

Local Wisdom-Based Settlement on Customary Land Conflict in the Border Region Between the Unitary State of the Republic of Indonesia and the Democratic Republic of Timor Leste in Kupang District ¹

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Abstract

This study aims at analyzing the settlement patterns of customary land disputes based on local wisdom on the state border between the Republic of Indonesia (hereinafter referred to as RI) and the Democratic Republic of Timor Leste (hereinafter referred to as RDTL). This pattern has been going on for generations since their ancestors by deliberation and consensus. The pattern of deliberation and consensus is the local wisdom of the tribes on the island of Timor. Based in this local wisdom concept, the effectiveness of its function to resolve conflicts over customary lands in the border area between the Unitary State of the Republic of Indonesia and the Democratic Republic of Timor Leste is examined. Through the socio-legal approach and the explanations of customary law theories and legal anthropology, it was found that deliberation was able to resolve customary land conflicts at the state borders, especially between RI and RDTL in Kupang Regency as long as there was no political intervention. This pattern is able to shift the diplomatic approach often used in the world of politics. Therefore, this pattern must be prioritized to resolve customary land conflicts on state borders before political efforts are implemented.

Keywords: *conflict resolution models, customary land conflicts, deliberation and consensus, local wisdom.*

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1. Introduction

This research was carried out in 2016² before the peace agreement between the Kings of Timor in Naktuka in 2018³ followed by the Land Boundary Dispute Peace Agreement between the Coordinating Minister for Political, Legal and Security Affairs (Wiranto), Foreign Minister (Retno Marsudi) and the Minister of Strategic Planning and Investment of the Democratic Republic of Timor Leste, Xanana Gusmao, on Monday, July 22, 2019.⁴ This study aims at examining the local wisdom approach in resolving customary land disputes that cross state borders between 2 (two) or more parties having the same lineage. However, it has no other interest, but aims to see the significant role of local wisdom and the customary law.

This study focuses on customary land conflicts at state borders. Thus issue is always interesting because customary land is located across the state border between the Republic of Indonesia (RI) and the Democratic Republic of Timor Leste (RDTL). It has the potential for conflict emergence between countries, because there is no state judiciary is competent to enforce justice for the heirs who are still brothers and sisters entitled to customary lands who are from those who have different citizenship.

On March 26, 2008,⁵ a conflict between border crossers from Timor Leste and Indonesia occurred which cause the death of one of the border crossers. It became a political issue at that time. However, this study did not examine such problems. It focuses more on customary land conflicts between two or more people of different citizenship, but they are members of the same tribe. Thus, they have equal rights over the customary land. There are 5 (five) points of customary land subjects as source of conflicts.

On 10 October 2010,⁶ the Government of the Democratic Republic of Timor Leste (RDTL) claimed the Naktuka area in Netemnanu Village (RI). The RDTL people built buildings, roads, and electricity warehouses. It is to provoke the emotions of Indonesian citizens to be the international issue. Border issues between Indonesia

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²Dominikus Rato and Ermanto Fahamsyah, 2016, *Penyelesaian Sengketa Tanah Adat Berbasis Kearifan Lokal Di Perbatasan Indonesia – Timor Leste Di Kabupaten Kupang Nusa Tenggara Timur*. Jember: Lemlit Universitas Jember.

³Anry Syaiful, 2018, *Kesepakatan Para Raja dan Perbatasan RI-Timor Leste di Naktuka*. In <https://www.liputan6.com/regional/read/3236662/kesepakatan-para-raja-dan-perbatasan-ri-timor-leste-di-naktuka>.

⁴Rachmat Nur Hakim dan Diamanty Meiliana, 2029, *Indonesia dan Timor Leste Sepakati Penyelesaian Sengketa Perbatasan Darat*. In <https://nasional.kompas.com/read/2019/07/22/19233951/indonesia-dan-timor-leste-sepakati-penyelesaian-sengketa-perbatasan-darat>.

⁵Dominikus Rato and Ermanto Fahamsyah, 2016, *loc.cit.*

⁶LIPI, t.t, *Politik Internasional. Konflik Komunal di Perbatasan Indonesia-Timor Leste dan Upaya Penyelesaiannya*, in <http://www.politik.lipi.go.id/in/kolom/politik-internasional/899-konflik-komunal-di-perbatasan-indonesia-timor-leste-dan-upaya-penyelesaiannya.html>, accessed in March 17, 2016.

and Timor Leste, especially the five points that have never been resolved, will be brought to the United Nations (UN). These five points are Imbate, Sumkean, Haumeniana, Nimlulat, and Tubu Banat, which cover 1,301 hectares (ha) controlled by the East Timorese. Diplomatic efforts have been carried out during the government of Susilo Bambang Yudoyono. There have been many political agreements signed by both parties, but are rejected by the indigenous people, the Dawan Tribe, especially those who are Indonesian citizens. The refusal was based on the equality of ancestral customary land rights in the 5 (five) points.¹

The Dawan Indigenous People expect the issues to be resolved amicably by deliberation and consensus, because they come from one ancestor. A cultural approach based on local wisdom is prioritized to avoid dissension and civil war. Formal legal and diplomacy approaches are implemented, but they did not work and made things worse. Deliberation and consensus is the only way as it has been the ancestral heritage. The legal issues arise namely: 1) what is the factor of customary land conflict on the state border between RI and RDTL? 2) Are deliberations effective to settle customary land conflicts on state borders between RI and RDTL?

