



The Ineffectiveness of ASEAN Political Security Community Blueprint in Promoting Shared Responsibility for Comprehensive Security in Counterterrorism: Case Study Terrorism in Tri-Border Area of Indonesia, Malaysia, and Philippines 2009-2018

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ABSTRACT

Tri-border area of Indonesia, Malaysia, and Philippines are facing the threat of terrorism as a result of terrorist activities by Abu Sayyaf and Moro Islamic Liberation Front. ASEAN countries have countered the threat by undertaking joint military cooperation. However, this research found that the security cooperation is not in line with the principle of shared responsibility for comprehensive security stipulated in ASEAN Political Security Community (APSC) Blueprint. This research aims to explain the causes of APSC Blueprint's ineffectiveness in promoting shared responsibility for comprehensive security to counter terrorism in tri-border area. This research addresses this question by using qualitative method where secondary data from journals, books, official documents, and reports are utilized. Using the theory of compliance and concept of legalization, this research answers the question by examining the institutional design of ASEAN Political Security Community Blueprint. This research found that there is a compliance problem in APSC Blueprint consisting of failure of obligational clarity, failure of performance clarity, and failure of response clarity. In addition, the ASEAN Political Security Community Blueprint falls into the category of low legalization, making this blueprint is non-binding. Therefore, the violations to the commitment stipulated in the blueprint will not result in significant consequences.

Keywords: *ASEAN, ASEAN Political Security Community Blueprint, Comprehensive Security, Counterterrorism, Ineffectiveness, Legalization. Shared Responsibility, Terrorism, Tri-border area.*

Introduction

Since the event of 9/11 involving series of terrorism attack in the United States, the response towards terrorism by international community has dramatically changed. In the immediate aftermath of the 9/11 attacks, the world is more volatile and unstable than it has been in the past, making policymakers were swift in declaring transnational terrorism the next extreme threat to international security (Smith and Zeigler, 2017). This sentiment is supported by the revelation of the actors behind 9/11, Al-Qaeda, a well-known terrorist groups operating internationally. Gunaratna (2002, p. 1) explains the nature of Al-Qaeda as follow,

“Al Qaeda is the first multinational terrorist group of the twenty first century and it confronts the world with a new kind of threat. ... Al Qaeda has moved terrorism beyond the status of a technique of protest and resistance and turned

it out into a global instrument with which to compete with and challenge western influence in the Muslim world. Al Qaeda is a worldwide movement capable of mobilising a new and hitherto unimagined global conflict.” (Gunaratna, 2002, p. 1)

Of terrorism threats in Southeast Asia, the threat that is still being overlooked by countries in the region is terrorism threat in Tri-Border Area of Southeast Asia. Tri-Border Area consists of the territory and sea territory of Indonesia, Malaysia, and Philippines. Headlines about maritime security in the Indo-Pacific tend to focus primarily the South China Sea or the Indian Ocean, mostly because they involve elements of major power competition (Parameswaran, 2016). The terrorism threat in this area was just regained its international attention in 2016 after the incident of kidnappings that began in May 2016 in Sulu-Celebes Sea (Ramos, 2017). In 2016, there were 10 actual and six attempted incidents with victims from Indonesia, Malaysia, Vietnam, Canada, German, and Norway. The Canadian and German victims were subsequently murdered after Abu Sayyaff demand was not met (Ikram, 2017). Hence, the discussions of the threat in this area are still relatively low compared to the threat in South China Sea or Malacca Strait.

Several notable efforts to reduce the threat have already been undertaken by relevant parties, in this case Indonesia, Malaysia, and Philippines—unilaterally, bilaterally, and trilaterally. The Philippines government has responded with several measures including land-based counter-insurgency operations (COIN) to combat Abu Sayyaf militants in Southern Philippines and modernisation of maritime security capabilities by buying new warship, the BRP Tarlac (Ramos, 2017). On 19 June 2017, Indonesia, Malaysia, and Philippines launched the Sulu-Sulawesi Sea Patrol (SSSP), a framework of maritime security cooperation aimed at protecting the Sulu-Sulawesi Sea from maritime crimes (Ikram, 2018). Even the external power such as United States had contributed by developing U.S. Regional Maritime Security Initiatives (RMSI) to foster multinational cooperation in tri-border area (Febrica, 2014).

