

ARTICLE

INDONESIA - AUSTRALIAN COAST GUARD COOPERATION: AN INTEGRATIVE PARTNERSHIP IN CONTROLLING CROSS-BORDER CRIME

Kiki Apriliyanti

National Resilience Department, Graduate School, Gadjah Mada University, Indonesia

Dafri Agussalim

International Relation Department, Faculty of Social and Political Science, Gadjah Mada University, Indonesia

Sri Wiyanti Eddyono

Law Department, Faculty of Law, Gadjah Mada University, Indonesia

Corresponding author. E-mail: kikiapriliyanti@mail.ugm.ac.id

Abstract

The Indonesia-Australia border has become a critical concern for both countries since the rise of cross-border crime has threatened the stability of national security. IUU Fishing as a dominant crime is associated with other crimes such as migrant smuggling, human trafficking, and modern slavery. The impact is global since the victims come from various countries. Therefore, the Indonesian Coast Guard (BAKAMLA) cooperates with the Australian Border Force in controlling it. The study aims to analyze the cooperation between the Indonesian-Australian Coast Guard and integrated interagency in handling cross-border maritime crimes. This research used qualitative methods. Data obtained from 9 ministries/agencies and embassies of 2 countries supported by related scientific articles. The study result indicates that in controlling cross-border crimes, the Coast Guards of both countries' cooperation focus on coordinated patrol, human resource capacity building and information sharing. Maritime Domain Awareness-based threat control started from gathering intelligence data to investigations. Thus, it requires cross-agency collaboration as a key factor of these efforts. This integration involves the coast guard, police, navy, immigration, fisheries agency, sea transportation, ministry of foreign affairs and other technical/supporting agencies. Bounded by the security aspect, victims' and perpetrators' rights are under Indonesia's protection. The ramifications of the collaboration indicate that the overall number of violations has not witnessed significant alterations. However, in the aftermath of the pandemic, with a notable escalation in violations, Australia finds itself increasingly reliant on Indonesia's support to effectively control and mitigate these transgressions.

Keywords: Coast Guard Cooperation, Cross-border Crime, Maritime Agency Partnership.



A. Introduction

Among the various countries bordering Indonesia, the border between Indonesia and Australia has been of particular interest over the years. No country in Southeast Asia is more important to Australia than Indonesia, and few countries globally match that. Indonesia is the fulcrum of a single strategic ecosystem from the Indian Ocean across northern Australia to the Southwest Pacific. The resilient nation plays a central role in shaping the development of the Indo-Pacific regional order. Its strategic weight, traditional distance from great power rivalry, influence within ASEAN, and democratic credentials, are critical assets in a significant theatre of 21st-century strategic competition.¹

The complexity of these border waters then poses new threats. Not only sovereignty issues but also critical maritime conditions.² There are both traditional and non-traditional maritime security threats. Traditional security threats occur in the form of security disturbances at sea, such as the entry of Australian customs ships around the territorial waters of Rote Island.³ From December 1, 2013, to January 20, 2014, there were six violations of sovereignty. These violations were allegedly due to navigational errors when Australian customs ships during the operation to stop illegal immigrants who wanted to enter Australia (Operation Sovereign Border).⁴ Meanwhile, the dominant non-traditional security threats at Indonesia's border include illegal fishing, people smuggling, natural resource management and cross-border crime.

Cross-border/transnational crime is one of the non-traditional threats due to the strategic position of the two countries' geographical position and international travel routes. Cross-border crimes are harmful acts legally protected in more than one national jurisdiction and criminalized in at least one of the states/jurisdictions concerned.⁵ Unlike international crimes that do not always involve crossing national borders, transnational crimes have elements of crossing national borders because they involve two or more countries.⁶

1 Gary Quinlan, "Australia and Indonesia," 2019, https://indonesia.embassy.gov.au/jakt/AR19_003.html.

2 Kementerian Pertahanan RI, "Perbatasan Maritim RI – Australia," Migrasi, 2019.

3 Ismu Edy Aryanto, "Pengusiran Imigran Oleh Angkatan Laut Australia Ke Wilayah Indonesia Dalam Perspektif Hukum Internasional," *Hukum Internasional*, 2015, 1–25.

4 Muhammad Risal, "Dinamika Keamanan Maritim Indonesia Pasca Kemerdekaan Timor Leste," *Jurnal Interdependence* 5, no. 1 (2017): 37–49.

5 James Mitchell, "Transnational Organised Crime in Indonesia: The Need for International Cooperation," *Brawijaya Law Journal* 3, no. 2 (2016): 176–99, <https://doi.org/10.21776/ub.blj.2016.003.02.05>.

6 Sigar Aji Poerana, "Perbedaan Kejahatan Internasional Dengan Transnasional," [hukumonline.com](https://m.hukumonline.com/klinik/detail/lt5dd55a78997ed/perbedaan-kejahatan-internasional-dengan-transnasional/), 2019, <https://m.hukumonline.com/klinik/detail/lt5dd55a78997ed/perbedaan-kejahatan-internasional-dengan-transnasional/>.



A criminal act could be arranged in one nation but implemented in another, or it may designate another country as a transit point. Throughout these illicit activities, border crossings play a significant role, exemplified in phenomena such as illegal, unreported, and unregulated (IUU) fishing, people smuggling, transnational human trafficking, and cross-border modern slavery.

The two dominant cross-border crimes at the Indonesia-Australia border are Illegal, Unreported and Unregulated Fishing (IUU Fishing) and people smuggling. In the context of IUU Fishing, it can occur in various sea regimes, both in the territorial to high seas. The activities of fishers and vessels conducting IUU Fishing can constitute, result in, or coincide with crimes in the fisheries sector. Two types of crimes are associated with IUU Fishing, namely fisheries-related crime, and fisheries-associated crime.⁷ Fisheries-related crime is within the fisheries sector itself, such as human trafficking or slavery in the fishing industry. Fisheries-associated crime can be exemplified by using fisheries equipment to commit crimes, such as people smuggling, narcotics, and piracy.

People smuggling is associated with organized smuggling by fishermen and fishing vessels.⁸ Human smuggling through the Indonesia-Australia border has three categories. There are smuggling of fisheries crew members (Slavery), smuggling of migrant workers to work in Australia (Human Trafficking), and smuggling of migrants to seek asylum. Human smuggling for employment as crew members through illegal transshipment is included in fisheries-related crimes.⁹ smuggling of asylum-seeking migrants and migrant workers is categorized as a fisheries-associated crime when attempting to cross to Australia.¹⁰ Crimes characterized by high profitability and a diminished likelihood of legal consequences involve the illicit provision of hazardous services to individuals in desperate circumstances.¹¹

In its handling, a cross-border crime requires international cooperation. In this case, Indonesia and Australia are cooperating parties. Since

7 FAO, "Links between IUU Fishing and Crimes in the Fisheries Sector," 2022, accessed July 28, 2022, <https://www.fao.org/iuu-fishing/background/links-crimes/en/>.

8 Mary Mackay, Britta Denise Hardesty, and Chris Wilcox, "The Intersection Between Illegal Fishing, Crimes at Sea, and Social Well-Being," *Frontiers in Marine Science* 7, no. October (2020): 1–9, <https://doi.org/10.3389/fmars.2020.589000>.

9 M. Lisandro, "Perbudakan Terhadap Anak Buah Kapal Penangkap Ikan Asing Di Indonesia," *Indonesian Journal of Criminology* 1, no. 1 (2017): 267421.