2. Research Method

This research was conducted on the Dawan community, namely the Tetum-speaking Timorese community. The Dawan Indigenous People are the ancestor of most of the Timorese people, covering Timor Leste including the Oecusse enclave (Pasabe di Ambenu). Due to the *divide et impera* politics of Portuguese and Dutch colonialism, the Dawan people were divided into 2 (two) citizens, namely citizens of Portuguese Timor (before integration with Indonesia) who later became East Timor (during the period of integration with Indonesia), and after being separated from Indonesia, it became Timor Leste and became the Republic of Democratic Timor Leste (RDTL). They are from one ancestor with the same customs and customary law. They have very strong collective feelings. However, when conflict between countries occurs, each group maintains the authority and sovereignty of their respective countries.

The period of this research was during 2015-2016 in the Regencies of Timor Tengah Utara and Kupang. However, due to the difficulty to reach the research field during the rainy season, the data collection method was carried out by FGD in three places, namely in Belu Regency (Atambua), Timor Tengah Utara Regency (TTU/Kefamenanu), and Kupang Regency. In addition to the FGD, discussions with traditional leaders were also held, especially the Usif (King of Timor) and the NTT Province Border Management Agency (BPP).

This research belong to a qualitative research with a socio-legal approach, because there are non-legal aspects are involved in the operation of law, namely cultural, historical, and political factors. Even though non-legal factors are not decisive, they are always the main consideration of all efforts to resolve any issues, especially customary land disputes.

3. Results and Discussion

3.1. Causal Factors as Source of Conflicts

3.1.1 Historical Background²

The borders of Indonesian Timor and Timor Leste were determined through a series of negotiations, a convention that does not only involve the Dutch and Portuguese but also a third party, namely the International Arbitration Court based in Paris. In addition, the determination of the border between the two colonies took a long time and process. The history of the formation of the RI-RDTL border since the beginning has left various problems. Not only because not all border points have been successfully resolved by Dutch-Portuguese bilateral negotiations as well as international arbitration, but also due to the dynamics of border areas over the past 100 years which led to the agreement creating various technical and non-technical problems, such as changes in the geographical contours of border markers, land sale and purchase, as well as the movement of people.

The history of Indonesia and Timor Leste state borders begins with the territory struggle between the Portuguese and the Dutch in the dominance of the sandalwood trade on Timor Island which lasted from 1701 to 1755. This conflict gave birth to the Contract of Paravinici in 1755. In the agreement, the Dutch and Portuguese divided Timor Island into two parts, namely the western part centered in Kupang belonged to the Dutch, and the eastern part centered in Dili belonged to the Portuguese. However, the delimitation of boundaries has never been negotiated. In 1846, the Portuguese exchanged the island of Flores with the Oecusse enclave and two small islands off the north coast, namely Atauro and Jaco. Since then Flores has been controlled by the Dutch, and Oecusse has been controlled by the Portuguese.

On October 1, 1904 a convention named "A Convention for The Demarcation of Portuguese and Dutch Dominions on the Islands of Timor" was signed by both parties in The Hague, which was then followed by a simultaneous ratification process by the Portuguese and the Dutch on August 29, 1908. The 1904 Convention

¹Kolne, Jakobus, 2014, "Implementasi Perjanjian Perbatasan RI-RDTL Dalam Upaya Pemnyelesaian Masalah Perbatasan." Dalam *Jurnal Politika*, Vol. 5 No. 1, October Edition. See also, Mutti Anggitta, 2014, "Kesepakatan Batas Darat Antara RI-RDTL: Sebuah Kajian Diplomasi Perbatasan RI. In *Jurnal Penelitian Politik*, Vol. 11, No. 1, June Edition.

²Dominikus Rato and Ermanto Fahamsyah, 2016, *loc. cit.*

was then considered to be the treaty that became the legal basis for the Dutch and the Portuguese borders, especially on the island of Timor. However, several years later, several areas that were not surveyed were still being discussed by the team formed by the two countries. In 1909, the border commission formed by the Dutch and Portuguese governments failed to reach an agreement on the delimitation of boundaries in the Oecusse region.

This failure brought the Dutch and Portuguese to the International Court of Justice. On April 3, 1913, the Dutch and the Portuguese signed a convention containing their agreement to take border dispute cases to the Permanent Court of Arbitration in Paris. In its decision on June 26, 1914, the arbitral tribunal ruled in favor of the Dutch claim to the disputed areas. When East Timor was part of Indonesia (1976-1999) the border issue of Timor Kupang and Timor Timor was no longer relevant. Communities around the border areas which basically have close socio-cultural relations are free to have interaction one another and carry out economic transactions. The opening of the border at that time substantially changed the socio-economic aspects of the local community.

3.1.2. Source of Conflict

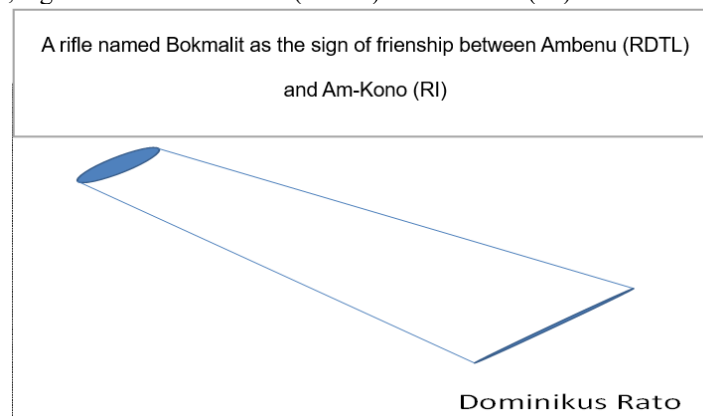
In October 2010, the Government of the Democratic Republic of Timor Leste (RDTL) claimed the Naktuka area in Netemnanu Village, Kupang Regency, and East Nusa Tenggara (NTT) as their territory. This area is the territory of the Kingdom of Amfoang, Kupang Regency, and East Nusa Tenggara Province. The Indonesia and Timor Leste border issues, particularly in five points that have not been resolved so far, will be brought to the United Nations. The five points are Imbate, Sunkaen, Haumeniana, Nimlulat, and Tubu Banat, which have an area of 1,301 hectares and are being controlled by citizens of Timor Leste. Three more points of which are located on the border of Belu Regency- RDTL.¹

