

INDONESIA-MALAYSIA RELATIONS: TERRITORIAL AND CROSS-BORDER ISSUES GETTING HOTTER

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A song named “*Kalimantan Utara*” (Northern Kalimantan) was quite popular in Indonesia in the early the 1960s. It invariably accompanied the Indonesian army soldiers or volunteers departing to fight Malaysia. Then President Soekarno attacked this newly established state as “Western imperialism creation” and declared a policy of confrontation with it.

Forty years later the theme of confrontation between Indonesia and Malaysia is suddenly debated anew. Relations between the two neighbor countries are turning sour because of a whole set of issues not settled during the last decades. In February 2005 Malaysia's oil company Petronas struck an exploration deal with Anglo-Dutch giant Royal Dutch Shell to start operations in the Ambalat area of the Sulawesi Sea – the area that Indonesia considered its own territory. In response Jakarta lodged an official protest to Kuala Lumpur.

The Royal Malaysian Navy battleships started to appear more frequently in the area of Ambalat. The ships of the two countries began confronting each other. In April, as the Indonesian vessel tried to drive away the Malaysian one, the ships collided three times but fortunately nobody from the crews was hurt.

The development of events in the disputed area showed that Jakarta's authorities were in the resolute mood. President Susilo Bambang Yudhoyono immediately visited an island near the



border with Malaysia and ordered the chief of the national army to restore Indonesia's sovereignty over the Ambalat area by all means. Four F-16 fighter jets and a detachment of marines had been sent to the Eastern Kalimantan.¹

The Indonesian government had not only failed to prevent but according to some sources, encouraged demonstrations near the Malaysian Embassy in Jakarta and diplomatic representations of that country in other towns. Agung Laksono, the chairman of DPR (parliament) stated that the only way to solve the problem was the military one. Jakarta's political elite obviously wanted to disprove the opinion that the government of Indonesia was "weak and unstable". In the meantime the authorities called the Italian company ENI and the U.S. based corporation Unical to continue exploration works in the Ambalat area, emphasizing that it was under the unquestionable sovereignty of Indonesia. It was understood that in case of oil and gas discovery the extraction would begin in 2008-2010.²

The Indonesian mass media actively reacted to the hot dispute. The local press was full of headlines like "Ambalat is ready to fight" (*Ambalat Siaga Tempur*), "Malaysia is persisting" (*Malaysia Bersikukuh*) and even "Crush Malaysia" (*Ganyang Malaysia*). The highly respected "Kompas" daily wrote: "Malaysia, the ASEAN partner, a kindred nation that until today we considered a good neighbor has demonstrated its arrogance and disrespect towards us. As the good neighbor Malaysia ought to tell its neighbor beforehand if it had felt that there had been a dispute over a certain area at the border" (...*Malaysia, negara sesama anggota ASEAN, bangsa serumpun, yang selama ini kita anggap tetangga yang baik, telah menunjukkan sikap arogan dan tidak menghargai kita. Sebagai tetangga baik, seyogianya dia berbicara dulu dengan tetangga jika dia merasa bahwa ada kerancangan dalam kepemilikan sepotong lahan di perbatasan*).³

The Ambalat issue has prompted Indonesian politicians and academics to explore the history of its emergence. They commonly agree that the dispute actually started at the end of the 1970s when Malaysia published the maps of its maritime borders on the basis of the Continental Shelf Convention of 1958. In those maps the islands of Sipadan and Ligitan near the Eastern Kalimantan shores were shown as Malaysian possessions. Although at that time Indonesia protested against this unilateral action, negotiations had no results. Therefore the case was passed to the International Court of Justice (ICJ) in the Hague. In December 2003 the ICJ ruled that the



islands belonged to Malaysia on the grounds that it had begun to develop them earlier than Indonesia. At the same time the ICJ noted that its verdict had no straight juridical power for the delimitation of the continental shelf between the two countries. The issue ought to be settled in accordance with the principle of the equitable solution of the UN Convention of the Law of the Sea (UNCLOS).

Malaysia's choice was different. After proclaiming that Sipadan and Ligitan belonged to it, Kuala Lumpur moved its maritime border southwards, deeply into the Ambalat area.