10 Emma Witbooi et al., "Organized Crime in the Fisheries Sector Threatens a Sustainable Ocean Economy," *Nature* 588, no. 7836 (2020): 48–56, <https://doi.org/10.1038/s41586-020-2913-5>.

11 Antje Missbach and Melissa Crouch, "The Criminalization of People Smuggling: The Dynamics of Judicial Discretion in Indonesia," *Australian Journal of Asian Law* 14, no. 2 (2022): 1–19, <https://doi.org/10.4324/9781003211792>.



the border between the two countries is disputed, a civil maritime security approach is used to avoid escalation. The actor that plays a role in this approach is the Coast Guard. Bakamla RI (Badan Keamanan Laut Republik Indonesia) is the body that carries out the coast guard function in Indonesia. In contrast, the Australian Border Force carries out the coast guard function in Australia. The coast guard patrol boat is white with a red strip, indicating that the coast guard guards marine areas that do not have military power (white hull). The white hull approach is considered more friendly by other countries than grey ships with military power (grey hull).¹²

Bakamla RI-ABF's joint commitment to securing the maritime border area was strengthened by the signing of the Bakamla RI - ABF Arrangement on Maritime Security Cooperation on January 8, 2018¹³. The scope of cooperation includes operational cooperation, capability building and personnel training, and information exchange. Evaluation and cooperation monitoring are carried out annually through the Senior Officials Meeting (SOM) ¹⁴. The agreement then becomes a bridge in cross-border handling cooperation involving interagency cooperation between the two countries. This interagency cooperation is grounded in the task force concept within maritime domain awareness, an initiative regulated by the International Maritime Organization aimed at preventing violations and enhancing security at sea. The stages consist of intelligence data collection, early detection, data sorting, surveillance, interception/release, arrest, and investigation.

The key to realizing effective governance of maritime space is cooperation and maritime domain awareness (MDA) among participating nations that agree to take coordinated tactical actions and support each other. The problems of vast ocean space, the large number of vessels involved, the need for more transparency that characterizes the maritime industry, and the relatively limited resources require integrated maritime information exchange cooperation. An arrangement between two countries that agree to provide information to each other (two-way information exchange) for specific pur-

12 Bakamla RI, "Peraturan Kepala Badan Keamanan Laut Republik Indonesia Nomor 7 Tahun Tentang Rencana Strategis Badan Keamanan Laut Republik Indonesia Tahun 2020-2024," 2020.

13 TNI, "Perkuat Keamanan Perbatasan Laut, Bakamla RI - ABF Resmi Tanda Tangan Kerja Sama," 2018, <https://tni.mil.id/view-124819-perkuat-keamanan-perbatasan-laut-bakamla-ri-abf-resmi-tanda-tangan-kerja-sama.html>.

14 Bakamla RI, "Bakamla RI - ABF Lakukan Pertemuan Tingkat Tinggi Keempat Kalinya," 2022, https://bakamla.go.id/publication/detail_news/bakamla-ri-abf-lakukan-pertemuan-tingkat-tinggi-keempat-kalinya.

poses specified in the cooperation or agreement. The purpose can involve various interactions, from simple data information exchange to other extremes, allowing the other country and its assets to enforce laws in its coastal waters.¹⁵

International cooperation across agencies is an essential point in handling cross-border crimes. In this case, the Indonesian and Australian coast guards act as coordinators. The vast sea space requires primary control so that there is no overlap. Thus, this research aims to delineate the integrative cooperation between coast guards in controlling cross-border crime in the border waters of Indonesia and Australia, both before and after the signing of the cooperation agreement in 2017.

B. Research Method

This type of research is descriptive qualitative research, where the purpose of this research is to describe the phenomena that occur and provide an overview of the relationship between components. In this study, researchers applied the constructivism paradigm. The constructivist paradigm views social life not as a natural reality but as the result of a construction process.¹⁶ In collecting data, a field research method was used where researchers conducted a study at the location of primary data collection. This research was carried out by taking locations in several places, namely: (1) Bakamla RI; (2) NCB Interpol Indonesia; (3) KKP RI; (4) Kemlu RI; (5) Kemenkumham RI; (6) Australian Embassy; (7) BP2MI; and (8) Semarang Detention Center.

The primary data in this research are the results of informant interviews and observations. Secondary data used are theses, scientific journals, books, and related articles. This research used a purposive sampling technique to select informants with specific considerations and objectives. The informants who contributed to this research were 24 informants representing each institution. Data was collected with guided interviews, observation (complete observer), document studies and internet searches. After data collection, the analysis method was grouped into data reduction, data presentation and conclusion drawing.

15 Naval Studies Board, *Maritime Security Partnerships*, *Maritime Security Partnerships*, 2014, <https://doi.org/10.17226/12029>.

16 Sugiyono, *Metode Penelitian Kuantitatif, Kualitatif Dan R&D*, 23rd ed. (Bandung: CV. Alfabeta, 2018).



C. Results and Discussion

Indonesia is the largest archipelago in the world and is located on the axis of two oceans and two continents. The Free and Open Indo-Pacific Strategy (FOIPS) and One Belt One Road Initiative (BRI) agendas place Indonesian waters as a strategic location connecting regional countries to the Australian Continent as well as connecting the Pacific and Indian Oceans.¹⁷ The two mega projects have competing strategies and clashing interests that have created geopolitical transformations within the Asia Pacific region.¹⁸ The FOIPS discourse tries to build a particular platform for seeking a middle ground (access to both oceans) and balance of power amid China's unilateralism efforts.¹⁹

FOIPS' emphasis on BRI is also visible, where the cooperation does not penetrate India as the holder of economic power in South Asia. India considers that OBOR cooperation can interfere with its sovereignty and territorial integrity.²⁰ In the maritime silk road initiation of BRI, the scope of the cooperation area is still limited to Indonesia. It has yet to reach the Australian Continent even though it has successfully cooperated with New Zealand. In contrast to FOIPS, which relies on sea routes due to the joint discourse of the two oceans. Hence, FOIPS utilizes the Indonesian Archipelagic Sea Lanes (Alur Laut Kepulauan Indonesia / ALKI) to connect Japan and India to Australia. Indonesia is strategically positioned since the Japanese trade sea route passes through ALKI-I (Malacca Strait), ALKI-II and ALKI-III, and IIC.

