

MAIN CHALLENGES FOR INDONESIA TO BECOME MARITIME FULCRUM

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ABSTRACT

Indonesia is the biggest archipelagic state in the world and has the second longest coastline in world after Canada. This great modality unfortunately not automatically forms Indonesia as the maritime countries, let alone maritime fulcrum as aimed by the current government. This paper tries to point out what are the current conditions of Indonesia, the main challenges to become maritime country as well as the recommendations that need to be taken into consideration by the ruling government as well as the Indonesia people to prepare Indonesia becoming maritime country and eventually maritime fulcrum.

Keywords: archipelagic states, maritime country.

INTRODUCTION

In 13 November 2014, President of Indonesia, Mr. Joko Widodo, had given an interesting speech during the 9th East Asia Summit in Myanmar. The message conveyed to the participants of the summit was clear that Indonesia wish to reach its ideal goal as the largest archipelagic state in the world to be the "maritime fulcrum", the country which is developed based on its maritime activities in various aspects of life. This intention is not easily accomplished because of various existing conditions in Indonesia that are quite away from a picture even as a maritime country.

Major issue that is stressed in to achieve Indonesia's aim is Indonesia's willpower to **rebuild maritime culture, build the maritime food security, build the maritime infrastructure and connectivity, build maritime cooperation as well as to form supremacy in maritime defense, also known as "five grand design" of maritime fulcrum.**

Such willpower is a clear consequence not least to mention that the majority of Indonesian government regime in the past did not take the sea into notice for quiet a long time, accordingly the "grand design" on marine was never completed up until now. If we try to look at the primary plan of Indonesia to be the "maritime fulcrum" one by one, then the fact that Indonesia as the largest Archipelagic State in the world has unfortunately not guaranteed the successful of Indonesia to be the "maritime fulcrum". This paper is trying to point out what are hindrances for Indonesia to build up itself as a maritime country and even more what are main challenges to be conquest and eventually to discuss some of strategic recommendations to enable Indonesia becoming the "maritime fulcrum".

CURRENT SITUATION & CONDITION

Indonesia is the largest archipelagic State in the world, consisting more than 17,000 islands, the second largest

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coastline after Canada and an extensive sea of almost 6 million km², which includes the archipelagic waters, territorial sea, and exclusive economic zone.²

It started from the creation of Djuanda Declaration 1957 (13 December 1957),³ a unilateral action of Indonesia claiming that the surrounding waters, in between and waters connecting islands within, without looking at width of the water area. Indonesia has created a new regime that did not get any recognition and to fight to get its recognition during the 1st United Nations Conference on the Law of the Sea in Geneva, which then established four Conventions of the Law of the Sea in which Indonesia has failed to obtain its recognition on the claim. Indonesia did not stop there, when in the year 1960, Indonesia formulated Law No. 4 Year 1960 confirming unilateral action against claims on Indonesian archipelago waters where Indonesian baselines is drawn from the outermost point of the outermost islands so that the waters in between are considered as internal waters. It is assured at the time that such claim was not recognized and acquired by the international law of the sea, as baselines could only be drawn from each islands of the low water line, so that the internal waters is the land from the baselines where the territory towards the sea is called territorial sea. Diplomatic struggle was done continuously during the negotiations of the 3rd United Nations Conference on the Law of the Sea that lasted more than ten years until then produced a very comprehensive convention on law of the sea, known as the 1982 United Nations Convention on the Law of the Sea (1982 UNCLOS) ratified by Indonesia through the

enactment of Law No. 17 Year 1985, obtaining *de jure* international recognition on the concept of archipelagic State that has been created and claimed by Indonesia unilaterally for 24 years.

A large body of water as such should actually enable Indonesia to become a powerful maritime country with the large territory of sea, almost triple of its land. Extraordinary resources not only the living resources but also includes non living resources, not to mention the fact that international shipping makes Indonesia as the heart of economic intersection of the world where the sea is navigable by a fleet of the world trade since hundreds of years ago. Should the aspiration of President Jokowi is not difficult to achieve, but when we look at the fact that Indonesia is not yet a maritime state, let alone the maritime fulcrum is a big challenge for Indonesia to achieve. Five above grand designs are a large agenda and require a careful readiness of Indonesia in order to make it happen. Some of the weaknesses and also potentialities of Indonesia relating to those five issues especially those related to fisheries are explained below:

1. Rebuilding maritime culture is not an easy task as turning the palm of the hand. The people of Indonesia have long been exposed to mainland perspective, the most important is to build on the land, and all interests must start from the interest of the land particularly the main land. Indonesia unfortunately has not designated the grand design of the ocean. The sea is deemed as the uniting factor of the land but it is nonetheless only seen as the object not as the subject. Everything has departed from the interest of the protection of the land

² Ridwan Lasabuda, "Pembangunan Wilayah Pesisir dan Lautan dalam Perspektif Negara Kepulauan Republik Indonesia", *Jurnal Ilmiah Platax* (Vol. 1-2, Januari 2013), p. 92.

Special thanks to my dedicated students: Aldi and Diena.

³ <http://www.tabloiddiplomasi.org/current-issue/184-4-article/1590-wilayah-laut-indonesia-60-kali-lebih-luas.html>

and the people while sea has to support all of those purposes. Sea is never deemed as the strategic power that Indonesia should build up every aspects of its potentiality. Indonesia people is not accustomed to see themselves as the coastal community except those who lives by the coast thus the sea is never deemed as part of their life that needs to be guarded and developed sustainably. The young generation are not taught about the concept of archipelagic state, they heard about “wawasan nusantara” but they are not really understand what are the rights and obligation resulted by the recognition as an archipelagic state. The Law of Sea that is supposed to be understood by the key persons of government bodies, legal enforcers, sovereignty guardian, as well practitioners on the marine fields is not properly addressed & comprehended. In many law schools, the law of the sea is not a mandatory subject to be given to the students, but merely the subject for those taking international law specialization. The sea has been treated as the back yard where to throw out the garbage, coral reefs are not well protected, sea water is polluted as the biggest trash can and marine tourism is rarely pick out as the prioritized tour destination.

