



18th TALKING ASEAN

Regional Impact of Indonesia's New Policy Towards Illegal Fishing

**The Habibie Center, Jakarta
January 27, 2015**

INTRODUCTION

On Tuesday, 27 January 2015, The Habibie Center held a Talking ASEAN public discussion entitled **“Regional Impact of Indonesia’s New Policy Towards Illegal Fishing”** at The Habibie Center Building, Jakarta. This edition of Talking ASEAN featured Ms. Sitti Hamdiah (representing Mr. Anang Nugroho, Executive Director for International Affairs, Ministry of Marine Affairs and Fisheries, and Chair for Indonesian ASEAN Center for Marine and Fisheries), Lieutenant Colonel Salim (Staff of Assistant Chief of Naval Staff for Planning and Budgeting, Indonesian Navy), Dr. Edy Prasetyono (Head of Post-Graduate Programme of International Relations, University of Indonesia) as resource persons with Ms. Rahimah Abdulrahim (Executive Director of The Habibie Center) as a moderator.

The objectives of this Talking ASEAN were to elaborate the perspective from various experts to (a) analyse the regional impact of Indonesia policy in tackling illegal fishing; (b) to share and develop understanding between various stakeholders and identify the challenges as well as opportunities through the issue discussed; (c) to produce concrete and possible policy recommendations to Indonesia and ASEAN in order to tackle the illegal fishing, particularly to disseminate technical information that related to Indonesia’s policy on illegal fishing.

The discussion report summarizes the key points of each speakers as well as the question and answer session that followed.

SPEAKERS' PRESENTATION

Ms. Sitti Hamdiah



Ms. Sitti Hamdiah - Representing Mr. Anang Nugroho, Executive Director for International Affairs, Ministry of Marine Affairs and Fisheries, and Chair for Indonesian ASEAN Center for Marine and Fisheries

On behalf of Mr. Anang Noegroho, Ms. Hamdiah opened her discussion by mentioning that Indonesia's recent actions to abate Illegal, Unreported and Unregulated (IUU) fishing in its EEZ waters had received much attention in the national and international media. She added that the Indonesian government emphasized the point that those foreign vessels that had been destroyed was done according to the law and did not endanger the human rights of the captured crews.

Furthermore in her presentations, she elaborated that the recent stance to tackle IUU fishing was not the consequences of a new policy. Instead, Indonesia has only reinvigorated the implementation of its National Plan of Action to Prevent and Combat the IUU 2012-2016, which based on the Ministerial Decree KEP.50/MEN/2012. She argued that Indonesia's policy towards the problem of IUU fishing was derived from Indonesia's interest, namely to increase state income, protect marine and fisheries resources that can contribute to food security as well as to protect the environment. In particular, to increase the state budget, Indonesia estimated a loss of US\$ 4 Billion annually, which equals for 62% of the value of Indonesia's marine capture fisheries.

Ms. Hamdiah reiterated that Indonesia was now very keen to protect its marine resources. According to the Ministerial Decree 45/2011, she added that Indonesia's fish populations had been degraded to a level where food security was at risk and also that most of Indonesia's fish stocks are now fully exploited and even over-exploited. Therefore she explained Indonesia was at the crossroads: either to take bold actions in preventing degradation or face the bitter consequences of depleted fish stocks, ailing fisheries, and even more difficult paths to recovery and regeneration of resources.

She concluded her presentations by wrapping up the ideas concerning the recent development in governance of Indonesia's domestic fisheries. Ms. Hamdiah pointed out that the new administration has dramatically reduced fuel subsidies, thereby reducing a driving force behind over-exploitation. Besides, it will also increase efficiency in a large part of Indonesia's fleet. She added that there was now a moratorium on the issuance of licenses for vessels larger than 30 GT that were constructed abroad (according to the Ministerial Decree 56 of 2014).

As her final remarks, Indonesia would remain committed to collaboration with friendly nations, adopting a non-confrontational approach as a first option, and only applying a controlled measure of force if no other ways were open. Hence, Indonesia had invited neighboring countries to collaborate in tackling IUU fishing in the region. In other words, Ms Hamdiah concluded that Indonesia's focus on IUU fishing did not reflect a change in its foreign policy.

“Indonesia is committed to collaboration with friendly nations and adopts a Non-confrontational approach as a first option. We only apply a controlled measure of force if no other ways are open.”

