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## INDONESIAN 'FISHERS OF MEN'

### Notes on the plight of fishers from Eastern Indonesia and Australian/Indonesian relations over the issue of people smuggling

The following notes endeavour to contribute to the debate on 'people smuggling', by focusing on the crews of the small, 'leaky' boats which transport asylum-seekers.

- The first section provides a summary of the history of Australian reactions to illegal fishing by Indonesian fishers in Australian waters and possible reasons for the involvement of Indonesian fishers in transporting illegal migrants.
- The second section discusses current developments and negotiations between Australia and Indonesia over the issue of people smuggling.
- The third section details ways in which the situation for Indonesian fishers could be improved, as a way of tackling the problem at its source, rather than relying on detention as a deterrent.

These notes are also intended to provide background for the international conference on people-smuggling in Bali on 27-28 February 2001.

#### 1. HISTORY OF INDONESIAN FISHING IN AUSTRALIAN WATERS

Fishers from Eastern Indonesia are from a number of distinct ethnic groups, each with their own trade routes, boats and distinct harvests. Indonesian fishers in Australian waters have most commonly fished for shark,<sup>1</sup> *trochus* and *trepang*.

*Trochus* occupies the reef crest and shallow upper slope of a reef's seaward edge. It is used commercially in a similar way to mother-of-pearl, although it is seen as a slightly inferior material, for making small pearl buttons, necklaces, rings, hairclips, hardener in varnish and car paints. Parts of the animal in the shell are also edible.

*Trepang* is also known as beche-de-mer, sea slug or sea cucumber and is used in Chinese cuisine and reputedly an aphrodisiac.

##### Early Indonesian Fishing in Australian Waters

The earliest voyage to Northern Australian waters possibly occurred in the first part of the 16th century by a people called the Bajini.

These were followed by the Makassans, from an area now known as Ujung Pandang in **Sulawesi**. These fishers included Makassans, Bugis and Bajo (sea gypsies). Most of the fleets were fishing for *trepang*, which was traded with the Chinese. These voyages are likely to have begun in the early 18th century and concluded in early twentieth century, as a result of license fees imposed by the South Australian Government (then governing the Northern Territory). Licenses were eventually refused to Makassan fishers of *trepang* in **1907**. The stated reason for refusing licenses was to protect Aborigines from the negative effects of Makassan contact (such as drink and venereal disease). However Makassan fishing fleets provided opposition to European settlers, who around this time began to fish *trepang* and also wanted to exploit the labour of Aboriginal workers, who had a long history of working for the Makassan fishers.

After 1907, fishing still continued, albeit on a more minor scale. In the waters to the North of Australia, Indonesian fishers continued to collect *trochus*, *trepang*, clam flesh (*kima*) and (dried) fish, which would be traded with Chinese merchants in Makassar. Indonesian fishers, who targeted shark in the Sahul Bank off the Kimberley coast, came particularly from **Roti and Madura**.

<sup>1</sup> Campbell and Wilson (1993: 108) note that the shark fished by Indonesian fishers are the larger types - *hiu* and *lontar*, which are not targeted by Australian fishers. Both these species are regarded as a nuisance by prawn fishers.

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### Australian government policies 1968-2000

Following the 1907 restriction of *trepang* fishers, the next main restrictions occurred in the late 1960s. In 1968 the decision was taken to extend the Australian Fishing Zone (AFZ) to 12 nautical miles around the Australian coast. In recognition of the long tradition of fishing in Australian waters, Indonesian fishers were allowed to continue to fish provided that fishing:

- i. was confined to subsistence level and
- ii. was carried out in the 12 nautical mile fishing zone and territorial water adjacent to Ashmore and Cartier Islands, Seringapatam Reef, Scott Reef, Browse Island and Adele Island (Campbell and Wilson, 1993: 116).

However, despite the restrictions, Indonesian fishers continued their voyages largely unobserved until 1974.