2. Build Maritime food security is an ideal condition, however it needs to embed the seafood as a staple food for the people of Indonesia that means building on the habits of the public to eat fish as a main course of their everyday life, or “daily diet”. Such matter shall not be a problem for the coastal people, nevertheless must bear in mind that many Indonesian people are living in non-coastal area and do not have the habit of eating fish. In contrast to the strong habit of

consuming fish at various States consisting of islands, among others are Japan and Maldives.

The agenda of the Indonesian government is to achieve maritime food security in the sea for the people of Indonesia. World fish production has grown steadily in the last five decades, the supply of fish increased by an average 3.2 percent occupy the world population that is only 1.6 percent. World’s fish consumption per capita has also increased since the year 1960 with the average consumption of fish of 9.9 kg, where in the year 2012 the average consumption of fish has increased by 19.2 kg. This remarkable increase is supported by a combination of the addition of the total population, rising incomes and urbanization, as well as the expansion of fish production more efficient.⁴ But the level of fish consumption in Indonesia is much smaller compared to the other coastal states in the world.

In 2011, the data reported by the FAO describes the level of fish consumption per capita in Indonesia with 12.8 kg consumption per capita, different for each regions, from southern Maluku consuming as much as 24.6 kg per capita to Yogyakarta consuming 4 kg per capita. More than 70 percent of the fish consumed is derived from marine fish, the fish obtained from the mainland reached 25 percent.⁵

Unavoidable reality is that even though Indonesia is one of the world’s largest tuna exporters, it is an unfortunate that Indonesia does not consume tuna as its daily menu.

The fishing industry in Indonesia has experienced significant growth

⁴ Food and Agriculture Organization of the United Nations, *The State of World Fisheries: Opportunities and Challenges*, (Rome, 2014), p. 3

⁵ *Ibid* n 153

between the periods of 2009 – 2014.⁶ Indonesia's productions on fish catch, fish farming, and salt amounted to 9.82 million tons in 2009, which then increased to approximately 15.73 million tons in 2014.⁷ The fishing industry contributes to the Gross Domestic Product (GDP) of 143 trillion Rupiah in 2009 and had risen to 246 billion in 2014.⁸

As a social unit, the fishing communities live, grow, and thrive in coastal areas.⁹ People in coastal areas of Indonesia have the properties of a particular characteristic or unique characteristic, related to the nature of business in the field of fisheries itself.¹⁰ This is due to the people who live in coastal areas generally suffer from the dependency on environmental conditions, season, and the market.¹¹ Many local wisdom has been growing, especially in *Adat* law community, yet have not gotten enough place as a source of law even though its existence has been recognized by the Constitution and other Laws related the sea.

It can be claimed those provinces with potential sea area are as such: Papua, Maluku, North Maluku, East Nusa Tenggara.¹² Constraints faced potential areas of marine and fisheries are, among others: (1) weak fishery data, especially data for fisheries capture in order to prevent over-

fishing; (2) the poverty of fishing communities; (3) weak national fishing fleets; (4) the problem of illegal fishing and lack of law enforcement; (5) business licensing services convoluted fisheries and the number of illegal fees.¹³

3. The development of maritime infrastructure and connectivity is a thing that has actually been long proposed, including the enactment of national shipping "cabotage principle", which state that every point in shipping lines in Indonesia should only be served by the national fleet. As has long been known "supply and demand rule" does not apply reciprocity between islands in Indonesia. Many raw materials imported from Java to Kalimantan and Papua, but not vice versa, because the development is concentrated in Java for several decades.

As made possible by the 1982 UNCLOS, Indonesia has set three Indonesian archipelagic sealanes (ALKI) from north to south and vice versa as the sealanes and air routes for ships or aircraft where are passed by 45% of the total value of world trade. Unfortunately up to now the ports in Indonesia is still considered less support in establishing Indonesia as a maritime fulcrum. Lack of these port facilities has an impact on freight transport of goods between the

⁶ Hermina Nainggolan et al., *Kelautan Dan Perikanan Dalam Angka Tahun 2014* (Jakarta: Pusat Data, Statistik dan Informasi, 2014), 3.

⁷ *Ibid.*

⁸ *Ibid.*, p. 7.

⁹ Kusnadi, "Kebudayaan Masyarakat Nelayan" (disampaikan dalam kegiatan JELAJAH BUDAYA TAHUN 2010, dengan tema "Ekspresi Budaya Masyarakat Nelayan di Pantai Utara Jawa", Balai Pelestarian Sejarah dan Nilai Tradisional, Kementerian Kebudayaan dan Pariwisata, Yogyakarta, 12-15 Juli 2010)

¹⁰ Yudi Wahyudin, "Sistem Sosial Ekonomi Dan Budaya Masyarakat Pesisir" (disampaikan pada Pelatihan Pengelolaan Kawasan Konservasi Perairan, di Kampus Pusat Diklat Kehutana, Institut Pertanian Bogor, Bogor, Jawa Barat, 5 Desember 2003), 2.

¹¹ *Ibid.*, p. 2-4.