The bellicose sentiments of Jakarta's political elite were quite understandable after these new claims, but eventually it concluded that a new confrontation might be a dangerous undertaking. First of all, Malaysia had a relatively strong economic potential and modern armed forces. Besides it was a member of the five powers defense arrangement with United Kingdom, Australia, New Zealand and Singapore.

On the other hand, after the fall of President Soeharto's regime Indonesia lost its status of a major military power in Southeast Asia. For instance, in the beginning of 2005 the Indonesian Navy possessed 114 ships of various types. But only eight were more or less new while the rest, in the opinion of the Indonesian military themselves, were "floating scrap metal". The plans to build navy bases alongside the outer border perimeter of the archipelago were cancelled. The Air Forces of Indonesia also degraded. Only 30 to 40 per cent of all aircraft remained on duty. A shortage of transport airplanes compelled the government to lease helicopters in Singapore for relief and humanitarian operations in the Province of Aceh hit by tsunami at the end of 2004.⁴

Clearly, the Sulawesi Sea dispute represented a clash of sovereignties. To such post-colonial states like Indonesia and Malaysia the matters of national sovereignty and territorial integrity were of superior importance and sensitivity. Also, the territorial spat reflected a competition over the resources of the seabed. Southeast Asia possesses one third of the world continental shelf. As the biggest maritime state of the region Indonesia holds a major share of the nature's treasure. At the same time such situation creates a potential for interstate disputes and conflicts.

Eventually Indonesia and Malaysia agreed that the negotiations on the resolution of the dispute would be held at the ministerial level. Nevertheless President Susilo Bambang Yudhoyono



emphasized that the army must remain on standby to protect the sovereignty in the Ambalat area. The fighter jets and marines dispatched to the Eastern Kalimantan remained at the places of a new disposition.

Meanwhile Malaysia's Foreign Minister Sayed Hamid Albar said that both sides should refrain from confrontation as their bilateral relations were of great importance for ASEAN. However, the Minister pointed to the fact that Kuala Lumpur was determined to defend its territorial integrity and national interests. Once again Malaysia lodged a note to Jakarta with demand to leave the disputed area and stop building new navigation installations. Simultaneously the Indonesian mass media was accused of kindling anti-Malaysia feelings.⁵

In May 2005 Indonesia's Vice-President Jusuf Kalla visited Kuala Lumpur. During his meetings with Malaysia's Deputy Prime Minister/Minister of Defence Najib Razak both sides had agreed to refrain from staging any shows of force in the Sulawesi Sea. Indonesia and Malaysia had also agreed to establish technical teams for seeking ways to resolve the dispute.

Naturally, gestures of reconciliation from both sides were very important. But being aware of how strict was Malaysia's position Indonesian political scientists were skeptical about the diplomatic efforts. Trying to be as practical as possible, Dr. Ikrar Nusa Bhakti, a Senior Researcher at Lembaga Ilmu Pengetahuan Indonesia (LIPI), had outlined the ways of this dispute's resolution.

In his opinion it was unproductive to appeal to ASEAN High Council established under the Treaty of Amity and Cooperation in Southeast Asia. In fact until lately this body was not really operating. Besides Malaysia was not eager to use it because of apprehension that some other ASEAN countries that had territorial claims to Kuala Lumpur – namely the Philippines, Singapore and Thailand – would also seek the judgment of that body. In other words, an appeal to the High Council would have been like an opening of the Pandora Box with unpredictable consequences for the future of ASEAN.

Another way was through the good services of ASEAN Regional Forum (ARF), instituted not only for confidence building measures and preventive diplomacy but for conflict resolution too. This way, however, would imply a danger of bringing extra-regional powers into the picture.



The third option would be the non-political legal solution – in other words, the solution with assistance of the International Court of Justice (ICJ). But having the regrettable experience related to the Sipadan and Ligitan issue, Indonesia was not inclined to explore this way once again.⁶ Dewi Fortuna Anwar, the famous Indonesian international relations expert, also said that domestic public opinion would make it difficult for the government to seek arbitration of the ICJ again.⁷

One more option that might be added to this list would be the use of the conflict resolution measures provided by Vientian Action Program (VAP) in the framework of the ASEAN Security Community (ASC) implementation. But establishing of ASC is just beginning, and therefore it may be too early to pin hopes on this particular option.

