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Indonesian Coast Guard: Will It Surface Or Sink?

By Siswanto Rusdi

SYNOPSIS

Scores of drafts for the establishment of the Indonesian Coast Guard have been prepared, discussed and submitted to the President for approval since 2011. Yet the agency has not seen the light of day. When will it become a reality?

COMMENTARY

MANY PARTIES in the country have almost given up hope with the government's decision to establish the Indonesian Coast Guard (ICG). Since the order was sanctioned by Law No. 17/2008 on Shipping, the Ministry of Transportation, as the government agency in charge of the establishment of ICG, has continually failed to implement the order.

On the flip side, Indonesia really needs a coast guard to improve its law enforcement at sea which is currently being carried out by a number of agencies. Their overlapping jurisdictions is causing confusion among shipping players. This problem often ends up in massive and widespread corruption. This is the root cause of the current despair with the lack of action on the coast guard issue.

Attempts at Formation

To be fair, the ministry has not been standing still to fulfill its mandate. Scores of drafts for the establishment of the coast guard have been prepared, discussed and submitted to the president for approval. But, they were invariably sent back for rectification, reflecting political wrangling among the local authorities that have jurisdiction in the maritime domain.

Amidst the situation, *Badan Koordinasi Keamanan Laut* (Bakorkamla) or Maritime Security Coordinating Body, the predecessor of *Badan Keamanan Laut*/Maritime Security Body, splintered and proclaimed itself as the Indonesian Coast Guard by virtue of Law No. 32/2014 on Maritime Affairs. Another manoeuvre which has created more despair than hope is to have a single law enforcer over the national waters.

Bakorkamla's decision was regretful since it was a constituent part of the establishment of ICG together with *Kesatuan Penjagaan Laut dan Pantai* (KPLP/the Indonesian Sea and Coast Guard), a director-level unit within the Ministry of Transportation. According to the law, the Indonesia Coast Guard is to be established by the merger of Bakorkamla with KPLP.

That is why when the then Minister of Transportation Ignasius Jonan wanted to establish ICG, his plan was to elevate KPLP to a directorate-general position within the ministry. The idea was criticised because ICG is not the institution's subordinate; as soon as it is set up, it will directly report to the Indonesian president and its head will have a minister-level status.

Missing “Coast Guard” in the Law

Law No. 32/2014 on Maritime Affairs, on the other hand, is the legal basis on which Bakamla, the Indonesian Maritime Security Agency, is constructed to deal with the wider ocean or maritime domain. It is a ministerial-level institution which reports directly to the president. Of 74 chapters, provisions relating to the organisation in question make up 18% (11 chapters). Additionally, those chapters were inserted subsequent to the initial draft of the law which did not contain them at all.

In Indonesia's legal system, to enact a new institution/agency as ordered by law, scores of regulation should be in place. For example, in hierarchical order, below the law there is a government regulation, or *Peraturan Pemerintah* (PP) in local parlance. Next is the Presidential Order or Perpres.

In the case of Bakamla, there is no PP issued by the government until now. The agency only has a Perpres (PP No. 178/2014) signed by President Joko Widodo two months after he took up his presidency in December 2014.

It is interesting to note that although the term Bakamla is translated into English as “coast guard” – and their personnel consequently consider themselves as coast guards – not a single mention of “coast guard” can be found in Law No. 32/2014 on Maritime Affairs. The agency presently is submitting a bill on Maritime Security to parliament to boost its muscle.

New Hope

Answering a recent media query on the unclear fate of the proposed Indonesian Coast Guard, the new Minister of Transportation Budi Karya Sumadi said that he was willing to merge his office's KPLP with all existing maritime security institutions in order to set up a single coast guard agency.

He said he would let the Ministry of State Bureaucracy to execute it. After three years replacing Jonan as transport minister, and remaining silent on the issue, Budi's statement was quite shocking. Yet, it is timely because it triggers a new hope in the public's mind that Indonesia will finally have a real coast guard.

Still, a commitment is not enough; so many things have to be done to make it a reality. Given Indonesia's legal and political circumstances, the question then is what must be done by the government to quickly establish the Indonesian Coast Guard?

The main problem in law enforcement over national waters is that there are many agencies having jurisdiction and assets like, among others, the National Police, and the Indonesian Navy. These institutions at times interdict commercial vessels asking basically irrelevant questions.

For instance, they would order the captain to show the wreck removal certificate (WRC). It is really ridiculous since Indonesia is not a party to the Nairobi Convention on which the issuance of the certificate is regulated.

If the Indonesian Coast Guard is to be set up, the power of the National Police and the Indonesian Navy, as well as other institutions such as the Customs, Ministry of Fisheries and so on, to intercept the vessels at sea must be firstly rightsized and then transferred to ICG as soon as it is enacted later. Consequently, amendment to laws relating to those powers is urgently required and the agenda for that is properly settled in the 2019-2024 parliament.

The transport minister has set no timeframe for the merger of all existing maritime security institutions into a single coast guard agency. Neither has the Minister of State Bureaucracy. Hopefully, communication between the two ministers will be set in motion soon to finally bring to reality the establishment of the Indonesian Coast Guard.

Siswanto Rusdi is founder and director of The National Maritime Institute (NAMARIN), an independent maritime think tank in Jakarta. He contributed this to RSIS Commentary.

Nanyang Technological University

Block S4, Level B3, 50 Nanyang Avenue, Singapore 639798
Tel: +65 6790 6982 | Fax: +65 6794 0617 | www.rsis.edu.sg