However, despite the efforts initiated to combat terrorism in tri-border area have already been executed, there is still insignificant and missing contribution from one of the key actors in the region: Association of Southeast Asian Nations (ASEAN). The question on inability of ASEAN to collectively counter terrorism in tri-border area gets even bigger considering the fact that ASEAN is presently implementing ASEAN Political Security Community (APSC) Blueprint, started from 2009. Through this blueprint, ASEAN determines to create a cohesive, peaceful, stable, and resilient region with shared responsibility for comprehensive security (ASEAN Political Security Community Blueprint, 2009). The APSC was designed to provide a regional framework for AMS to handle security matters and disputes more effectively and to raise security cooperation to a “higher plane” (ASEAN in Buendia, 2016). However, this vision is not reflected on how ASEAN deals with security threat in tri-border area.

The implementation of ASEAN Political Security Community Blueprint does not change the behaviour of ASEAN Member States towards the security threat in tri-border area. The security cooperation in tri-border area has not demonstrated the characteristic that APSC Blueprint aspires to achieve—that is comprehensive security. Instead, the security cooperation in tri-border area is still dominated by traditional approach to security—which understood in terms of coercive capability (military strength) (Peoples & Williams, 2010, p. 4). In summation, APSC Blueprint aims to take into account non-traditional approach that consider economic, socio-culture, and environmental dimension, but in reality, the security cooperation is emphasizing on military capability which falls under the category of traditional approach. For instance, in 2007, prior to the implementation of APSC Blueprint, Indonesia and Malaysia conducted bilateral coordinated patrols (Corpat Philindo) while Malaysia and Philippines launched a similar arrangement known as Ops Phimal (Haacke, 2010, p. 141). In

2016, Indonesia, Malaysia, and Philippines agreed to undertake trilateral patrols in the Sulu-Sulawesi Seas following a recent spate of kidnappings involving Malaysian and Indonesian nationals by the Abu Sayyaf Group (Parameswaran, 2016).

The abovementioned explanation indicates the similar pattern of cooperation before and after the implementation of ASEAN Political Security Community Blueprint. This shows the ineffectiveness of APSC Blueprint in changing the attitude of ASEAN in dealing with security matter. Effectiveness of international regime can be seen from the output, outcomes, and impact brought by the regime (Andersen, 2007). However, the implementation of APSC Blueprint does not show any of these characteristics when it comes to security threat in tri-border area. As explained above, the output that APSC Blueprint wish to have is shared responsibility for comprehensive security, however in reality, the outcome of security cooperation in tri-border area is still characterized by traditional approach to security.

In countering terrorism, ASEAN Political Security Community Blueprint also states that member states seek to “*cooperate to support development initiatives aimed at addressing the root causes and conditions conducive to terrorism*” (ASEAN Political Security Community Blueprint, 2009). The form of cooperation is elaborated in ASEAN Comprehensive Plan of Action on Counterterrorism. It includes eradication of poverty and sustainment of economic development, prevention of terrorist group recruitment by providing basic needs and equal opportunities to education, promotion of international and regional initiatives that encourage tolerance, research on terrorism and its root causes, and development of programme to counter violent extremism (ASEAN Comprehensive Plan of Action on Counterterrorism, 2017). However in reality, the outcome of security cooperation in tri-border area is still limited to joint patrol conducted by relevant parties.

Discussion

Decision Making Process of ASEAN Political Security Community Blueprint

The idea to form security community was initiated by Indonesia in 2003. The original name for the security community itself was ASEAN Security Community (ASC). The original concept of ASEAN Security Community proposed by Indonesia raised debate among the member states. One notable debate came from the initiative to form ASEAN Peacekeeping Force. Singapore’s Foreign Minister, S. Jayakumar, argued that it was not the right time for ASEAN peacekeeping force as he reckoned that ASEAN was not set up as security or defence organisation (Acharya, 2009, p. 264). Malaysian Foreign Minister Syed Hamid Albar stated that Malaysia had no objection to the establishment of ASC provided that it did not take the form of military alliance (Acharya, 2009, p. 261). The rejection indicates that ASEAN member states failed to reach consensus on this matter. Consensus requires a decision to be comfortable to all parties, which are ASEAN member states. Finally, in the final document of Bali Concord II that formally adopted the idea to form ASEAN Community, ASEAN member states agreed that ‘*ASEAN Security Community subscribes to the principle of comprehensive security rather than to a defence pact, military alliance, or joint foreign policy*’ (Bali Concord II, 2003).