Geographically and geo-economically, these conditions are very favorable for Indonesia. About half of the total sea trade is conducted through the Malacca Strait, Sunda Strait, Lombok Strait, and the Timor Sea each year.²¹ Along with this potential, however, are new threats to maritime security and safety. Although a consensus definition of maritime security has not been reached to date, there are three common characteristics related to maritime threats, namely: 1) threats to maritime security are not bound by national borders and thus require international cooperation; and 2) threat

-
- 17 Kementerian Koordinator Bidang Kemaritiman Republik Indonesia, "Keputusan Menteri Koordinator Bidang Kemaritiman Republik Indonesia Nomor 128 Tahun 2019," 2019.
- 18 Sony Iriawan, "Diskursus Indo-Pasifik: Hegemoni Amerika, Persaingan Strategis, Hingga Transformasi Geopolitik Kawasan," *Jurnal Hubungan Internasional* 1, no. 2 (2018): 282–310.
- 19 Boy Anugerah, *Menakar BOP Amerika Serikat Dan Tiongkok di Kawasan Asia Pasifik*, 2021, <https://doi.org/10.13140/RG.2.2.13664.81926>.
- 20 Oci Khairani, "Kepentingan India Menolak Kerjasama One Belt One Road (Obor) Tiongkok Pada Tahun 2017-2019," *Jurnal Ilmiah Hubungan Internasional* 6, no. 9 (2019): 1–15.
- 21 BPPK Kemlu RI, *Diplomasi Poros Maritim: Keamanan Maritim Dalam Perspektif Politik Luar Negeri, Kajian Mandiri*, vol. 11, 2016.

identification is influenced by non-traditional security perspectives because the scope of threats is broad, not just military power or state actors; and 3) threats are determined by security construction based on perceptions of things that have the potential to threaten maritime security stability.²²

The spectrum of marine threats in Indonesia is quite diverse. These threats can be classified into 12 types, namely: 1) IUU Fishing, 2) Ecosystem Damage; 3) Territorial Violations; 4) Illegal Mining; 5) Timber Smuggling; 6) Fuel Smuggling; 7) Goods Smuggling; 8) Human Smuggling; 9) Drug Smuggling; 10) Weapon Smuggling; 11) Robbery and 12) Unlicensed/Documented Ships. The classification of crime serves the purpose of streamlining the delegation of authority to law enforcement personnel engaged in criminal investigations. The most common threat is IUU Fishing. Then, a rare threat is traditional threats in the form of invasions from other countries.²³ The threat of cross-border crime requires international cooperation to overcome it. As a maritime axis, these threats can disrupt national security and interests, even regional and global security.²⁴

There are threats in the form of ecosystem damage, illegal Mining, illegal entry / People smuggling, and IUU Fishing at the Indonesia-Australia border. However, crimes involving border crossing are People Smuggling and IUU Fishing from other countries of origin and Indonesia to Australian waters. Both use vessels in their action. Migrants crossing into Australia come from South Asia and the Middle East, while border-crossing fishermen dominate IUU Fishing in northern Australia from Rote Island. A new threat arises from Indonesian migrant workers seeking employment in Australia through illegal border crossings.

Regarding people smuggling, Indonesia is a transit country for illegal immigrants. From September 18, 2013, to August 31, 2021, Australia intercepted and returned 873 potential illegal immigrants from 38 maritime human smuggling attempts from their countries of departure or origin.²⁵ Then, between July 1, 2015, and June 30, 2021, 1,148 cases were referred to the Australian Federal Police (AFP). Investigation into potential modern slavery and human

22 *Ibid.*

23 Aan Kurnia, *Guarding the Sea for Our Future* (Jakarta: Petroenergy, 2022).

24 Muhammad Irfansyah Hasan, "Kejahatan Transnasional Dan Implementasi Hukum Pidana Indonesia," *Lex Crimen* 7, no. 7 (2018): 13–20.

25 Refugee Council of Australia, "Boat Arrivals," Statistic, 2021, [https://www.refugeecouncil.org.au/asylum-boats-statistics/](https://www.refugeecouncil.org.au/ asylum-boats-statistics/).



trafficking offenses (including Australian citizens as potential victims) (Department of Home Affairs, 2020). Practice of IUU Fishing in Northern Prawn Fishery (NPF) is illegal fishing such as shark finning, endangered species, and the use of inappropriate fishing gear. In addition, violation of Australia–Indonesia Memorandum of Understanding regarding the Operations of Indonesian Traditional Fishermen in Areas of the Australian Fishing Zone and Continental Shelf (MoU Box 1974) is also charged as a case of IUU Fishing. The flag state is dominated by Indonesia, some from China and Papua New Guinea. 2006 was the peak of IUU Fishing in the NPF, involving 387 vessels and 2000 suspects.²⁶

The story behind the cooperation between Bakamla RI and ABF begins with the cooperation initiated during the Bakorkamla and Australian Customs and Border Protection Service (ACBPS) era. Coordinated patrols and joint exercises became the forerunner of the cooperation/agreement agreed upon in 2017. Although at that time, Bakorkamla and ACBPS did not have Government to Government (G to G) cooperation, the foundation of the two activities used the 2006 Lombok Treaty Article 3 on cooperation in law enforcement and maritime security. Both Indonesia and Australia recognize the importance of practical cooperation to eradicate transnational/cross-border crimes that impact the security of both countries. The cooperation includes periodic dialogue, capacity-building cooperation, and security-related organizational cooperation in the criminal justice system. Then in the scope of maritime security cooperation, strengthening maritime security and safety stability efforts and capacity building based on international law.

Maritime cooperation was further strengthened with the Joint Declaration on Maritime Cooperation Between the Government of Australia, and the Government of the Republic of Indonesia, signed in Sydney on February 26, 2017. Manifestation of the joint declaration was then poured into the Plan of Action on Maritime Cooperation, which was agreed upon on March 16, 2018. Indonesia-Australia maritime cooperation is elaborated into 9 focuses, namely: 1) Economic growth, maritime connectivity, and blue economy; 2) Strengthening maritime security and handling transnational maritime crimes; 3) Combating IUU Fishing and other fisheries crimes; 4) Improving maritime safety, preventing and tackling environmental pollution; 5) Improving SAR coordination

26 John Davis and Ha Anh Tuan, “Illegal Unreported and Unregulated Fishing” (Brisbane, 2018), <https://aseanregionalforum.asean.org/wp-content/uploads/2019/01/ANNEX-19-10th-ISM-on-MS.pdf>.



and disaster management; 6) Collaboration on marine science and technology; 7) Sustainable marine resource management and blue carbon; 8) Maritime cultural heritage; and 9) Improving regional and multilateral dialogue forums.

Bakamla and ABF agreed on the Arrangement Between the Marine Security Agency of the Republic of Indonesia and The Department of Immigration and Border Protection as Represented by the Australian Border Force on Maritime Security Cooperation. This agreement was signed in Jakarta and Canberra on November 17, 2017. The scope of cooperation is 1) training and development of human resources; 2) research and development; 3) coordinated patrols and joint training; 4) Exchange of information and communication; and 5) other areas to be determined jointly. Research and development have yet to be carried out, so 3 main collaborations have been carried out: capacity building, coordinated patrols, and information exchange. Research collaboration has not occurred as it has never been initiated before. Typically, research is derived from the study results of personnel who have studied in Australia.

First, training and development of human resources or capacity building cooperation between Bakamla and ABF includes Intensive English Language Training (IELT), Seaport Intelligence and Vessel Search Course, Maritime Security Desktop Exercise (MSDE), and JCLEC Maritime Enforcement Stream. Bakamla RI and ABF sent their officers for Intensive English Language Training (IELT). IELT was held at the University of Adelaide in two terms, Term I (February - May) and Term II (April - July). The materials taught include Speaking, Writing, Reading, and Listening. The number of Bakamla RI personnel sent to this training was 6 personnel (2019), 3 personnel (2020), and 16 personnel (2022)²⁷. The IELT training in 2020 initially took place offline in Australia, but due to the pandemic, it was withdrawn, and the program changed to hybrid. In 2021, due to the Delta variant of the Covid-19 pandemic, the program was not implemented. In 2022, the training was held online again starting from March 7, 2022, for 12 weeks.

