to make two laws. Unfortunately, until the establishment of North Kalimantan province passed the HOUSE, the space asymmetrism does not exist. Why is the discourse about the special autonomy of the areas so important? The border area is the cultural division of a community that is thought to be derived from the same cultural roots but by the government policy of the two neighboring countries, eventually divided into two different entities. The border area is also a reflection of the level of prosperity between the two countries and not infrequently, this area becomes the event of conflict between the different inhabitants of his nationality because of certain objectives. Even border areas are one of the potential areas to smuggle and harm the country in large quantities, even the loss of state for land and sea when the nominated can reach  $\pm$  20 billion US \$ per year. While poverty is a classic problem in the border area, which until now has not been resolved. Border areas are also very prone to follow-up illegal logging where the cause is some of the boundary of Indonesia and neighboring countries, namely Malaysia, damaged eaten time and lost or buried by nature. The land boundary of the Republic of Indonesia is directly adjacent to the countries of Malaysia, Papua New Guinea and Timor Leste. While the Indonesian Sea region borders with 10 countries, namely India, Malaysia, Singapore, Thailand, Vietnam, Philippines, Republic of Palau, Australia, East Timor and Papua New Guinea. The sea border area in general is the outer islands of which there are 92 islands and includes small islands. North of Indonesia borders Malaysia in the form of land in the island of Borneo, precisely in west and East Kalimantan. In addition to land boundaries, it also borders the sea with the country of Singapore, Malaysia, Philippines. To the east, it borders land and sea with Papua New Guinea in Irian Jaya Island. To the south is bordered by East Timor in Nusa Tenggara Timur and bordered by Australia to the Indian Ocean. To the West borders the Indian Ocean.

The problem of Indonesia's territorial borders is no longer a new thing today. Since Indonesia has become a sovereign country, borders are already a problem that has not even found a bright point to date. The boundary problem is not only the physical limit that has been agreed but also about the way of life in the area, such as traditional fishermen or other activities around the border area. There are ten neighboring countries whose waters are directly adjacent to the archipelago. They are Malaysia, Singapore, Thailand, India, Philippines, Vietnam, Papua New Guinea, Australia, Republic of Palau and Timor Leste. Based on the problems that have been disclosed first, then all we need to know in advance is the sense of the boundary itself.

According to, (Haryati and Ahmad. 2007) boundary is a separator of the regional Geographical Unit (physical, social, cultural) ruled by a country. A common impression of the country boundary on the map is the sign of the sovereignty and jurisdiction of a country usually a strong line on the map. Politically, the borders of the country are sovereignty lines consisting of land, ocean and including the potential of the Earth's stomach. Meanwhile, boundary and frontier terms are distinguished.

The boundary is defined as "an international boundary marks the outer limits of the area over which government has sovereignty" (Carlson and Allenk 1960), which is a sign limiting the most outer part of the region ruled by a country. The frontier is

the boundary or dividing line between the two countries. Boundary has an internal meaning, while the frontier has the significance of the relation between the two neighboring countries. If "A boundary is a line, separating factor, which is-inner oriented" then "a frontier is a zone of transition, an integrating factor...." (Alexander, 1966).

In this condition, give more freedom to the local government to take care of their own household with sufficient funding becomes a rational choice. Therefore, the provision of special autonomy to the border area becomes an option that can be considered. There are a few reasons why granting special autonomy to border areas has become an alternative solution for border problem solving in Indonesia and also as part of an effective and efficient law enforcement effort by local governments. The author tried to analyse the above border issues in several perspectives :

## 1. Geopolitical perspectives

The view on geopolitics was raised by Haushofer. Geopolitics can be said to be a development of political geography, where the state is seen as an organism that lives and develops over time. The development or evolution took place in spatial in order to meet the needs of the people of the nation or demand for space (Lebensraum). The German geologists at that time, particularly Haushofer, geopolitics grew rapidly as one of the branches of science, where politics and space were the main focus. Thus, Haushofer named geopolitics as a science of the state covering political, spatial, economic, sociological, anthropological, historical and legal areas.

The boundaries of the country become the center of attention of political geographers because the country's borders are part of state affairs. The location of its oversight and the trade is the most prominent state task given that the government's goal is to protect the country's territorial territory and protect its citizens ' autonomy. The Government's purpose in the border area is a strict protection, the outside party that will enter a country should be discontinued or selected, state-owned land must be on the watch to determine if the outside Act adverse (Haryati and Ahmad, 2007 ).