¹² Nyoman Ngurah Adisanjaya, "Potensi, Produksi Sumberdaya Ikan di Perairan Laut Indonesia dan Permasalahannya," Dibuat untuk Pendekatan Ekosistem dalam Pengelolaan Perikanan Indonesia, 2009, 16

¹³ *Ibid.*, p. 15-17.

thousands of islands in Indonesia to be expensive, which according to data from the Indonesian Chamber of Commerce (Kadin), costs incurred to transport the transport of goods in the sea to spend a total of 15% of all business costs, while in other regional costs incurred up to 7%. The lack of efficiency of Indonesian ports can also be seen from the slow time of loading and unloading of ships coming to the ship left port (dwell). When compared with other ports in Southeast Asia, the main port of Tanjung Priok average time spent in loading and unloading of goods as much as 6.4 days, while Singapore is only about 1.5 days, and Malaysia as much as 3 days.

In terms of the amount of cargo that can be accommodated, Indonesian ports still far behind compared to other ASEAN countries. The main port of Tanjung Perak is only able to hold charge as much as 2.85 Million TEUs (Twenty-foot Equivalent Units) (0.47% share of world cargo). The Port of Singapore is able to accommodate 31.64 Million TEUs, Port Kelang Malaysia accommodate 10:01 Million TEUs, the port of Laem Chabang Thailand holds 5.93 Million TEUs, the port of Ho Chi Minh City Vietnam accommodate 5:19 Million TEUs. In addition, Indonesia also still have a problem with the depth of its ports, which causes hindered large ships to pass, and infrastructure management that is still very weak, and the lack of trade access from sea to extensive land. This certainly shows how poor the utilization of the existing potentiality in Indonesian ports.

To make Indonesia as the Maritime Fulcrum, port development agenda is first proposed by President Jokowi. The main port development with international standards would increase the profits of Indonesia in international freight transport and ensure better economic development for Indonesia.

In addition to the construction of the port, the other agenda favored by President Jokowi is shipping corridor "Toll of the Sea". Sea toll is expected to become the backbone of Indonesian and shipping network for the movement of Corridor West Sea via the port of Belawan towards Corridor Java Sea via the port of Tanjung Priok, Tanjung Perak through the Corridor Sulawesi Sea through the Port of Makassar and finally through the Corridor East Sea is the Port of Sorong. This development is certainly a positive step in preparing Indonesia as the maritime fulcrum.

Sea transportation has been recognized as the most environmentally friendly method compared to other forms of transport. From the efficiency of fuel use and greenhouse gas emissions, marine transportation saves more than 39% compared with trains and 370% when compared to trucks operating on land. The geographical position of the Indonesia is very strategic because it is located between two continents, Asia and Australia, that make Indonesia as one of the busiest line and the centers of maritime traffic between continents. Foreign ships, which aim to the Australian continent from the North, for example, to shorten the voyage will pass through Indonesia. Foreign ships can pass through the territorial sea of Indonesia with "the right of innocent passage", and pass through the waters of the Indonesian archipelagic water with the right of archipelagic sealanes passage" subject to international regulations that have been set by the 1982 UNCLOS and national regulations set by Indonesia, as long as the national provisions are not intended and impacted on the reduction of the right of foreign ships to traverse.

As an archipelagic state with huge coastal and marine areas, the number

of inter-island shipping and trading cannot be avoided. Trade between islands in Indonesia has been going on since long. Transporting goods between islands in Indonesia through the waters is an effective way to do. In addition to man transportation, vessels also have abundant goods to transport. Statistics show that the current loading and unloading for domestic trade are the three major ports in Central Java, Tanjung Emas Semarang, Tanjung Intan Cilacap and Tegal.

In 2014, the number of commercial vessels in Indonesia experienced a huge increase to more than 100%; rather grow by 120% in 2015, with the amount of 13.326 units of commercial ships, than in May 2005 those only 6.041 units of commercial ships. Increasing the number of Indonesian-flagged merchant ships while implementing the cabotage principle has provided considerable influence on the national shipping industry, which currently has been dominated by ex-foreign vessels. The issuance of Presidential Instruction No. 5 of 2005 on the Empowerment of National Shipping Industry and Act No. 17 Year 2008 on Navigation has become the legal basis of cabotage principle in Indonesian water. According to article 8 of Law No. 17 Year 2008, the domestic sea transportation activities shall be carried out by domestic shipping line using Indonesian vessel, which at least Indonesian parties own 51% of the share.

The number of commercial vessels has been increased that can be also deemed as anticipation of the average growth in cargo volume for inter-island trade in Indonesia. According to the latest news in January 2015, the volume of cargo in terms of inter-island trade in Indonesia continues to increase with the range of 15% to 25% per year. Raising the volume can indicate that the future of inter-island

shipping business in Indonesia looks very promising.

Although the number of commercial ships annually continues to grow, but is still considered to not meet the ideal amount. Therefore, Indonesian National Shipowners Association (INSA) emphasize that Indonesian-flagged vessels must be constantly encouraged to work on public transportation.

Port activities have an important role for the growth of industry and trade, which can contribute to national development. Currently Indonesian ports in the region continue to grow and evolve. For example, in July-August 2015, the government will begin to build a sea port city of Sorong, West Papua Province through PT Pelabuhan Indonesia. This is because according to the President Joko Widodo, build a deepwater port in Sorong, West Papua is a very strategic area because it is the entrance area of Papua and West Papua so that needs to be equipped by port infrastructure. In the previous year, there was also a port development on the island Baai, Bengkulu.

4. Cooperation in the marine sector can only be done effectively if the mutual respect and common interest between the State. In modern international relations, countries always give priority to diplomacy in solving problems together and for a framework of cooperation and mutual complementarity.