The Democratic Republic of Timor Leste has two territorial areas, namely one in Timor Dili, and enclave in the Oecussi (Ambenu) region bordering Kupang Regency, East Nusa Tenggara, approximately 300 305 km from the territory of Timor Leste. This area belongs to the Kingdom of Amfoang and is directly adjacent to Kupang Regency (RI).² This conflict angered the Indonesian people at the border which decrease their self-confidence and nationalism. It affects the integration/social cohesion of the border communities. Sources of conflict are as follows:

a. Unresolved Segment at Bijaele Sunan

People in the Bijaele-Sunan Segment are from one ancestor, one father and mother. A husband and wife, Amaf Mese ma Ainaf Mese had 4 (four) children and became tribal chiefs and controlled the area, namely: Liurai Sila (Wehali/Malakan), Sonba'i Sila (Belu), Amfoang Sila (Amfoan = Kupang), and Benu Sila (Ambenu/Oeccuse). The four brothers live in Elka seat, Tanje tupun (Belu).³ At one time the daughter of Us-Kono (Sani-Kono) was married to the son of Ambenu. As a wedding gift, a plot of land was handed over to Usif Ambenu. Thus the control of Miomaffo (Ambenu) which was controlled by Us Kono was handed over to Usif Lake which was symbolized by a rifle, and in return Usif-Lake handed over a silver coin of 2 guilders to Ambenu. Therefore, there are 2 *tetu*,⁴ called *Tetu Bikomi*, were built in that place.

Figure 1 Bokmalit rifle, a gift from Usif Ambenu (RDTL) to Usif Lake (RI).⁵



¹Dominikus Rato and Ermanto Fahamsyah, 2016, *loc.cit.*

²Nur Julqurniati dan Dewi Indah Susanty, 2019, "Potensi Konflik di Wilayah Perbatasan Darat RI-RDTL (Studi Kasus di Kabupaten TTU, Provinsi NTT)". In *Sosietas Jurnal Pendidikan Sosiologi*. Vol. 9 No. 1, p. 664-675. DOI: <https://dx.doi.org/10.17509/ijost.v4i1xxx>. p-ISSN. 2088-575X, e-ISSN. 2528-4647

³Primus Lake, 2014, Pendekatan Dimensi Sosio-Kultural Historis Dalam Upaya Penyelesaian Masalah *Un-Resolved Segment* Dan *Un-Surveyed Segment* Perbatasan Ri – RDTL Di Kabupaten Timor Tengah Utara. FGD paper. See also, Fransiskus Tilis, 2014, *Data Dimensi Sosial Segmen Batas Bermasalah (Unresolved Segments) Bijael Sunan – Oben*. FGD paper.

⁴There are 2 *Tetu Bikomi* one is in Pasabe guarded by Elu Bahan and the other one is in Nefo Ba'I guarded by Tasi Eta (Tasi Elu) from Pasabe.

⁵ Dominikus Rato and Ermanto Fahamsyah, 2016, *loc.cit.*

The presence of Tetu Bikomi in the Ambenu area (Pasabe district/RDTL) proves that this area is the customary land of Usif Lake Sanak (the territory of the Republic of Indonesia). Because the customary owner is Usif Lake (Bikomi) and the Pasabe people live in the Usif Lake area, every year the Pasabe people give *pahe balun* (tribute) to Usif Lake Sanak (RI). *Pahe balun* has 2 meanings: 1) handing over the harvest as a thank you; 2) as a sign of recognition of land rights to Usif Bikomi at Sonal Maslete (TTU). The event of giving tribute to the king/usif is known as *tama' maus* (handing over tribute).¹ The harmonious life of the two peoples was injured by the dishonorable behavior of Ulan Tule. In 1893 Ulan Tole stole a horse in Asibola and was killed by Kono Lake. In this case, an agreement was made between the two parties. As a fine, Kono Lake handed over the customary land in Oelnasi to Ambenu to be managed for eight years, with the condition that it would be returned to Am Kono in 1901. However, in 1901 the Dutch colonialists entered and fought with the Portuguese and the 1904 Treaty, the two communities no longer paid attention to the results of the agreement. As a result, the land of Oelnasi was late to be handed back to Am Kono until now.²

On 22 May 1963, Sufa Suni from Malelat (RDTL) stole a cow belonging to the Manusasi people (TTU/RI). Fuka Anunut pursues to kill Sufa Suni. Due to urgency, Sufa Suni killed Fuka Anunut. As a sanction Usif/king of Ambenu handed back the Oelnasi area (the Ulan Tole case) to the Manusasi people in 1963, and Usif Ambenu handed over a coin of 2 ½ Guilders to Usif Kono. The money is now kept by Ferdi Fay.³

This agreement was marked by the drawing of a stamp (*malak*) by the two kings on the Ampupu tree. Raja Ambenu drew his stamp (*mal bokof*, figure 3) on the part of the tree trunk facing towards the RDTL area, while Usif Miomaffo drew his stamp (*mal tiup keta*, figure 2) on another part of the trunk of the same tree facing Indonesia. This is the origin of the birth of the name *Ampupu malak* (carved/stamp Ampupu tree), as follows:⁴