The 1974 Memorandum of Understanding (MOU) with Indonesia gave 'traditional' fishers continued access to the areas within the AFZ. The Australian government defines traditional fishers as fishers who have operated within the waters 'over decades of time' and are still using traditional technology, which Australia defines as 'sail only'. Boats qualifying as traditional are forbidden both to have motors and also radios, which has led to a large amount of deaths of Indonesian fishers in storms in Australian waters. This definition contrasts with the Indonesian Government's definition - in Indonesia there has been a campaign to motorise traditional boats, and yet these modified boats are still regarded as traditional. Australia also defines 'traditional' fishing as non-commercial, despite evidence that the fishing regarded as customary by Indonesian fishers was, in fact, commercial. Campbell and Wilson (1993: 86) argue that 'traditional' should not be used to describe a *type* of fishery, as any fishery being practised contemporarily is 'current'. Rather, they argue that the word 'traditional' should be used to describe the *history*, and thus the claim for rights to fish in a particular region.

The MOU took effect on 1 February 1975, and Australian authorities began surveillance, carried out by the RAN and RAAF in an operation designated **Operation Trochus**. In the initial stages, Indonesian fishers were counted and informed of the provisions of the MOU. As surveillance was introduced by the RAN and RAAF, there was an increased amount of sightings of fishers, or what Campbell and Wilson (1993: 37-39) describe as a 'myth of invasion'. They argue that the reason for the increased sightings was the increased surveillance, rather than an increase of fishers. The first court case after 1975 was of a shark fisher, and resulted in the release of the fisher. Between then and 1980, Australian officers boarded boats of illegal fishers and confiscated their fishing gear and catch, using a 'local justice' clause of *Fisheries Act 1905* as justification. The fishers were then sent back to Indonesia.

In the 1970s a new representation emerged of Indonesian fishers - that is, that they were having adverse effects on the marine ecology and also on the bird-life at Ashmore Reef. Stronger measures began to be taken against illegal fishers. It was also argued that Indonesian fishers should be banned, to prevent the spread of disease, particularly foot and mouth disease. This is despite the fact that there have never been confirmed reports of cloven-hoofed animals being carried on fishing boats. Two boats from Papela, Roti, were apprehended at Brue Reef, their boats confiscated and the captains and crew repatriated.

In 1979 Australia expanded its borders by 200 nautical miles, to include the sea around Ashmore Reef, in part to exploit the gas and oil in that region, thereby dispossessing the Rotinese fishers from their traditional fishing grounds.

On 28 July 1983, the **Ashmore Reef National Nature Reserve** was proclaimed. Ashmore Reef is about 75 miles from Roti but about 200 miles from Australia. The reserve was proclaimed in part because of concerns about damage to coral reefs and because of evidence that Indonesian fishers had been harvesting seabirds and turtles. Australia had obligations under the agreements on migratory birds with Japan and as signatory to the Convention on International Trade in Endangered Species. By 1 July 1988 there was a ban on all fishing within the confines of the Ashmore Reef National Nature Reserve. One unfortunate result of this ban is that fishing is now concentrated in a much smaller area. In addition it is now illegal to fish for giant clams, as these became a protected species in 1985. The original 1974 MOU had made no specific mention made to the harvesting of giant clams by Indonesian fishers (Campbell and Wilson 1993: 126).

Indonesian fishers are only allowed into this area if they use 'traditional' boats - that is, as explained above, boats that do not have engines, which used only a simple compass, had no

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radio and who fished according to 'traditional' methods. Campbell and Wilson (1993: 134) comment that the Rotinese from Papela have largely complied with the no motor rule, however many have died in storms. In April 1989 about 40 fishers died in Cyclone Orson near Ashmore Reef and a similar number in 1991.<sup>2</sup> Many of the fishers are illiterate and do not understand about the new borders. Even those who do understand, because of their lack of sophisticated navigation methods or engines, are at the mercy of currents and winds which can carrying them unintentionally into Australian waters.