The potential of maritime diplomacy can no longer be avoided to find a solution in helping Indonesia. Currently, maritime diplomacy is a significant part of President Jokowi's agenda as a tool to solve problems on the sea, namely illegal fishing, violation of the state border, border disputes, piracy and marine pollution. One of Indonesia's efforts in maritime diplomacy is to participate actively

Indonesia in the Indian Ocean RIM Association (IORA). IORA itself is an entity that has a focus, which were related to defense and maritime security, trade and investment facilities, fisheries management, disaster control management, academic cooperation, technology and science, and cultural exchanges as well as tourist access.¹⁴

Besides participating in IORA, Indonesia also formed a partnership with China that is willing to provide assistance to realize the vision of President Jokowi. In 2013, President of People's Republic of China (China), Xi Jinping explained regarding Maritime Silk Road (MSR) or China maritime agenda is in line with the development Indonesia maritime agenda as Indonesia has a major transit point from China trading activities.¹⁵

Indonesia has ratified the 1995 UN Fish Stocks Agreement (UNFSA) and becoming a member of the three Regional Fisheries Management Organization (RFMO), namely the Indian Ocean Tuna Commission (IOTC), Commission for the Conservation of Southern Bluefin Tuna (CCSBT), and the Western Central Pacific Fisheries Commission (WCPFC), which set up a global and regional measures related to the use of tuna as a highly migratory species. Indonesia has adopted the International plan of Action on Illegal, Unreported and Unregulated Fishing (IPOA-IUU) and is also very active in the Regional Plan of Action (RPOA) to Promote Responsible Fishing Practices Including Combating IUU fishing in the Region (RPOA-IUU).

Indonesia also has a joint venture in protecting coral reefs through the Coral

Triangle Initiative (CTI), which was developed to establish mechanisms for cooperation among the countries which have the purpose and the same view regarding the management of the environment and maintaining the sustainability of Natural Resources sea in the Coral triangle which includes six countries: ¹⁶ Indonesia, Philippines, Malaysia, Timor Leste, Papua New Guinea, and the Solomon Islands.

Other than the problems at sea that require cooperation to handle, the problem of illegal immigrants arriving to the territory of Indonesia is still unfinished and a chore for the Indonesian government. Although Indonesia is not included in the countries that have ratified the 1951 Convention on Refugees, Indonesia is unable to escape and to not pay attention about the fate of the immigrants who enter the territory of Indonesia claiming to be refugees or asylum seekers. These refugees fled their country because conflict and war, the unstable political situation, or poverty. These refugees who then caused a widespread of human smuggling by sea that occurred lately, has allegedly become an international network involving actors among countries as suppliers, which usually come from Middle East, whereas the intermediaries usually come from the countries of Southeast Asia, including Indonesian.¹⁷ The people smuggling phenomenon in Indonesia is actually involved not just the refugee with the reason of persecution but also those with the economic motive which actually requires specific treatment differentiated with those of refugee.

In regards to the protection of the crew, Indonesia has acceded to the 1978

¹⁴ Mervyn Piessse, *Op.Cit.*, p. 4.

¹⁵ *Ibid.*, p. 3.

¹⁶ *Ibid.*

¹⁷ Agus Subagyo dan Dadang Sibar Wirasuta, "Penyelundupan Manusia dan Ancaman Keamanan Maritim Indonesia", *Jurnal Pertahanan*, (Desember 2013), p. 153.

International Convention on Standards of Training, Certification and Watchkeeping for Seafarers in 1987 (1987 STCW), aimed to protect crew working in a commercial ship, however Indonesia still has not ratified the 1995 International Convention on Standards of Training, Certification and Watchkeeping for Fishing vessels personnel (1995 STCW-F), which is the same legal instrument specifically for the crews of fishing vessels.

Indonesia has also become an easy target for distributor of illicit goods similar to drugs. The high demand and still weak law enforcement in Indonesia make the practice of smuggling illegal drugs are still happening today. Indonesian sea lane is a prone path to smuggle drugs. National Narcotics Body shows that 80% of drug smuggling is done through sea ports and sea transportation. Indonesian waters that are prone to drug distribution, among others, the Strait of Malacca, the Celebes Sea, and along the waters off Java south coast.¹⁸

According to the data from the National Narcotics Body, the practice of drug smuggling to Indonesia will continue to fluctuate from time to time. Based on the existing cases, couriers carrying illicit goods come from Malaysia, China, Iran, Pakistan, Nigeria, and even Indonesia's own citizen. The regular path passed by the international drug syndicate is through the India-Malaysia-Sumatra or Malaysia/Singapore-Sulawesi.¹⁹ The most recent method used by drug syndicate is to recruit an asylum

seeker who is paid to smuggle drugs to various countries.

In general, two methods used to smuggle drugs is through the container and harbor rats. The most distribution through the sea sums up to about 80%. The reason on why drug distribution is chosen through sea areas as intermediaries is because the control for incoming goods are not very strict, as the control taken at the airport. Head of Prevention Regional National Narcotics Body (*Badan Narkotika Nasional Propinsi*: BNNP) in Bali claimed that the drugs were smuggled by using a large ship at first, and when has entered the territorial waters of Indonesia, it is divided into several smaller vessels. Those small vessels are later infiltrated through small paths and are deposited on a fishing boat, such as by hanging the drugs under the water.²⁰

Up until now, the government still continues to make efforts in preventing the entry of illegal drugs into the territory of Indonesia particularly by sea, through the relevant ministries. This includes placing personnel at ports that have been the entry of drug smuggling.

5. Forming supremacy in maritime defense is the most coveted by most Indonesian law of the sea observers. As the largest archipelago, building supremacy in maritime defense and security is a must. Most of the border has been agreed upon, however there is still under negotiation, including border of the exclusive economic zone of Indonesia and Malaysia in the straits

¹⁸ "BNN: Perairan Indonesia Rawan Penyelundupan Narkoba", 1 September 2015, diakses melalui <http://www.voaindonesia.com/content/bnn-perairan-indonesia-rawan-penyelundupan-narkoba/1863557.html> pada 1 September 2015.

