



ISSN NO. 2320-5407

Journal homepage: <http://www.journalijar.com>

INTERNATIONAL JOURNAL
OF ADVANCED RESEARCH

RESEARCH ARTICLE

INTERNATIONAL LAW CONCEPTION IN MANAGEMENT
THE OUTERMOST ISLANDS OF INDONESIA

*Josina A.Y.Wattimena¹, Alma Manuputty², Muhammad Ashri², Farida Patittingi²

1. Faculty Of Law. Pattimura University, Ambon. Indonesia

2. Faculty Of Law. Hasanuddin University, Makassar. Indonesia

Manuscript Info

Manuscript History:

Received: 12 December 2013
Final Accepted: 22 January 2014
Published Online: February 2014

Key words:

International law conception,
Management, The outermost islands
of Indonesia

***Corresponding Author**

Josina A.Y.Wattimena

Abstract

This study aims to identify and understand the application of the principles of international law in the territory management practices, the regulation authority to manage the outer islands in Indonesia as well as the implications of the application of international law on the management of the outermost islands of Indonesia. The type of this study is descriptive-analysis in the context of legal research. This study use statute and conceptual approach. This study cover the following dimensions; dogmatic of law, theory of law, and philosophy of law. The study results showed that the management of the outermost islands in Indonesia have not been applying the principles of international law such as the principle of effective, cooperation, and sustainable consistently. Authority arrangement of management the outermost islands that exist at the national level, ministries, agencies and local government not yet sinergy, in the end affects the management responsibilities of outer islands that tend to overlap and not integrated. Not yet the implementation of international law in the management of the outermost islands externally implications for the integrity and sovereignty of the Republic of Indonesia which covers aspects of geopolitical and geostrategic Indonesia, and internally will not yet integrated various powers, roles and functions of ministries, agencies, government and local government, in an integrated and comprehensive achieve the management goal of sovereignty over natural resource management and community development.

Copy Right, IJAR, 2013., All rights reserved.

Introduction:

Indonesia are geographically encircled by two oceans and two continents, and naturally have 17.508 islands until conceived of Archipelagic country with length around 81.000 km²s. Existence Indonesia was as the Archipelagic country has been confessed in normative judicial formality was at international forum pass by Law conference Sea of III that goes on in Montego Bai Jamaican.

Section 46 verses (1) Maritime law Convention 1982 determine Archipelagic country definition is a State that entirely consist of a or more archipelago and can cover other. Whereas section 46 letters (b) Maritime law Convention 1982 interpret archipelago mean a bunch island, entered part island, territorial water among others and others natural form corresponding one same other that is geographical unity, economy, and real politics, or that in historical assumed during.

Furthermore in section 47 verses (1) Maritime law Convention 1982, explained that as "Archipelagic country can draw archipelago straight jetty line connective most outmost dot and dry rock most outmost that archipelago, provided that in jetty line during entered main and an area where comparison between territorial water area and land area, entered atoll, it's between one compare one and nine compare one (Convention On Law Of The Sea ,1982)

Related to most outmost that specified as the geographical bases of coordinate dots situating for archipelago straight withdrawal of jetty line that embosom all regions archipelago Indonesia, then released regulation of President No 78 in 2005 about preparational most outmost. Elementary consideration the of regulation of President No 78 in 2005 is: (i) in order to care of region perfection State and improve society prosperity in border region must conducted preparation most outmost with concerned about development integrity in area of social, economy, culture, law, human resource, defence and security, (ii), small most outmost Indonesia have strategic value as the elementary dot and jetty line archipelago Indonesia in Indonesian waters zoning, Zone Exclusive Economy, and shelf continent Indonesia. (Ministry of Marine Affairs and Fisheries Indonesian, 2005)

In other hand government specifies some regulations related to management context island –most outmost island by publish Act Number 27 in 2007, About preparational seaboard and the outside small islands, Government ordinance No 26 in 2008 about of plan National territory Planology and Act Number 43 in 2008 about Region State.

Base data that already register existed 92 small most outmost with 31 islands that dwelt and 61 islands that not (Anonim,2013a). From 92 most outmost islands, 67 islands that verge direct with Neighbouring state, 12 islands for example must get special attention from government Presidential Regulation No. 78 of 2005). 12th island are referred as is island Rondo (Province Nangroe Aceh Darusalam, Berhala Island (North Sumatra Province), Island Nipah (Kepulauan Riau Province), Island Sekatung (Kepulauan Riau Province), Island Sebatik (Province East Kalimantan), island Marore, (North Province Sulawesi), island Miangas (North Sulawesi Province), Island Fani, (Papua Province), Island Fanildo (province Papua), Asutubun (Province Moluccas), Island Wetar (Province Moluccas), Island Batek (East Nusa Tenggara Province) (Abubakar Mustafa,2006)

As factual, most outmost Indonesia that it is at border area, currently less get attention and development touch, until underdeveloped and exploited optimally. Serious Handling in meaning a couple of action that planned, systematic, and integrated base policy that instructed and precise to develop small most outmost has not yet had meaning and influence significant for country-nation development in macro and for referred as in micro.(Hari Sabarno,2003).