-Ms. Sitti Hamdiah-

SPEAKERS' PRESENTATION

— Dr. Edy Prasetyono



Dr. Edy Prasetyono - Lecturer of International Relations, University of Indonesia

Dr. Edy Prasetyono opened his presentation by mentioning that he will be more focused on analyzing Indonesia's new policy towards illegal fishing. He continued by explaining the importance of illegal fishing to Indonesia, which based on five arguments. First, illegal fishing matters for Indonesia because it was related to the increasing demand for fish and fishery products that led to the excessive exploitation of aquatic resources. Second, illegal fishing was also related to the reduction in food supply, lost of livelihoods and state revenues, diminishing fish stock and damaging ecosystems.

Third, illegal fishing was relevant to the issue of food security and environmental interest, where according to Dr. Prasetyono, with huge Indonesia's population, there would be a major impact to the country's food security. Fourth, illegal fishing tends to produce security implications such as weapon smuggling and human trafficking. Fifth, illegal fishing shift the conception of illegal fishing itself from being the conventional crime and transnational crime. With regards to this point, he shared his experience of attending the ASEAN Maritime Forum in Tokyo, where Thai officials argued that IUU fishing should not be considered as a transboundary security issue.

Furthermore, Dr. Prasetyono elaborated that the issue of IUU fishing should be placed within the context of the Joko Widodo (Jokowi) administration. His main argument was that the act of sinking boats was an extraordinary policy taken by Indonesian government. Compared to the UNCLOS (United Nations Convention on the Laws of the Seas), he added that the act of sinking boat was considered as the last resort against illegal fishing. However, on the the other hand, the act should also be perceived as a deterrence to foreign vessels who committed IUU fishing in Indonesian waters. He also reiterated that the idea within the context of the Widodo administration had evolved as an assertive position to protect the nation's maritime assets for the national economy. Moreover, the anti-illegal fishing policy under the Widodo administration was also considered as a step forward in achieving the idealism of Indonesia as a maritime power, which in this case meant forming related insititutional construction and law enforcement.

Dr. Edy Prasetyono also highlighted the reactions of ASEAN neighbors to Indonesia's IUU fishing policy. He argued that ASEAN countries should understand the ASEAN spirit and consider the ASEAN Community regional integration project, in which IUU fishing was a common concern for all ASEAN countries. In this light, the cooperative negotiations among ASEAN countries should be established instead of considering unilateral actions to counter IUU fishing. He reiterated that the sinking boats policy was a last resort for the Indonesian

— Dr. Edy Prasetyono

government, and moreover, that the policy was carried out with a respect for human rights and the spirit of friendship.

In his presentation, Dr. Edy Prasetyono offered two scenarios in which the sinking boats policy could be conducted in a way that didn't face criticisms from others. The first scenario, he argued was when the punishment was carried out on the sea in cases where a violation had occurred and it was not possible to capture and detain the offending foreign vessel. In this context, the Indonesian Navy could act by firing and sinking the illegal fishing boat. The second scenario was where the legal punishment had been decided by the courts. However, it was argued that the implementers of the sinking should not be the Indonesian Navy. He noted that in other countries such as Australia and some European countries, the act of sinking foreign vessels was carried out by the coast guard. As such he suggested that Indonesia's Bakamla (Badan Kordinasi Laut – Sea Cordination Body) should be responsible and moreover, clearer regulations regarding Bakamla's role was needed.

Dr. Edy Prasetyono also analysed the impact of Indonesia's sinking boats policy on actually addressing IUU fishing. He noted the possibility that the policy would increase bilateral tensions with others states, such as happened between Indonesia and Thailand and Vietnam. Furthermore, if it was traced back to the history, a trust deficit among the ASEAN countries would likely occur again. With regards to this, the Ministry of Foreign Affairs should play a communication role in order to bridge the idea and bring about a more friendly-oriented output. Moreover, he warned that bilateral tensions and trust deficits could trigger retaliatory acts against Indonesia. With 2/3 of ASEAN waters belonging to Indonesia, Dr. Edy Prasetyono argued that Indonesia should build more room and regime to project its interest and power in a concrete cooperation, such as through strengthening the ASEAN Maritime Forum. Generally speaking, Dr. Edy Prasetyono argued that Indonesia's policy can also be perceived by other countries as the rise of Indonesian power as the major player in Southeast Asia.