¹⁹ "Indonesia Dikepung Narkoba", Maret 2014, diakses melalui <http://www.beacukai.go.id/?page=media-center/berita/metro-realitas:-indonesia-dikepung-narkoba-upaya-djbc-dan-penegak-hukum-lainnya-dalam-mengawasi-dan-mencegah-masuknya-narkoba.html> pada 1 September 2015.

²⁰ "Penyelundupan Narkoba Kebanyakan Melalui Jalur Laut", 16 Maret 2015, diakses melalui <http://balipost.com/read/headline/2015/03/16/31462/penyelundupan-narkoba-kebanyakan-melalui-jalur-laut.html> pada 1 September 2015.

of Malacca, the border between Indonesia and Malaysia in East Kalimantan which has resulted in the arrest of one another fishermen of both countries in the conflict maritime areas. One of the agenda in realizing Indonesia as maritime fulcrum is relating to the issues on settlement of maritime border and areas. By 2019 ahead, Indonesia has a plan to resolve the existing maritime boundary issues including East Timor, Thailand, and India.²¹

Last agenda in the realization of Indonesia as maritime fulcrum is the improvement of maritime defense supremacy. Sea is supposed to be secured from any illegal act and safe to navigate. The designated law enforcers in the field of fisheries (The Navy, Water Police, Civil Servant Investigator) are now equipped by Maritime Security Agency(Badan Keamanan Laut/BAKAMLA), as established under Law No. 32 Year 2014 on Marine (Marine Act). One of the means that has been conducted by Indonesian Government to settle dispute on maritime boundary and territory is by conducting Border Diplomacy. Border Diplomacy is an implementation of foreign policy of dealing with boundaries issues including delimitation of land-water territory as well as management issues of international dimension.²²

Delimitation of maritime boundary that is constantly being disputed is the Territorial Sea, Contiguous Zone, Continental Shelf, and the Exclusive Economic Zone (EEZ). Territorial sea is a sovereign territory of a coastal

State, which include airspace above territorial sea, as well as the bed of the sea, and the subsoil of 12 nautical miles (nm) measured from the baseline.²³ The Contiguous zone has the length of 12 nm measured from the territorial sea or 24 nm measured from the baseline. EEZ is an area beyond and adjacent to the territorial sea which has the length beyond 200 nm from the baselines from which the breadth of the territorial sea is measured; in which a coastal State has the sovereign right to explore, conserve, and exploit its natural resources, whether living or non-living. Continental shelf of a coastal State comprises the seabed and subsoil of the submarine areas that extend beyond its territorial sea throughout the natural prolongation of its land territory to a distance of 200 nm measured from the baselines.

Indonesia is located adjacent to 10 neighboring States that are, Australia, Malaysia, Philippines, Singapore, Thailand, Timor-Leste, Papuan New Guinea, Vietnam, India, and Palau.²⁴ Some of the issues on maritime boundaries that is still being disputed and unresolved (not yet settled), among others:²⁵

- a. Malaysia, Singapore, and Timor-Leste for Territorial Sea;
- b. India, Thailand, Malaysia, Vietnam, Palau, Timor-Leste for EEZ;
- c. Malaysia, Philippines, Palau, and Timor-Leste for Continental Shelf.

²¹ Mervyn Piesse, *Op.Cit.*, p. 4.

²² Arif Havas Oegrosono, *Kebijakan Dasar Indonesia Dalam Penetapan Perbatasan Maritim*, (Jakarta: Departemen Luar Negeri Republik Indonesia, 2006), p. 13.

²³ <http://www.pengertianpakar.com/2015/02/pengertian-zee-zona-tambahan-dan-laut.html#> diakses pada tanggal 31 Agustus 2015

²⁴ <http://www.bphn.go.id/news/42/SEMINAR-TENTANG-MASALAH-HUKUM-BATAS-LAUT-INDONESIA> diakses pada tanggal 1 September 2015.

²⁵ Identifikasi Segmen-Segmen Batas Maritim antara Republik Indonesia dan 10 Negara Tetangga, Kementerian Luar Negeri RI, as of June 2015.

MAIN CHALLENGES

A few challenges that Indonesia needs to answer regarding the proposed "grand design" are as follows:

1. In Re-establishing a Maritime Culture

Maritime perspective needs to be upheld by all parts of the nation and should be enshrined in state documents to provide directives for all state units to achieve its aims. Although the focus of maritime infrastructure development has been incorporated in the development agenda of Jokowi-Jusuf Kalla, it still needs to be proven how and when the targets will be achieved. Maritime development requires a lot of cost, availability of sufficient technology, and long term commitment. However "quick wins" that will accelerate and trigger a snowball effect in the re-establishment of a maritime culture in Indonesia needs to be searched for.

What needs to be understood is that culture is not an instant overnight result, but it will be formed when cultivated since young and practiced continuously in the society, then the young generation consisting of students will understand regarding Indonesia's position as the world's largest archipelago nation and the responsibility as well as the challenges following that status.

One of President Jokowi's agenda is to prepare human resources regarding the maritime world by mainstreaming maritime knowledge in the education process. Indonesia also needs to prepare expertise in many maritime sectors, starting from technical, technological, to strategists and international maritime law experts. Government also needs to emphasize that Indonesia needs to strengthen Maritime Domain Awareness (MDA), but how can this be achieved is when studies regarding the seas and the laws that regulate it is not integrated in

the national curriculum, from primary, secondary, till tertiary education. Seas cannot be taken for granted as a resource from God to be utilized, but the sea requires attention and proper management to ensure a sustainable pool of resource. Seas cannot be only considered as a large garbage can and the assumption that the sea base and the grounds beneath it can withstand so much pollution must be eliminated, because it is the habitat of fishes, which humans will consume. The minimata tragedy in Japan must not be forgotten, just like the Buyat case in our country.