ASEAN Member States continued their efforts to realize the establishment of ASEAN Security Community in 10th ASEAN Summit 2004 by adopting ASEAN Security Community plan of action. This plan of action is intended as the effort to implement the declaration of ASEAN Concord II (Bali Concord II). During 13th ASEAN Summit held in Singapore, ASEAN Member States agreed to expand the ASEAN Security Community to include the political element. Ever since, ASEAN Security Community evolved into ASEAN Political Security Community (APSC). The usage of the new term is aimed to show that ASEAN’s cooperation in this matter is not only limited to political realm but also security. Finally in the 14th ASEAN Summit held in Cha-am, Thailand, the ASEAN Political Security Community Blueprint was adopted by ASEAN Member States. The process to which this

blueprint being drafted is never made public, or in other words it is based on discreetness. The decision making of ASEAN Political Security Community Blueprint reflects the decision making using ASEAN Way that is characterized by high degree of consultation and consensus; in this case ASEAN tasked the Ministers and officials—means it regards as Track One Diplomacy, and based on discreetness.

Institutional Design of APSC Blueprint and its Compliance Problem

In explaining its institutional design, author uses two approaches: using compliance theory that will take a look at the obligational clarity, performance clarity, and response clarity; and using the concept of legalization. By examining those elements, the author tries to determine whether APSC Blueprint is soft or hard law. This category will influence APSC Blueprint's influence in inducing behavioural changes to ASEAN Member States, particularly in the area of counterterrorism.

Obligational clarity means that regime needs to provide clarity with respect to “who must do what” (Mitchell, 2001, p. 229). This requires regime to minimize ambiguities about what behaviours must be undertaken and what outcomes must be achieved, as well as about who is responsible for undertaking or achieving those standards and who is responsible if they are not achieved (Mitchell, 2001, p. 229). The clauses in APSC Blueprint related to counterterrorism grouped under the label of “*intensify counter-terrorism efforts by early ratification and full implementation of the ASEAN Convention on Counter-Terrorism*” show ambiguity. For instance, the clause “*work towards the entry into force...*” does not elucidate the expected actions to work towards full ratification of ACCT. ASEAN Member States can certainly freely interpret this clause. Other clauses are shown to have similar problem with the clause regarding to ACCT as none specifies the mechanism, procedures, and appropriate actions expected to be undertaken by ASEAN Member States. Chayes and Chayes (1993) on their work titled “On Compliance” argue that the broader and more general the language on a treaty, the wider and the ambit of permissible interpretations to which it gives rise. Based on this argument, the aforementioned clauses are open for interpretation by ASEAN member states and potentially lead to varying actions by member states.

The problem of obligational clarity can also be seen from the absence of timelines for achieving the objectives enshrined in the ASEAN Political Security Community Blueprint. Timelines for achieving objectives, unlike the ASEAN Economic Community and ASEAN Socio-Cultural Community, are not generally indicated except the provision for the establishment of the ASEAN human rights mechanism, the ASEAN Intergovernmental Commission on Human Rights (AICHR) which was inaugurated on 23 October 2009 (Deinla, 2017). If compared with ASEAN Economic Community (AEC) Blueprint, for instance, APSC Blueprint is far from clarity in determining its obligation. AEC Blueprint provides clear timeline to which each objective must follow, while APSC Blueprint does not provide such mechanism.

Performance clarity refers to the need of transparency in a regime—that is, knowledge about what behaviours relevant actors actually undertook and what outcomes resulted (Mitchell, 2001, p. 229). In order to achieve fulfil the performance clarity; it is a necessity for a regime to have the mechanism of reporting, monitoring, and verification that is embodied through clear provisions regarding to the mechanism. ASEAN Political Security Community Blueprint has provided the provisions that require monitoring and verification. These provisions are put under a group of provisions labelled as “*Implementation and Review of the APSC Blueprint.*” The article 30 indicates that APSC Blueprint grants the mandate to The Coordinating Conference for APSC Plan of Action (ASCCO) to coordinate the efforts of ASEAN sectoral bodies during the implementation of the blueprint. From the clause, it can also be inferred that the ASCCO conducts the act of verification by undertaking exchange of

information, best practices, and lessons learned in the implementation of the blueprint. Monitoring and reporting are also embedded in this clause as proven by the responsibility of ASCCO to report any initiatives and recommendations to APSC Council.

APSC Blueprint has indeed provided clear mechanism regarding to the procedure to monitor, report, and evaluate the implementation of APSC Blueprint. However, this mechanism solely applies to ASEAN institutions, namely APSC Council, ASCCO, ASEAN Secretariat, and ASEAN Summit. The APSC Blueprint does not provide any provisions to regulate how ASEAN Member States must report their progress of implementation. As a result of the lacking of mechanism to report, there is a lack of transparency as to how each and every member states implement the blueprint.