Figure 2. Carving on the Ampupu tree facing Usif Kono (RI)

A carving named Mal tiup keta (Usif Kono) (Facing the territory of RI)



Figure 3. The carving in Ambenu named *mala' bokof* facing Usi Tnesi/Ambenu

A carving in Ambenu named Mala' bokof (Usif Tnesi-Ambenu) (Facing the territory of RDTL)



The kinship between them is described by the expression in the Dawan *Sane Matotas* language, *Lele Matotas* (adjacent cottage, side by side garden). This togetherness is seen as *aok bian* (other body parts). This intimacy and kinship are created and maintained through the tradition of *malo'et* (serving one another) a betel nut, *sopi/tuak* and tobacco/cigarettes. This similarity of socio-cultural aspects is summarized in the Dawan People's Philosophy that "eating from one garden and drink from one water source (*tah hun naka mese, tiun oemata mese*)." The symbols above are proof that these two communities always keep their promises, and those who violate will be sworn in by their ancestors. It is a form of local wisdom often used by the Tetum customary law community.

In 1966, the Topographic Determination Team of the Indonesian National Army (hereinafter referred to as

¹*Tama maus* is a religious activity of the Dawan tribe related to dry land cultivation, which is carried out every year, in January. *Tama maus* is a large annual ceremony to make offering to the creator, *Uis Neno*. They are usually willing to wait days to get a *sio maniken* or an ancestral/God's blessing. After five years, an even bigger ceremony will be held by removing the sacred object from the tola.

²Dominikus Rato and Ermanto Fahamsyah, 2016, *loc.cit.*

³Dominikus Rato and Ermanto Fahamsyah, 2016, *loc.cit.*

⁴Primus Lake, 2014, *loc. cit.*

TNI AD) set the boundary for the RI Enclave Oecusse/Portugal. On September 09, 1966 Mr. Mustakim and Mr. Oka from Topography of TNI AD arrived in Subina, and began establishing a boundary from Subina to Bijaele Sunan. The Regent of TTU (A. Lede Umbu Sasa), Member of the TTU DPRD (Kune), Head of TTU Sospol (Ande Meta), P3 Miomaffo/RDTL (J.T Sonbai), Usif Lake (Yohanes Oenunu Lake) and the people of usif (king) Lake attended the occasion. On September 12, 1966 they established a boundary at the top of Bijaele Sunan. The 1966 boundary points from Subina to Bijaele Sunan. In late September or early October 1966, the boundary was inaugurated at the top of Bijaele Sunan. On that occasion the Regent of TTU (RI), Tua Amu (RDTL), Administrador (RDTL), and the Portuguese Police Chief (RDTL) were present.

On October 22, 1966 the Portuguese destroyed the newly inaugurated boundary. Postugis' actions sparked resistance from the community and when the conflict took place in Haumeni Ana, Laurensius Lake, a member of the OPR (People's Defense Organization) Nilulat Village (RI) was shot and killed by the Portuguese Tropaz. Laurensius' body was laid in Niuf Molo guarded by the Portuguese army and people. In the early hours of October 23, TNI stormed the Portuguese soldiers guarding the body of Laurensius Lake. They ran away from Laurensius Lake's body, but the TNI did not take the body. Laurensius Lake's body was not taken as a legal reason and consideration for evidence and the location of the shooting.¹ Then a group of people appeared between Faotben and Bribe waving white flags. They were Tua Amu, the administrator from Oecusse, Tuan Postu, and Sufa Atolan from RDTL. They wanted to meet Usif/king of Lake. When Usif Lake (John Oenunu Lake) arrived, Tua Amu handed Usif Lake a silver coin of 1 (one) Gulden as a mouthpiece to talk. Tua Amu expressed his regret that his people had killed Laurensius Lake and made an agreement that where Laurensius Lake's body was laid, there was a boundary between Ambenu (Portuguese) and Usif Lake (Indonesia).²

Usif Lake did not agree and demanded that the boundaries of Ambenu Usif Lake be returned to Klus Ni'kome, because the people of Usif Lake killed Puin Toaf (the Ambenu people) in Nefo Nunpo then Ambenu took the Usif Lake area from Klus Nikome Nefo Nunpo to Bijaele Sunan. But Tua Amu said that the people of Usif Lake were also in Pasabe who annually paid tribute to the king of Bikomi. Therefore Tua Amu offered the boundary between Tua Amu and Usif Lake from Subina to Bijaele Sunan following the agreed boundary according to the 1966 Topographical boundary.³ After the negotiation between Tua Amu and Usif Lake which took place in the local language, Tua Amu conveyed to the Portuguese (Administrador) and by Balthasar Obe to the TNI, it was agreed that the boundary between Usif Lake (Indonesia) and Ambenu/RDTL follows the boundary agreed in 1966, starting from Subina to Bijaele Sunan. This boundary is what the people of Nilulat and Manusasi (RI) want as the state boundary of the Republic of Indonesia - RDTL, not the boundary as stipulated under the 1904 Treaty.