In other hand appearance of various of conflicts between many parties, either through horizontal, sectoral and also vertical. This Problems if put concurrently with factors that have a share stick like factor economy, politics, , culture and security defence, then pass on and not the manage of small most outmost that it is at border area will give a negative effect to existence sovereignty State and also rights owned by Indonesia Country. Nevertheless, inattentive its government to manage and develop most outmost is fundamental weakness that result easy its happened act fish theft (illegal fishing), or theft and wood smuggling (illegal logging), human commerce (trafficking in person), come up with the happening of badness transnational crime.

This condition also as expressed by Bernard Kent Sondakh (Bernard Kent Sondakh,2000) that explain that basically existed four criterions loss of an island : namely lose in physical, lose in proprietary, lose in observation, and lose in socioeconomic and politics.

In general management problems most outmost highly complex and to fuse infroma a variety of forms, policy and handling conception is a matter of have not yet correctly (Suryo Sakti Hadiwijoyo,2011). In this bearing concept of international law has explained sovereignty State to the small must can be exploited as the form for maintain property of a State specially that about on Other country. Proprietary rights Pallet island that has been old recognized in international law, that is principle effectives instructs existence state and sovereignty that stick to him. This Principle has been old expand with principle Daluarsa (prescription) hit region acquirement.

Case Las Palmas (Island Miangas) between America and the Netherlands at 19th-century have applied principle that a State can getting the rights pallet that validity to a region if can prove existence of “peacefull display of sovereignty” as the elementary body from existence of effective occupation. Country must can prove that already there is administrative actions government, for example by release legal requirement hits island are referred as. This Principle have “counterpart” by what called ”prescription” or daluarsa. Exactly a State can lose its rights that validity just because not mind/ concerned about and let unfinished island are conceived of its property that validity (Melda Kamil Ariadno,2007).

Neglecting and pass on most outmost considered as not implementation of action effective State, and very to international law applying, if later on incidence of dispute between two Country that verge. In most cases border that happened, entered among others State Indonesia and Neighbouring state is more focused at unclear its boundary lines between two Country, as a consequence of have not yet completed agreements of neighbour inter-states. Therefore there is still some regions that have been had the character of ambiguity.

Base description that has been explained above, then law issue that placed forward in research this is the was wether management most outmost based international law principles that played the part of pass by the

functions of government can be instrument impeller for improvement of people prosperity and modality to maintain sovereignty Country.

Problems

Base background that said above, then problem that will be answered pass by research this is the as follows:

1. How international applying of law principles in practice region management State ?
2. How synergy degree management infroma most outmost in Indonesia?
3. How implication the of international law to management most outmost in Indonesia?

Methods

In category this research is research normative/doctrine that bent on assess positive law the rules of, law, law principles and also law doctrine to answer law issue faced (Peter Mahmud Marzuki,2010).

Related to international law area that become researcher study, then reference Komar Kantaatmadja was with reference to international law approach always its problems assesment from two different approach angle; corners, that is approach in static and approach in dynamic (Komar Kantaatmadja,1985).

Static Approach in international law see from doctrine theoretical facet and interpretation that created from its forming history and all related to peripheral problems is referred as. Dynamic Approach sees how a concept expands from form its being becomes present day form matching with growth dynamics and society need these days (Yudha Bakti Ardhiwisastra,1991).

Rely on view above, then approach that used by is legislation approach (statute approach),in other hand conceptual approach (conceptual approach) by tread on from views and doctrines that expand in law science/knowledge.

As this research follow-up will be analysed by using three levels that is rank dogmatize, theoretical and philosophic. Rank of dogmatizes have the shape of study of legislation rule substance and law international, that related to management and development most outmost islands. Rank of theoretical concepts study and doctrines as used in management and development most outmost. At philosophic rank that assessing is reality from management and development most outmost .

Data collecting Way or law materials in this research, conducted with document stocktaking cover; (i) materials of primary law covers law and regulation that each other related like : international agreement, Maritime law Convention International 1982 and also national law and regulation, (ii), law materials secondary that is cover literatures, magazine, journal and sources are written other (iii), tertiary law materials namely law materials that cover government documents (center and area), and also reports that can become guideline in order to concept formulations of.

This Research uses two data collecting techniques, (i) literature study that cover law and regulation and law international related, books, Newspaper, journal and source are written relevant other. Data that have the shape of literature make groups becomes two, namely data that contain characteristic of normative and non-normative. (ii), conduct circumstantial interview to guest speakers with a purpose to: getting the knowledge was to data that has been got pass by literature study conducts confirm and clarification to the problem that formulated in this research. Field collecting will be got pass by Departement Home affairs, Department of foreign affairs, Departement Naval and Fishery, Bakosurtanal, Dishidros TNI AL, and house of representative Republic of Indonesia. For getting the accurate data in this research, then will be conducted pass by Question and answer process will be conducted with guest speakers that have circumstantial knowledge about problems discussed.