Thus it remains unclear how to handle the Ambalat dispute. Nevertheless some Indonesian academics believe that settlement through the ICJ is inevitable and advise the government to prepare for this turn of events.

At present the row in the Sulawesi Sea has a sort of continuation in Kalimantan itself. The 2000 kilometer-long land border between Indonesia and Malaysia has only 30 Indonesian border posts, runs mostly across inaccessible mountain woodlands and is poorly demarcated. During the last years Jakarta constantly accused Kuala Lumpur of moving border marks inside the Indonesian territory and systematically engaging in illegal logging for export. In 2005 in order to prevent illegal logging and to strengthen its border control Indonesia decided to double the number of its border posts in Kalimantan. The only question was getting enough money to implement that decision.⁸

Apart from the territorial dispute and the Kalimantan border problem, some other problems burdened bilateral relations too. One of them was the massive influx of Indonesian migrants. By the end of the 1990s about two million Indonesians were living in Malaysia, half them illegally. These people sought employment as unskilled low-cost workers in such sectors of the local economy as construction, plantations, forestry, municipal services and households.

This influx of migrants had been largely caused by the acute social and economic crisis in Indonesia, mass lockouts, falling wages and incomes. The unemployed of Java and Sumatra



viewed Malaysia as the Promised Land, and for good reasons: the Indonesian worker's pay at oil-palm plantations in Malaysia was four or five times higher than back home.

Acknowledging the contribution of Indonesian labor to the country's economic development, Malaysians believed that the influx of illegal migrants had a lot of negative consequences, such as the rise of cross-border crime, greater infiltration of Islamic radicals and, accordingly, greater terrorist activities. Besides that, recession in Malaysia's construction industry and some other sectors resulted in reduced demand for foreign labor.

In August 2002 the authorities of Malaysia organized their first crackdown on Indonesian illegal migrants. Judging by some accounts, the Malaysian police did not behave in a restricted manner, prompting accusations in the Jakarta papers that Indonesians were treated like "brute". Such practice caused resolute protests and a splash of anti-Malaysian sentiment in Indonesia, with a certain friction in bilateral relations.⁹

Since that time the issue of Indonesian migrant labor has been a major topic on the bilateral agenda. In May 2004 both parties tried to promote the resolution of the problem: a Memorandum of Understanding (MOU) that to some extent determined the rights and duties of the Indonesian employees and Malaysian employers was signed in Jakarta. However, the emphasis in the MOU was mainly on the duties of the migrant workers. They were prohibited to organize trade unions, to marry other Indonesian citizens and Malaysians etc. They were also obliged to hand over a certain part of wages to employer as a guarantee of their return home.

In other words, the Indonesian workers in the neighboring country were in many ways quite powerless. Not surprisingly, more and more of them would run away from their employers. Only in 2003 this number exceeded 17 000.¹⁰

It is worth noting that in Indonesia itself a lot of government institutions, the Department of Working Force and Transmigration being just one of them, are obliged to protect the rights of compatriots abroad. Nevertheless, in practice this issue is left in the hands of private dealers.

Until now Indonesia has no intergovernmental agreements with the countries importing its domestic labor. The MOUs signed by now have no strict juridical power. Jakarta hasn't ratified the UN Convention on the Protection of Migrant Workers, and there is no corresponding internal



law. As "Kompas" once wrote, the authorities were treating Indonesian labor abroad as "human rubbish" that brought home a lot of money.¹¹

In October 2004 the Malaysians launched another crackdown on 700 000 illegal migrants from Indonesia. Of these some 330 000 were deported home by February 2005. The rest were obliged to leave Malaysia before March under the threat of criminal prosecution.

When President Susilo Bambang Yudhoyono visited Kuala Lumpur in February 2005, a new MOU was signed. But in the course of negotiations serious frictions appeared between the parties. Having given its consent to deportation of Indonesian illegal migrants, Jakarta demanded that their wages (about US\$ 100 million) would be paid off by their Malaysian employers. Malaysia's Prime Minister Abdullah Achmad Badawi promised to assist in solving the issue. Eventually the Indonesian head of state said that if only the Malaysians clear off all debts in wages and the Indonesians put a labor recruitment system in order, one of the most irritating issues would be removed from the bilateral agenda.¹²

The interstate disputes and other problems provide a fertile soil for multifarious types of cross-border crime, such as illegal migration, smuggling, piracy, drug trafficking etc. Obviously, the dispute in the Sulawesi Sea, the Kalimantan border issues and the problem of illegal migrants have created an unfavorable context for effective joint assault on criminality, especially in the Malacca Strait.