The outcome of this program is the improvement of language skills. This result will improve the communication skills of Bakamla RI personnel, both used in the operational and administrative scope. The composition of the personnel sent comes from: (1) Head of Sub Directorate; (2) Head of

27 Angga Reza Prabowo, "Diplomasi Maritim Indonesia-Australia Di Era Pandemi Covid-19 : Studi Kasus Kerjasama Bakamla-Australian Border Force" 5, no. 2 (2022): 176-95.



Marine Safety and Security Monitoring Station; (3) Data and Information Officer; (4) Communications Officer/National Vessel Chief; (5) Satellite Data Management Officer; and (5) Administrative Officer.²⁸ The position of each participant supports the implementation of the training outcomes. Selection of Officers as supervision line expected to be able to transmit the competencies that have been taught to their personnel. Patrolling the maritime domain necessitates coast guard personnel to possess proficiency in English, as inspections extend not only to Indonesian ships but also to foreign vessels. Furthermore, Bakamla RI has, on several occasions, interacted with coast guards from other nations within the Exclusive Economic Zone (EEZ) area.

Vessel Search Training is shipboard search training. Training methods include classroom briefings and lessons, shipboard practice, and field maneuvers at sea. The purpose of this training is to hone skills, knowledge, and confidence to conduct ship searches (individual and commercial). The competencies developed were: (1) the Vessel Search Team can follow prescribed health and safety policies and procedures; (2) able to provide an assessment of the hazardous environment; (3) able to identify enclosed spaces; and (4) able to carry out searches of small vessels (fishermen) and cruise/tour boats.²⁹ This training aids law enforcement investigators at sea in effectively inspecting vessels. The challenges posed by small spaces and turbulent waves often complicate searches. Therefore, possessing this skill is essential, as not all searches are conducted in harbors.

Each year, the material on ship searches is added with other competencies such as Confined Space Risk Assessment and Seaport Intelligence. Confined Space Risk Assessment builds competency in conducting search risk assessments in confined spaces. Furthermore, Seaport Intelligence is the search for intelligence data related to the ship to be searched. The competencies that must be mastered in this ship search training are then strengthened in the Head of Bakamla RI Regulation Number 1 of 2019 concerning Guidelines for the Implementation of the Boarding Party. Bakamla RI should provide knowledge to its personnel about the law of the sea and the ability to carry out the Boarding Party (inspection and search) of ships suspected of committing criminal acts at sea.

28 Biro Kepegawaian Bakamla RI, "Daftar Pengembangan Kompetensi ABF Dan JCLEC" (Jakarta, 2022).

29 PIP Semarang, "Kursus Penggeledahan Kapal (Vessel Search Course)," 2019, <https://pip-semarang.ac.id/index.php/2019/02/28/kursus-penggeledahan-kapal-vessel-search-course/>.



Maritime Security Desktop Exercise (MSDE) is a cooperation between Bakamla RI and ABF, established in 2009. This activity aims to increase understanding and equalize the perceptions of regional countries about UNCLOS 1982 and its implementation in the field, share best practices, and discuss scenarios divided into several syndicate groups.³⁰ Like UNODC's Maritime Security Tabletop Exercise, the training discussed current issues on security, law enforcement, and safety developments in regional waters. The curriculum of this training was developed by the Australian National Center for Ocean Resources & Security (ANCORS) and the University of Wollongong with material input from Bakamla RI. Although the material adapts to the development of regional water conditions, some materials are always kept from this training, namely UNCLOS and Combating Transnational Organized Crime.

The development of MSDE training after the change of Bakorkamla to Bakamla is not limited to countries that are members of the Head of Asian Coast Guard Association Meeting (HACGAM) but also includes the scope of the Indian Ocean Rim Association (IORA). In addition to involving outside countries, Bakamla always includes Related Agencies and Technical Agencies for law enforcement at sea. Related agencies have fleets and participate in patrolling law enforcement at sea, such as the Ministry of Transportation (Sea), Ministry of Fisheries, Ministry of Finance Customs, Marine Police, Navy, and Directorate General of Immigration. Technical Agencies are agencies involved in law enforcement but do not have a fleet at sea. The participation of Technical Agencies was represented by BNN, BNPT, Ministry of Foreign Affairs, Attorney General's Office, SAR, BNPP, and BNPT. NGOs who attended and filled the training were UNODC (Drug and Crime) and RSO Bali Process (People Smuggling).

The JCLEC Maritime Enforcement Stream is a series of seminars with the theme of law enforcement at sea organized in collaboration with Bakamla RI, ABF, and JCLEC. As the title implies, this activity was facilitated by JCLEC by involving the academic community and NGOs in its teaching. Each program is implemented locally and internationally, involving law enforcers from various countries. JCLEC can facilitate the exchange of expertise in fighting modern crimes across countries through dialogues,

³⁰ Dit Kerma Bakamla RI, "Laporan Tentang Kegiatan the 9th Maritime Security Desktop Exercise and Law of the Sea Course 18 - 21 Juni 2019 Jakarta Pusat" (Jakarta, 2019).



workshops, seminars, FGDs, training, and meetings.³¹ In addition to inviting relevant agencies, the Ministry of Transportation (Sea), Ministry of Finance Customs, Ministry of Fisheries, Marine Police, Navy, and Directorate General of Immigration, countries in HACGAM were also involved.

Since the outbreak of the Covid-19 pandemic, training activities at JCLEC, which initially tended to be face-to-face onsite methods, have experienced additional types of delivery, namely Online Delivery Model (ODM) and Hybrid Model. ODM, developed by JCLEC and introduced in June 2020, is a popular alternative to face-to-face program delivery. The difference between JCLEC's ODM and webinar platforms without support services, in general, is the presence of an 'engine room' operated by a team of interpreters, activity managers, ICT staff, and JCLEC program managers.³² Furthermore, the Hybrid Model combines ODM with the face-to-face Model in training delivery.³³ The JCLEC Maritime Enforcement Stream activities in 2019 were implemented face-to-face/onsite, in 2020-2021 using ODM, and in 2022 using Hybrid Model.

Considering the concept of border continuum. Borders are not considered a physical barrier separating nation-states but a complex continuum that spans offshore (pre-border) and onshore (at and post-border), including international borders, maritime, physical borders, and domestic dimensions of borders. Maintaining borders to enable legitimate trade, travel, and migration is a vital responsibility of the Australian Government. In the wake of increased trade and travel, border protection continues to be challenged by the increasing volume and complexity of interactions. A whole-of-government approach works across the border continuum to facilitate, regulate and implement enforcement approaches while managing activities in the maritime domain. All government departments work effectively a cross every dimension of the border continuum.³⁴

31 JCLEC, "Services," 2021, <https://jclec.org/services/>.

32 JCLEC, "Online Delivery Model," 2021, <https://jclec.org/online-delivery-model/>.

33 JCLEC, "Hybrid Model," 2021, <https://jclec.org/hybrid/>.

34 Australian Border Force, "GAMSA: Guide to Australian Maritime Security Arrangements," *Maritime Border Command*, no. December (2020), <https://www.abf.gov.au/what-we-do-subsite/files/gamsa-2020.pdf>.

Table 1. Integration of Capacity Building Across Indonesia's Maritime Sectors

No	Category	Intensive English Language Training (IELT)	Seaport Intelligence and Vessel Search Course	Maritime Security Desktop Exercise (MSDE)	JCLEC Maritime Enforcement Stream
Institutional					
1	Bakamla RI - ABF	√	√	√	√
2	Related Agencies	-	√	√	√
3	Technical Agencies	-	√	√	√
4	Private Sector	√	√	√	√
5	Academia	√	√	√	√
Implementation					
1	Port	√	√	√	√
2	Territorial Sea	√	-	√	√
3	Additional Zones	√	-	√	√
4	EEZ	√	-	√	√
5	High Seas	√	-	√	√

Sources: Research result, 2022.

