

**Report of the United Nations – The Nippon Foundation Fellowship
2016 Alumni Meeting**

**Maritime Southeast Asia and South Asia: Mapping Opportunities
and Challenges**

Bali, Indonesia

28 November – 1 December 2016

DAY 1 – 28 November 2016

Opening Session

Ms. Gabriele Goettsche-Wanli, Director, Division for Ocean Affairs and the Law of the Sea, Office of Legal Affairs of the United Nations (DOALOS), opened the UN-Nippon Alumni meeting. She extended her warm welcome to all participants and encouraged fruitful discussion. For over a decade, the UN-Nippon Fellowship Programme has trained government officials and

Experts' Session

Dr. Daniel Hammond, University of Edinburgh

China's Domestic Politics and South China Sea Dispute Management

Dr. Daniel Hammond examined the similarities and differences between China's online messaging to international audiences in the immediate run-up to, and aftermath of, the South China Sea arbitration case (The Republic of the Philippines v. the People's Republic of China) conducted before an arbitral tribunal, with the Permanent Court of Arbitration acting as registry.

Using content analysis of Twitter handles used by the People's Daily, Global Times, and Xinhua, Dr. Hammond analysed how China communicates its foreign policy preferences to different audiences.

At the end of his presentation, Dr. Hammond provided some recommendations pertaining to social media exposure to help facilitate better cooperation between States. He suggested that social media presented challenges, as it was difficult to manage messaging on social media, how it might come across, and how it might be responded to by a large audience. Despite these challenges, social media also pM

new marine industries, and innovation that brings potential job creation and competitive advantage, and growing concerns for sustainability and environmental protection.

While there is increasing recognition of the critical importance of the oceans across scales, from the global to the regional, national, and sub-national coastal community levels, the oceans are also increasingly under threat. This is especially the case as activities occur in coincident maritime spaces leading to tensions and incompatible overlaps. Marine activities and uses are increasing, diverse, coincident, transboundary and conflicting. Against this backdrop, blue economies need limits and boundaries to provide legal certainties for economic activities. Zoning becomes crucial to define areas for conservation of marine biodiversity. Prof. Schofield provided a range of examples, including the Designated Shipping Area and General Use Zone in the Great Barrier Reef and the Northwestern Hawaiian Islands (NWHI) Marine Sanctuary declared in June 2006. However, defining lines alone is not enough. There are needs for States to communicate the location of lines, deal with the transition towards a digital age, and apply new technologies for maritime management, surveillance, and enforcement.

Prof. Stuart Kaye, University of Wollongong

Law and Marine Biodiversity: How Can Southeast Asian Countries Make A Difference?

The waters of Southeast Asia are home to some of the richest marine ecosystems in the world. They are also the site of extraordinary human activity, with some of the world's busiest shipping routes, large scale offshore oil and gas production, and vast fisheries, which are heavily relied on for the food security of hundreds of millions of people. Prof. Kaye began his presentation by presenting data relating to coastlines, fish production, mangroves, coral reefs, and ships passing through Southeast Asia.

Consequently, the effective management of this extraordinary level of human activity requires a high level of coordination. However, when one considers there are nine coastal States within ASEAN, and many extra-regional players – China, Japan, the Republic of Korea, the United States, Australia, India and the European Union – the task required to ensure such coordination cannot be underestimated. There are various issues that States in the region are facing including cooperation, IUU fishing, MPAs, marine pollution, disaster preparedness, shipping, and climate change.

Prof. Kaye elaborated the existing mechanisms used within Southeast Asia to manage marine areas. He looked at efforts at coordination through ASEAN (for example, the ASEAN Centre for Biodiversity, and the ASEAN Working Group on Coastal and Marine Environment), and also through other mechanisms, such as the Coral Triangle Initiative. Prof. Kaye further explained how Southeast Asian States engage with extra-regional players who have a role to play in the protection of marine biodiversity. Prof. Kaye concluded his presentation by highlighting the continuing need for collaboration, education, and capacity-building, as well as extra-regional engagement, to protect marine ecosystems in Southeast Asia.

Ms. Gabriele Goettsche-Wanli, Director, DOALOS

United Nations Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects

Ms. Gabriele Goettsche-Wanli began her presentation by providing an overview of the Regular Process and modalities for implementation of the Process. She explained that the First Global Integrated Marine Assessment had been carried out under the auspices of the UN General Assembly and the Regular Process for Global Reporting and Assessment of the State of the Marine Environment, including Socioeconomic Aspects.