Result and Discussion

A. Application Principle International Of Law

In international law is recognized general Principle international law for example; independence principle, sovereignty and degree equation states, selfdetermination principle, non-intervence principle, principle pacta sunt servanda , principle free consent, principle pacta tertiis nec nocent nec prosunt etc. But during existed also principles of law public that cover all law areas like ; justice principle, principle subservience and elegibility, good faith principle, principle of degree of equality all law subjects.

In growth, real this principles of law public haves interrelationship and interplay in unity of law system (Leatemia,2010). International Depiction of law context and this national law can correct reading pass by phrase that sound “international law and municipal law are both species of one genus-law is command whether it is the

international case of law or municipal law (International Law and national law the two are two specieses from one gender. Law is command, either on in international law or in national law).

Hans Kelsen states (Hans Kelsen,2006) international law and national law is two dynamic bunch of type norms, that is national law and law international, can form one system by where platform that one proven subordinat from other, because that one contain prescriptive norm norms creation in other system and hence second system have its validity reason in the first system.

In consequence, stipulating of national law public principles into rank international law, so on the contrary is step to find and searching and formulate law norm in lawsuit solution. Akehurst has a notion that intention of existence of confession of law public principles to avoid unlimited situation (open ended) and vague (Michael Akehurst,1970). This Opinion then strenghtened by The Advisory College of Jurists, by based its view that this principles of law public is required when situation not answer advent in treaty and also habit international.

Along with international law growth these days, has also popped out new international principles of law public. This condition consequently structure change and arrange international society that generate trend and new tendencies in the field of international law . This principles of law public in growth then there is that had formal form was legalistic and more good is formulated pass by international agreement. Nevertheless this principle of law public principle can be found also passed by international customary law.

Relate to matter that mentioned above, management most outmost in ce States, growing of also by using international principles of law public which during the time implementation has been assumed become international customary law.

Its study can be seen in cases that confronted with to International Court of Justice as is the case Palmas island, case East Greenlandia, and last Case Sipadan island and Ligitan. For the reason management most outmost ought to use principles:

1. Effective Principle

Effective principle Implementation in management most outmost, in historical begin with existence of practice or ways of region extension that recognized in international law. Occupying (occupation) as one of way of region extension, at that time more addressed to area or region that not (tar nullius). Domination and ownership to the tar region this nullius burden of proof with reality action that express sovereignty pertinent State effectively and continuously (effective and continuous display of state authority). Besides elementary body of reality action existed also intention elementary body (animus occupandi) that abstraction into two big classifications that is subjective and objective. Classification subjective included in of intention elementary body and elementary body of reality action that each other related one another. Intention Elementary body are proved with reality action, on the contrary reality action can be concluded from existence of intention. Meanwhile following is objective classification that refer to region that not.

Effective or there not this principle execution very relates sliver with four (4) criterion that said by Stephen B Jones (Stephen B Jones and Whittemore,2000) that in general has been used in border management. Fourth (4) this criterion each other relates one another, depict that fourth criterion is referred as is unity of decision making network that each other interconnected in its execution. Fourth criterion is intended is: allocation, delimitation, demarcation, and administration/management.

Allocation ; Debate hit allocation of border region was by neighbouring countries always will be relied on available and certifiable map. Nevertheless to avoid arbitration as a consequence of region coverage more refer to political decision then, used two ways that in general confessed : (i) Use connective straight line co-ordinate dots from reach nature that already to identification. (ii) use principle applying that has been confessed in international law like principle Uti Possidetis Juris.

PM region coverage Republic of Indonesia has been mentioned in clearly in so many law and regulation. Highest Reference can be read in section 25 A from constitution State Republic of Indonesia that sound “ Unified republic of Indonesia is an archipelagic country that archipelago and region that the bounds of and its rights is specified and law ”.

Delimitation; comprehended as the stipulating or boundary determination, and used good to boundary stipulating on the land or on the sea. Negotiation is way that always gone through to specify boundary between two neighbouring countries. Delimitation boundary of in reality sea shows have not yet can negotiated in complete. This condition as a consequence of have not yet be definition agreement between involved parties.

Delimitation at sea region have much argument and considerations that if decomposed usually point to some aspects. First tama delimitation or stipulating of sea boundary very related to security issue, access and management of sea resources, existence of state rights and obligations coast. Despitefully problem delimitation also

very loaded and fulfilled by various of targets that multidimensional. Integrity and sovereignty state there is from how sea region can be managed effectively.

Delimitation are considered as one of effective way to affirm sovereignty, legitimization and legal authority and way to avoid the happening of zone overlap. This Statement is ever said by Prescott and Schofield (Prescott and schofield,2005) by saying boundary determination or of vital importance delimitation to guarantee clarity and jurisdiction certainty. (Jurisdictional clarity and certainty). Claim delimitation that each other overlap very and generate lawsuit. More than anything else if zone that claimed consisted in nature resources that can to give advantage in multi-dimension.