The table above shows that the substance of the capacity-building training provided has embraced other agencies in marine spatial management. Not only government actors but this cooperation also includes academics and the private sector. The private sector in question is an institution working in maritime security. Examples of private institutions in the form of NGOs are the Bali Process and UNODC. Academics are part of the resource persons and participants. The Australian National Center for Ocean Resources & Security, University of Wollongong, created the training curriculum, while the Polytechnic of Seafaring Science acted as a training participant. In addition, the material provided can be applied to any law of the sea regime except the Seaport Intelligence and Vessel Search Course. These search activities are carried out in the post-border section, where anomalies are found after crossing the border or while at anchor.

Operational cooperation with other countries is stipulated in Article 15 of Government Regulation Number 13 of 2022. In the Bakamla RI - ABF Arrangement, Operational Cooperation is contained in Article 14, where both Parties agree on implementing Coordinated Patrols. After the formation of Bakamla RI, the Coordinated Patrol was the Shearwater Pa-



trol and changed its name to Operation Gannet in 2018. Shearwater I patrol was carried out in 2013, and Shearwater II in 2015. After the transformation of Bakorkamla into Bakamla RI and ACBPS into ABF, Coordinated Patrol Shearwater III was held again on May 16, 2016. Coordinated Patrol Shearwater IV on August 27, 2017, in the Eastern Maritime Zone, precisely in the Arafuru Sea. This patrol involved KN Ular Laut 4805 and Australian Border Force Cutter (ABFC) Thaiyak. Both ships headed to the meeting point / Rendezvous Point (RV) at coordinates 9 19.413 S 132 15.997 E.

The series of coordinated patrols shows an expansion of resources and an increase in the technology's capacity. Initially, the coordinated patrols used 48-meter patrol boats (capacity of 35 people), then increased with the use of 80-meter patrol boats (capacity of 60 people) until finally using 100 m patrol boats (capacity of 70 people). The patrol duration, which was initially only 1 day, was extended to a week or so. This duration also allows for broader coverage of the patrol area and allows the practice of diplomacy to be carried out by carrying out port visits. Furthermore, surveillance technology was further enhanced by using satellite-based data and artificial intelligence managed by the Indonesia Maritime Information Center (IMIC).

The following cooperation between Bakamla RI and ABF is the exchange of information. Before being shared with foreign parties (countries that already have a cooperation agreement), information is collected by Bakamla RI under the governance of the Indonesia Maritime Information Center (IMIC). IMIC's role is to brainwave the data obtained through hardware and software. Bakamla RI has 14 Marine Safety and Security Monitoring Stations, and 3 Ground Stations spread throughout Indonesia to collect data related to activities in the maritime space. Marine Safety and Security Monitoring Station uses several instruments in its surveillance including OTH Radar, UAV/Drone, Terrestrial AIS, and LRC, while the Ground Station collects satellite-based data.

AIS is used almost universally in the commercial maritime industry worldwide and is increasingly used in the recreational marine sector. Minister of Transportation Regulation Number 7 of 2019 regulating the Installation and Activation of AIS for Vessels Sailing in Indonesian Waters has been in effect since August 20, 2019. AIS Class A is used as an obligation for ships that carry out international voyages. AIS Class B is installed and activated



on Indonesian-flagged vessels with the provisions of Passenger Ships and Non-Convention Freight Ships measuring > 35 GT, as well as Ships sailing cross-country or conducting barter trade or other activities regulated in the provisions of laws and regulations in the field of customs. Fishing vessels with a minimum size of > 60 GT are required to install AIS Class B.³⁵

The distress data collection system also utilizes artificial intelligence in analyzing ship anomaly patterns. The utilization of technology serves as a primary source of intelligence data for each country. From this data, anomalies are identified, and coordination between countries is established to address them. One of the programs used is Skylight. Skylight's real-time tracking allows users to set alerts according to their needs. There are 4 types of alerts, namely Rendezvous, Dark Rendezvous, Entry, and Proximity. Rendezvous / Standard Rendezvous alerts occur when 2 vessels transmitting AIS meet in the open ocean. Dark Rendezvous occurs when only one vessel is transmitting AIS but has a pattern indicating an encounter with an illegal vessel. Entry is seen when a vessel enters a predetermined area. Proximity is when a vessel enters a pre-defined buffer zone around an area.³⁶

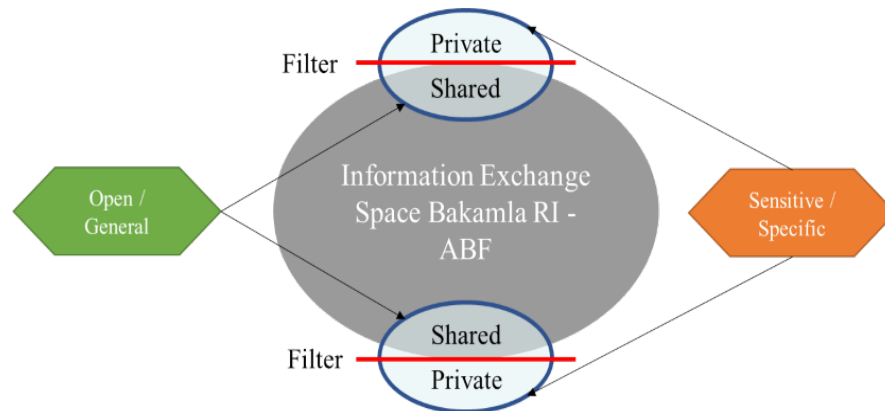
Given the vast area of Indonesian waters, data on maritime conditions is divided and managed by each Ministry/Agency according to their fields. In integrating the data, inter-agency cooperation was formed. Daily briefs are then held to exchange information that each institution has collected. The Liaison Officer will present a daily progress report on a digital platform, including the vulnerability conditions resulting from base monitoring in the regions. Information exchange in the Arrangement between Bakamla RI and ABF is described in Article 5 to Article 7. Article 5 states that the disclosure of the information below is done under laws, international obligations, policies, and practices related to the disclosure of information. Suppose the information provided is categorized as sensitive information related to national security and operations. It ensures that provided instructions obey information protection terms. Each institution complies with conditions, restrictions, or other requirements regarding disclosing information.

35 Sri Mas Sari, "Kapal Penangkap Ikan Sudah Punya VMS, Perlukah Pasang AIS?" *Ekonomi Dan Bisnis*, August 8, 2019, <https://ekonomi.bisnis.com/read/20190808/98/1133845/kapal-penangkap-ikan-sudah-punya-vms-perlukah-pasang-ais>.

36 Skylight, "Improving Maritime Transparency to Protect Our Oceans," 2022, <https://www.skylight.global/>.

Sometimes, the information exchanged will be used in a trial or legislation. Hence, communication is required before any authorized disclosure of information to prevent inappropriate disclosure. The Bakamla RI - ABF information cooperation relationship is then shown in the following figure:

Figure 1.
ABF - Bakamla RI Data/Information Exchange



Sources: Research result, 2022.

