Defense strategy at sea handling of Transnational Organized Crime (TNOC) in Nunukan Indonesia's national sea border

Suhirwan¹ and L Y Prakoso²
¹Prodi Peperangan Asimetris
²Prodi Strategi Pertahanan Laut
Fakultas Strategi Pertahanan-Universitas Pertahanan (Unhan)
Kawasan IPSC, Sentul, Bogor, Indonesia
*Email: ¹suhirwan@idu.ac.id,

Abstract. The development of the global and regional strategic environment has an impact on the development of the national strategic environment. The Territory of the Republic of Indonesia (NKRI) region which is a world crossing position is the world's maritime axis where the flow of world transportation and world telecommunications is passed. The negative impact that is felt at this time is the tip of increasing the number of transnational organized crime (TNOC) that occurred in the NKRI. So it is necessary to do research on how the implementation of handling transnational crime at this time, especially in locations that are factual or potential occur such as in the waters of Nunukan-North Kalimantan Province, Indonesia which is directly adjacent to the City of Tawau-District Sabah, Malaysia. From the conditions of implementation of the handling it can be found the root of the problem so that a strategy can be formulated to improve the handling of transnational crime in the territorial waters of the Republic of Indonesia with other countries.

1. Introduction
Transnational organized crime (TNOC) today has become one of the threats to defense and security stability in Indonesia, by definition transnational crime is an organized transnational crime involving groups or networks in more than one country to plan and carrying out illegal business, whereas according to the 2000 United Nations Convention on Transnational Organized Crime in Palermo, crime can be said to be transnational if it consists of: crossing national borders, more than one perpetrator, having an effect on a country's sovereignty and breaking the law in more than one country [1].

Transnational crime was first introduced internationally in the 1990s during a meeting of nations discussing crime prevention. In 1995, the United Nations (UN) has identified 18 types of transnational crime, namely money laundering, terrorism, theft of art and cultural objects, theft of intellectual property (theft). intellectual property), illicit arms trafficking (army and weapons illicit trade), aircraft hijacking, sea piracy, fraud insurance (insurance fraud), computer crime (cyber-crime), environmental crime, trafficking in persons (human smuggling), trade in human body parts (trade in human body parts), illicit drug trafficking (drug trafficking), fraudulent bankruptcy (fake bankruptcy), infiltration of legal business (legal business infiltration), corruption (corruption ), bribery of public (bribing public officials), and bribery of party officials [2]

In Law Number 5 of 2009 concerning the Ratification of the United Nations Convention Against Transnational Organized Crime in Palermo, 2000 (United Nations Convention Against Organized Transnational Crimes) mentions a number of crimes included in the category of transnational organized crime, namely laundering money, corruption, illegal trade in protected plants and wildlife, crime against cultural artifacts, human trafficking, migrant smuggling and the illegal production and
trading of firearms. The Convention also recognizes the close link between transnational crime organized with terrorism crime, although its characteristics are very different. Although drug trafficking crimes are not referred to in the convention, these crimes are categorized as transnational organized crime and have even been regulated far more fully in three drug-related conventions.

Indonesia feels the need to ratify the Palermo Convention considering the potential threat of TNOC is increasingly developing dynamically, and faced with Indonesia's strategic position which is directly adjacent to 10 neighboring countries namely Malaysia, Singapore, Philippines, India, Thailand, Vietnam, Republic of Palau, Australia, Timor Leste and Papua New Guinea and three of them have land borders, namely Indonesia-Malaysia, Indonesia Papua New Guinea and Indonesia Timor Leste. This condition makes Indonesia very vulnerable to TNOC which can directly threaten the sovereignty of the Republic of Indonesia.

In the mechanism of handling the threat of TNOC, Indonesia has sought various ways to deal with it both domestically and internationally, in addition to ratifying the Palermo Convention in 2000, Indonesia is active internationally in combating TNOC, one of them is Indonesia related to Bali Process on People Smuggling, Trafficking in Person and Related Transnational Crimes (Bali Process). Indonesia and Australia are the founders and Co-chairs of the Bali Process. Since its establishment in 2002 until now, the Bali Process has become the oldest and largest Regional Consultative Process in the region. Within the framework of the Bali Process, Indonesia has conducted various initiatives that gather authorities, practitioners and experts in the region to enhance cooperation in handling irregular migration through better border management. [3]

In Indonesia itself, Indonesia takes strategic steps by issuing several laws [4], including Law Number 5 of 2001 concerning Transnational Crime, then issuing Law Number 21 of 2007 concerning the Eradication of Crimes on Trafficking in Persons and the Eradication of Criminal Trafficking People, then the issuance of Law No. 15 of 2009 concerning Smuggling of Migrants Through Land, Sea and Air, Completing the United Nations Convention Against Organized Transnational Crimes and the subsequent issuance of Law Number 8 of 2010 concerning Money Laundering, which categorize as TNOC. Not only that in 2014, the Indonesian government issued Law No. 32 of 2014 concerning Marine Affairs, one of which was aimed at safeguarding the country's sovereignty from various threats of crime and violations at sea, in which the law has been designated by 12 agencies that have the authority under the control of the Marine Security Agency (Bakamla).