The lack of transparency as to how member states implement the blueprint can be detected from the agenda discussed during the meeting of APSC Council. For instance, during the APSC Council meeting in 2009, the agenda solely covered exchange views on the progress of sectoral bodies under the political and security pillar of ASEAN, including the Southeast Asia Nuclear Weapon Free Zone (SEANWFZ) Commission, the ASEAN defence ministers' meetings, ASEAN legal ministers' meetings, and meetings of ASEAN ministers responsible for transnational crimes (Royal Thai Embassy Singapore, n.d.). The meeting did not oblige member states to officially report their overall progress of the blueprint implementation. This sentiment is supported by the statement of Le Luong Min, the former Secretary General of ASEAN, in 2013 during his interview with Channel Asia. Responding to the slow progress of APSC in 2013, Le Luong Min stated that one of the impediments to the progress is that:

“The ASEAN Secretariat cannot correct and direct the AMS policies, programs and activities from the proposed actions and programs planned in the APSC Blueprint. The ASEAN Summit, as the highest decision-making body, is also weak in enforcing and “punishing” the AMS to comply with the rules, principles, and purposes contained in the ASEAN Charter.” (Brata, 2013)

There is still a problem of performance clarity when it comes to member states' responsibility to report and verify their progress of implementation as this blueprint does not contain any provision that clearly states this particular responsibility. As Mitchell (2001) argues that problem of performance clarity leads to compliance problem. In addition, Eminent Person Groups (EPGs), the group consisted of ten former leaders and ministers of ASEAN states established in 2005 to make recommendations regarding the formulation of ASEAN Charter, stated that ASEAN's real problem is ensuring compliance and effective implementation of its decisions and agreements (Report of the Eminent Person Groups on the ASEAN Charter, 2006).

Response clarity refers to the expectations actors have about how actors, both within and outside the regime, will respond if it fulfils or fails to fulfil the regime's rules—as regime's success depends on this (Mitchell, 2001, p. 229). ASEAN Political Security Community Blueprint neither provides nor acknowledges procedures to respond to non-compliance or over-compliance towards its provisions. Thus, APSC Blueprint will not impose any sanctions or grant incentives provided that member states violate against or exceed their obligations stipulated within the blueprint. This argument is strengthened by the statement from Ade Fatmo Sarwono, Permanent Representative of Indonesia to ASEAN and Director of ASEAN Political and Security Cooperation. Sarwono, on behalf of Ministry of Foreign Affairs of Republic of Indonesia, stated that ASEAN does not have sanction mechanism despite periodical review is conducted to achieve the vision of ASEAN Community. He further stated that instead of imposing sanction, ASEAN is cooperating under the principle of equality (Burhani, 2011).

Drawing from the explanation above, it can be determined that ASEAN Political Security Community Blueprint is having a failure of response clarity as it does not regulate compliance system that can impose sanction to the act of non-compliance and give incentives to those which obey. Mitchell (2001) argues that the problem of response clarity is one of the elements that causes compliance problem, thus affecting the success of a regime. The discourse on the lack of response to the act of non-compliance to ASEAN agreements had even become one of the focuses of Eminent Persons Group (EPG) of ASEAN in 2006. The Eminent Persons Group, in their report submitted as recommendation for ASEAN Charter, issued a recommendation for ASEAN to create response mechanism.

“ASEAN should have the power to take measures to redress cases of serious breach of ASEAN’s objectives, major principles, and commitments to important agreements. Failure to comply with decisions of the dispute settlement mechanisms should be referred to the ASEAN Council. Such measures may include suspension of any of the rights and privileges of membership. Unless otherwise decided by the ASEAN Council in exceptional circumstances, there shall be no recourse to expulsion of membership.”
(Report of the Eminent Person Groups on the ASEAN Charter, 2006)

The overall analysis of the degree of legalization of APSC Blueprint infers that this blueprint has low legalization. APSC Blueprint has low obligation as ASEAN frames this blueprint as the guidelines to establish APSC in 2015; thus the blueprint has clearly negated the intention to be legally bound. The low obligation is also indicated by the flexibility to update the substance of ASEAN Political Security Community Blueprint in terms of their implementation. The blueprint states that “In the course of review and implementation, ASEAN Member States are given the flexibility to update the blueprint.” This provision explicitly means that ASEAN Member States is able to amend the blueprint, either to delete the provisions or to add them.