2. In building a Maritime Food Security

Indonesia has the largest fish resources at least in Southeast Asia but have we become the largest exporter? Unfortunately, it is still far from reality, in Southeast Asia, Thailand is the "king of seafood" and "the biggest producers of canned tuna in the world" along with General Santos in the Philippines. But is true that their fishery raw materials comes from Indonesia? If it is done through legitimate trade channels, that would not be a problem, but what about the fact that our oceans have been drained by the Indonesian flag vessels but does not have a "genuine link" with the Indonesian and Indonesian legal entity? Of course this can not be allowed and we should find a way out of a "moratorium licensing". Moratorium is certainly a good step and should be followed by a bolder and more resolute step that Indonesia does not rely on ex-foreign ships with the fraudulent intent. Indonesia also had to combat the various Illegal Fishing modes, which has hurt and depleted Indonesia's fish resources tangibly.

If Bagan Siapi-api was once the center of the construction of fishing vessels, if Bugis can make a ship that sailed the oceans get to Madagascar,

then why Indonesia currently does not develop itself at the center of the construction of fishing vessels. It is certainly to be distinguished by the increase in capacity would lead to over exploitation, the development of fishing vessel equipped with environmentally friendly technologies and facilitate fishing.

Quality fish should also be enjoyed freely in the domestic market and not only for export purposes. The Government of Japan has provided a subsidy to fishermen through output subsidy that guarantees the price of fish is not played around with by market fluctuations, and the Indonesian government can certainly do the same thing without being accused of violating international trade.

It is a must to realize that this plan is to support fishermen in improving the quality of yield by intervening in post-capture process to produce a variety of products including the results of fish that can be favored by the people who live far from the sea.

3. In developing Maritime Infrastructure and Connectivity

Indonesia must succeed in creating a development plan in all areas, not just in the west but also in the east, thus it will create a sea traffic ensuring mutual trading so that the prices of basic commodities will be evenly distributed throughout Indonesia. Not only that, because of the many islands that are on the border and susceptible to influence from neighboring countries, international ports should be built and developed in accordance with the available resources, as how the Port of General Santos developed by the Philippine Government for tuna fish and pineapple products.

If we reflect on the United States, it is seen that they develop all corners

of the region as evidenced by the large international ports in both north, south, west and east (Seattle, New York, Los Angeles and Florida). While in Indonesia, most of the international port are located in Java (the port of Tanjung Priok, Tanjung Perak and Tanjung Emas), so why not develop an international port in western Sumatra, West and East Kalimantan, North Sulawesi, North Papua, South Java and South Bali-Nusa Tenggara? Thus the products produced by Indonesia, both goods and fishery products can be immediately served and sent to various parts of the world without having to go through Singapore as how it is currently, in which Indonesia only becomes the feeder of Singapore.

Indonesia must also be resolute in ensuring the right of passage of foreign ships in the territorial sea and archipelagic waters. If the setting of new ALKI is considered "partially-adopted" by the IMO as an international institution that is competent in the field of shipping, then for legal certainty Indonesia must dare to take a stand against the eastern-western path that has always been an international cruise lines under article 53, paragraph 12 1982 UNCLOS then foreign ships can sail there with "the right of archipelagic sea lanes passage" though not defined as ALKI. Rather than supervising a large span of sea, which is difficult, why not set ALKI to be east and west? So that "any similar convenient routes" will be deleted.

In support of cabotage, Indonesia should build a passenger and cargo ship shipbuilding yard in accordance with the characteristics of the Indonesian archipelago. The principle of "cabotage" should be able to enrich the flow of inter-island shipping, given sea transport is the most economical and efficient option, especially for cargo. However, it should borne in

mind that there will not be a cruise between islands if an inter-island supply and demand is not created, so the biggest challenge is to change the direction of development into equitable growth throughout Indonesia, where each area will be developed in accordance with the capabilities, potential and carrying capacity. Indonesia also have to ensure that the Indonesian-flagged fishing vessel that meets the "seaworthiness".

Ports become very important tools for connecting between islands. Although ports in Indonesia is increasing, but note also the condition and the port facilities in order to function properly.

Indonesia also have to serve the delivery of "international trade" goods which is derived from and will be sent to Indonesia, the Indonesian ship should be able to transport the goods directly to the State of destination and vice versa. In the past, the visible red and white fluttering on Indonesian ships in international ports abroad such as Rotterdam, Hamburg, Bremen, Los Angeles, it is time now Indonesia resubmit merchant fleets to various ports in the world, not just be a "feeder" for foreigner ships in Singapore.

To achieve it, Indonesia must ensure that Indonesia has navigable waters because the safety and security of shipping is guaranteed. Indonesian Sea should be guarded 24 hours a day 365 days a year at each corner. For that, members of the House of Representatives (DPR) are honored to be supporting the improvement plan and increase the capacity of surveillance vessels of various sectors, especially that secures the sea area of maritime threats.

4. In Cooperation in Maritime Sector

It should also not be forgotten by Indonesia that this vast sea area does

not only provide an abundance of fish but also an abundance of mineral resources and renewable energy that is in the sea. Submissions of Indonesia against "extended continental shelf" has been agreed by the Commission on the Limits of Continental Shelf (CLCS) as provided for in UNCLOS, 1982, Indonesia is now time to make real plans for utilization. Coordinating Ministry for the Maritime and Resources and the Ministry of Maritime Affairs and Fisheries (MMAF) must be "leading sectors" in developing cooperation in the maritime field. We must not get stuck in the affairs of MMAF to only be about fisheries.

The seas store large energy that should be used for energy sources as has been done by many European countries for example by building a "wind mills" in the middle of the sea that proved effective and efficient.