The borders of the country also depict the sovereignty of a country where its existence is recognised by the world. In addition, security in the border area is also one of the factors supporting the presence of the country in the region to protect the rights of its citizens. Problems or conflicts that often occur in these frontier areas may interfere with the security stability of a country, so that when the security stability of a country is disrupted it is not possible that social, economic and Communities in the region are unable to go well.

The policy of improving the security and community order is a more integrated and comprehensive policy covering various aspects/dimensions of national development, because basically the condition of security and order is the accumulation of functions of various aspects/dimensions. The sovereignty policy of the unitary Republic of Indonesia in the border, directed at a more integrated and comprehensive set of ways and efforts in its various aspects/dimensions, generally encompasses two fundamental policies of the policy of sovereignty in a narrow sense and in a broad sense.

In a narrow sense, the sovereignty policy of the unitary State of the Republic of Indonesia is directed at the rank of the boundary guard effort to divide the territory of both countries marked by the boundary pillar by the Indonesian national armed Forces with the support of Other components. In the broad sense, the policy to handle the sovereignty of the unitary State of the Republic of Indonesia, directed in the manner and efforts to guard the interests of the unitary Republic of Indonesia in the region including the borders of the country and its border areas By all components of the nation and country in realizing the sovereignty of the country in the sense that truth the state of the supreme power of the unitary Republic of Indonesia for its territory including the country's borders and its border areas, Based on the recognition and real strength of the unitary State of the Republic of Indonesia in keeping the country's territory including borders and border areas, for the welfare of all Indonesians.

In the context of modern politics, the management of frontier territories effectively and continuously can be seen not only need the presence of the symbols of the implementation of the State Government in question but also the extent of politics and approaches Development carried out in the regions in question can be felt benefits to the local people and recognized its reputation by other countries. In more concrete the unitary State of the Republic of Indonesia, the management of the border region should be used a new paradigm that makes the frontier region no longer a rear fence but is the front porch of a country. Thus, in the management of border areas, the development politics pursued with the new paradigm as an example can be realized by the extent that Indonesia can design a master plan of border management National and Integrated (Hariyadi, 2007).

## 2. The economic perspectives

Based on the conditions and problems of the border area, the policy of border management in the areas of economic affairs is geared towards increasing added value and more value to the potential and economic resources in the region. Border. This policy covers the following things :

- a. Empowering the community in the field of natural resources management so that it becomes more productive and economical value to ensure the adequacy of food and nutrition and increased revenue to participate in fulfilling other social needs in terms of Education, health and societal relations.
- b. Empowerment of people in the field of religious life and state ideology to ensure the implementation of a harmonious life between citizens.

- c. Increasing the degree of public education to ensure the primary education of 9 years and the availability of skilled personnel of the management of natural resources and services in the border area.
- d. Increasing the degree of public health to reduce cases of maternal and infant deaths, cases of endemic diseases such as malaria and diseases due to low hygiene such as frambosia, decreased cases of malnutrition in toddlers and IMS disease and HIV-AIDS.
- e. Increased health conditions of residential environment for the provision of healthy housing and sanitary environment of household border villages and border buffer; Management of reservoirs, bbly-bbly and other water storage areas for the prevention of diseases that are endemic.
- f. Development and rehabilitation of transportation infrastructure in the form of village roads, roads between villages, sub-districts and districts.
- g. The activation of the border market equipped with a strict procedure on the management of traffic goods and services with a strict arrangement of service portions between border market traders and inter-state merchants.

From this problem, we need to do the handling efforts as one form of social strengthening of the community so that the life degree of people in the border area in the economic field can increase. These efforts can be done as follows :

- a. Encourage or give input to the central government in order to intensively hold negotiations with the Democratic Republic of East Timor to allow a signed agreement to be implemented;
- b. With all the limitations of carrying out the cross border trade agreement so that it can be run properly and this can be done if both parties respond and prepare well;
- c. The district government borders to be more active in encouraging and facilitating residents and merchants around the border in order to utilize the existing market buildings and supporting infrastructures for trading activities;
- d. Optimization of the utilization of assistance by improving the intensive coordination between the central and provincial governments from planning up to monitoring and evaluation.