Along with the issuance of several laws is in an effort to minimize the occurrence of TNOC, but not directly proportional to the number of TNOC numbers that continue to increase from year to year in Indonesia. According to police data in 2016 TNOC that occurred in 2010 totaled 10,444 crime cases and in 2015 it increased significantly by 40,938 crime cases, continued to increase in 2016 a number of 41,033 crime cases [5, 6] (Figure 1)

![Figure 1. Chart of transnational crime figures in Indonesia from 2010-2016 [6](image)](image)
With the phenomenon of increasing TNOC in Indonesia, it needs to get more serious attention, if not immediately addressed further as described above which would endanger the sovereignty of the Republic of Indonesia (NKRI). At present there are six agencies that have the means in their authority to take action against crimes at sea, namely the Ministry of Maritime Affairs, Navy, Polair, Bakamla, KPLP, and Customs. The six law enforcement agencies have their respective policy bases in carrying out patrols related to security at sea.

Taking into account the data of TNOC which increases every year, it is deemed necessary to be investigated related to TNOC at the sea border. This research is expected to contribute to efforts to suppress as much as possible the number of TNOC in order to maintain the sovereignty of the Unitary Republic of Indonesia (NKRI). As an analytical tool, this study uses policy implementation theory developed by George C. Edwards III. According to him, there are four variables in public policy, namely communications, resources, attitudes (dispositions or attitudes), and bureaucratic structure [7].

2. Theories and Methods Used
This research was conducted at Nunukan Regency, the province of North Kalimantan. In this research the theory used is the theory of public policy implementation according to George C. Edward III which stated that there are four variables in public policy, namely Communication, Resources Dispositions or attitudes and Bureaucratic structure [7]. The type of research used is descriptive qualitative phenomenology.

3. Results and Discussion

3.1. General description of Nunukan Regency, North Kalimantan Province
Nunukan Regency is one of the districts in North Kalimantan, Indonesia. The district capital is located in the city of Nunukan. This regency has an area of 14,493 km² and has a population of 140,842 inhabitants. Nunukan Regency is a division area of Bulungan Regency, which is formed based on the consideration of area size, improvement of development, and improvement of services to the community. Bulungan Regency is pioneered by R.A. Besing, who at the time served as Bulungan Regent.

This district division is legally regulated in Law Number 47 of 1999 concerning the Establishment of Nunukan District, Malinau District, East Kutai Regency, West Kutai Regency and Bontang City on October 4, 1999. Based on Law Number 47 of 1999, Nunukan officially became regency with 5 administrative districts namely:
1) District of Lumbis
2) District of Sembakung
3) District of Nunukan
4) District of Sebatik
5) District of Krayan

Since 2012, this district is part of the Province of North Kalimantan, along with the expansion of the new province from East Kalimantan Province [8]. While the boundaries of Nunukan Regency are as follows:
1) North side with East Malaysia – Sabah;
2) East side with Makassar Strait and Sulawesi Sea;
3) South side with Bulungan Regency and Malinau Regency
4) West side with East Malaysia – Sarawak.

Nunukan Regency has great potential to be developed, among others in the mining sector, with its mining products in the form of petroleum which is managed by PT. Perkasa Equatorial Sembakung and coal which are managed by PT. Inti Mandiri Perkasa. In the primary sector, for agricultural activities in the Nunukan area, the results of cultivation of food crops are the main source of livelihood for the population, with agricultural products in the form of rice, horticulture and secondary crops. In addition to being a farmer, quite a lot of laborers rely on forests to turn the wheels of the family
economy, the main products of primary businesses that are in the form of logs, round logs the official business results are sent to Java and Sumatra into raw materials for the wood processing industry. In the plantation sector the main commodities produced by this region in 2006 were cocoa (17,702 tons), deep coconut (1,864 tons), and robusta coffee (214 tons) [8]

In the context of safeguarding the border area, the slogan becomes very important, because Nunukan Regency, especially on Sebatik Island, is one of the outer islands of the Republic of Indonesia and is the gateway to Indonesia in the North Kalimantan region, which is directly adjacent to Sabah, Malaysia from and out of the Republic of Indonesia.

3.2. Transnational organized crime in Nunukan, North Kalimantan.
In the context of safeguarding the border area of Nunukan Regency, it has quite complex problems, in addition to being bordered by Malaysia and the Philippines, Nunukan Regency has historically also had a long-standing emotional connection that is connected in a land to be separated in two countries, not to mention the lack of infrastructure. and available facilities and infrastructure.