#### **Trials and gaol sentences for fishers**

There are differences between the way that Indonesian fishers are dealt with, depending on whether they are apprehended in WA or the NT. In June 1989 WA changed its policy of charging only the skipper of Indonesian vessels to charging all crew members. Due to the increased volume of defence, the WA Legal Aid Commission no longer felt able to adequately defend the fishers and refused to continue to represent the fishers. In NT, however, it is still only skippers who are charged. In WA, misunderstandings can occur, as trials are carried out through an interpreter, who speaks Malay (slightly different to Indonesian), whereas many crew members speak only regional languages. The skipper is required to interpret these regional languages into Indonesian, which the interpreter then interprets into English. Large numbers of Indonesian fishers may be held in Broome Prison in WA, whereas in the NT Indonesian fishers are never (or rarely?) gaoled.

Indonesian fishers are repatriated either through Denpasar or Kupang and have to travel themselves to their home villages, which can be a hazardous journey for fishers with poor education, little experience outside their own region and limited finances (Campbell and Wilson 1993: 130).

In early 1992 an amendment to the Immigration Act meant that prison wages saved by Indonesian fishers were confiscated in order to pay for their repatriation.

#### **Recommendations for changes by the 1993 parliamentary committee**

In 1993 a parliamentary committee, as part of a general **Joint Standing Committee on Foreign Affairs and Trade into Australia's Relations with Indonesia**, held an investigation into illegal fishing. The Committee recommended:

1. that the Attorney-General convene a conference of Western Australian, Queensland and Northern Territory Attorneys-General to attempt to standardise the treatment of illegal Indonesian fishers by different jurisdictions.
2. that the Department of Primary Industries and Energy keep the arrangements for provision of services at Willie Creek under review.
3. that the Department of Primary Industries and Energy consider broadening the scope of the Fisheries Cooperation Agreement with Indonesia to consider the relevance of aquaculture research projects and the joint management of maritime resources.
4. that a thorough examination of Indonesian fishing in Australian waters be undertaken in order to:
  - renegotiate the 1974 Memorandum of Understanding
  - define 'traditional' fishers in a more appropriate way;
  - arrive at more effective arrangements for fishers of both countries in the Arafura Sea.
  - that action be taken urgently to permit carriage of solar powered radios which can receive weather warnings on vessels which would otherwise be classified as 'traditional', and that this be included in the examination of such fishers as in the point above (Australia, 1993: 130-133).

#### **Current Situation**

Australian coast guards/customs officials still catch these fishers who have strayed into Australian waters, trespassing a border-line that they cannot see. As one fisherman said, 'there are no traffic signs on the sea'. The fishers are detained and tried in Australian courts without legal representation. For a first offence they are fined \$27,000, and larger fines for

<sup>2</sup> Elliott (1996) states that an estimated 140 fishers from Papela have drowned in Australia's northern waters since 1988.

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additional trespassing in Australian waters. Unable to pay, the fishers are incarcerated for long periods in Australian gaols and their boats burned. Any money they earn in gaol (\$13 per week), that they save, is taken from them before they return home. They are becoming increasingly destitute and desperate. In addition, the fishers in Papela have a 12-month fishing ban enforced on them by the local government, when they return home to Indonesia.

Despite the courts' contravention of Australia's human rights obligations under the United Nations Convention on the Law of the Sea in fining these men beyond their means to pay, and imprisoning them, the fishers continue to serve increasingly longer and longer sentences for trespass and illegal fishing.

Campbell and Wilson's research (1993) was completed prior to the confiscation of prison wages from Indonesian fishers. They devote a chapter of their book to the economics of fishing, calculating that fishing voyages were still profitable for *owners* of boats, whether or not some of their boats were impounded and destroyed by Australian customs officials, as the boats depreciated after a number of voyages. Debts incurred by fishers as pre-payment for voyages, had to be paid to boat owners, whether or not the voyage was successful, thus providing boat owners with the capital for purchasing new boats. In addition, fishers often took out loans prior to a voyage, which still need to be repaid.