In addition to the steps of the treatment, which need to be done also is the implementation of the trading policies that have been there, namely:

- 1) Improve the construction and development of industries in border areas;
- 2) Increase the competitiveness of industrial products, especially the small medium industry in the border area;
- 3) Encouraging the participation of professional society (higher education, non-governmental organizations, banking institutions) to play a role in the construction and development of industries in the border region;
- 4) Improving supervision of goods circulating in the border area;
- 5) Improving the distribution system of goods in the border area;
- 6) Improve coaching to small merchant border areas;
- 7) Increase cross border trade and exports in border areas;

The seventh trade policy is not only the slogan that can only be announced without having to be implemented because the implementation of these policies can improve the welfare of the Economic community that resides on Areas of the region in particular and in general the regional economy, so that implementation of these policies is a way or effort to increase the level of life of the community in the border area. The purpose of this cross border trade is;

- 1) Facilitate the trade of residents living in border areas;
- 2) Improving the welfare of the population living in the border area;

- 3) Facilitate the placement of people's traffic and goods;
- 4) Increase the management capacity of potential border areas;
- 5) Reduce smuggling.

### 3. Empowerment Perspective

It is undeniable that the community conditions in the border area are always haunted by social issues such as poverty and retardation. When viewed deeper, the type of poverty that occurs in the border area can say structural and situational poverty. The meaning of structural poverty in this context is not the presence of the Government to implement the development of the region which is reflected in the lack of tools and supporting infrastructure to fulfill basic needs such as education, Health and transportation and housing. While situational poverty is the poverty that occurs due to prolonged conflicts in other regions, causing a massive exodus on the territory that caused the destination region to receive the exodus Excessive burden, this group of Exodus became the new group of poor people in the region.

The problem then makes the frontier area a very backward region and prone to social conflicts in the area of land struggle and so on. This problem is a homework for the government to solve it primarily to reduce the poverty rate in the region, a way that can be used to overcome the problem by empowering communities who reside in The border area because so people can free themselves from the circle of poverty both physically and mentally. Through this empowerment concept the government can build a strategy to start to increase community participation both in the process and implementation of the development and enforcement, concept or policy of development embrace two philosophies The basic public touch and bringing the public in a policy concept that really touched the needs of the community and also able to bring people into the room policies or known as participatory development.

Like what Jim Ife expressed, that empowerment is to provide resources, opportunities, knowledge, and skills to the citizens to improve their ability to determine their own future and participate in it. and influences the lives of its people (Zubaedi, 2007). While the principle of democracy is described in community participation in every stage of planning. The concept of empowerment that is done with the intention to realize the independence and welfare of the community on an ongoing basis, so that welfare means fulfilling the basic needs of society, while independence means able to organize To mobilize resources in their environment, able to access resources outside of their environment, and manage these resources to address the social problems that occur in their environment.

The concept used in implementing the program is the concept of empowerment. This concept is used due to the emergence of two surface premises, namely failure and expectation. The failure in question was the failed economic development models in tackling poverty and the sustainable environment. While hope arises due to the development of alternatives that incorporate democratic values, gender equality, equality between generations and adequate economic growth (Friedman, 1992). Thus the border area can be used as a front porch of the nation where the initial reflection of the nation's face can be seen from the country's border area so that the management of borders not only to the safe and comfortable but also On the development of its human character to realize the improvement of the welfare of the people who settled on the border area, therefore the local government in the border region of the country is given special authority to regulate Law enforcement in the border area.

The regional government authority as referred to in article 9, article 10, and article 11 of Law No. 43 year 2008 on the territory of the State, mentioned as follows:

Article 9: "Governments and local governments are authorized to govern the management and utilization of state territories and border areas.

Article 10 paragraph (1): In the management of state territories and border areas, the government is authorized :

- a. Establishing the management and utilization policies of the state and border areas;
- b. To conduct negotiations with other countries regarding the determination of the state boundary in accordance with the provisions of international laws and regulations;
- c. Establish or create a sign of the national territorial boundary;
- d. To do data collection and naming of islands and islands and other geographical elements;
- e. To permit international flights to traverse the territorial airspace on the lines specified in the legislation;
- f. Provide cross-peace permits to foreign vessels to traverse the territorial seas and archipelago waters on the lines specified in the legislation;
- g. Carry out supervision in additional zones necessary to prevent violations and punish violators of legislation in the field of customs, fiscal, immigration, or sanitary regulations in the territory of the State or territorial sea;
- h. Establish airspace prohibited by international flights for defence and security;

- i. Create and update a map of the state territory and submit it to the House of Representatives at least every 5 (five) years; Dan
- j. Maintain the integrity, sovereignty, and security of the State territory and border areas.