Context Indonesia with geographical reality small most outmost that abut on some of vital importance neighbouring states its position as the elementary dot stipulating that become reference in conducting maritime delimitation and determine maritime border line. From this elementary dots later, connective form of jetty line segment of jetty line that one with other segment of jetty line.

Relate to this condition, small most outmost taken as the elementary dot situating shall given certain wight for example zero, half, or full of. This confirmation even has been accepted by international law modern that is not conducive isle to give effect that not reasonable (inequitable) in maritime boundary determination (Lowe ,Carleton and Ward,2002).

One point that not less important still related to maritime delimitation is problem of sea map. In accordance with section 16 verses (1), section 75 verses (1), and section 84 verses (1) UNCLOS 1982 that contend that after boundary agreement is made between the parties , next follow-up is must mentioned in map with acceptable scales for its position determination, where must geographical list of co-ordinate dots that detail datum geodetic, dot list –geographical coordinate point. Still in sections in common with next verse contend that map is referred as must announced and deposited one copy/map successor to united nations Secretariat general.

In delimitation maritime boundary among the party of vital importance map position and essential, because can be functioned as the data source, especially related to information map content/theme that used by (Mahendra Putra Kurnia,2011). Look into the mirror at reality conviction where Indonesia maritime boundary agreements that have not yet completed with neighbouring state very influence state policy to manage maritime boundary. Unclear and rootless definitive position, maritime boundary management will be difficult conducted even its tendency will experience of loss (evidence from this study can be assessed from case Sipadan and Ligitan).

Demarcation; addressed to effort from country to assure border line alongside border two countries. Has been explained in front of that when boundary stipulating pass by consultation, consultation result that agreed on produce fruit boundary agreement, of comprising of boundary dots co-ordinate and enclosed at map that load public illustration from border line that promised. That is border line position that become symbol is started and the of rights and obligations of a country is must assured at the site. Earlier Brownlie has affirmed that border line that demarcated is “important quality” from parallel line that explained with words in an agreement and be next presented with map or graph and marked at land/ground as the physical indicator.

Differ from confirmation land boundary that marked with monument. Pillar and other, confirmation boundary on the sea, relate it only at stipulating UNCLOS 1982. However not close possibility both country conduct survey boundary mapping together. Mapping that executed real must put in unity mean collectively/together, until not generate different interpretation. See has not yet been finished its maritime boundary stipulating between Indonesia and some neighbouring states that followed and have not yet implemented confirmation boundary at the site emerge much consequence either through laws, political, economy, and security defence. Moreover not uniformity map scale, with datum vertical and horizontal datum, as a consequence of returned fully to pertinent country, it is of course will generate separate problem. Getting smaller map scale that used by a State will growing detail and project the bounds of owned by included in of jetty line determination.

Administration ; this phase according to Prescott V and Triggs G.D. told as “ is concerned with the maintenance of those boundary markers for as the boundaru exists” (relate to maintenance of boundary marking during that border). Understanding widely from this phrase not only limited to how care of, caring boundary marking is referred as so that not shift or change according to agreement that has been made in certificate of agreement. Farther than action is referred as is country shows its role and function in manner included in border most outmost.

By opinion of adoption a economist, W. Friedman (Wofgang Friedman,1971) that depict the functions of country as setter (regulator), country as the guarantor (provider), country as the entrepreneur (entrepreneur) and country as the supervisor (umpire), and if the functions of referred as analogize in management most outmost that it is at border area, then fourth this state function is must seen in state unity of sovereignty imaging in border area. Entire aspect that be a part of management covers economy aspect, politics, culture social, law, environment infrastructure, security defence becomes part and inherent from this process.

State Function as the provider in state concept prosperity (welfare state), then country accountable for provide and give social services and give guarantee of life standard. This condition can be conducted by country with various of policies, program, and maximal development budget delivery, especially addressed for development management most outmost that reside in border area. Small most outmost Indonesia that layed in border area, its society tend to it is at prosperity level that very minim. Its minim infrastructure of life prosperity supporter far to be able to told competent.

Base investigation writer to two (2) related to law and regulation state budget stipulating for budget year 2011 that specified with Act Number 4 in 2010 about General revenues and expenditure budget estimate in 2011 and Act Number 22 in 2011 about General revenues and expenditure budget estimate in 2012 show for every ministry and institute that organized related to sectors elementary service and people prosperity and facilities and basic facilities/supporting infrastructure getting the state defrayal that relative very big. Nevertheless budget allocation that provided by every ministry and institute that its allotment for good development of border area land, sea and air have not yet in proportion to realization in the form of budget for border area. This condition shows still low its ministry commitment and institute in development of border area (Anonim,2009).

Second Function that must executed by country according to Friedman namely country as Regulator not only limited to ability and readiness state to form, specify and release law products according to Program national legislation, nevertheless how law peripheral that produced by referred as can answer need and society importance, each other relevant, not overlap and must one with other (Yuliandri,2009).