The Indonesian government and mass media used to admit that the country was suffering huge losses from smuggling. According to the Minister-Coordinator of Economy Dorodjatun Kuntjoro-Jakti, every year the country's losses from smuggling were approximating USD 4 billion. If smuggling could be overcome, said he, the country would not need to seek assistance from the international financial institutions.

The Province of Riau is a major center of cross-border crime in Indonesia. The scope of illegal operations is constantly growing. In 2004 as many as 45 attempts of smuggling were prevented there, and 20 similar attempts were prevented during the first semester of 2005. Each day hundreds of vessels sail through the island part of the Province carrying smuggled goods, especially timber. Logs are mainly smuggled to Malaysia, and saw timber to Singapore.



Like the Northern entrance to the Malacca Strait, the Riau area is a historical center of piracy for the whole of the region. The multitude of islands in the Riau Archipelago make the Province an ideal base for modern-day filibusters. There, just like alongside the Eastern coast of Sumatra, the pirates hide themselves in the so-called "rat harbors".

In 2003 the International Maritime Bureau (IMB) registered 150 cases of piracy in the Indonesian waters. After a disastrous tsunami hit Aceh and Northern Sumatra, the IMB hoped that the pirate clusters had been destroyed. The prediction turned out to be too optimistic. Last March sea-robbers renewed their activities, and new attacks on commercial vessels were registered in the Malacca Strait.¹³

The region of Riau is also used for trade in children and women, as well as delivery of narcotics and psychotropic drugs to Indonesia. Drug addiction has become a serious problem for the Indonesian society. Lately the number of drug addicts has been rising by 45 per cent annually.¹⁴

The Indonesian customs service and maritime police fail to stop the growth of cross-border crime even in cooperation with the Malaysian colleagues. Obviously the establishment of effective bilateral cooperation demand greater political will in both Jakarta and Kuala Lumpur, but this is hampered by too many problems on the bilateral agenda.

Summarizing the issues outlined in this paper, the author tends to agree with Dr. Laode M. Sharif of the Hassanuddin University, who believes that the disputes between Indonesia and Malaysia, including the one over the area of Ambalat, should not be dumped in a single basket. A tough attitude towards the dispute in the Sulawesi Sea should not be used as a measure of revenge for the deportation of the Indonesian migrants or a measure to punish Malaysia's dealers involved in illegal logging in Kalimantan. Establishing a connection between all of these problems would only complicate their resolution, while the use of force by Indonesia would aggravate its relations with ASEAN and ARF partners. After all, ASEAN was once established to prevent a revival of confrontations between its members.

It is also worth to remember that the dispute in the Sulawesi Sea is causing some concern in the world. For instance, Muammar Khadafy, the Lybian leader, had a telephone conversation with



the Indonesian President, calling the parties to settle their differences by peaceful means since the conflict between the two Muslim countries only played into the hands of the enemies of Islam.¹⁵ And last June the Bilderberg Club, viewed by some as a "world government" comprising influential politicians, businessmen and academics, discussed the impact of quarrels between Indonesia and Malaysia upon the international energy market.¹⁶

References

¹ Reuters India, 07.03.05

² Kompas, Jakarta.12.03.05

³ Ibid.

⁴ Ibid, 09.03.05

⁵ Gulf News/World, 09.03.05

⁶ Kompas, 09.03.05

⁷ Gulf News/World on 09.03.05

⁸ Kompas, 17.03.05

⁹ Ibid.

¹⁰ Berita Minggu, KL, 30.05.04

¹¹ Kompas, 15.02.05

¹² Ibid, 05.06.04

¹³ Russkiy Kuryer (Russian Courier), Moscow, 18.06.05

¹⁴ Kompas, 26.06.04

¹⁵ Ibid. 15.03.05

¹⁶ www.pravaya.ru/news/3549 09.06.05

