Unresolved Maritime Boundaries: The Indonesian Experience

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Countries around the world may encounter with problems of unresolved boundaries with its adjacent states

Unresolved maritime boundaries has become a challenge, as it has close connection with international peace, stability and security
Unresolved maritime boundaries has to be managed delicately so not to cause tension between states and domestic political issue.

It should be noted the use of force to resolve maritime boundaries is not an option under contemporary international law.
The Object

- In the Indonesian experience the object of maritime disputes are:
  - Delimitation of territorial sea
  - Delimitation of Economic Exclusive Zone
  - Delimitation of Continental Shelf
  - Archipelagic baseline as basis for delimitation of maritime boundaries
  - Small islands and rocks which form archipelagic baseline, as basis for delimitation of the Indonesian maritime boundaries
Indonesia’s Unresolved Sea Boundaries

- Currently Indonesia has unresolved sea boundaries with its neighbors
  - Indonesia has yet established any maritime boundaries with the Philippines, Palau and East Timor
  - Meanwhile, Indonesia has more than 20 boundaries segments to be delimited covering territorial seas, exclusive economic zones, and continental shelves in around 15 different locations
Options for Unresolved Boundaries

- Diplomatic negotiations
  - Currently Indonesia is negotiating with Malaysia, Singapore, Vietnam, and Palau.

- Refer the issue to International Court
  - Indonesia along with Malaysia brought the dispute of Sipadan and Ligitan islands to the International Court of Justice
Joint management to which the boundary is not resolved, but the disputing states jointly exploiting the resources

- When East Timor was still part of Indonesia, Indonesia and Australia entered into an agreement over Timor gap

Pending the issue

- Most of unresolved maritime boundaries are pending in order to adjust to the characteristics of the negotiation (data gathering, hydrographic survey, legal arguments construction, etc.)
Transitory Issues of Overlapping Claims at Sea

- In the area of unresolved boundaries there are issues which may arise:
  - Fishery
    - Who has the authority to decide on legal or illegal fishing
    - Conflict between two states’ authorities
  - Oil and Gas Concession
    - Protecting and guaranteeing investors of their concessions
How authorities of disputing countries can exercise their function in guarding the claimed area

- The need for rules and procedures if authorities of disputing states are exercising their power in overlapping claims
  - Rules of engagement
  - Rules on treating officials
Is Limited Use of Force an Option?

- Limited use of force to maintain status quo
  - Force is not used to determine the unresolved boundaries, but is used to make sure neighboring states respect status quo
- Limited use of force as self defense as prescribed under Article 51 of the UN Charter
Managing Domestic Stakeholders

In settling unresolved maritime boundaries, domestic stakeholders has to be considered:

- Indonesia has become democratic and open society whereby the government when determining policy has to take into account the voices from the public.
- Sensitivity from the public arises if the disputing state has traditionally been considered as ‘not in a good terms’ on other issues.
- Public opinion and their lack of understanding may lead to public anger.
Public uproar will further complicate policy makers in their effort to resolve maritime boundaries
  ◦ There is a need to educate the public on maritime boundaries
Furthermore some policy makers ignorance at any level will also complicate effort to resolve boundaries issue

- Some may not want to deal with the intricacies of law of the sea, instead just use laymen logic
Thank You