Finding that got to the number of ministry, institute and area that take care of problem of border area that be said to be “gang up on group” (Read : take care oftogether) its fact growing infroma overlap that at its overlap program, truthfully not instructed, integrated and integrative. Condition is referred as can accurate with not growing the recovery of life level and prosperity society that it is at area of included in border at most outmost.

State Function thirdly that is country as the supervisor substantial. In state function not merely limited to arranges or arrange and give its protection nevertheless follow-up is how far country executes action “observation“ (controlling).

Prayudi Atmosudirjo state professor of administration law assures observation function as an activity that compare to what run, executed, carried out by what desired, planned and comanded (Prayudi Atmosudirjo,1981).

Relevant with be definition observation function said , context most outmost that it is at border area still leave overs serious problems that its handling require also demureness from government officer. Role apparatus government also development executor must also observed how far duty execution is referred as executed in answer the insured.

2. Principle of Cooperation

This cooperation Principle in normative judicial formality has been poured in Charter united nations at part preamble that state that PBB uses international supply tool to heighten economic growth and social of all nations, then in explicit are poured in Chapter IX section 55 Charter of The United Nationses. Inter-states Cooperation as the implementation of cooperation principle for the width of maybe for international humanity of society members is strived to exploit international aid improvement, free from all political requirement or military (Resolusi Majelis Umum PBB Nomor 3201).

Most outmost that it is at border region can be made as the economy spandrel by base on management uses approach borough . Approach this borough also by assesment and context analysis , potency, constraint and threat from most outmost. From result and assessment process referred as most outmost this will be managed base its allotment.

Allotment and utilization most outmost become development strategy that must followed with correction of sea port facility , water, street, communication, sea transportation, and econonist facility for utilization (resources local) society in most outmost. This condition are meant as the street to open isolate region and speed up development process and to head for referred as network that must opened first of all is by place transportation system that for the width of-broadness.

Settlement Effort and management most outmost with concept of cooperation of area economy in integrated this can be considered as one of way and solution to overcome development difference that till now have not yet can show maximal result.

Government Limitation in developing cooperation of area economy especially by potential natural resources management from most outmost, at least become one of factor the happening of development difference and low its level of society life quality that it is at most outmost. Condition like this very gristle and be afraid becomes weakness dot from facet of security defence, social, economy, politics and law.

3. Principle of sustainable

Going concern Development is a process optimize natural resources benefit and human resource, namely by aptitude human activity in accordance with ability of natural resources support capability. Approach of management policy direction small on an ongoing basis must base on society as the same manner as decanted in guidance small general preparational of islands (Farida Patittingi,2012)

Important for placed forward in management policy most outmost that is principle Continuous; where development most outmost must reckon Continuous for next generation, and environment from pertinent country. Principle Emphasis sustainable in management most outmost can be considered as one of factor that make human and a country fixed exist because its ability to maintain Continuous human or country are referred as (Supriadi,2005). To sustain in order to country exist in executing going concern the building , must conducted a change of management paradigm that conducted in simultaneous, comprehensive and integral.

Principle sustainable in management most outmost shall can place most outmost in social frame, economy, politics of security defence, law, and environment. In aspects substance that mentioned above can accommodated pass by responsive law and regulation policy in one system unity with expected attainment of development target.

If refer at research finding got, its fact that principle applying sustainable development and natural resources management at the outermost island uncommitted truly. This condition there is from have not yet integration and have not yet coordinate natural resources management between sector properly which is on finally give room to larger ones sector importance until relation/link and cooperation between sector that should have been each other support in utilization, perpetuation and continuous natural resources function in well-balanced, and proportional have not yet can be integrated and realized.

B. SINERGY AUTHORITY ARRANGEMENT OF MANAGEMENT THE OUTERMOST ISLANDS IN INDONESIA

1. Source of authority

Base section 7 Act Nu. 12 in 2011 about Formation of Law and regulation, arrange arrange law and regulation sequence, where law and regulation is referred as become elementary government competent for example(Sadjijono,,2008) (a),Constitution State Republic of Indonesia,(b)People consultative assembly Decision,(c)code/law/Government ordinance quidproquo of Act, (d) Government ordinance, (e)Regulation President,(f)By law Province and' (g)By law Regency/City.

Related to management most outmost in Indonesia is found existence of law and regulation that amount to around twenty three units. Law and regulation is intended become infroma source and government action to object in common. Law and regulation is referred as disseminated at variated level and at various of institutions that of course have sectoral importance each and have principle, target and different interest in character.

If tread on at some policy and law and regulations that go into effect like regulation of President No 78 in 2005 about preparational outside small islands specify around 17 kementerian,3s government agency non ministry and area that related. Meanwhile regulation of President No 12 in 2010 about Corporation National Organizer Division there is around 14 ministries added with 4 institute heads non ministry, and governors that in its region haves border area with neighbouring state. Ministry, institute and area involved overshadow management problem most outmost, its infroma will relate and coming from at rule and policy each institution, good regulation act, Government ordinance, Regulation President etc. If various of policy and law and regulations this are not harmonized tendency to happen disharmony and overlap can be just happened. Existence of overlap in arrangement function from various of levels government at area in common can become political calamity source .