Annually, the Pasabe people (RDTL) led by Elu Bahan bring *tama' maus* to Usif/king of Kono Lake in Sonaf Maslete (TTU/RI) and are received by Lake Sanak. However, since 1999, when the East Timor uprising occurred, Pasabe people were afraid to go to Maslete, so Elu Bahan kept the tribute while waiting for the right time. It proves that the Passabe people recognize that customary land is the Kono Lake area of Indonesia.⁴

b. Unresolved Segments in Noel Besi⁵

The border conflicts between the Republic of Indonesia and the RDTL in Kupang Regency are located in Noel Besi - Citrana and East Amfoang. Noel Besi, the village of North Netemnanu, is fighting over an area of 1,069 hectares, which is the land in the free zone. This land has been agreed by both parties not to be used. However, several buildings were built in the land in this free zone by the RDTL. Besides, a struggle for land along the Noel Besi River occurred since: CO 1745 – 6475 s/d CO 1870 – 6770.

The disputed area, which is located in Kupang Regency, is the Noel Besi Citrana area with an area of + 1,069 Ha. This conflict originated from a land dispute. When East Timor was still part of the Republic of Indonesia, the Noel Besi/Citrana area was a border area between Kupang Regency (NTT) and Ambeno Regency (RDTL). This area is drained by the Noel Besi River which empties into the Ombai Strait where since the Portuguese era the river has flowed to the left of the disputed area. Due to climate change throughout the year/natural changes, the flow of the river shifts to the right of the disputed area which is fertile agricultural land and the land is a hereditary heritage with the current boundary of the Noel Besi River.

From the juridical aspect, according to the 1904 Dutch-Portuguese Treaty, it is stated that the mouth of the Noel Besi River has a compass Azimuth of 300 47' NW towards Batek Island, while from the technical aspect (according to Toponym), the name of the Noel Besi River is to the east of the Nono Noemna River. The

¹ Dominikus Rato and Ermanto Fahamsyah, 2016, *loc.cit.*

² Primus Lake, 2014, *ibid.*

³ Primus Lake, 2014, *ibid.*

⁴ Primus Lake, 2014, Pendekatan Dimensi Sosio-Kultural Historis Dalam Upaya Penyelesaian Masalah *Un-Resolved Segment* Dan *Un-Surveyed Segment* Perbatasan Ri – RDTL Di Kabupaten Timor Tengah Utara. FGD paper. See also, Fransiskus Tilis, 2014, *Data Dimensi Sosial Segmen Batas Bermasalah (Unresolved Segments) Bijael Sunan – Oben.* FGD Paper.

⁵ Primus Lake, 2014, *ibid.*

different views on the land boundaries of the two countries occurs because each defends his opinion. Therefore, more complete and accurate data and analysis is required. The impact of this conflict is also on Batek Island as the outermost island in East Amfoang District, Kupang Regency / RI.

Based on the 1904 Treaty Article III paragraph 1 of the Convention for the Demarcation of Portuguese and Dutch dominions on the Island of Timor, Article III paragraph 1 of the Treaty stated that the Batek Island is the boundary between Portuguese Timor and Indonesian Timor. Batek Island is 24 hectares at low tide, and 20 hectares at high tide. The coastline is 1,800 m long, and the sea is 70 m deep. This island is only 7 nautical miles from Tanjung Batuanyo Oepoli, North Amfoang District, Kupang Regency, and 25 nautical miles from Tenau Harbor. Batek Island belongs to the Republic of Indonesia and is located within the outermost line of the territory, which is 5 miles from the base point Number 115 as the outermost territory of the Republic of Indonesia as regulated in Act no. 4/Prp/1960 which became the basis for the Archipelago Insight.

Timor Leste has placed 21 families and claims the territory as part of its territory, while residents of Oepoli Village, Kupang District, claim the territory is part of Indonesia. If the RDTL claim wins, the Unitary Republic of Indonesia will lose a lot of territory and assets. Besides, Indonesia will be embarrassed before the international world. Therefore, this issue is left to the customary law community, because there are blood relations and ancestral covenants between them that are binding and being obeyed.

The conflict placed in East Amfoang. In the absence of a boundary agreement between the two countries, a free zone was established in Naktuka Village, East Amfoang District. Both parties are prohibited from operating in the zone. Meanwhile, the Regent of Kupang, Ayub Titu Eki, said that resolving the border issue between Indonesia and Timor Leste, especially in the Naktuka region, Kupang Regency, was the central government's business, thus the local government only took a traditional approach to minimize conflicts between the two countries. If it was handed over to the local government, the problem would have been solved, because it was done according to customary law. Roby Manoh, a customary holder of the Amfoang tribe, opined that if this boundary is not resolved in a fair manner, the Amfoang people (Indonesian citizens) will lose an area of 896 hectares of land/rice fields in Naktuka which is included in the RDTL area. Therefore, the 24 Chieftains with 5,000 masses were ready for war. According to the Amfoang people, if the 1904 Treaty is used, then 896 Ha of their land/rice fields will enter the territory of the RDTL and become the rights of the Naktuka people.

The concern was also caused by the fact that about 40 heads of families of Indonesian citizens who live in Naktuka Village, East Amfoang District, Kupang Regency, East Nusa Tenggara, actually have the National Identity Card of the country of Timor Leste. According to Kodim 1604 Kupang staff, Major (Inf) Dwi Kristianto, there are 40 families in the free zone between the two countries that have ID cards of Timor Leste and Indonesia.

The issue of the Indonesia-Timor Leste border in East Amfoang District is still a dispute. There has been no agreement between the two countries regarding territorial boundaries so that a free zone has been established in the border area. In 2008, the Government of Timor Leste had built two government offices, namely the Department of Agriculture and Immigration; however, these were discontinued because they were in a free zone. According to the Regent of Kupang, Ayub Titu Eki, in that zone there is Naktuka Village which is occupied by 40 Indonesian families. However, they only have a Timor Leste ID card. According to him, 40 families living in the free zone have no citizenship. There are even some families who have 2 ID cards, namely the RI ID card and the RDTL ID card. According to the Regent of Kupang, these 40 residents are actually Amfoang people and should be Indonesian citizens, however, RDTL provides better facilities, and it is their tight to choose their citizenship, because most of their families are in the RDTL.