The confiscation of prison wages has made the situation even more desperate for the fishers: they return home to unpaid debts (they must pay for the boats, which have been burned by Australian customs officials) and loans for the unsuccessful voyages, which still have to be paid. In the meantime, their families are left often without a breadwinner and incur further debts over the period of their husband/father's Australian gaol sentence. Most fishers cannot foresee escaping these debts in their lifetime.

#### **Aid**

There have been few advances in the conditions for Indonesian fishers since the 1993 parliamentary committee's enquiry into fishers. The following provides an indication of money spent in both apprehension and aid. Exact figures in some cases were difficult to obtain.

Large sums of money have been spent by the Australian government in the **apprehension and repatriation** of Indonesian fishers. Stacey (1999: 288) estimates that in 1996 alone, the costs of apprehension, detention, prosecution and repatriation 49 vessels and their crews may have cost about half a million dollars. Between 1997-1998, the Australian Fisheries Management Authority (AFMA) was estimated to have spent around \$A3,500,000 on 124 foreign fishing apprehensions of which 113 were Indonesian.

**Aid:** An appendix to *Indonesia: Eastern Islands, A Study of Lessons...* (AusAID, 1998), comments that 'Of additional concern to both the Indonesian and Australian Governments, is illegal fishing in Australian waters, and the need to assist fishing communities in the eastern islands of Indonesia to find alternative sources of income.' The same report details the Balitvet (*Balai Penelitian Veteriner*) project from 1979 to 1990 (A\$21.7 m by GOA and \$20.1 m by GOI), including the control of both livestock and fish diseases, however little seems to have been achieved in the area of fish diseases.

In 1999-2000, AusAID gave approximately A\$121.1 million to Indonesia. AusAID projects to assist fishers, or the communities from which they arise, included:<sup>3</sup>

- **Education** - NTT Basic Education Adviser Project (1998-2001) & NTT Basic Education Project (Pipeline): A\$662,186 – to assist in curriculum development, teacher training and distance education for basic education in Eastern Indonesia.
- **Environment** – BAPEDAL (Eastern Region Institutional Strengthening Project), to manage environment: \$A8.5 m and COREMAP (Coral Reef Management and Rehabilitation Project): \$A9.1 m.
- **Health** – tuberculosis program in NTT: A\$.4.6 million; polio and measles vaccinations and Vitamin A supplements, women's health and family welfare in various parts of Indonesia.<sup>4</sup>

<sup>3</sup> Note that this is not a comprehensive list of aid to fishers.

<sup>4</sup> Figures not available for the latter categories, as they included areas other than Eastern Indonesia.

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- **Research** – Australian Centre for International Agricultural Research (ACIAR), a statutory authority established by the Australian Government, also worked together with Indonesian collaborators on a number of projects. As at January 1999, there were 33 projects which included three projects involving shrimp and prawn and three research projects for other fisheries:
  - Indonesian Institute of Sciences, Ambon – Reef re-seeding research of *Trochus Niloticus* in northern Australia, eastern Indonesia and the Pacific (FIS/1994/010).
  - Marine Fisheries Research and Balai Pengkajian Teknologi Pertanian, Jakarta and Ambon – studies on live baitfish for the tuna industry in Eastern Indonesia (FIS/1994/024).
  - Central Research Institute for Fisheries, Research Institute for Marine Fisheries, Centre for Agro Socioeconomic Research and Directorate General of Fisheries, Jakarta and Ambon – Biology, fishery assessment and management of shared snapper fisheries in northern Australia and eastern Indonesia (AusAID, 1999a).<sup>5</sup>
- Small Aid Activity Grants from AusAID (Stacey, 1999: 285) and from the Direct Assistance Program of the Australian Ambassador to Indonesia (figures unavailable) included grants to Papela in West Timor. Stacey (1999: 285) quotes one instance, however, where the money was used to purchase a boat, the *Bintang Pagi* or Morning Star. The proceeds from the use of this boat were supposed to be distributed among the community. The project failed with the boat being apprehended, confiscated and destroyed in Darwin.
- A report in *Kompas* newspaper in August 2001 stated that aid has been promised by the Northern Territory government to fishers in Southeast Sulawesi, East Java and NTT. This was to take the form of seaweed drying racks (*rakit rumput laut*) and increasing the capacity of fishers, so that they would not need to seek fish in Australian waters. The Northern Territory government has also sought to have talks with the governments from these three areas, to stem illegal fishing in Australian waters. The report also stated that Australia was planning to erect signs around Ashmore Island to warn sailors/fishers not to enter the territory (*Kompas*, 2001d).
- In addition, some Australian NGOs, including Australian Baptist World Aid<sup>6</sup> and World Vision, have supported small-scale projects to assist Indonesian fishers.