2. Responsibility and Scope of authority

According to Mahendra P Kurnia (Mahendra Putra Kurnia,2011), to the number of law and regulation and policy that arrange problem of border area as consequence of existed to the number of principle, principle and value. As for found on value border area covers political value, economy value, value of security defence, and others.

Entire values is referred as formulated and become attainment target from the of management, development and development most outmost. In Indonesia this bearing as the body politic that place forward existence of "principle of legality". in the eyes of Indroharto principle of this legality become problem wether government competent must executed statutory absolutely, because according to him modern body politic conception is solidarity between body politic and prosperity country.

Bagir Manan strengthens this statement by affirm that:" in this concept state duty or government not as the security custodian or society orderliness only, but shoulder responsibility realizes social justice, public prosperity

and for as big as-level of of people prosperity” (Manan Bagir 1996). In the context of like this, management most outmost as part of national development to realize society prosperity, its authority is must assured and arranged in clearly in the form of law and regulation. To the number of law and regulation and policy about management most outmost containing authority of each ministry, institute, area shows business of border area becomes many parties business.

Act Number 17 in 2007 to suggest paradigm change that not approach of border area only limited to defence region that must taken care in militaristic (security approach). Meanwhile unity state Republic of Indonesia as the entity that have sovereignty, region, and resident is must protected in intact and totally, by exploit natural resources and environment (environment approach) at border area to improve society prosperity (property approach).

Act Number 43 in 2008 is Act that particularly arrange about state region. In this Act are explained how preparation border area. This Management of border area must by the start of existence of physical of clarity the bounds of state region. The bounds of Indonesia state region physical is on land region, sea and must of promise either through bilateral agreement or trilateral according to international legal requirement and law and regulation that go into effect. No agreed in international law to conduct stipulating of the bounds of state region unilaterally. This condition are specified in section 5, section 6 and section 8 Act Number 43 in 2008.

Meanwhile in preparation border area, Act Number 43 in 2008 in general have specified government infroma and also local government and also government sub-province/city in management and region utilization state and border area. This condition are decanted in section 9, section 10, section 11 and section 12 Act Number 43 in 2008.

With perceivable sections formula that said above, then there is two matters undergird that can be pulled related matter above that is ; (1) infroma to manage state border is on central government and local government and; (2) infroma are referred as executed by a body mount center and area . This Body of border organizer its lifting rely ons president regulation. Related to infroma implementation is referred as government pass by regulation of President No 12 in 2010 have formed Corporation National Organize Division.

State Management of border area that its infroma is on central government according to section 10 Act Number 43 in 2008 by itself will be executed by BNPP. Though existence BNPP is institute/body that have the character of koordinatif to facilitate technical institution relates , nevertheless because its overlap infroma and general responsibility and job/activity scope that is not in clear dideskripsikan causes generate challenge and resistance in management, which is on its innings will become development resistor as one of way to improve human life quality and protected existence sovereignty NKRI.

3. Coordination

Coordination is a system and interaction process to realize integrity, compatibility and simplicity various of activities inter and between institutions pass by communication (Husain Usman,2013). That is coordination comprehended as the something activity to arrange units, parts of or institutes, regulation included in and action until as a whole activity that will be executed not each other imping and crisscross.

Law as a communication process in the context of coordination execution between various of ministries, institute, and area relates management problems most outmost, is separate problem. This condition because of in government management in Indonesia for a job can be managed by much institutions accompanied with infroma delivery that based on law and regulation. As a consequence can be predicted happened job overlap and infroma as a consequence of coordination inexistence, even in its entirety can synergy, arranged to target and common interest.

Understanding “take care of jointly” most outmost, in its implementation existed a number of imbalance are resulted are not maximal its coordination between ministry, institute and area. This condition are based on indicators as follows : (i), involved institution in management most outmost has not yet in clearly knew and comprehend what become its duty and institution responsibility, (ii) all institutions must conscious of existence of interdependence with other institution and in consequence, require good coordination at rank regulation, procedure and other, (iii) every institution also not (yet) know what become duty and institution responsibility other, (iv) all exists and involved in institutions management most outmost must know to whom institution is referred as hold responsible.

The of management principles was most outmost from concept of international law must implemented effectively and efficient pass by the functions of government and infroma that stick to him. This condition must can be realized with maximal its coordination function between ministry, institute and local government.

Maximize coordination function for synergy approach of equality various of elements in management most outmost into system 'one door or one gate' that woke up is concept of law that offered to answer management problems most outmost.