The type and format of the information, including vessel location or polygon area, transmission time, transmission system, and mechanism, are jointly determined so that the data is compatible with the devices used by both agencies. The chosen mechanism uses a hybrid method where information is sent via email or online meetings. In addition, offline meetings are held to submit hardcopies for ABF representatives at the Australian Embassy in Jakarta. The tempo of data exchange is adjusted to the urgency in the field. General data and potential threats tend to have a longer timeframe than quick response data. In the Relay Time Procedure, data with the quick response category must be relayed to the ABF and vice versa within 180 minutes of the request being made. This quick response indicates the case's urgency, so it requires quick handling.

Bakamla RI and ABF are responsible for identifying, coordinating, implementing, and monitoring cooperation activities. Therefore, inherent daily supervision and bi-monthly institutional supervision are conducted. An ABF Officer on Board was placed at Bakamla RI Headquarters and vice versa to build trust between the two institutions, especially in ensuring the validation of maritime data exchange. Maritime in-

telligence data is one of the critical components in the management of sea space, so the degree of validity of the data needs to be maintained.

1. Integrative Maritime Partnership in Controlling Cross-Border Crime

The discussion on cooperation in handling maritime cross-border crime focused on law enforcement at sea. This process is based on the Joint Interagency Task Force concept. The stages consist of intelligence data collection, early detection, data sorting, surveillance, interception/release, arrest, and investigation. IUU Fishing and People Smuggling are two cross-border criminal offenses associated with each other. However, both have different patterns. Institutions with authority at sea and various field expertise have a role at each stage. In Indonesia, People Smuggling is included in the Trafficking in Persons Task Force. Although the patterns and modes differ, slavery, human trafficking, and smuggling of migrants are categorized as irregular migration.³⁷ Then, Task Force 115 is a task force in handling IUU Fishing.

The eradication of IUU Fishing begins with the collection of intelligence data. This intelligence data is the Record of Fishing Vessels and Licensing and Authorization to Fish. The Record of Fishing Vessel is a fishing vessel database containing data related to the vessel. The legal basis is the FAO Compliance Agreement (Article III), UNFSA (Article 18), CCRF (Paragraph 8.2), IPOA-IUU (Paragraph 42), Act Number 31 of 2004 (Articles 36 and 37) and Minister of Fisheries Regulation Number: 5/PER-MEN-KP/2019 (Abdillah, 2020). The usefulness of this record is for the verification process of vessel data, inspection in Port State Measure, law enforcement process, intelligence data collection, management of vessel capacity in an area and blacklist process due to IUU Fishing.

Human trafficking associated with the fisheries business is

37 Neil Boister, *An Introduction to Transnational Criminal Law* (Oxford: OXFORD University Press, 2012).



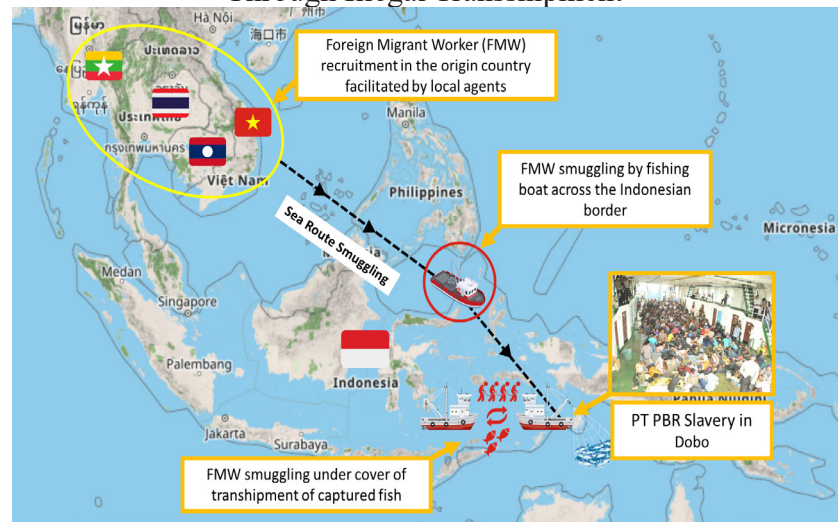
divided into two contexts. First, migrant workers and fishermen become victims of human trafficking for forced labor onboard fishing vessels, rafts, or fishing platforms in ports or fish processing plants. Second, women and children in fishing ports are vulnerable to exploitation by organized prostitution by fishermen (UNODC, 2012). In the Indonesia-Australia border area, especially in the Eastern Maritime Zone, human trafficking as crew members is more common, while in the Western and Central Maritime Zones, human trafficking as sex workers is more common.

In the fisheries business, laborers are vulnerable to being trapped in slavery. Fishing labor costs 30%-50% of the total cost of fishing. Such costs tend to be deducted to minimize total production costs. Companies then ignore crew safety standards, reduce salaries, or do not even give a penny (Wattimena, 2020). Modern slavery focuses on weakness, gullibility, and deprivation regardless of race or skin color. The high market demand further exacerbates this condition. A case of human trafficking leading to slavery is in WPPNRI 718 (Indonesia-Australia Border). PT Pusaka Benjina Resources (PT PBR) committed this crime that violates human rights. A foreign-flagged company (Thailand) that operates in Benjina. The Benjina slavery case has become the world's attention since hundreds of slavery victims have foreign status.

Sixty-nine foreign crew members are placed in PT PBR's isolation room with details of 18 foreign crew members from Thailand, 45 foreign crew members from Myanmar, 4 foreign crew members from Cambodia, and 2 foreign crew members and chefs of unknown origin. The area of the isolation room is 6.1 x 3.8 m or with a capacity of 5 residents. However, at any one time, the room can be occupied by 15 people. Other crew members are employed on ships owned by PT PBR. After discovering this fact of slavery, 330 foreign crew members evacuated to Tual in the first week and 210 foreign crew members in the second week of April 2015. The Indonesian Government, with relevant stake-

holders and NGOs (IOM), sought the repatriation of the fishermen to their home countries.³⁸

Figure 2.
Smuggling Route of PT Benjina's Crews
Through Illegal Transshipment



Sources: Research result, 2022.

Suppose the previous case was of foreigners being exploited in Indonesia's fisheries business. In that case, another Trafficking in Person case on the Indonesia-Australia border is the smuggling of Indonesian Migrant Workers illegally (Pekerja Migran Indonesia / PMI) to Australia. This crime started with Indonesia and Australia's cooperation in the economic sector or the Indonesia-Australia Comprehensive Economic Partnership Agreement (IA-CEPA). This agreement was signed on July 5, 2020. One of the implementations of this cooperation is labor cooperation in the apprenticeship sector. The Memorandum of Understanding between the two countries underlies the Ministry of Manpower is currently harmonizing it, the Ministry of Agriculture, the Ministry of Foreign Affairs, and BP2MI.