Various problems occurred in Nunukan Regency due to the impact of the island's direct border with the Malaysian State. Like cross-border problems, many people who enter and enter the borders of the two countries without having legal documents, then the residence time exceeds the stipulated time. Smuggling of daily necessities through traditional ports.

The close access to distribution of goods from Malaysia to Indonesia has made the Nunukan community prefer to take goods or buy goods to Malaysia through Tawau. In addition, in Nunukan Regency, especially in Sebatik Island, it is the entrance to international drug crossings, in the border region on Sebatik Island, the problem of terrorism infiltration arises from the vulnerability of various separatist movements and terrorism from Malaysia and the Philippines. With the number of traditional ports that also trigger illegal activities in the border region, considering that the crossing doors in the border area of Nunukan Regency are quite open, mainly for illegal human entry and trading activities in traditional and other social activities given the kinship in the border area. .

With the number of entrances that allow the rise of TNOC in the Nunukan Regency, various efforts have been carried out in monitoring, prosecuting and punishing these transnational criminals, one of which is by placing cross-border posts as well as security forces and the TNI as at points considered vulnerable. Considering the area coverage that there are still many traditional ports, it is expected that law enforcement officers in the sea will increase their strength in the future, especially in facilities and infrastructure, or increase in international cross-border posts such as in Sebatik region. trigger economic growth around it.

Another factor that is also very decisive in handling TNOC is by eroding the root causes of economic inequality that occurs with neighboring countries, with the acceleration of people's economic growth is expected to stimulate the community not to get involved in illegal activities.

3.3. Implementation Policy Handling of TONC in Nunukan District, North Kalimantan Province.

3.3.1. Communication. Good communication can result in a good implementation. There is often a problem in communication channeling, namely misunderstanding caused by the many bureaucratic levels that must be passed in the communication process, so that what is expected is transmitted in the middle of the road.

Basically the communication of institutions that have authority in the sea in Nunukan Regency seems to work well. However, sometimes the sectoral ego owned by each agency will be seen clearly when seen further, as experienced by the National Narcotics Agency (BNN) Nunukan who proposes police personnel to become investigators from 2014, but the submission has not been accommodated until now.
3.3.2. Staff and facility resources. The main resource in policy implementation is staff or employees (street-level bureaucrats). Failures that often occur in the implementation of policies, one of which is caused by staff / employees who are not sufficient or not competent in their fields.

Especially in the border region of Nunukan Regency, facing the problem of lack of personnel, especially agencies related to handling transnational crimes, especially the Naval Base (Lanal) Nunukan-Koarmada II, the Navy has less than half of the requirement standard personnel needed, while the police have 523 personnel out of 1000s are needed, not to mention a BNN that is only 4 personnel, with personnel shortage problems that should get more attention by adding personnel to strategic agencies that deal with TNOC in Nunukan Regency.

In facing the threat of TNOC, especially in the sea border area, facilities and infrastructure have become a priority requirement in handling both as an early detection and for enforcement.

Early detection is the initial activity in carrying out observations of all activities that occur. Detection failures often occur due to lack or lack of facilities and infrastructure. In this activity, supporting tools such as binoculars or long range cameras with high technology (infrared) with the ability to detect targets at night are needed and it is time to be added and equipped.

Enforcement, the need for sea patrol vessels for agencies related to supervision is quite urgent, not to mention that if faced with the development of shipping technology that is owned is far from expectations, sometimes the perpetrators of crimes in front of the eyes just leave when they are arrested for patrolling ships the sea owned by law enforcement officials in Indonesia is less modern than the perpetrator of the crime. With the phenomenon of the lack of limited number of sea patrol vessels it should be added to its strength by complementing medium and small sea patrol boats to be affordable when entering the rivers in Nunukan Regency with large and fast thrust to be able to carry out internal pursuits relatively fast time.

3.3.3. Disposition. Disposition that becomes a problem as happened in the District Government of Nunukan is quite difficult in the implementation of the budget allocation of the General Allocation Fund (DAU) and Special Allocation Fund (DAK) which is managed directly by the central government, and directed its development in the border region. Due to the lack of synchronization between regional and central will cause obstacles in completing the work, even though the program submission is planned through submission from Nunukan District, but when it goes down the allocation is not in accordance with the needs in the field. This requires a decision policy taken by the central government to authorize the regions to determine their own regional needs.

3.3.4. Bureaucratic structure. Implementation of complex policies requires the cooperation of many parties. When the bureaucratic structure is not conducive to the implementation of a policy, this will cause ineffectiveness and hamper the implementation of policies [9].