Indonesia should be "leading actor" in the field of fisheries, because Indonesia is the one with the biggest fish resources at least in Asia Pacific. When "management measures" have been established in the global and regional order it is necessary for Indonesia to implement it in national level, both in legislation and in practice in the field, including in "Combatting illegal, unreported and unregulated (IUU) Fishing" and "transnational organized crime related to Fishing Vessels", to carry out its obligations as "coastal State, flag State" and "port State". To prevent IUU fishing practices, Indonesia should be able to ratify the 1993 FAO Compliance Agreement and the 2009 Port State Measures Agreement.

When Indonesia strictly regulates ships, then Indonesia must be prepared to protect and regulate good Indonesian citizens who work as crews in commercial ships and fishing vessels. Liabilities arising from the participation of Indonesia in the STCW

must be met and will be more effective if carried out by means of cooperation with the ship's state of nationality or state of ship owners. However, Indonesia should also consider its participation in the STCW-F so that the Indonesian crews scattered in various foreign fishing vessels can be well protected and secured of their skills, at least meeting the standards of "worthiness".

The fact that Indonesia has ratified UNFSA and is a member of the IOTC, CCSBT, and WCPFC does not by itself make Indonesia as the sole actor responsible for sustainable fisheries, particularly for tuna. It is necessary to ensure their implementation in the field and the existence of a common understanding among actors of fishery management, economic actors fisheries and law enforcement in the field of fisheries.

Indonesia should cooperate to prevent and cope with "people smuggling" and "human trafficking" is done by sea. IUU fishing has become a global enemy and fishing boats are often used to carry out transnational organized crime such as "people smuggling", "drug trafficking" and "human trafficking" includes "forced labor".

5. In Building a Maritime Defense Power

The Government of Indonesia should control seas significantly either by the Navy, the relevant agencies and BAKAMLA established under Law No. 32 of 2014 on the Marine (Marine Act). Every inch of the sea must be maintained, both in the sovereign territory of Indonesia (internal waters, archipelagic waters and territorial sea) and in the Indonesian jurisdiction (contiguous zone, EEZ and continental shelf).

Fleets of neighboring countries cannot be allowed to enter into the territorial waters of Indonesia to return

the "illegal migrant" as has been done by Australia, and can not be allowed to the action illegal construction carried out by neighboring countries, as well as the development of navigation aids in Tanjung Datu as done by Malaysia. The doctrine of "zero enemy" can not be enforced if it concerns the sovereignty of Indonesia and the effort to maintain it, this has been shown by many countries in the world including the United States and Australia.

Indonesia must keep their entrances not only on the agreed borders but also to show "peaceful display of sovereignty" in areas that are still in dispute with neighboring countries. Indonesia should be able to secure the sea, so that the waters of Indonesia no longer be labeled as "black spots" in international shipping as many "sea armed robbery" in the territorial waters of Indonesia, which has resulted in high "insurance fee" for goods transported to and from Indonesia which resulted the high price of these goods. In summary Indonesia must build a defense fleet and security must be significant increased by increasing equipment and the ability to operate the equipment throughout the year in every region of Indonesia, including to enforce laws related to customs, taxes, immigration and health in additional zones as has been claimed by the Maritime Law.

RECOMMENDATION

Finally, this paper tries to recommend the steps that Indonesia must take in order to become a maritime fulcrum, as observed through the eyes of an academician.

1. To rebuild the maritime culture

In rebuilding the maritime culture, Indonesia must be able to perform strategic actions such as, among others:

- a. Fostering the awareness regarding the concept of an archipelagic State

- as early as possible, starting from primary education using methods that fits its level of absorption;
- b. Making the understanding of maritime law mandatory at least on university level and for government officials, especially those working in sectors related to the sea;
 - c. Protecting and developing the traditional knowledge of the coastal society, especially those who are part of *adat* law community, regarding responsible & sustainable fishing and adapting with climate change;
 - d. Institutionalizing the *adat* law that has been used for generations by codifying it into an authentic legal basis, and making it as “best practices” that can be brought forth to regional, national, and international forums;
 - e. Implanting communal culture related to marine utilization as a main culture;
 - f. Fostering societal awareness to protect the sea and preventing marine pollution or marine environmental destruction.
- 2. To establish maritime food security**
- The necessary steps to establish maritime food security are, among others:
- a. Fixing fisheries data gathering system, so it becomes reliable and accountable;
 - b. Fixing the licensing system, so it becomes effective and guaranteeing legal certainty by putting forward responsible & sustainable domestic fisheries;
 - c. Fixing the ship registration and flagging system so it will weigh not only formal truth such as formal requirements, but also material truth. In efforts to prevent “reflagging” practices, Indonesia must consider to participate in the 1993 FAO Compliance Agreement;
 - d. Developing a national fishing ships manufacturing industry that is internationally qualified by updating fishing ships facilities with advanced technologies and avoiding the use of ex-foreign ships unless due to a very strong reason or due to a “genuine link” that is materially proven to exist between the ship and its owner, who must be and Indonesian citizen or an Indonesian legal entity;
 - e. Not opening chances for foreign industries to invest capital in the fish-gathering sector, and only allow them to move in the processing and marketing sector of the industry if: the national industry is insufficient, it obliges “transfer of knowledge and technology,” and if it is of significant benefit for the national income;
 - f. Expanding Indonesia from being the world’s biggest producer of fresh, frozen, and processed fish to also become the world’s biggest producer of canned fish;
 - g. Implementing responsible and sustainable fishing methods, including regulating “fishing grounds, open/close season, marine protected areas, fishing gear, by-catch, on vessel storage and handling;
 - h. Developing a functional fishing ports to expedite the landing of fish catches and a fish processors equipped with cold storages and an effective fish packaging and marketing facility;
 - i. Guaranteeing the availability of infrastructures for fish distribution, which includes making fish catches landing points and fish catches delivery points closer to each other;
 - j. Increasing the attractiveness for domestic fisheries market;
 - k. Guaranteeing the domestic supply of the best quality fresh and processed fish;