According to the traditional ruler of Amfoang Kingdom, Robby G.J Manoh, that discussion on the Naktuka issue was completed on April 16-17 2003. Based on the agreement, according to Robby G.J Manoh, the boundary of the Republic of Indonesia - RDTL is on the Noel Besi River, not on the Nonomna River. The agreement was based on the previous treaty, namely the agreement between the Kingdom of Amfoang and the Kingdom of Ambenu Oekusi (Timor Leste) in 1859, 1893, and 1904. The Kingdom of Ambenu has recognized that the territorial boundary between the two kingdoms is in Kali Noelbesi. He wished that the government would negotiate with Timor Leste and involve the customary holders of the Amfoang Kingdom.

According to Robby G.J Manoh, Naktuka Village is part of the customary rights of the Amfoang Kingdom until now, because both in Noelbesi River in the Oepoli region, as well as at the mouth of the river on the coast around Batek Island, there are still pillars. At the 2003 meeting, he served as the spokesman for both parties. At that meeting, an agreement was made. In accordance with the oral history of the East Amfoang Community Leader, that the boundary between the Amfoang Kingdom (Bld) and the Ambenu Kingdom (Portuguese) is located in Noelbesi (Big Pool) of Oepoli village. Noelbesi is Kali Besar, the name has been known to the people of the border areas of the two Kingdoms for years.

It was also explained by the community that at the Noelbesi River there are three pillars which are the boundary pillars of the Kingdom where the first pillars are located at the mouth of the Noelbesi river (Big Pool), the second pillar is located at the T-junction of Noelbesi and Nonomna, and the third pillar is located in the head of Noelbesi river is right in Bijaelsunan in the Miomafo region which is also the Kingdom boundary between

Miomafo and the Ambenu Kingdom.

The boundaries between the Kingdoms are still adhered to by the two groups of people living in the border areas. This obedience is marked by a close/family relationship through a ritual ceremony that takes place in Nakuta. The ceremony is carried out due to a dispute between the two community groups. Basically, people in the border areas admit that Noelbesi is a boundary that has been marked by boundary pillars.

Since 1976 to 1999 the territory of East Timor was integrated into Indonesian territory as the 27th Province. The activities of the border community were more flexible because the territorial boundary which was the royal boundary was no longer a procedural obstacle; it also affected the inefficient use of space around the Noelbesi River. As a result of this use, there was scouring on the banks of the Noelbesi River so that the signs of the royal boundaries on the banks of the river disappeared without a trace. However, one remaining pillar lies at the mouth of the Noelbesi River. In 1999, after the release of Timor Leste, the activities of border communities stopped, so that people did not arbitrarily enter and exit the border area, but had to report to the guard posts located on the border of the two regions.

The source of the conflict of this disputed area arises due to different perceptions of each party regarding boundaries. The people of Passabe/Ambeno want the national boundaries to follow the old limits set out in the 1904 Treaty. Meanwhile, the people of Manusasi/TTU Village reject the boundaries based on the treaty. The disputed zone is 2.6 km long with an area of 142.7 ha, including 489 plots of customary land of the Manusasi Village community, namely in CO. 4401 – 5130; 4352 – 5101; and CO. 4230 - 5036.

For the sake of friendship between the two countries, two peace treaties were made. The first meeting was held in the territory of Timor Leste on August 31 to September 1, 2004, and the second meeting was held in the territory of the Republic of Indonesia on October 29, 2004 located in the city of Yogyakarta. In that meeting, a complicated issue arose. This meeting has ignored the previous agreement which was carried out on 16-17 April 2003.

Each delegation maintains their respective opinions. However, these three segments are small problems, because there are still bigger problems. During the meeting in Yogyakarta, it was claimed that the three segments were only 4.3% of the total length of the 268.8 Km border spread over 3 Regencies, namely: (a) Belu District: 115 Km; (b) TTU Regency: 104.5 Km; and (c) Kupang Regency: 10.5 Km, while the unproblematic segment is 92.3%, and the undisclosed segment is 3.6%. The Subina - Oben segment had not been agreed.

c. Unsurvey Area in Subina – Oben¹

There are 4 (four) locations where the dispute is located in the unsurvey segment, namely Subina, Pistana, Tubu Banat and Nefo Nunpo. The four unsurvey segments have similar problems with the previous issues. There are 72 people dispute their customary land of 393 Ha. However, at the 21st meeting of the Technical Sub Committee on Border Demarcation and Regulation (TSC-BDR) in Bandung on July 3-4, 2008 and the 22nd TSC-BDR meeting in Dili on May 27-29 2009, they agreed on a national boundary line by including the Subina segment as part of the RDTL Ambeno area based on the 1904 Treaty. The other segments are designated as part of the free zone.²

The dispute is located from Subina to Tubu Banat, the width is 300 – 500 meters and the length is approximately 9 (nine) kilometers. Although the disputed location has been agreed to be a free zone, in 2008, the Ambeno District government built the *Unidade Policia da Fronteiras* (UPF) office in the zone. The East Timor police station was built right in front of the Haumeni Ana Task Force post. However, the TNI ignored on the violation of the agreement. The distance between the Timor Leste police station and Indonesian Task Force post in Haumeni Ana is approximately 150 m.

