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# RSIS COMMENTARIES

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## **Australia's Operation Sovereign Borders: Risks for Australia-Indonesia Relations**

By Sam Bateman

### **Synopsis**

*Australia's robust Operation Sovereign Borders plan to turn back asylum seeker boats seems certain to adversely affect its bilateral relationship with Indonesia. Will newly-elected Prime Minister Abbott, now in Jakarta on a visit, be able to finesse his first diplomatic challenge?*

### **Commentary**

AUSTRALIA'S NEW Prime Minister Tony Abbott, who is on his first official visit Jakarta this week, has tried to play down the dispute with Indonesia over Canberra's Operation Sovereign Borders policy to turn back asylum seekers. He has said prior to the visit that this issue is just one part of a broad and deep bilateral relationship spanning business, education, defence, security and people-to-people links.

In playing down Australian's new robust response to the asylum seeker problem Abbott is under-estimating Indonesia's strong sensitivity to matters of national sovereignty. The foreign ministry in Jakarta is reported to have warned the Australian Government that its policy to turn back asylum seekers would risk violating Indonesia's sovereignty. The Australian Government has declared that it will not reveal operational details about implementing its policy so as to avoid alerting people-smugglers to the tactics being adopted by Australian authorities to turn back the boats.

### **Cultural differences overseas**

Meanwhile, tragedies continue to occur in the waters between Indonesia and Australia. Just last week an asylum seeker boat sank off the coast of Java with 20 people drowned and another 70 missing.

Operation Sovereign Borders highlights cultural differences between Australia and Indonesia. Though both countries have a large area of maritime jurisdiction Indonesians and Australians think differently about the sea. For Indonesians, the sea binds the nation together through the concepts of *wawasan nusantara* with the sea linking the islands of the Indonesian archipelago rather than separating them, and *tanah air* meaning land and sea, with an inseparable relationship between the two environments.

On the other hand, Australians tend to regard the surrounding oceans and seas as a barrier or a moat separating them from their neighbours. The late Professor Frank Broeze, an eminent maritime historian at the University of Western Australia, captured this insular mindset when he observed that for Australians: "Images

and perception of national identity have revolved largely around inward-looking and often racist concepts of 'continental' Australia in which the sea was seen as a fence shutting out unwanted intrusions from the surrounding region."

It has often been said that Australians seek security *against* rather than *with* their surrounding regions. This approach is evident in Operation Sovereign Borders with its basic principle of defending the homeland against unwanted incursions. It is also suggested by the Abbott Government putting a senior Army officer in command of Operation Sovereign Borders, despite it being primarily a maritime operation.

All of this points to a certain lack of maritime awareness on the part of Australia as indicated by some hesitancy in the way Australia fulfils its obligations under key maritime conventions. It is also apparent in the multi-agency approach Australia adopts to fulfilling its maritime objectives with separate agencies responsible for maritime law enforcement and search and rescue.

This is not a new failing of Australia. In 2001, the Howard Government's handling of the Tampa affair in 2001 and its attempts to 'stop the boats' were strongly criticised at the International Maritime Organization (IMO) – the UN organization with oversight of maritime safety and security. The consensus at the IMO was that Australia's actions in initially refusing access by the Norwegian vessel Tampa to Australian waters with over 400 rescued asylum seekers on board ran counter to long-standing traditions about the safety of life at sea recognised in international law.

These criticisms led to amendments to the International Safety of Life at Sea (SOLAS) and the Maritime Search and Rescue (SAR) Conventions, and to the promulgation of Guidelines on the treatment of persons rescued at sea. These amendments and guidelines reinforced existing obligations for ship masters and countries to provide assistance to any person in distress at sea, *regardless of nationality or status of that person*. There are high risks that Australia's operations to stop the boats through Operation Sovereign Borders may run counter to these instruments, particularly in the likely circumstances that robust action to turn back the boats could lead to the disabling or sinking of a vessel thereby threatening safety of life at sea.

### **Military response to people smuggling**

Operation Sovereign Borders is a military-led response to people smuggling. It was a central plank of Prime Minister Abbott's election campaign. However critics say that the attempt to keep information from the public - details of boat arrivals will be limited to a weekly press briefing - will make it difficult to assess the success of the controversial policy.

The Abbott Government's policy in maintaining secrecy on stopping the boats is likely motivated by the desire to avoid a reaction from the Australian public, particularly the vocal asylum seeker lobby, and from other interested parties, notably Indonesia and the IMO. It is clear that Indonesia is watching Australia's operations closely for any impact on its sovereignty.

Operations to turn back the boats will also be subject to wider international scrutiny, particularly with regard to Australia's obligations to ensure the safety of life at sea. The IMO guidelines make clear that any procedures, such as screening and assessing the status of people in distress at sea, should not be allowed to hinder the provision of assistance.

The final irony with the Abbott Government's election promise to "stop the boats" is that the previous Rudd Government's policies were starting to work. Over the last month there has been a marked downturn in the number of asylum seekers arriving in Australia by boat despite the recent tragedy. However, survivors of that tragedy denied any knowledge of the tougher line being taken by Australian authorities.

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