Campbell and Wilson (1993: 106) comment that '(m)uch discussion has taken place about the possibility of Australia assisting Indonesia to reseed reefs with *trochus*. Both the technical difficulties of such a programme and whether or not the social/cultural environment surrounding proposed hatcheries is compatible with it need to be considered carefully.' Research projects such as the ACIAR/Indonesian Institute of Sciences, as quoted above, could therefore be very useful.

Watson (1998) argues that the lack of formal education means that Papelans have little understanding of international/Australian law, further disempowering them from fighting their case adequately.

## Maps

Between 27 June to 1 July 1988 the Australian Ambassador to Indonesia visited Sulawesi and NTT to inform Indonesian officials and fishers of the new interpretation of the MOU and the ban on fishing at Ashmore.

In 1993, the Australian Ambassador, Alan Taylor, visited Papela, together with representatives from Aboriginal communities. The Ambassador made no concession to a direct request for fishing licenses to be granted to Papelan boats (Watson, 1998).

Stacey describes other educational and information tours since 1995, during which maps were handed out, detailing the permissible fishing areas.

During fieldwork in 1997, I talked to some Bajo captains about these maps. They found them highly confusing and difficult, if not impossible to comprehend. Particularly this was so for those who were illiterate. The maps

<sup>5</sup> Compiled from AusAID (1998, 1999a, 2000). This is not an extensive list of research. For example, the Joint Standing Committee mentioned joint research being conducted by the Northern Territory University, working together with universities at Kupang and Ambon and experiments in culture of *trochus* being conducted by the Bardi Aborigines Association (Australia, 1993: 126-127).

<sup>6</sup> For information on the Australian Baptist World Aid projects, see <<http://www.buton.starwon.com.au/Banabungi/Banabungi.htm>>. These projects particularly focused on Southeast Sulawesi.

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were dismissed as basically useless in addressing their concerns about being able to fish in areas that are prohibited to them. (Stacey, 1999: 286).

Further, and more appropriate, education of the boundaries therefore seems necessary. Elliott (1996) quotes a request from fishers at Papela, that their two main requests were that they be allowed small engines for emergencies and also that beacons or buoys be placed to identify areas off limits for Indonesian fishers.

## **II. PEOPLE SMUGGLING**

*Troubled Waters* (Balint, 2001), which was screened on SBS Television on 6 November 2001, shows a new development in the activities of 'traditional' fishers. Fishers from the island of Roti, the documentary revealed, are now turning to the people smuggling trade to survive, as they are paid A\$100 per passenger, before the boat sets out. If they are imprisoned by Australian authorities, at least this way, they can leave money behind for their wives and children, whereas if they are caught fishing, they have nothing to show for their trouble. Given the long history of problems for fishers, this is hardly a surprising move.

On 6 February 2002, for example, an Indonesian fisher was sentenced to eight years' gaol in Broome, for attempting to smuggle 359 people into Australia. The fisher, Kengi Kahar, stated that he had been paid Rp 1.5 million (A\$285) to smuggle the people. The judge, Michael Muller, stated that whilst he knew that Kengi Kahar was at the bottom of the hierarchy of people smugglers, fishers such as Kengi Kahar, played an important role, which could not be ignored. Paul Chapman, who defended Kengi Kahar, stated that he was a poor person, who had been tempted by the sum of money offered him (*Gatra*, 2002b).