As a conclusion, Dr. Edy Prasetyono wrapped up his presentation by mentioning Indonesia's homework which included improving an effective policy against IUU fishing at the national level, bilateral and multilateral levels as well as with some improvement to regional initiatives. At the national level, Dr. Edy Prasetyono proposed several ideas that were important if Indonesia was to improve its anti-IUU fishing. These included legal and institutional arrangements, registration and licensing, country capacity building for fishing surveillance, ad hoc fisheries courts, community-based fisheries surveillance, and also increasing public awareness on fisheries regulations. At the bilateral and multilateral levels, he proposed that several measures such as monitoring IUU fishing activities and efforts to combat illegal fishing in the common transboundaries waters among respective countries should be conducted. In this light, Dr. Edy Prasetyono argued that lining up with regional initiatives could help Indonesia, including with the Coral Triangle Initiative on Coral Reefs, Fisheries, and Food Security (CTICFF), Mekong River Commission (MRC), and Regional Fisheries Management Organizations (RFMOs). As his final remarks, he reiterated that he supports the government position but that it should be accompanied with good diplomacy and supported by regional cooperation.

“ASEAN countries should understand the ASEAN spirit and consider the ASEAN Community regional integration project, in which IUU fishing is a common concern for all ASEAN countries.”

-Dr. Edy Prasetyono-

SPEAKERS' PRESENTATION

— Lieutenant Colonel Salim



Lieutenant Colonel Salim - Chief Sub Director of Cooperation, Sea Power Centre (Seskoal), Indonesian Navy

Lieutenant Colonel Salim used his presentation to talk about the role of the Indonesian Navy in enforcing the law against illegal fishing. He began by highlighting Act No.34/2014 Article 9 which mandated the role of the Navy as follows: to conduct defense at the sea, maintain sovereignty and law enforcement at sea, diplomacy, development of naval force, and empowerment of defense at sea. All of these mandates were strictly limited to the Navy within national waters. Moreover, he argued that the Indonesian Navy was essentially defensive in posture and did not adhere to the Mahanian conception of command on the sea.

Furthermore, Let. Col. Salim explained the capabilities of the Indonesian Navy such as in terms of deterrence strategy that was conducted in order to persuade foreign actors by threat and the use of weapons both passively and actively to project power within the national boundaries, conduct sea control and naval diplomacy, humanitarian and disaster relief efforts, and particularly related to illegal fishing was the capability to protect national security and law enforcement.

Within the context of illegal fishing activities, Let.Col. Salim argued that it was also related to the maritime security domain, principally in relations to the Maritime Domain Awareness (MDA). In this MDA, the role of the Indonesian Navy was to cooperate in various related areas, such as exchanging information and intelligence, developing integrated

information system between states, conduct joint exercises, assist to update navigation equipment, and also to prevent and eliminate contamination and environmental pollution.

Specifically speaking on the sinking boats policy, Let. Col. Salim said that the Indonesian Navy's responsibility was to conduct such acts based on the MoU it had signed in 2012 together with two other parties, namely the Marine and Fisheries Ministry and the Police. Within the MoU, the navy was mandated with several responsibilities regarding sinking foreign vessels but only if certain criteria had been met. These include if: the foreign vessel was considered illegal, such as foreign-flagged ships with an all foreign crew; a foreign vessel lacking legal documents issued by Indonesian authorities; and/or dangerous ships or old vessels that did not have high economic value. Moreover, as noted by Let.Col.Salim, the role of the Indonesian Navy as the implementers of the sinking boats policy was decided by the courts and was in accordance by Act No.45 – Act No.32/2014, particularly about the burning and sinking foreign vessels that can be done at the investigation stage or counted as the destruction of evidence through court order.

As a conclusion, Let.Col.Salim argued that the Indonesian Navy's strategy was preventive such as focusing on improving its presence at vulnerable areas, improving the naval base performance, improving maritime detection, performing maritime intelligence operations and working closely with other national institutions, such as customs, marine police, and the Fisheries Ministry. Nevertheless, he elaborated that the Indonesian Navy's strategy also had a punitive element to combat crime at sea in accordance with international and national laws.

“The role of the Indonesian Navy in sinking boats is only after a court decision has been made and is in accordance with Art No.45 – Act No.32/2014, particularly about the burning and sinking of foreign vessels.”

-Lieutenant Colonel Salim-

Q&A SESSION



One of the audience raising questions and giving comments during Q&A session.

Comment 1.

Does the coast guard in Indonesia refer to Bakamla (Badan Kordinasi Laut – Sea Coordination Body)?