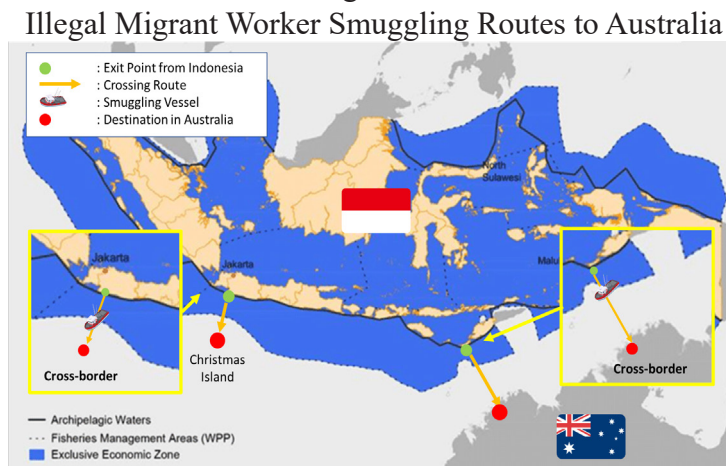
Since January 2022, at least 200 CPIMs have failed to depart illegally from several regions in Indonesia. On January 6, 2022, the Ministry of Manpower conducted an emergency inspection in Tebet District, South Jakarta. The channeling compa-

38 Mahkamah Agung RI, "Putusan Mahkamah Agung Nomor: 107/Pid.Sus/2015/PN.Tul (Perdagangan Orang)" (Jakarta, 2015).

ny that took them in was PT TBN, to be sent to Australia as apple pickers. The dominant victims came from West Nusa Tenggara, West Java, Central Java, and Banten. The victims were then secured at the Cevest Job Training Development Center (BBPLK) in Bekasi, West Java. After the investigation, the number of CP-MIs secured by the Ministry of Manpower increased to 80 people. Shortly after the Tebet inspection, the East Java Manpower and Transmigration Office repatriated 17 illegal CP-MIs from East Java who failed to leave for Australia.³⁹

In March 2022, a smuggling attempt by 25 PMI to Australia was foiled. All PMIs came from Lebak Regency, Banten. The channeling company that would dispatch them needed complete documents. The recommendation letter was forged, and the visa was only a tourist visa, valid for 12 days. In April 2022, 26 illegal PMIs were arrested in Kupang by the NTT Marine Police. The group was about to be smuggled to Australia to become fruit pickers. The Central Agent who dispatched them came from Denpasar City, Bali. The evidence secured was a fishing boat KM. Sahrul Zaidang GT 22, Rp. 20 million in cash, one money-counting machine, and two cell phones.⁴⁰

Figure 3.

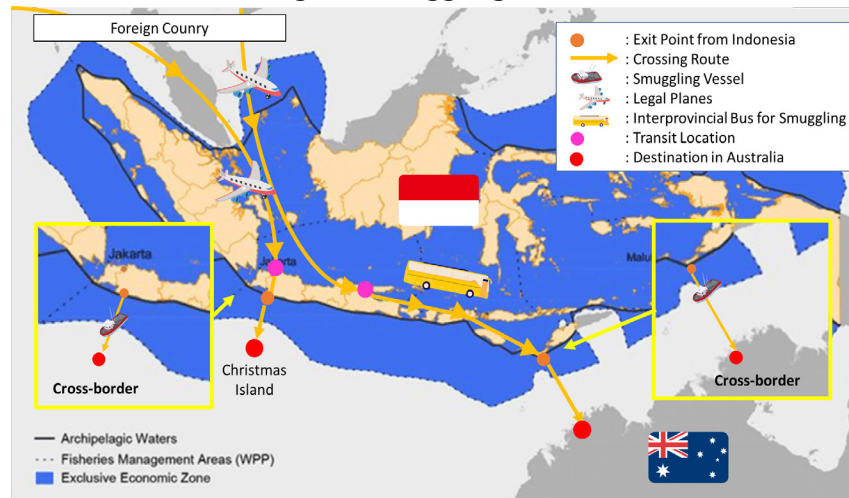


Sources: Research result, 2022.

39 Fathul Rizkoh, "Penyeludupan 25 Pekerja Migran Ilegal Asal Lebak Ke Australia Digagalkan," *Detik.Com*, March 22, 2022, <https://news.detik.com/berita/d-5997582/penyeludupan-25-pekerja-migran-ilegal-asal-lebak-ke-australia-digagalkan>.

40 Katong NTT, "Sejak Januari, Diperkirakan 200 PMI Ilegal Gagal Diselundupkan Ke Australia," April 21, 2022, <https://katongntt.com/sejak-januari-diperkirakan-200-pmi-ilegal-gagal-diselundupkan-ke-australia/>.

Figure 4.
 Migrant Smuggling Routes to Australia



Sources: Research result, 2022.

In migrant smuggling, there are two routes: the western and the eastern routes. The western route crosses Christmas Island, while the eastern route uses border-crossing fishermen to enter Australia. Immigrants who want to cross into Australia also enter Indonesia legally through international airports. Two airports often used as entry points are Soekarno Hatta Airport and Djuanda Airport. Transporters and Accommodation Providers in Indonesia will pick them up and put them into hiding. While in hiding, the service providers contact each other to ascertain the situation. They will start moving towards the coast when the situation is considered conducive.

The entrapment of migrants in Indonesia also contributes to this smuggling practice. Migrants who cannot cross over to Australia marry natives and settle in Indonesia. Therefore, they know the safe locations in practice. Migrants who qualify as refugees because there is no allocation of places like Australia will become independent refugees since IOM and UNHCR no longer provide humanitarian assistance. Armed with a Blue Card (UNHCR Card), they can settle without reporting responsibilities. It makes it difficult for Immigration Officers to track the refugees.

Early Detection, Data Sorting, and Surveillance is a series



of field operations before the executor acts. This description uses the Gannet Coordinated Patrol mechanism, which involves two countries' participation. The detection process begins with collecting data from Reconnaissance/Surveillance. The data collection and surveillance location are in the Border waters of both countries. Four Marine Safety and Security Monitoring Station locations have been equipped with OTH Radar, UAV, Terrestrial AIS, and LRT. Satellite surveillance is supported by Ground Station located in Semarang City.

The four locations are Bali, Kupang, Tual, and Merauke. Three of the four locations (Kupang, Tual, and Merauke) will be revitalized, given the development of marine threats and hazards. In radar surveillance with, the most extended range is On-the-Horizon Radar. The range is 100 - 200 NM or up to near the EEZ. Air surveillance is conducted in conjunction with relevant technical agencies. Air Surveillance uses UAVs/Drones and not aircraft. The radar is Jindalee Radar from the Australian side, while air surveillance uses Dash-8 Aircraft and Beechcraft King Air B350i. Other paid and open-source resources are AIS Satellite, VMS, maritime traffic, BMKG Satellite, Global Fishing Watch, Sea Vision, Aqua Satellite, and Starlight. Furthermore, government intelligence data is in the form of historical security data, Port security data, and post-arrest intelligence data.

Mainly the analysis and fusion problem is the need for a common language to describe data in the context of maritime security. Data from disparate sources must be translated into a form that can be cross-associated, time-stamped, and correlated by fusion and data mining components. The goal of various anomaly detection initiatives is essential to automate manual processes and enable early detection of emerging threats. Bakamla RI or Technical Agency analysts can determine known patterns of suspicious behavior. Examples of anomalous vessel behavior are a deviation from sea lanes, slow speed on sea lanes, proximity/loitering with other vessels, and others. The Human Systems



Collaboration environment uses visualization and analysis tools that allow analysts to connect the dots (derive ship intent, postulate threat scenarios, et cetera). An essential element in creating a marine distress picture.

After vessel interest and anomalies are known. Each information center of Technical Agencies and Related Agencies will coordinate. Due to high urgency, the nearest fleet will be requested to inspect relay time conditions. The size of the EEZ is 2/3 of the total area of Indonesian waters since the only agencies capable of patrolling the EEZ are Bakamla RI, Navy, and Ministry of Fisheries. These three agencies carry out intense border patrols. However, in some instances, and the area of authority is still included, Immigration, Polairud, and Ministry of Transportation (Sea) also conduct patrols. During the patrol, the Law Enforcement Agencies will conduct an inspection. If no violation is found, the ship will be released.