There are arable lands belonging to 104 community members as well as ulayat lands in Pistana dispute zone (RI). As many as 144 people questioned their 290 ha of land in the Nefo Nunpo segment. At the Tubu Banat, there are 60 people's lands owned by the community with a land area of 183 ha. These four segments have been agreed by the survey team of the two countries to be included as part of the territory of Timor Leste. However, the community rejected it, because this community would lose their ulayat land. It was based on the 1904 Treaty. Thus, it increases distrust of Kupang people to the Government of the Republic of Indonesia.

3.2. The Role of Customary Courts and Local Wisdom in Conflict Resolution

The data on local wisdom is seemed to be obtained to resolve customary land conflicts at state borders. These local wisdoms are the first step of customary justice. If the customary land conflict has been resolved amicably with the traditional leaders, namely the usif/kings, then the matter is ended with a peace ceremony closed with the ritual of eating betel nut together and slaughtering chickens. If it relays to a big conflict which is difficult to

¹Nur Julqurniati and Dewi Indah Susanty, 2019, "Potensi Konflik di Wilayah Perbatasan Darat RI-RDTL (Studi Kasus di Kabupaten TTU, Provinsi NTT)". In *Sosietas Jurnal Pendidikan Sosiologi*. Vol. 9 No. 1, p. 664-675. DOI: <https://dx.doi.org/10.17509/ijost.v4i1xxx>. p-ISSN. 2088-575X, e-ISSN. 2528-4647

²Nur Julqurniati and Dewi Indah Susanty, 2019, *ibid*.

the conflict to reconcile, then the ritual is closed by slaughtering a cow.

- A. Customary land conflicts resolution based on local wisdom in Bijael Sunan - The policies made, namely:¹
1. Customary Meeting / Dialogue on the resolution of the RI-RDTL Boundary dispute on October 18, 2012 in Kupang District between the District Government of Kupang, local government, TTU and the Oecusse District Government.
 2. Customary Meeting/Dialogue to resolve the RI-RDTL Boundary dispute between the District Government of Kupang, TTU and Oecusse District Governments held on November 10, 2012 in Oecusse.
 3. Customary Meeting/Dialogue to resolve the RI-RDTL Boundary dispute between the District Government of Kupang, TTU and Oecusse District Governments held on December 16, 2012 in Kefamenanu.
 4. The Agreement and the Customary Oath of the Nainaban Village and Sunkaen Village Communities with the Pasabe Community in November 2011 at the Pistana witnessed by the TNI and UPF RDTL.
- B. Customary land conflicts resolution based on local wisdom in Noelbesi – Citrana. The policies made, namely:²
1. Customary Meeting / Dialogue on the resolution of the RI-RDTL Boundary dispute on October 18, 2012 in Kupang District between the District Government of Kupang, local government, TTU and the Oecusse District Government.
 2. Meetings and Customary Oaths between the Nelu Community (RI) and the Leolbatan Community (RDTL) on 8-9 June 2005 and 16 June 2005 in Naija Muti (RI-RDTL boundary).
 3. Customary Meeting/Dialogue to resolve the RI-RDTL Boundary dispute between the Kupang, TTU and Oecusse District Governments held on November 10, 2012 in Oecusse.
 4. Customary Meeting/Dialogue to resolve the RI-RDTL Boundary dispute between the Kupang, TTU and Oecusse District Governments held on December 16, 2012 in Kefamenanu.
 5. The meeting between the TTU and the Oecusse District Government on November 22, 2013 at the Livero Kefamenanu Hotel.
 6. Dialogue between the Cross-Ministerial Team, Local Government, TTU and the Nelu community on December 18, 2013 at Nelu Sunsea Village.
- C. Customary land conflicts resolution based on local wisdom in Noelbesi – Citrana. The Policies made are:³
1. Customary Meeting/Dialogue on the resolution of the RI-RDTL Boundary dispute on October 18, 2012 in Kupang District between the District Government of Kupang, local government, TTU and the Oecusse District Government.
 2. Customary Meeting/Dialogue to resolve the RI-RDTL Boundary dispute between the Kupang, TTU and Oecusse District Governments held on November 10, 2012 in Oecusse.
 3. Customary Meeting/Dialogue to resolve the RI-RDTL Boundary dispute between the Kupang, TTU and Oecusse District Governments held on December 16, 2012 in Kefamenanu.
 4. The visit of the BNPP RI Integrated Team to Haumeni Ana on 13-14 August 2012.
 5. 25th TSC BDR meeting in Yogyakarta in October 2012.
 6. Coordination Meeting on the Follow-Up Discussion on Border Issues/Haumeni Ana at Hotel Acasia Jakarta on January 14-16, 2013.
- D. Political resolution on customary land conflicts through diplomacy were last carried out on August 4 5 2015 in Bali through the 7th Senior Official Meeting (SOM) related to the KKP Recommendation.⁴ The meeting was co-chaired by the Timor Leste Senior Team, the Director General of Multilateral Affairs at the Ministry of Foreign Affairs (Hasan Kleib), the RDTL Ambassador to Indonesia (Joao Freitas de Camara), accompanied by two members of the relevant ministry delegations from each country. The two delegations from each country strengthened the Joint Agreement (KKP) and the 6th SOM in 2013 in Yogyakarta towards increasing friendship and reconciliation. There was a lot of progress at the meeting, but the most important was the establishment of the Fellowship Forum and the Center for Post Conflict Resolution and Peace Building. This meeting will be continued with the 8th SOM in 2016. However, even this agreement has not provided a bright spot for resolving customary land conflicts at

¹Compared to, Seran, Remigius, 2018, Strategi Pemerintah Republik Indonesia dalam Penanganan Masalah Pelintas Batas Indonesia-Timor Leste. Dalam *Jurnal Hubungan Internasional*, Tahun XI, No. 2, July – December Edition. See Also, Dominikus Rato and Ermanto Fahamsyah, 2016, *loc. cit.*

²Dominikus Rato and Ermanto Fahamsyah, 2016, *loc. cit.*

³Dominikus Rato and Ermanto Fahamsyah, 2016, *loc. cit.*

⁴Compared to, Seran, Remigius, 2018, *loc. cit.* See also, Dominikus Rato and Ermanto Fahamsyah, 2016, *loc. cit.*

the border. The disappointment of these kings followed in every political discussion, always ignoring the agreements made by their ancestors. Therefore, on November 14, 2017, located in Amfoang Timur District, Kupang Regency, an agreement was made between the kings of Indonesia and the kings of Timor Leste.