### **Australian and Indonesian government negotiations over people smuggling**

The debate between Indonesia and Australia over who is responsible for stemming the flow of asylum seekers had been in progress well before August 2001. In June and October of 2000, first Indonesian immigration officials and then the Minister of Justice and Human Rights, Yusril Ihza Mahendra, stated that Australia and Indonesia did not see eye-to-eye over the issue of asylum seekers. Both parties stated that illegal immigrants were an international matter, requiring negotiations internationally, including with the country of origin. Immigration officials quoted Australian officials as stating that stamping out people smuggling was 'Indonesia's responsibility'. Yusril Ihza Mahendra said Australia had expressed the wish to discuss the issues bilaterally, rather than internationally (*Kompas*, 2000a and 2000b).

Two events in 2001 increased the publicity and public debate about the fate of asylum seekers and the crews that transported them to Australia. The events were widely reported in both Indonesia and Australia. These were:

1. The Australian government's refusal to allow the Norwegian boat, the Tampa, with asylum seekers on board, to land in Australia on 27 August 2001. The asylum seekers had been rescued by the Tampa, when the boat on which they had embarked from Indonesia, started to sink, and
2. the drowning of 356 passengers, mainly Iraqi asylum seekers, who drowned when their boat capsized in the Java Sea in October 2001 (*Jakarta Post*, 2001d). The boat was travelling from Indonesia to Australia.

The debate also led to a further cooling of Australian-Indonesian relations at a government level. At one point, Howard commented that the Tampa asylum seekers should be Indonesia's responsibility, because the passengers rescued by the Tampa were on an Indonesian ship. The Indonesian foreign minister, Hassan Wirayuda, said that the refugees were on a Norwegian ship and the closest port was an Australian one, thus it was a matter for these two countries to decide, rather than Indonesia's responsibility. Hassan Wirayuda also stated that Indonesia had no funds to accommodate illegal migrants in Indonesia. Indonesia currently has another 150 asylum seekers from Afghanistan and Iraq, who are imprisoned in Mataram (Eastern Lombok).

The insistence of Howard, that the asylum seekers were Indonesia's problem was all the more remarkable, given that Indonesia is currently stretched beyond limit in dealing with the administration of a massive amount of IDPs, in addition to the East Timorese refugees in West Timor. During the past few years, the number has been steadily increasing, and is currently estimated as approximately 1.3 million people. Whilst the Australian government has contributed aid towards these IDPs and refugees, Indonesia's problems seemed to have been forgotten in

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the Australian government's response to 438 asylum seekers. Raymond Hall, representing the UN High Commissioner for Refugees (UNHCR) estimated that there are 3,000 would-be asylum seekers in Indonesia, both registered and illegal immigrants, mainly from Afghanistan and Iraq, many of whom are waiting for a boat. The International Organization for Migration (IOM) has been processing asylum seekers in Indonesia for some time and has offices in Jakarta, Denpasar, and Mataram.<sup>7</sup>

*The Jakarta Post* editorial on 31 August 2001 stated, 'It is quite clear, however, that the sense of urgency that exists in Canberra to expeditiously tackle this matter [the flow of asylum seekers], exacerbated by an impending election, is not shared in Jakarta. Jakarta has a host of problems to tackle and stemming the flow of asylum seekers to Australia is not high on the priority list.' The *Jakarta Post* editorial did urge that police and immigration services do need to set up a coordinated system of operations to review the entry of foreigners into Indonesia. However, from the Indonesian end, this is more seen as an endeavour to make Australians happy. The *Jakarta Post* commented that this should be tackled 'judiciously and firmly so that the bilateral relations between Indonesia and Australia, *which are so important for speeding up the rehabilitation of this country's economy*, are not unnecessarily disturbed' (my italics).<sup>8</sup>

