

Summary of the Results of Empirical Research on Support for Maritime Safety System Development

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This article compares and verifies the projects of maritime safety system development and capacity building that have been implemented by the Japan Coast Guard targeting Asian countries, such as the Philippines and Indonesia, against the support program for the development of legal systems by the Ministry of Justice and that for reforms of the Indonesian national police by the National Police Agency of Japan. Moreover it also examines the issues surrounding “law and development (support for the development of legal systems)” from the perspective of law and development studies.

The countries to which the Japan Coast Guard has provided support (cooperation) include Indonesia, Malaysia, and the Philippines. Since 2001, a maritime safety system reinforcement project has been conducted targeting the Directorate General Sea Communication, Ministry of Transportation (Indonesia). In 2008, the Project on BAKORKAMLA (Indonesian Maritime Safety and Security Coordination Board) Structural Enhancement was launched. For the current situation and issues regarding support to BAKORKAMLA, please refer to my paper “Legal Pluralism and Anthropological Mind in Law and Development: Teaching from Japan’s Assistance Program for Law and Development for Indonesian Legal Enforcement Authorities” of “Competitive Justice: Locality, Tradition, and Gender” edited by Kazue Muta, Yasumasa Hirasawa, and Shinichiro Ishida (Osaka University Press, 2012). For Malaysia, a maritime safety capability improvement project has been conducted since 2005, while a maritime safety administration project, a maritime safety human resources development project, a project to develop maritime safety education and human resources development management systems, and a maritime safety capability improvement project have been conducted since 2001 targeting the Philippine Coast Guard.

In the following sections, the current situation and issues regarding support programs for the development of maritime safety systems by the Japan Coast Guard are summarized. These issues were identified through interviews with four Japanese coast guard officers, who engaged in the designing and planning of support programs and the implementation of seminars through their field studies in Indonesia, Malaysia, and the Philippines as long-term JICA experts, and interviews with Coast Guard officials in Indonesia and the Philippines. The details of the current situation and issues of each specific support program for Malaysia and the Philippines will be discussed in another article.

While the army long played the role of securing maritime safety and security in Indonesia, the country has been seeking to establish a unified civilian maritime safety system independent of the army with the acceleration of movements toward democracy. For the establishment of a unified maritime safety system in Indonesia, that is, for the establishment of the Indonesian Coast Guard, the existing pluralistic systems present a challenge of how to unify the law enforcement power of relevant maritime safety authorities, which is permitted under existing state law. Support providers, therefore, must have a good understanding of the issue of pluralistic maritime safety authorities and the legal power that each authority has under the state law and bring these authorities together and determine how to provide support to them.

In the Philippines, the jurisdiction of the Philippine Coast Guard was transferred from the navy to the Department of Transportation and Communications in 1998, and the Philippine Coast Guard Law was enacted in February 2010. While the Japan Coast Guard had provided technical cooperation related to the maintenance and management of aids to navigation, the development of charts, and marine surveys to the Philippines since 1972, after the transfer of jurisdiction, it has been providing maritime safety capability improvement support (cooperation) to the Philippine Coast Guard by dispatching long-term experts.

In Malaysia, in an effort to streamline operations that span more than one maritime safety authority, such as the Maritime Police, the Customs, and the Bureau of Fisheries and Aquatic Resources, the Malaysian Maritime Enforcement Agency Act was enacted in 2004, and the Maritime Enforcement Agency was established under the Act. The tasks of the Maritime Enforcement Agency include the following: 1. Legal enforcement and the prevention and investigation of crimes at sea; 2. Maritime search and rescue; and 3. Marine pollution control and prevention. The Japan Coast Guard has been implementing the Project on Enhancing Practical Capacity for Maritime Safety and Security and Improving Education and Training Programs (cooperation) by dispatching coast guard officers as long-term JICA experts even before the establishment of the Maritime Enforcement Agency.

Any project to support the establishment of a nation's maritime safety system should be conducted in a step-by-step manner: The first phase should be to support the drafting of the nation's basic laws and regulations while the second phase is to support the development of systems for the agencies that operate the established laws and regulations and the third phase is to support the development of human resources who operate the established systems.

In Indonesia, the Shipping Law was established on May 7, 2008. Chapter 17 of the

Law (Articles 276 to 281) stipulates the establishment of the Indonesian Coast Guard. The tasks of the Coast Guard include the following: (1) maintenance of the navigation order of ships and maritime security; (2) maritime disaster prevention and the preservation of the maritime environment; (3) maritime traffic safety; (4) exploration of marine resources; (5) office work related to the regulations for maritime traffic and aids to navigation; and (6) marine rescue. The Law stipulates that the Coast Guard shall conduct duties of civil servant investigators in accordance with law and that other provisions regarding the authority of the Coast Guard shall be stipulated by other regulations. While Article 352 of the Shipping Law states that the coast guard should be established within three years, the Indonesian Coast Guard has not yet been established as of January 2015. In the future, if the Japan Coast Guard intends to continue providing support, it will have to bring all authorities involved together and support them with the first phase, that is, the drafting of basic laws and regulations, such as the coast guard law.

For the Philippine Coast Guard, the agencies and systems to operate laws and regulations in accordance with the Philippine Coast Guard Law have already been established. It is on the third phase of support to develop human resources to operate the established systems. Targeting the Philippine Coast Guard, the Philippine Maritime Safety Human Resources Development Project (July 2002 to June 2007) and the Project to develop Philippine Maritime Safety Education and Human Resources Development Management Systems (January 2008 to January 2013) were conducted, and the Maritime Safety Capability Improvement Project is now being conducted. Difficulties of support projects have been pointed out due to cultural differences, such as not sharing knowledge and experience with others, not spreading information laterally, and needs to teach persons in charge from scratch again when they change. In an effort to rise above these difficulties, human resources development support has been provided steadily in such areas as the establishment of maritime safety education systems in training facilities (there is a plan to establish a coast guard school) and the plans and implementation of training at sea by the Philippine Coast Guard to enhance readiness to various maritime incidents.

In Malaysia, the agencies and systems to operate laws and regulations have been established in accordance with the Malaysian Maritime Enforcement Agency Act as was the case in the Philippines. Support to Malaysia is on the third phase, that is, the development of human resources to operate the established systems. However, while support to the Philippines is at the stage of developing the education system for and educators of the people who wish to become maritime safety officers, support to

Malaysia is at the stage of enhancing the investigation and rescue capabilities of maritime safety officials. Since Malaysia has the capability to independently promote the establishment of required systems, Japan is sharing its experience and implementation skills to enhance Malaysia's investigation capability, specifically the capability to preserve evidence, such as criminal identification capability.

After all, *coordination* is what legal system development support, including maritime safety system development support, is all about, and what long-term experts, who directly promote support (cooperation), actually do is to develop the voluntary coordination capability of the agencies of the target nation. Whether it is support to draft basic laws and regulations, to develop systems of agencies to operate the laws and regulations, or to develop human resources to operate the developed systems, coordination often requires value adjustment. When providing support, it is important to convey the know-how to maximize own resources based on a dialog model, which achieves value adjustment through dialog, while communicating what only Asians can understand. The goals of support will only be achieved when the adjustment of pluralistic values is attained.