- E. Customary land conflicts resolution based on local wisdom through a joint statement from the kings of Timor. The customary land dispute in Naktuka between Noelbesi-Citrana, Kupang Regency, is eagerly awaited by indigenous people on the border of the two countries, both from Oecusse and Kupang. The source of the conflict is customary land covering an area of 1,069 Ha. There have been many diplomatic efforts made by the government, but these efforts have never been settled down. Therefore, other efforts besides diplomacy continue to be carried out, including efforts made by the military, especially Korem 161/Wira Sakti.

Korem 161/Wira Sakti tried to bring together the traditional leaders, the kings of Timor (RI), and Fettor (RDTL). In fact, the efforts made by Korem 161/Wira Sakti have been proposed in various meetings, both meetings held traditionally with a cultural approach, academic approach by researchers, and by the NTT Border Management Agency.

From these meetings, Liurai Wehali has significant role. Diplomatic efforts failed because Liurai Wehali was not involved, only the king of Amfoang (Robby Manoh) was dealing with politicians from both countries who insisted on defending the 1904 Treaty which was rejected by the indigenous people. The presence of Liurai Wehali strengthened the proposal for a meeting of the four kings of Timor as heirs of most of the lands of Timor, both in Timor Leste and Indonesia.

Attempts to bring together the four kings of Timor were carried out by the Commander of Korem 161/Wira Sakti. With the spirit of *nekaf mese ansaof mese, atoni pah meto* (one heart, one soul, as Dawan people) this effort succeeded in bringing together the four kings, namely Liurai Sila (Wehali kingdom), Sonba'i Sila (Sonbai's work), and Amfoang Sila (Amfoang king) from Indonesia, and Benu Sila (king of Ambenu) from RDTL.

This meeting was held on November 14, 2017 at the Bokos Catholic Elementary School, Netemnanu Village, Kupang Regency, facilitated by the Commander of Korem 161/Wirasakti. This meeting was attended by 350 people from various circles, including traditional leaders, Timorese kings from both countries, as well as leaders of the Catholic Church. With the spirit of *nekaf mese ansaof mese, atoni pah meto*, it arrange 8 (eight) Joint Statements signed by the four kings, as follows:¹

1. Strengthening the ties of brotherhood to preserve the traditional values instilled by the ancestors in the philosophy of *nekaf mese ansaof mese, atoni pah meto*.
2. Supporting the establishment of peace at the border as stipulated in the customary oath by the ancestors and is expected by both countries.
3. To establish cooperation to improve the dignity of the community in the social, cultural and economic fields.
4. Recognizing and strengthening customary boundaries between the Kingdoms of Liurai Sila, Sonbai Sila, Beun Sila, and Afo Sila in accordance with their oath.
5. The boundaries between countries do not become a point of dispute as has happened so far, but become a social point and a point of brotherhood.
6. The results of the meeting need to be disseminated to the entire community of the two countries.
7. Encouraging the governments of both countries to facilitate a similar meeting in 2018 in Ambenu, and technical matters related to the attendance of participants are not complicated.
8. Encouraging and urging the governments of both countries to immediately resolve the unfinished boundary points.

4. Conclusion

From the above analysis, it concluded several things, namely, based on liminal theory in anthropology that boundaries are no man's land so that they are prone to conflict or chaos. The ancestors have realized this and prepared customary law norms to prevent such chaos. With local wisdom based customary law, patterns of conflict resolution are formed, one of which is deliberation and consensus. This pattern can be implemented if the parties are in the same scope of kinship as theorized by Henry Meine, but has developed in line with the changing times.

In the pattern stated above, the ruling class plays a role. As theorized by Karl Llewelijn and Hoebel that, as

¹Berita 24.com, 2018, Kesepakatan Para Raja dan Perbatasan RI-Timor Leste di Naktuka, in <http://www.berita24.com/2018/01/kesepakatan-para-raja-dan-perbatasan-ri.html>. See also, NTTOnlinenow. com, 2018, Kesepakatan Raja-Raja Menjadi Acuan Penyelesaian Sengketa Perbatasan RI-RDTL Di Kawasan Naktuka.

with border conflicts, the role of the Timorese kings were decisive. It has been proven, even though many diplomatic efforts have been made, but only the ruling class matters, namely the Timorese kings, as theorized by Nader and Tod. However, this pattern has a weakness, namely it does not have a juridical binding power at the state level. Therefore, it needs to be strengthened through national law as theorized by Benda-Beckmann called Neo-Traditionalism Norms.

5. Suggestions

From the above analysis, it is suggested that a bilateral agreement regarding the status of customary law that applies in border areas is required. On the border of Kupang - Oecusse, specifically for the Dawan customary law community, the Dawan customary law shall be strengthened along with its customary court. Thus, if a customary land conflict occurs, the customary court will resolve it to avoid issues between countries.

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