Dr. Edy Prasetyono

Dr. Edy Prasetyono confirmed that when talking about the coast guards he was referring to Bakamla. He argued that there was no evidence in international law that permitted naval forces to sink boats and as such argued that the use of the Indonesia Navy to carry out such policies was a mistake.

Let.Col. Salim

Let. Col. Salim rebutted Dr. Edy Prasetyono's arguments, suggesting instead that the use of the Indonesian Navy to sink foreign vessels was mandated by national laws and was only implemented following a court order.

Comment 2.

What are challenges faced by the government to focus more in opening up the domestic market for our fisheries industry rather than focusing on exporting to other countries? Given several territorial waters that are known hotspots across Indonesia for IUU fishing, why doesn't the Indonesian Government use advanced facilities such as satellites to detect illegal activities?

Comment 3.

What is the status of our cooperation with other ASEAN countries to tackle IUU fishing? To all the speakers, do you consider that the sinking boat policy tends to be a nationalist policy and leans towards megaphone diplomacy? Moreover, do you think that this policy reflects the current government's inexperience in the area of foreign policy?

Comment 4.

Apparently, IUU fishing is also related to human trafficking activities. According to data from the International Organization for Migration (IOM) based in Indonesia, there were 500,000 victims to trafficking in Indonesia. In this context, the IOM is keen to work with the Government against the human trafficking. The IOM is

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eager to know about the Indonesian Navy's role in addressing both IUU fishing and human trafficking as they are correlated.

Ms. Sitti Hamdiah

Ms. Hamdiah addressed the answer about the incomplete regulations and opportunities to open up the domestic market for Indonesia's fisheries industry. She argued that the main problems faced was related to connectivity such as infrastructure and transportation that caused higher costs for selling marine and fisheries product in the domestic market. As such, the Government wanted to build more fishing ports, especially in the Eastern part of Indonesia. She explained that the Government hoped that this endeavour would increase fish stocks and production, as well as to develop the domestic market.

With regards to using advanced technology and facilities to detect IUU fishing, Ms. Hamdiah argued that it would be very useful. Nevertheless, Indonesia was unable to cover all of its territorial waters because of its vast areas. She explained that if the coordination between the Ministry of Marine Affairs and Fishery, the Indonesian Navy, the Police and also Bakamla worked well, then Indonesia could cope with the challenge of policing such vast waters.

She also discussed about the international cooperation that could support Indonesia in tackling IUU fishing. Indonesia had bilateral cooperation with a number of ASEAN countries such as Singapore and Malaysia as well as other regional countries such as Australia. All of these cooperation had been in operation for a long time and was visible in the form of joint patrols.

Dr. Edy Prasetyono

Dr. Prasetyono shared his experience when visiting Saumlaki region in the Eastern part of Indonesia. He explained that during his visit he found that the Indonesian Navy could not cope with the challenges occurring in its area



(left) Ms. Rahimah Abdulrahim - The Habibie Center Executive Director, moderates the Q&A session.

of responsibility due to limited personnel and vessels. In this context, Dr. Prasetyono wanted to depict the small picture of reality that occurred viz-a-viz Indonesia's border security, in particular the country's sovereignty issues and protection of its national interests on the seas. He argued that Indonesia did not have the capability to control its border, particularly in the Eastern part of Indonesia. Therefore, according to his observation, institutionalized norms and legal framework were the most important discourse that the Widodo administration should seriously focus on and make Indonesia as a maritime power.

With regards to concerns about Indonesia's increasingly nationalistic foreign policy, Dr. Prasetyono answered by pointing out three major objectives of Indonesia's foreign policy. First of all, Indonesian foreign policy was intended to protect its sovereignty. Secondly, Indonesian foreign policy was intended to protect Indonesia citizens. Lastly, Indonesia foreign policy was directed to economic diplomacy. He then reiterated that the sinking boat policy was not a normal policy that the government had done, but it was taken in extraordinary circumstances.

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Let.Col.Salim

Lieutenant Colonel Salim reiterated that the Indonesian Navy did not sink foreign vessels on the spot, but only following the decision of the courts and in accordance with national and international laws.

With regards to human trafficking, he elaborated that the Indonesian Navy regularly coordinated with other relevant agencies because such issues were diverse and complex, meaning it could not be handled by a single institution alone. In this light, the navy cooperated with police or other agencies through the scheme of inter-agency cooperation.

Comment 5.