The problem of this bureaucratic structure occurring in several Nunukan District agencies that are related to transnational crime law enforcement (TNOC) has a few obstacles with the length of the bureaucracy, such as the TK high court. II Nunukan who does not have full authority in managing his own institution, whether it is an organization or the needs of employees who are still dependent on the TK State High Court. I in Tarakan, not to mention the obstacles to the lack of transportation facilities. So that it is necessary to increase the status of the TK district court. II Nunukan became a TK I to be more optimal in organizational performance.

3.4. The source of the problem of the occurrence of TNOC. Analysis of data through interviews with informants related to handling TNOC in Nunukan can be found problems that make TNOC rampant are as follows:

a. Inequality of economic growth with the Malaysian State;

b. lack of infrastructure facilities in handling TNOC, and

c. Public relations on the border have historically had an emotional connection so as to legalize TNOC.
3.5. Strategies that must be applied

Based on the discussion related to the implementation of TNOC in Nunukan and paying attention to the root causes of TNOC, the following strategies can be formulated:

a. Accelerate the economic growth of the people in the border by developing an economy based on natural and marine resources owned by Nunukan Regency,
b. Increasing the number of personnel, facilities and infrastructure, as well as transportation, especially to agencies that have authority in handling TNOC in the Nunukan Regency, and
c. Tighten supervision at traditional ports which are often used as distribution channels for illegal goods from other countries.

4. Conclusion and Recommendation

4.1. Conclusion

The handling of transnational crime (TNOC) in the Indonesia-Malaysia Sea Border in the Nunukan Regency has some good communication problems between law enforcement agencies in the Indonesian territory and communication between Indonesian and Malaysian law enforcement. Resources for infrastructure facilities owned by Indonesian law enforcement agencies are also still minimal to handle TNOC. Regarding the disposition or attitude of the law enforcement executor, there are still persons involved. Regarding the bureaucratic structure regarding standard operating procedures, local parties (district-level officials) do not have standard standards for implementing instructions and technical guidelines for handling TNOC, for example the National Police, the handling of the TNOC is directly handled by the center.

Nunukan Regency has a considerable threat to the occurrence of transnational crime, especially from the open sea lanes. The root of the problem that occurred was economic inequality between the two border regions between Indonesia in Nunukan / Sebatik and Malaysia in Tawau.

There needs to be an integrated handling of law enforcement with the completeness of the Standard Operating Procedure (SOP) that can be directly handled in the border area to cut the lengthy process if handled by by the central government.

4.2. Recommendation

The mechanism for handling transnational crime (TNOC) requires a special regulation in the form of a government regulation as a reference for the authorized agencies in carrying out actions, which can be done directly by the regional apparatus.

Adding integrated international border control posts to monitor the entry of goods and people, as well as trigger economic growth in the surrounding area.

Acknowledgment

This research is part of the Lecturers' independent research in the Defense Strategy Faculty of Unhan, therefore the researchers would like to thank the Dean of the Unhan Defense Strategy Faculty for allowing us to conduct this research.

References

[1] United Nations 2004 United Nations Convention Against Transnational Organized Crime And The Protocols Thereto (Viena, Austria: UN Office on Drugs and Crime) p 92
[2] LPSK 2012 Pentingnya perlindungan saksi Transnational Organized Crime Bulletin Kesaksian 3 p 5
[3] Direktorat KIPS 2016. Penanggulangan Kejahatan Lintas Negara yang terorganisir, Kementerian Luar Negeri Tahun 2016.
[4] Pradopo T 2013. Kejahatan Transnasional Meningkat Penyelesaian secara hukum menjadi pekerjaan rumah http://www.hukumonline.com/berita/baca/lt50f3a3710b543/ kejahatan-transnasional-meningkat, diakses tanggal 16 April 2018

[5] Republika 2016. Kapolri Sebut Kejahatan Lintas Batas Naik pada 2016, http://www.republika.co.id/berita/nasional/hukum/16/12/28/oiwf0u384-kapolri-sebut-kejahatan-lintas-batas-naik-pada-2016, diakses tanggal 16 April 2018

[6] Strategi Pertahanan Laut di Perbatasan Laut Indonesia, Puslitbang Strahan Balitbang Kemhan 2017

[7] Edward III G C 1980. Implementing Public Policy. (Washington DC: Congressional Quarterly Press).

[8] Nunukan Penekindi 2010. Profil Kabupaten Nunukan, http://nunukan-penekindi-debaya.blogspot.co.id/2010/02/profil-kabupaten-nunukan.html, diakses tanggal 16 Arpril 2018.

[9] Witaradaya K 2010. Implementasi Kebijakan Model C G Edward III, https://kertyawitaradya.wordpress.com/2010/01/26/tinjauan-teoritis-implementasi-kebijakan-model-c-g-edward-iii/, diakses tanggal 16 April 2018.