C. IMPLICATION THE OF INTERNATIONAL LAW

1. External Implication

This condition of course will to geopolitics and geostrategic Indonesia out and will become international materials of society assessment to sovereignty and nation prestige. Geopolitics Implication and geostrategic covers much aspects like :

First ; sovereignty; that meant here is sovereignty Indonesia that related to existence as the country that accountable for protect all regions Indonesia as the same manner as trusteeship and target Indonesia. In capacities NKRI, as the power state, not respecting and not the manage of most outmost maximally will cause to loss of referred as, like has been explained in front of that materialistic mean loss of island very has the character of wide (learn from case Sipadan and Ligitan). existence international law cannot next not respecting will become instrument decision determinant International Court of Justice if lawsuit and border conflict between two countries. This condition means sovereignty Indonesia becomes a abstruseness for government to realize if management that affect both for entire uncared nation and state life.

Second; security defence; depict strength and ability of all nation components (with leading its sector TNI) that also care of and maintain NKRI region of each incoming trouble from within and also from outside. Position strategi Indonesia with most outmost that abut on neighbouring stateor so becomes way out enters arsonists. Weaken its observation, broadness of sea region Indonesia, its overlap infroma also equips this condition and situation.

Third; natural resources; can not be denied sea region Indonesia with fishery resources, mineral, metal petroleum ect. All this is Lord God grant from above for this nation, and applicable to people prosperity. However this condition of inversely proportional if as the nation unable to manner truly. Natural resources Indonesia will become farm and countries capture other. This condition can be just happened because development weakness owned by and in many ways weaken its policy approach that has had the character of sub system that overlap and is being predominated by sectoral importance, horizontal and also vertical.

Fourth straightening of law; straightening of law on the sea still keep problem that very affect in management most outmost in Indonesia; like there is no perception equality in the case of straightening of sovereignty and straightening of law on the sea, there is no unity of command until operational activity difficult allied, still its overlap law and regulation until irresolute implementation, the limited facilities and basic facilities, system certificate that not one roof so it's can wrong move infroma either government officer or user certificate. According to National military Indonesia Navy (TNI-AL) (TNI-AL,2003), With condition straightening of such law, can be just happened various act of that good badness human commerce, black merchant ,illegal logging, illegal fishing and others at state border area came within most outmost. Not to mention existence of infiltrate foreign isms as a consequence of contiguity in social, culture and economy

Fifth Range; environment can related to natural resources, security defence and straightening of law on the sea, where all the matter that mentioned above can to sea environment particularly as a consequence of weaken its management most outmost. Though environment most outmost with its ecosystem not only become this nation modality but also be a part of world society.

2. Internal Implication

Management most outmost is indication existence of responsibility, attention and indifferent government to border area that reside in jurisdiction of a State. In explanation at previous chapters already middle that management the importance most outmost managed with as well as possible because load three big issues according to regulation of President No 78/2005 that is problem (i), state sovereignty, (ii), natural resources management on an ongoing basis and last (iii), society utilization to improvement prosperity.

Third this big issue can be reached by utilize whole ability and policy state either that international law the rules of or national law the rules of as elementary there is management. This means entire elementary tread on management what/wheter that international legal requirement and also national legal requirement must integrated, intact, and comprehensive. Each other and integration the rules of are intended and infroma of every institute, will materialized the three of big issue management above. Approach Pattern or management paradigm which during the time built is the first prosperity and second is security. Internal Implication its surely will direction to two matters intended. Its reality is that poorness still become part of society life in most outmost, education, health,

unemployment, housing that improper dwell and still a lot other that depict buried, backwardness, and isolated (Anonim,2013b).

For the reason international law the rules of as elementary tread on be next implementation in national law the rules of must becomes overall management strategy, and integrate role and function of all ministries, institute, area, to execute management most outmost effectively, integrated and going concern.

Conclusion

Management most outmost as the sovereignty manifestation unified republic of Indonesia has not yet applied management principles consistently like; Effective Principle that cover allocation, delimitation, demarcation and administration, cooperation principle have not yet realization in opening economy spandrels at border area as one of alternative of society prosperity improvement by develop natural resources potency that exist in area. In other hand have not yet can be executed with as well as possible, pass by development policy that cover all law aspects, economy, political social, and also security defence. Despitefully management infroma most outmost its arrangement it is at ministry, institute and area, have not yet synergy and integrated properly as a consequence of have not yet been maximal its coordination function that must played the part of by every ministry, institute and area. Implication from the of management most outmost in Indonesia by applying international law principles, externally influence integrity and sovereignty NKRI cover geopolitics aspect and geostrategic Indonesia and internally will integrate various of infromas, role and ministry function, institute, government and local government for in integrated and comprehensive reach management target namely sovereignty to the natural resources management, and society utilization.