Ms. Goettsche-Wanli outlined ten main themes in the summary of the Assessment. These included climate change, marine biota, food security and safety, patterns of biodiversity, use of ocean space, inputs of harmful material, cumulative impacts, distribution of ocean benefits, and integrated management. The First Global Integrated Marine Assessment highlighted information gaps regarding the physical structure of the ocean, waters of the ocean, biota of the ocean, and human interactions. It called for urgent action to address existing problems. Problems such as climate change can only be addressed at global level. Delaying actions would impose environmental, social, and economic costs. In the area of capacity-building, the First Global Integrated Marine Assessment emphasized the need to fill the knowledge gaps. Applying knowledge in ocean management requires material, personnel, experts, and other resources to support the necessary activities.

Having highlighted the main findings of the First Global Integrated Marine Assessment, Ms. Goettsche-Wanli explained the second cycle of the Regular Process. General Assembly Resolution 70/235 (23 December 2015) set the foundation for the launch of the second cycle of the Regular Process. As proposed by the Ad Hoc Working Group of the Whole to the General Assembly, the five-year second cycle will run from 2016 to 2020. The Ad Hoc Working Group of the Whole recommended a programme of work for the second cycle of the Regular Process (2017-2020). The main outputs of this programme of work include: (1) the Second World Ocean Assessment(s); Regular Process support for other ocean-related intergovernmental processes, including technical abstract(s); and (3) activities i

ready mid-2017. Mr. Garcia also discussed the bilateral approach that the Philippines and China have taken so far in relation to determining the best steps to be taken after the ruling.

In conclusion, Mr. Garcia noted that the SCS case is a test for the application of international law in the region.

Dr. I Made Andi Arsana (Indonesia)

The New Map of the South China Sea: The Implications of the 2016 Tribunal Award for Maritime Boundary Delimitation between Indonesia and its Neighbours in the South China Sea

Dr. Arsana followed the presentation of Mr. Garcia also on the South China Sea (SCS). Dr. Arsana focused on the post-ruling situation, especially with respect to the maritime boundaries of Indonesia in the SCS. Similarly to Mr. Garcia's presentation, Dr. Arsana highlighted points of the Tribunal awards. He started his presentation by explaining the geographical context of the SCS as a semi-enclosed Sea. He discussed the implications of the decision for Indonesia's maritime boundaries, including with Malaysia and Viet Nam.

With regards to the Tribunal's decision on the status of geographical features in the SCS, including those in the Spratly Islands group, Dr. Arsana highlighted potential implications for the roles of islands in maritime boundary delimitation. He noted that Indonesia was an archipelagic State with thousands of Islands, and that it may need to revisit its small outer islands and investigate whether or not those islands will affect its forward position where maritime boundaries have yet to be settled. Likewise, he suggested that small islands of Indonesia's neighbours might also need to be reconsidered for their roles in maritime boundary delimitation.

Dr. Arsana concluded that even though the 2016 ruling relates to China and the Philippines, the award serves as jurisprudence that can be referred to at a later time when there are similar cases.

Mr. Dong Manh (Viet Nam)

Joint Oceanographic Marine Scientific Research Expedition in the South China Sea: An Example for Maritime Confidence Building Measures

Mr. Dong delivered a presentation on confidence building measures (CBM) in the South China Sea (SCS). He presented a programme called the Joint Oceanographic Marine Scientific Research Expedition in the SCS (JOMSRE). Mr. Dong started by explaining that JOMSRE is a good example of how States in the SCS region have initiated collaboration among themselves, which collaboration served as a good CBM.

He explained that JOMSRE is a technical activity to map the seafloor of the SCS involving the Philippines and Viet Nam, and was without any prejudice to sovereignty and sovereign rights over land and maritime areas in the SCS. Both States funded the project and the data was also equally shared for them to understand better the seabed and its potential. The JOMSRE project was made possible through goodwill and good faith from both sides, indicated by reciprocal visits by the leaders of the two States prior to the JOMSRE projects.