Paragraph (2) "In order to implement the provisions as intended in paragraph (1), the Government is obliged to set the cost of development of border areas.

Subsection (3) "In order to exercise its authority, the government may assign the local government to exercise its authority in the framework of the assistance in accordance with statutory regulations.

Article 11 (1) "In the management of state and border areas, the provincial government is authorized:

- a. Implement government policies and establish other policies in the framework of regional autonomy and assisted work;
- b. Coordinate development in the border area;
- c. To undertake the development of the border area between regional governments and/or the local government with third parties; Dan
- d. Supervise the implementation of the development of border areas implemented by the Regency/city.

Paragraph (2) in order to implement the provisions as referred to in paragraph (1), the provincial government shall be obliged to establish the cost of development of border areas.

Article 12 (1) in the management of state and border areas, government of the District/city is authorized:

- a. Implement government policies and establish other policies in the framework of regional autonomy and assisted work;
- b. Maintain and maintain boundary marks;
- c. Coordinate in the framework of the implementation of development tasks in the border area in the region; Dan
- d. To undertake the development of the border area between regional governments and/or the local government with third parties.

Paragraph (2) "In order to implement the provisions as referred to in paragraph (1), the Regency/city government is obliged to establish the cost of development of border areas.

To conduct law enforcement and management of national territory boundaries and to manage border areas at the central and regional level, governments and local governments established national governing bodies and regional management bodies.

Community involvement in conducting law enforcement and management in the border area is governed by article 19 of LAW No. 43 year 2008 about state territory by doing in the form of:

Paragraph (1):

- a. Developing the development of border areas;
- b. Maintain and maintain the border area.

Paragraph (2) "to implement the provisions as intended in paragraph (1), the Government may involve the public to participate in the management of the border area.

Subsection (3) "The participation of the community as referred to in paragraph (1) shall be implemented in accordance with the provisions of legislation.

After seeing the problem in the framework of legal theory of local government, the analysis is carried out by conducting observations to conduct a system of local government in Indonesia under the Constitution 1945, in The legal principles associated with the problems written. Because of this normative writing, the interpretation and construction of the law performed using the logic of the deductive thinking, inductive answers of the problems and objectives of this writing. The system of local government in Indonesia under Act 1945 is an embodiment for the national mandate to carry out the public, which is entrusted to the order of the center and the region in implementing the system of local governance in Indonesia must be under the Constitution of the Republic of Indonesia year 1945. Where in the general provisions of number 2 and number 3, LAW No. 23 of 2014, mentioned that (1) The local government is the implementation of government affairs by local governments and the regional House of Representatives according to the principles of autonomy and the co-administration with The principle of widest autonomy in the system and principles of the unitary Republic of Indonesia as referred to in the Constitution of the Republic of Indonesia year 1945; (2) The local government is the governor, regent, or mayor, and the local device as an element of local governance, therefore in implementing the system of local government in Indonesia, carrying out other duties and authorities in accordance with The laws and regulations, so that the achievement of local government objectives in the case of law enforcement in the country's border area is realized.

In the latest system of government no longer implements the centralization system, but rather the regional autonomy system that gives some authority that must be decided on the central government can now be decided at the local government level. The advantages of this system are that most decisions and policies in the area can be decided in the area without interference from the government in the center.

But the lack of a decentralized system on special autonomy for the region is an excessive euphoria in which the authority is only concerned with the interests of the class and group and is used to dredge personal gains or persons. It happens because it is difficult to control the Government at the central level.

In order to implement the law enforcement system in the local government can be carried out well in the border area, it is necessary to understand by all parties or instruments that are interested in local government law enforcement. Therefore to realize the role of community and local government in conducting law enforcement in the country's border territory then it should be granted rights and authority to the region in the border with special duties and obligations in Achieving the goal of granting autonomy in law enforcement in the border of the country, so that there is a harmonious relationship between the center and the area and between regions in order to maintain the integrity of the unitary Republic of Indonesia (NKRI).

### 3. CONCLUSION

Government authority and local governments in the border area in conducting law enforcement in the border area of the country in the territory run by law enforcement institutions ranging from the level of investigation, prosecution up to Judicial level is felt not maximally due to various constraints that is a limitation of law enforcement infrastructure in the border area of the country with the area of the border state that does not compare straight with the number of personnel enforcement The law in the field.

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