References

- Anonim,2009.<http://nasional.kompas.com/read/xml/2009/02/16/19342094/26kabupaten.perbatasan.masih.tertinggal>. (kompas 19 Februari,2009)
- Anonim,2013a. <http://www.dkp.go.id/content.php> 31-pulau-berpenghuni-&-61-pulau-tidak-berpenghuni, diakses tanggal 21 November 2013.
- Anonim,2013b. <http://www.dkp.go.id/content.php> 31-pulau-berpenghuni-&-61-pulau-tidak-berpenghuni, diakses tanggal 21 November 2013.
- Abubakar Mustafa, 2006, Menata Pulau-Pulau Kecil Perbatasan Belajar dari kasus Sipadan, Ligitan dan Sebatik, Kompas Jakarta.
- Bernard Kent Sondakh, 2000. Peranan TNI AL dalam Pengamanan dan Pemberdayaan Pulau Terluar RI, Makalah dalam Diskusi Ilmiah “Kasus Sipadan-Ligitan : Masalah Pengisian Konsep Negara Kepulauan” di Fakultas Hukum UI, 5 Februari.
- Bhenjamin Hoessein, 2005. Naskah AkademikTata Hubungan Kewenangan Pemerintah Pusat Dan Daerah, Jakarta, Fisip UI.
- Farida Patittingi, 2012, Dimensi Hukum Pulau-Pulau Kecil di Indonesia, Yogyakarta: Rangkang Education, hlm. 95
- Hans Kelsen, 2006, Pure Theory of law (Teori Hukum Murni; Dasar-Dasar Ilmu Hukum Normatif),Diterjemahkan oleh Raisul Muttaqien; Nusamedia dan Nuansa, Bandung.
- Hari Sabarno, 2003. Pelaksanaan Administasi Pemerintahan dan Pengelolaan Pulau-Pulau Indonesia Di Wilayah Perbatasan.O.C.Kaligis dan Associates.
- Husaini Usman, 2013, Manajemen,Teori, Praktik dan Riset Pendidikan Edisi 4, PT Bumi Aksara, Jakarta
- Komar Kantaatmadja, 1985, Pembinaan Hukum Regional dan Internasional (Seminar Hukum dan Pembangunan Unpad .

- Leatemia..J, 2010, Pengaturan Hukum Terhadap Kewenangan Daerah Di wilayah laut (Kajian Dari Perspektif Prinsip Negara kepulauan Dalam Konferensi HUKUM Laut 1982, Disertasi, Fakultas Hukum Universitas Hasanuddin, Makasar.
- Lowe V Carleton C. dan Ward C. .2002. In the Matter of East Timor's Maritime Boundaries Opinion.diakses tanggal 20 Juni 2013.dari <http://www.petrotimor.com/lglop.html>
- Mahendra Putra Kurnia, 2011, Hukum Kewilayahan Indonesia,Universitas Brawijaya Press (UB Press)
- Manan Bagir, 1996, Politik Perundang-Undangan Dalam Rangka Mengantisipasi Liberalisme Perekonomian, FH UNILA Bandar Lampung.
- Melda Kamil Ariadno, 2007, Hukum Internasional Hukum Yang Hidup, Diadit Media, Jakarta.
- Michael Akehurst, 1970, A Modern Introduction to International law George Allan and Unwin Ltd
- Peter Mahmud Marzuki,2010, Penelitian Hukum, Prenada Media, cet 6 ,Jakarta .
- Prayudi Atmosudirjo,1981,Hukum Administarsi Negara, Ghalia Indonesia, Jakarta.
- Prescott V and schofield, 2005, The Maritime political Boundaries of the world, Second Edition, Marthinus Nijhoff Publishers.
- Progo Nurdjaman, Optimalisasi Peran Dan Fungsi Survey Dan Pemetaan Dalam Pengelolaan batas Wilayah hal 59 dalam Kumpulan Tulisan Pandang wilayah Perbatasan Indonesia, Dikutip dari Mahendra Putra Kurnia, Hukum Kewilayahan Indonesia.
- Sadjijono,2008, Bab-Bab Pokok Hukum Administrasi, LaksBang Pressindo, Yogyakarta.
- Stephen Barr Jones, S. Whittemore. 2000. Boundary-Making: A handbook for Statesmen, treaty Editors and Boundary Commissioners William S. Hein & Co., Inc., 2000. ISBN 1575885654.
- Supriadi, 2005, Hukum Lingkungan Di Indonesia, Suatu Pengantar, sinar Grafika, Jakarta.
- Suryo Sakti Hadiwijoyo,2011, Perbatasan Negara Dalam Dimensi HUKUM Internasional,Graha Ilmu, Yogyakarta.
- TNI-AL , 2002, Pokok-Pokok Pikiran TNI Angkatan laut Tentang Kemanan Di Laut (KAMLA); Markas Besar TNI Angkatan Laut Jakarta.
- Wofgang Friedman, The state and the Rule of Law in a Mix Economy, Steven and Son, London, 1971.
- Yudha Bakti Ardhiwisastra 1991, Imunitas Kedaulatan Negara Di Forum Pengadilan Asing, Alumni Bandung.
- Yuliandri, 2009, Asas-Asas Pembentukan Pearturan Perundang-Undangan Yang Baik, Gagasan Pembentukan Undang_undang Berkelanjutan Rajagrafindo Persada, Jakarta