- l. Creating innovation in fish-based foods;
- m. Continuously campaigning fish-consuming culture, which includes developing fish-based cuisine in the archipelago;
- n. Protecting the interest of small scale fishermen and small scale fish workers by increasing their capacity in order to increase their quality of life, which includes expediting the trade chain so they are avoided from middlemen (“*tengkulak*”) that monopolized fish catches and marketing;
- o. Integrating the principle of sustainable utilization of fish resources in every policies in national or local level as well as between related ministries;
- p. Preventing and abolishing “Illegal, Unreported, and Unregulated (IUU) Fishing” by increasing the role of ports to prevent the entry of catches that failed to produce certificate of origin (“traceability”) and results of “trans-shipment”. In order to do that, Indonesia must ratify the *2009 Port State Measures Agreement*;
- q. Creating national provisions regarding a more effective Monitoring, Controlling, and Surveillance (MCS), which includes synergizing our surveillance capacity that is currently being spread apart in multiple institutions (PPNS, TNI AL, Police, BAKAMLA);
- r. Putting forward security coordination to be able to cover larger areas in favor of sectarian ego such as “single agency multi-tasks” or “multi agencies single-task”.
- s. Making an integrated database supported with the latest technology regarding the threats to the fisheries resources (“illegal fishing” means) that could help create a more immediate and effective counter-measures;
- t. Creating criminal sanctions that induce a deterrent effect, which includes legitimizing the act of “burning and sinking both local or foreign vessels within the archipelagic waters, territorial waters, and EEZ,” as last resort punishment (“Ultimatum remedium”) against “Illegal Fishing”, as long as there is a clear SOP to regulate its implementation to avoid violation of human rights; and
- u. Developing “prompt release upon bond posting” system that suits the characteristic of fish catching in Indonesia by drafting a clear SOP as mandated by the law.

3. To develop maritime infrastructure and connectivity

Several steps that needs to be taken are:

- a. Supporting the implementation of cabotage principle by creating a supply and demand chain between islands in Indonesia by developing a national industry that is equally spread in the archipelago;
- b. Strengthening the Indonesian shipping fleet by developing the national commercial vessel manufacturing industry that is highly competitive in quality so that Indonesia can be independent in manufacturing passenger ships and cargo ships for national, regional, and international interest while qualifying the international standard of seaworthiness;
- c. Securing the sea from any form of navigational safety and security threats, which includes improving the navigational support and safety patrol facilities at sea;
- d. Increasing the capacity of ports to become international port that fulfills the criteria for international trade;
- e. Increasing the “search and rescue” facility in facing dangers at sea;

- f. Implementing and improving the facilitation in the utilization of the Indonesia Archipelagic Sea Lane so it won't detriment Indonesia's interest
- g. Determining the East-West Indonesian Archipelagic Sea Lane to prevent the arbitrary use by foreign vessel because they utilized the partially adopted status of the Indonesian Archipelagic Sea Lane and the binding power of Article 53 Paragraph 12 of the 1982 UNCLOS; and
- h. Determining the "port limit and outer port limit" of each ports and developing the service sector related to sea transports, especially in areas usually used for international sea passages.

4. To establish cooperation in the maritime sector

Several steps that needs to be taken are:

- a. To lead in the cooperation in maintaining security and safety at sea without sacrificing national interest;
- b. Cooperating to increase the safety of voyage, protection of the marine environment, prevention and countermeasures of marine pollution and maritime security;
- c. Indonesia must cooperate in both regional and international level to protect Indonesia ship crews working in both Indonesian and foreign vessels by applying international standards, some of which are stipulated in the 1978 STCW and 1995 STCW-F;
- d. Initiating the birth of new regional and international norms and "best practices" that can be followed by other states in the field of fisheries and sea voyage;
- e. Cooperating with maritime law enforcement especially in places outside the jurisdiction of the State

such as the high seas, especially in efforts to prevent international and transnational crime including piracy, drug trafficking, and human trafficking;

- f. Actively participate in fisheries MCS in high seas through RFMO;
- g. Establish cooperation to utilize extended continental shelf especially those that requires high technology that Indonesia does not have at the moment; and
- h. Participate in the utilization of the international sea bed area as a manifestation of common heritage of mankind.

5. To build the strength of maritime defense

Several steps that needs to be taken are:

- a. Making sure that the definitive state borders are not breached by neighboring states;
- b. Conducting an active border diplomacy even before problem arises especially those correlated with fishermen activities near the borders;
- c. Complete all pending border disputes while putting forward national interest; and
- d. Making Indonesia a forerunner in the Asia-Pacific with regards to border defense, because a safe territory is the one that is carefully guarded.

CLOSING REMARKS

There are a lot of homework that must be done and that is unable to be specified one by one on this paper, but the big steps has been laid out by the Indonesian government which we hope will not end as mere slogans without any realization in the future government programs. The government along with the House of Representatives must be able to realize the vision and mission to become the world's maritime fulcrum starting by fixing

ourselves internally and the expanding its influence externally.

Indonesia must be optimistic that with the large capital of being the biggest archipelagic state in the world, which is not obtained easily, Indonesia must become a strong and advanced maritime state. There should be a strong and consistent political will that will not shift

between presidencies. This is not only the dream of President Jokowi, but also the dream of Indonesia, that everyone sitting in the government should fight for. The motto of the Indonesian Navy is perfect, Indonesia has to reign over the sea because the sea makes Indonesia great, JALESVEVA JAYAMAHE!



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