On **John Howard's recent visit to Indonesia (6-8 February 2002)**, a number of Indonesian MPs boycotted his visit. Amien Rais, the Speaker of the People's Consultative Assembly (MPR), stated as one of his three main criticisms of the Australian government and as part of the reason for the boycott by MPs of Howard's visit, that Canberra had accused the Indonesian government of facilitating people-smuggling. Howard refuted this claim. Amien Rais then commented that he hoped that Australia would learn a lesson from the boycott by Indonesian MPs. Howard presented the Indonesian government with five small patrol boats, worth \$100,000 each, to help Indonesia fight people smuggling. Given the criticism of Australia's keenness for Indonesia to 'play its part' in stemming people-smuggling, cynics could interpret the gift as self-interest.<sup>9</sup>

As part of the method of solving the 'people smuggling problem', Australia and Indonesia will co-host an **international conference** on people-smuggling in Bali on 27-28 February 2001.<sup>10</sup> This solution, already decided upon in 2001, is a satisfactory one for the needs of both nations: Indonesia is keen to broaden the negotiations beyond bilateral and Australia wishes to engage in dialogue with Indonesia.

### **III. POSSIBLE SOLUTIONS**

There is no one 'quick fix' to solve the problems faced by the Indonesian fishers. Action is needed by both the Australian and Indonesian governments on a number of fronts simultaneously.

#### **A. Action by the Australian Government**

##### **1. Changes to Australian legislation**

**Granting of rights or licences:** Watson (1998) suggests that the Mabo decision of 1992, which recognised customary laws of people who were in Australia before white sovereignty, might also be applied to the rights of fishers. The MOU signed with Indonesia cannot be seen to have extinguished their rights as fishers, such as those from Papela, were not directly involved in the drawing up of the MOU. Their rights could therefore be renegotiated in line with developments in Australia's common law and international obligations.

If traditional rights were established, Papelans could renegotiate the definition of 'traditional' fishing, to allow them to use motors, diving equipment and radios to allow them to have warnings of cyclones, and hopefully decrease the amount of deaths in Australian waters. The establishment of traditional rights could also assist in bargaining for compensation for oil or gas production in the area, with compensation being in the form of aid packages, royalties or access to other resources.

<sup>7</sup> See *Kompas* (2001a) and IOM's website <[www.iom.int](http://www.iom.int)>. Prior to the deaths of UN workers in West Timor, IOM also operated an office in Kupang.

<sup>8</sup> *The Jakarta Post*, (2001 a, b, and c); *Kompas* (2001g).

<sup>9</sup> It should be noted that the boats were not the only gift. Howard also presented A\$1 million for flood relief (AFR, 2002).

<sup>10</sup> *The Age*, 2002a, 2002b; *Antara*, 2002; AP, 2002, *Gatra*, 2002a; *Jakarta Post*, 2002; *Media Indonesia*, 2002; *SMH*, 2002a, 2002b.

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As recommended by the 1993 Joint Standing Committee on Foreign Affairs and Trade into Australia's Relations with Indonesia, standardisation of treatment of illegal Indonesian fishers by different states is also needed.

## **2. Acceptance of asylum seekers by Australia**

New Zealand has recently shown another solution towards the solving of the people smuggling issue, which is to accept a quota of asylum seekers, who have undergone processing by the IOM in Jakarta. If Australia followed New Zealand's example, this could further reduce the numbers of potential illegal immigrants arriving by boat.

## **3. Aid programs**

Aid programs for Eastern Indonesia should be continued, which are directed both at:

### **a) the sustainability of fishing, including:**

- education towards sustainability of fishing.
- further research and establishment of fisheries and *trochus* re-seeding, as appropriate.

### **b) the communities in which fishers live:**

- health and education for the communities, to raise the general living standards.
- community small loans schemes, to reduce dependence on private moneylenders.