JOMSRE's scientific components include physical oceanography, chemical oceanography, biological oceanography, geological oceanography, and coral reef ecology, indications that the project was a comprehensive survey for a holistic understanding of scientific aspects of the SCS. There have been four legs of the survey (JOMSRE I-IV) within the project from 1996 to 2007, and Mr. Dong outlined that the results have helped the Philippines and Viet Nam to enhance mutual trust, and laid good foundations for cooperation between them. He suggested that the project also directly and indirectly contributed to the realisation of the draft DOC in 2002 and the implementation of UNCLOS's provisions regarding cooperation in semi-enclosed seas. This project was the very first implementation of this provision in the region, and also the first official joint activity after WWII in the region. In short, Mr. Dong concluded that JOMRE is a good model for scientific CBM in the SCS.

Ms. Mary Fides A. Quintos (the Philippines)

Panel 2: Marine Environment and Fisheries (a)

Moderator: Ms. Valentina Germani, (DOALOS)

Rapporteur: Ms. Maria Amalia Rodriguez Chaves (Costa Rica)

Commentator: Ms. Nopparat Nasuchon (Thailand)

Mr. Taimur Faiz (Bangladesh)

Community Participation in Conservation of Marine Biodiversity in Bangladesh

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approach; awareness-building and capacity development; research and science-based conservation practices; value chain development for improved access to market; community mobilization; and enhancement of the tourism sector, among others.

In conclusion, Mr. Faiz addressed recognition of the advantages and necessity of community-based marine resources management and co-management. Bangladesh has been endorsing a number of projects and development initiatives that promote biodiversity conservation through an ecosystem-based approach and management practices designed to strengthen conservation outcomes by giving local communities a central role in the conservation and management of natural resources in coastal-marine ecosystems.

Ms. Pham Thi Gam (Viet Nam)

Oil Spill Response and Preparedness in ASEAN and an Overview of Viet Nam

Ms. Pham outlined the geographical context of ASEAN, which includes 10 countries: Brunei Darussalam, Cambodia, Indonesia, the Lao People's Democratic Republic, , Malaysia, Myanmar, the Philippines, Singapore, Thailand, and Viet Nam. She noted that the South China Sea (SCS) has a high risk of oil spills. For example, approximately 1,300 platforms have been installed in the SCS and adjacent seas, and 25% of the world's oil is carried by sea through the Singapore Strait.

Some valuable achievements by ASEAN on collaborative mechanisms to prepare for and respond to oil spills are: signature of an MOU on the ASEAN Cooperation Mechanism for Joint Oil Spill Preparedness and Response (28 November 2014), the main elements of which are: a) Jointly undertaking appropriate measures to prepare for and respond to oil spill incidents in the ASEAN region; b) Developing a Regional Oil Spill Contingency Plan; c) Developing strategies and action programmes to strengthen capacity and capability of ASEAN Member States; d) Sharing information; e) Jointly conducting and/or sharing the results of research and studies on the scientific and technical aspect of oil spill preparedness and response. However, some shortcomings have been identified, such as the limited ASEAN countries ratifying the international conventions concerning oil spills; the cooperation activities under this MOU have not been detailed to implement it; and ASEAN and China only adopted the 2002 Declaration on the Conduct of Parties in the SCS with general content.

Ms. Pham suggested some solutions in relation to oil spills in ASEAN: a) All ASEAN countries should ratify the main Conventions related to oil spill response, especially OPRC 1990; b) Detailed activities based on the ASEAN MOU should be approved as soon as possible; c) ASEAN should enhance cooperation with China in preparing for and responding to oil spills. The presenter specifically addressed Viet Nam's legal framework regarding oil spills, which is encompassed in the following provisions: Law on Marine and Island Resources and Environment (Chapter VII); the Viet Nam Maritime Code (provides for seagoing vessels and s

- x Fish: Affected lateralization and reduced audio ability, impaired retina function, altered olfactory.
- x Corals: Ocean acidification reduces skeleton and growth in corals, as well as the percentage of fertilization and settlement. Corals are rapidly eroding. Examples of different corals exposed to acidic PH and increased temperature were given.

Ms. Nasuchon asked how ocean acidification affects marine ecosystems. She outlined that it specifically affects food webs, the balance of ecosystems and species. Predators can also switch between different prey. Additionally, economic costs due to ocean acidification may include loss of mollusk markets and coral reefs that would impact ecosystem services they provide and the tourism industry.

Future needs identified by the presenter include: a) Study in commercially important species; and b) Appropriate strategies and regulations for mitigating the effects of climate change in the fisheries sector, for example increasing mangrove area, promoting alternative power for fishing boats, and protecting nursery grounds.