Does sinking boats as the deterrence effort actually reduce the number of IUU Fishing activities happening in Indonesian waters?

Ms. Sitti Hamdiah

Ms. Sitti Hamdiah answered that Indonesia's policy of sinking foreign vessels was making an impact especially because of the high exposure Indonesia's efforts had received.

Comment 6.

Indonesia will be the chairman of the Indian Ocean Rim Association (IORA). Will IUU fishing be one of Indonesia's top priorities as IORA chairman?

Dr. Edy Prasetyono

Dr. Edy Prasetyono believed that the agenda of addressing IUU fishing will be at the top of Indonesia's priorities during its IORA chairmanship. He reminded the audience that IORA was established as a forum to discuss soft/non-traditional security issues rather than

hard traditional security issues. Therefore, the inclusion of IUU fishing would be inevitable

Ms. Sitti Hamdiah

Ms. Sitti Hamdiah added that addressing IUU fishing activities would not only be included in the IORA, but also in other international and regional gatherings such as ASEAN Summits and APEC meetings.

Comment 7.

How to tackle the possibility of corruption when tackling IUU fishing? Also are there any surveillance systems to detect the IUU fishing activities? What do you think about the current procedures adopted to sink foreign vessels? Can they be further improved?

Comment 8.

In the context of regional stability in Southeast Asia, do you think that it will affect stability, particularly if Chinese fishing vessels are sunk as has been speculated may happen soon?

Dr. Edy Prasetyono

Dr. Prasetyono argued that with China's status as a major power, sinking Chinese fishing vessels would affect regional stability. He assumed that the Chinese government would strongly lobby the Indonesian government about this policy. He suggested that Jakarta could use this to obtain a strategic position when it came to the ongoing negotiation process for the Code of Conduct in the South China Sea (COC). Nevertheless, he believed that the Indonesian government would think more than twice before sinking Chinese foreign vessels caught illegally fishing in Indonesian water.

Let. Col.Salim

Related to the procedure of sinking foreign vessels, Let. Col. Salim reiterated that the

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procedure was clear and followed a process. According to him, the first step was detection process. Secondly was the detention process. Thirdly is the action process. All of this scheme was intended to produce shock therapy to the subject.

Ms. Sitti Hamdiah

With regard to the possibility of corruption and illegal fishing, the Ministry had produced Regulation No. 56/2014 about the Moratorium Licensing. In this light, it could assist the ineffectiveness of surveillance caused by the limited numbers of satellites and/or poor institutionalized procedures. She added that the Government was hopeful that it could address the aforementioned problem and produced significant results.

Comment 9.

Related to the traditional fishing activities conducted by certain communities (such as sea gypsies) which have been conducted for centuries, what kind of policy will the Indonesian Government do?

Ms. Sitti Hamdiah

In response to this question, Ms. Sitti Hamdiah shared her experience and noted that Indonesia had entered cooperation with other neighboring governments to verify the status of sea gypsies in accordance with international conventions. She added that in the near future the Government would establish a national task force to deal with this issue.

Comment No. 10

How far is the socialization of Indonesia's Exclusive Economic Zones (EEZ) and maritime boundaries been done to our fishermen? Does Indonesia have a floating headquarter handling surveillance of IUU fishing activities?

Let. Col.Salim

Regarding to the socialization of Indonesia's EEZ maritime boundaries, Let. Col. Salim argued that within the Indonesian Navy, there was a department of maritime affairs tasked with this job. He also answered that Indonesia did not have a floating headquarters presently.

Comment No.11

Is there any increase on regional trade for marine resources and fisheries as a result of Indonesia's new policy?

Ms. Sitti Hamdiah

Ms. Sitti Hamdiah explained that there was an increase in the regional trade of marine resources and fisheries. In fact, the regional trade for marine and fisheries resources had now become a top priority for the Indonesian Government and thus, the first stepping stone was to protect Indonesian fish stocks and meet the national consumption needs first.

Dr. Edy Prasetyono

As a final remarks, Dr. Edy Prasetyono stated that Indonesia should intensify its diplomatic efforts in disseminating to others in the region that Indonesia's policy of sinking boats was one that is serious , genuine and long-term.

Ms. Sitti Hamdiah

Ms. Sitti Hamdiah in her final remarks emphasized that the Government's policy towards IUU fishing would not affect regional and bilateral cooperation. Conversely, Indonesia's policy opened Jakarta for greater cooperation with other governments in the region to tackle maritime issues including IUU fishing.

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