## **B. Action by the Indonesian government**

### ***Foreign fishers to be banned from Indonesian waters***

Re-stocking of fish within Indonesian waters is unlikely to occur without the banning of foreign fishers from Indonesian waters.

Boats from nations such as Taiwan and Japan fish on both sides of the Indonesian maritime border, using state-of-the-art technology, often with devastating effects. Most of these have sufficient capital to purchase licenses, although they also engage in illegal fishing (Watson, 1998). Rokhmin Dahuri, in an interview with *Forum* magazine, states that Indonesia loses about US\$4 to 4 billion through foreign fishing,<sup>11</sup> whereas the foreign fishers gain approximately US\$65 million annually.

Erdmann (2000) describes a scenario in South Sulawesi, where fishers traditionally fished for skipjack tuna, small mackerel and scad. However in the 1980s, Taiwanese boats had started fishing in the area, leaving few tuna fish. The fishers then turned to blast fishing, further decimating both the coral reefs and their fish stocks. In North Sulawesi in Bunaken, similar results occurred in 1997 and 1998 with a Taiwanese trap net<sup>12</sup> across the Lembeh Strait, which caught all migratory fish and marine mammals. This has now been removed, at the orders of the then Minister of Environment, Sarwono Kusumaatmadja, however there is still both poaching and licensed fishing by foreign companies. Erdmann suggests that fishing should be closed to all foreign fishers for at least five years. After this period, there could be a re-assessment of the issue of exporting Indonesian fish. He suggests that if and when there were sufficient fish for export, the fishing industry could be entirely Indonesian-run, that there is no justification for foreign fleets to operate in Indonesian waters.

The current Minister of Fisheries and Maritime Affairs (*Menteri Kelautan dan Perikanan*), Rokhmin Dahuri is well qualified and is likely to be sympathetic to the conservation of fishing resources for Indonesian fishers. Born in Cirebon (West Java) in 1958, his father was a traditional fisher/sailor (*nelayan*), and his mother sold fish in the market. Rokhmin spent his childhood with sailors and fishers. He has a Bachelor degree from the school of fisheries at the Bogor Institute of Agriculture (IPB, 1982), a Masters in Management of Natural Resources and Environment from IPB (1986) and a doctorate in environmental sciences from Dalhousie University, Halifax (1991). His Ph.D. thesis topic was 'An Optimization Model for Coastal Resource Utilization in East Kalimantan Coastal Zone'.

<sup>11</sup> It is not clear whether the \$1.4 to \$4 billion is also an annual figure, or the figure lost over decades, but I am assuming the former.

<sup>12</sup> Erdmann (2000) quotes that the net was owned by Indonesians – officially listed as Prawoto, an assistant to the State Minister of Youth and Sports, but others commented that it was owned by a retired Lieutenant-General, Haryoto.



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After appointment to Megawati's Gotong Royong cabinet, he stated that he wants to bring fishing by foreign ships under control, increase the resources of small islands, and to increase the welfare of the coastal community (fishers and sailors), including through education and dietary improvement. He wants to ensure the sustainability of the ecosystem in the sea, small islands and waterways and to raise the working ethic of the nation.<sup>13</sup> He has already lobbied banks and the Ministry for Finance for special credit programs for sailors/fishers.

Over-fishing of Indonesian waters and subsequent depletion of stock is an obvious cause for Indonesian fishers to seek new fishing waters and/or turn to people-smuggling for a livelihood. The protection of Indonesian waters by the Indonesian government is an essential a step in the process of maintaining fishers' livelihoods.

### **Conclusion**

While the issue of illegal fishing and the involvement of fishers in people smuggling is a complex issue, it does appear that through working together with Indonesia and other nearby neighbours, a much more humane solution does seem possible, than concentration on imprisonment as a deterrent.

**HP, 20 February 2002**

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<sup>13</sup> Sources include: Asia Times, 2001; sg.news.yahoo.com, 2001; Kompas.com, 2001; Forum Cyber News, 2001.

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