The precision of the rules is also low as the majority of clauses are set as standards rules without precise and clear mechanism and time frame to achieve the goals. One of the examples of clauses in ASEAN Political Security Community Blueprint that fall into the category of general standards is the clauses pertaining to the effort to strengthen ASEAN humanitarian assistance. The clause states that the actions of strengthening the ASEAN humanitarian assistance is “*Provide basic services or assistance to bring relief to victims of conflict in consultation with the receiving State.*” This clause is considered as standard as it does not elaborate the clear mechanism as to how ASEAN will provide basic services and assistance to the victims of conflict. Despite its low obligation and precision, APSC Blueprint has moderate degree of delegation as it clearly regulates the mechanism to monitor the implementation of this framework and report it through ASEAN Summit. Based on the assessment of those three dimensions, APSC Blueprint falls into the category of soft law.

Implication of APSC Blueprint Institutional Design to Counterterrorism Cooperation in Tri-Border Area

As explained above, there is a problem of compliance system found in the institutional design of APSC Blueprint, including failure of obligational clarity, response clarity, and performance clarity. The ambiguity of wordings regarding to the clauses of counterterrorism lead to open interpretation by ASEAN Member States, including in countering terrorism in tri-border area. For instance, APSC Blueprint expects ASEAN member states to “cooperate to support development initiatives aimed at addressing the root causes of terrorism and conditions conducive to terrorism.” However, the ambiguity of this clause is potentially leading to multi-interpretation.

The multi-interpretation of the ambiguous and vague clauses pertaining to counterterrorism can occur as a result of the fact that ASEAN member states are different in

their perception towards the threat of terrorism. Indonesia, for instance, after the incident of 9/11, experienced the bomb attacks in Bali, making the Indonesia's perception towards terrorism is related to global terrorist networks such as Al-Qaeda in Afghanistan. Malaysia perceives terrorism as a threat after the incident of plane hijacking of Malaysia Airlines in 1977 and the involvement of their citizens in plotting bomb attacks in Indonesia. In contrast, Vietnam's perception towards terrorism is more into maritime terrorism and separatism in South Thailand (Yani, 2012). Therefore, ASEAN Member States can potentially prevent themselves to fulfil the principle of shared responsibility in countering terrorism in tri-border area. The principle of shared responsibility requires concerted actions to be undertaken. This sentiment is supported by statement from Poltak Partogi Nainggolan, Research Professor in board of experts of Indonesia's House of Representatives (DPR RI),

“Unfortunately, solution pertaining to cooperation is still sub-regional in nature and scale. ASEAN is much easier in accepting the involvement non-member states rather than its member states in resolving problems, for instance, in dealing with terrorism attacks in Marawi, Philippines, that solely involved Indonesia, Malaysia, and Philippines. ... the cooperation and conflict resolution in ASEAN must be characterized by multilateralism, involving all member states, even if not all member states face the threat directly.” (Nainggolan, 2017)

APSC Blueprint does not provide the mechanism to response to non-compliance. Therefore, provided that member states do not comply with APSC Blueprint, no sanctions or punishment will be imposed to them. As a consequence, even though Indonesia, Malaysia, and Philippines undertake the counter terrorism cooperations that do not reflect the obligations and principles under the APSC Blueprint, those littoral states will not get any punishment or pressure from other member states or from any entity within ASEAN. This situation is exacerbated by the fact that ASEAN member states put the notion of non-interference as their holy principle in conducting cooperation. This principle hinders other member states to interfere, even as simple as commenting, on the policy from other states—therefore pressure will not be able to be given to violators. Thus, it can be inferred that there is a problem of compliance within APSC Blueprint that leads to ineffectiveness to alter the behaviour of ASEAN Member States in undertaking security cooperation in tri-border area of Southeast Asia.

Conclusion

This research found that the unchanging behaviour is caused by the problem of compliance system and low obligation of ASEAN Political Security Community Blueprint. The problem of compliance system is detected from three elements: obligational clarity, performance clarity, and response clarity. It is found that APSC Blueprint has a failure of obligational clarity as most of the provisions stipulated in the blueprint show ambiguity and do not provide specific actions and mechanisms to implement the provisions. Moreover, APSC Blueprint does not provide clear timeline to implement the provisions as compared to ASEAN Economic Community Blueprint and ASEAN Socio-Cultural Community Blueprint. The APSC Blueprint does not provide any provisions to regulate how ASEAN Member States must report their progress of implementation. In addition, there is a lack of transparency of the implementation by member states as shown by the agenda raised in APSC Council meeting. Furthermore, APSC Blueprint will not impose any sanctions or grant incentives provided that member states violate against or exceed their obligations stipulated within the blueprint.

The problem of compliance is exacerbated by the fact that APSC Blueprint has low legalization. Based on the assessment of those three dimensions, APSC Blueprint falls into

the category of soft law. The soft law means that this blueprint is less binding therefore any act of non-compliance, as explain before, will not result in material consequences for the violators.

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