Ms. Maria Amalia Rodríguez Chaves (joint paper with Professor Ronan Long), Marine

(b) Promoting alternative power sources for fishing boats such as sun and wind;
and

Mr. Chinthaka Mendis (Sri Lanka)

Maritime Disputes in South Asia: The Objections Raised by Bangladesh, India, and Maldives on Sri Lanka's Continental Shelf Claim

Mr. Mendis discussed the major issues concerning the delimitation of the outer continental shelf beyond 200 nautical miles in the Bay of Bengal. He outlined the relative strengths, and procedures provided by UNCLOS. He noted that disputes regarding the extension of the continental shelf have arisen between Bangladesh and India, Bangladesh and Myanmar, and the latest between Bangladesh and Sri Lanka, and the Maldives and Sri Lanka. Mr. Mendis concluded that, despite the existing disputes, it is important to realize that countries with overlapping claims can come to a common understanding to operate on a shared output basis.

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fisheries rules and regulations, poaching, lack of sound data and information, post-harvest losses and poor marketing and transportation, inadequate and poor management and maintenance of fishery infrastructure, poor and destructive fishing gear practices, inadequate investment in the fishery sector, poor coordination between Ministry and allied institutes, poor application of the fisheries development plan, insufficient expertise in the fishery sector, and the high operational cost of fishing.

The aim of his study is to identify the barriers/practical issues hindering implementation of fisheries management initiatives and rules and regulation in the country. Mr. Aruna gave an overview of the legal framework in Sri Lanka and relevant regulations. Having outlined the methodology for the study, he set out its findings. According to the data collected from three fisheries districts, 59% fishermen were generally satisfied with the formulation and implementation of the fisheries law in the country, while 41% fishermen were generally unsatisfied. Fishers mentioned that strengthening punishments, the prohibition of environmentally harmful fishing gears, unbiased law enforcement, awareness for fishermen, sudden inspection, and proper data collection would be helpful in minimizing IUU fishing. Mr. Aruna made recommendations regarding awareness on fishery law; multilevel coordinating organizations; a bottom-up process; unbiased enforcement; trade measures; accurate and cost-effective data collection; coordination among institutes; precautionary approaches; political will and government commitment; increasing penalties; establishing alternative livelihoods; and reducing poverty.

conservation of biological diversity, the sustainable use of its components, and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources. Ms. Nurhidayah outlined various problems, relating to marine ecosystems suffering a loss of biodiversity; over-exploitation and destructive fishing practices; habitat change/development; climate change; and pollution (sea and land-based sources). She then outlined Indonesia's legal framework and set out challenges relating to conflicting interests among stakeholders; overlapping jurisdictions over marine resources among government institutions and agencies; local government capacity; community participation; and a lack of law enforcement.

Ms. Nurhidayah then gave an overview of opportunities. These included MPAs (target to 2020 about 20 million ha marine conservation area), currently having 13.529.067 ha initiated and managed by the Ministry of Forestry and the Ministry of Marine Affairs and Fisheries, local government, and local communities. In addition, the government has adopted more policies in favour of conservation and sustainable fisheries with two Ministry of Fisheries Regulations: No 1/2015 on lobster, crab and blue crab catch and No 2/2015 on the ban of trawls and seine nets.

In conclusion, she outlined that the best way to protect marine biodiversity is to involve multiple stakeholders and integrate the three dimensions of sustainable development. These include implementing poverty alleviation programs, providing infrastructure, health, and education to the community, and improving law enforcement.

Commentator

Fisheries play an important role in the socio-economic development of countries in Southeast Asia and South Asia for food security and income. However, there are global problems of declining fish stock/depletion of resources due to overfishing, IUU fishing, destructive fishing, weak law enforcement of exploitation in Asia

- 1 leg l, begelat
- x Marine pollution; and
- x Climate Change.

Possible solutions and opportunities may be implemented under the international framework (hard and soft law), with bilateral and regional cooperation also available as a means for addressing these issues. Relevant instruments include UNCLOS; the CBD; the 2030 Agenda for Sustainable Development and SDG 14 (Conserve and sustainably use the oceans, seas and marine resources for sustainable development); the UN Framework Convention on Climate Change (UNFCCC), which underscores the role of oceans as climate regulators and the importance of action to limit ocean warming and ocean acidification; the ASEAN Initiative-Joint ASEAN-ASEAFDEC Declaration on Combating IUU Fishing; and the UN General Assembly Resolution on ABNJ. The recommendation is to ensure full implementation of international instruments at the national level. However, there is a concern of lacking legal, institutional and technical support aspects at the national level. These challenges are, for instance, the problems of lacking a comprehensive legal and policy framework to support the management of fishing capacity such as in Thailand. Some

delegates more responsibility in the management of coastal zones to regencies and municipalities. The enactment of the two new laws (Law 22/1999 and Law 25/1999) on administrative and fiscal decentralization provided opportunities for a shift in coastal zone management (CZM). It showed both political will and innovation from the central government in managing marine, coastal and fisheries affairs.

Mr. Siry described the pathway of decentralized CZM in Indonesia. He elaborated the dynamic governance and significant shifting from Law 22/1999 to Law 32/2004 into the Law 23/2014 about regional/provincial government. He further provided details pertaining to the divisions of Indonesian government that are involved in CZM and the implications of Law No 23/2014 in managing marine and fishery sectors.

He noted challenges, including the dynamic political and decentralization process (especially for direct election), asking whether there is a need to revise the law again; issues of local government capacities and capabilities; requirements for decentralized CZM; effective and efficient functioning of government to create the enabling conditions and avoid misperception of decentralization; and the essential role of central government (especially MMAF). Mr. Siry concluded that coastal zone management in Indonesia faces large-scale social, economic, and environmental problems; coastal zone management in Indonesia is at devolved experiment stage; and coastal zone management has an improved framework. However, stronger political will is needed.

Ms. Dysi Polite Dyspriani (Indonesia)

Shaping Responsible Marine Tourism: MPA for Sustainable Marine Services Management in the Place So-called the World Maritime Axis

Ms. Dyspriani focused on the development of marine tourism in conservation areas of Indonesia (Marine Protected Areas or MPAs) and the problems and challenges that the government encounters. She stated that marine tourism needs to be part of the country's mainstream sustainable

Indonesia. Third, utilization of marine tourism is non-extraction of existing marine resources, meaning it is more sustainable for the longer term. Nonetheless, there may be potential damage to the environment if marine tourism is managed carelessly.

Ms. Dyspriani outlined that the utilization of MPAs in Indonesia is managed by a zoning system that incorporates the following zones:

- x Core Zone (Absolute protection of fish habitat and populations; research; and education)
- x Sustainable Fishing Zone (Protection of habitat and fish populations; catching up with tools and environmentally-friendly ways; environmentally-friendly farming; tourism and recreation; research and development; as well as education)
- x Utilization Zone (Protection of habitat and fish populations; tourism and recreation; research and development; and education)
- x Others (Protection; rehabilitation; sites and historical objects, among others)

She outlined that marine tourism and other activities can be conducted in conservation areas (MPAs) as long as not in the core area, and should consider the sustainability of the marine environment and the interests of local and traditional people. She emphasized the need for a scheme to transform marine tourism from irresponsible leisure to environmental-based activities. Following the examination of changing behaviour due to economic change, there was a need to alter, reshape, and redefine tourism to ecotourism activities. Ecotourism and MPAs thus represented a combination of ways that are becoming important. Sustainable marine tourism can thus support and benefit MPAs, while MPAs assist sustainable tourism. For example, in Raja Ampat, Papua, the population of manta rays is still abundant compared to the other r c r \$

She concluded that new tourism-based industries have developed, enabling local communities to directly benefit from conservation. Marine tourism brings new j

fisheries poaching; and Indonesia not being a State Party to the 1993 FAO Agreement to Promote Compliance with International Conservation and Management Measures by Fishing Vessels on the High Seas (the Compliance Agreement) and the Cape Town Agreement of 2012 on the Implementation of the Provisions of the Torremolinos Protocol of 1993 relating to the Torremolinos International Convention for the Safety of Fishing Vessels, 1977 (the 2012 Cape Town Agreement).

He outlined a number of solutions. First, Indonesia should prepare to adopt NPOA-IUUF 2017-2021. Second, more public consultation could be considered as one good option to gather concerns from the public. Third, presidential regulations should be amended by incorporating specific tasks in addressing fisheries crimes. Fourth, consideration should be given to not declaring the flag of fishing vessels when sinking those vessels in order to garner bilateral, regional and international support in combating IUU fishing and fisheries crimes. Fifth, filling the loopholes identified as deficiencies in law enforcement. Sixth, amending fisheries laws by adding norms on transnational

Session of Global and Regional Representatives

This session served as an initial discussion on the follow-up to the Global Alumni Meeting in Tokyo (2014) and future action. In this session, Alumni identified key areas for improvement