As mandated in Government Regulation Number 13 of 2022, Bakamla RI only has an investigation function. Therefore, at this stage, Bakamla RI's authority is limited to the initial investigation. The investigation results will then be provided to the authorized agency under the law. Both IUU Fishing and People Smuggling fall under *lex specialis derogat legi generali*. This principle is a legal principle that determines the application stage. The stage of applying criminal laws and regulations that have been violated to concrete events (*ius operatum*) through the law enforcement process. The principle of "*lex specialis*" becomes essential for law enforcers when applying criminal laws and regulations to criminal cases they handle.

In IUU Fishing, Act Number 45 of 2019 on the Amendment to Act Number 31 of 2004 on Fisheries is used. Article 73 of Act Number 45 of 2019 explains that Fisheries Government Investigator, Navy Officers, and Police Investigators can investigate Fisheries Crimes. The authority of Police Investigators only reaches the Territorial Sea, while Fisheries PPNS and Navy Offi-



cers can investigate up to the EEZ. The scope of fisheries criminal investigation includes (1) Preliminary Examination; (2) Investigation Process; (3) Completion and Submission of Case Files; (4) Administration of Investigation; (5) Supervision and Evaluation of Investigation; (6) Reporting.⁴¹

In the investigation of human trafficking, Act Number 21 of 2007 on Human Trafficking Crime is used. The elements of Human Trafficking Crime are divided into 3 Processes. Recruit (Transport, Accommodate, Send, Transfer, Receive Someone), Method (Threat of Violence, Use of Violence, Kidnap, Smother, Fake, Deceive, Use of Power/Vulnerable Position, Debt Trap, Pay, Benefit), and Purpose (Exploitation/Cause Exploitation). Suppose the Ministry of Fisheries Investigator and Fisheries Court conduct the investigation and trial of IUU Fishing. The investigation and trial of People Smuggling will be processed at the location of the incident, or the handling will be returned to the Regency / City Police Department of each victim's origin. *Locus delicti* is related to the scene of the crime and judicial authority. *Locus delicti* relates to Articles 2 to 9 of the Criminal Code, which determines whether Indonesian criminal law applies to criminal offenses.

For cases involving border crossings, such as fishermen and Indonesian Migrant Workers in Australia, it can be done through cooperation in requesting assistance for investigation and investigation. Differences in Law and Procedure make the request maker must adjust to the process agreed upon by the destination country. There are 3 channels for requesting assistance that can be taken, namely the INTERPOL Channel, the Diplomatic Channel I, and the Diplomatic Channel II. The INTERPOL route involves the NCB INTERPOL of each country in terms of information exchange and handing over criminals. Diplomatic Route I, NCB INTERPOL through the Ministry of Law and Human Rights, followed by the Ministry of Foreign Affairs. The Ministry of Foreign

41 DJPSDKP KKP RI, "Petunjuk Teknis Penyidikan Tindak Pidana Perikanan" (Jakarta, 2011).

Affairs will convey the request to the destination country. Diplomatic Channel II, from NCB INTERPOL, is delivered through the Indonesian Embassy to the destination country.⁴²

Table 2.

Correspondence Data of NCB Interpol Indonesia in Handling Criminal Offenses

No	Institution	2020		2021		2022		Description
		I	O	I	O	I	O	
1	NCB – Australia Embassy	1	0	0	0	0	6	
2	NCB – Australia Federal Police	33	5	17	2	42	9	
3	NCB – KBRI	72	4	70	4	114	2	From several countries
4	NCB – Kemlu	52	12	41	13	25	20	From several countries
5	NCB – Bareskrim	154	356	154	258	274	532	
6	NCB – Polairud	0	11	1	9	1	16	
7	NCB – Polda	112	159	115	137	203	292	
8	NCB – Government Investigator	23	21	10	13	7	20	
Total		446	568	408	436	666	897	
Sum Total		1014		844		1563		
Description: I : Incoming Correspondence O : Outcoming Correspondence								

Sources: NCB Interpol Indonesia⁴³

Table 3.

Matrix of Cooperation in Handling Cross-Border IUU Fishing and People Smuggling Crimes at the Indonesia - Australia Border

No	Institution	Phases						
		Intelligence	Early Detection	Data Sorting	Surveillance	Release	Interception / Arrest / Assault	Investigation / Prosecution
1	Bakamla	√	√	√	√	√	√	
2	Navy	√	√	√	√	√	√	√
3	Ministry of Fisheries	√	√	√	√	√	√	√

42 Iskandar Hasan and Nina Naramurti, *Kerjasama Kepolisian Dan Penegakan Hukum Internasional* (Jakarta: PT Firris Bahtera Pustaka, 2013).

43 NCB Interpol Indonesia, "Implementasi Kerjasama Internasional Polri Dalam Bidang Penanggulangan Kejahatan Transnasional" (Jakarta, 2022).



4	Police	√	√	√	√	√	√	√
5	Ministry of Finance	√	√	√	√	√	√	
6	Ministry of Transportation	√	√	√	√	√	√	
7	Ministry of Law and Human Rights	√						√
8	Ministry of Labor	√						
9	Ministry of Foreign Affairs	√						√
10	Meteorology, Climatology and Geophysics Agency	√						
11	Attorney General's Office	√						√
12	National Disaster Management Agency	√						
13	Technical Agencies Related to Spatial and Satellite Data	√						

Sources: Research result, 2022.

In this case, when migrants are found to be subject to smuggling or victims of trafficking, the state must deal with them. This process is based on cooperation with the High Commissioner for Refugees in Indonesia (UNHCR) and NGOs in Indonesia. The stages of handling consist of discovery, shelter, security, and immigration control. For migrants detained in Indonesia due to failure to cross illegally to Australia, the Immigration Detention Center (IDC) used are Kupang and Jakarta IDCs. During the high illegal entry to Australia, Semarang and Denpasar IDCs accommodated migrants, but now these IDCs only accommodate foreigners awaiting deportation. As of October 31, 2022, there were 1,829 refugees under the supervision of the Jakarta IDC.⁴⁴ Furthermore, Kupang IDC supervised 216 refugees as of October 31, 2021.⁴⁵ Due to the limited capacity of the IDC, the refugees also received assistance in the form of Temporary Accommodation

44 Rudenim Jakarta, "Jumlah Pengungsi Pada Community House Di Bawah Pengawasan Rudenim Jakarta," 2022, <https://rudenimjakarta.kemenumham.go.id/Content/isi/50>.

45 Rudenim Kupang, "Data Pengungsi Rudenim Kupang," 2021, <https://rudenimkupang.com/data-pengungsi/2021/10/31/data-pengungsi-rudenim-kupang-per-31-oktober-2021/>.

Places from the Local Government and assistance by IOM in the form of Community Housing.

IOM, as a non-governmental organization, also assists in accommodation for migrants and protection against trafficking crimes. From 2012-2014, IOM participated in boat people smuggling operations that wanted to cross to Australia. In 2015 IOM played a role in protecting Foreign Migrant Workers victims of PT Pusaka Benjina Resources slavery. The assistance provided was Community Housing, which was predicted as an alternative shelter for migrants. The limitations for migrants to work according to national law include living expenses, preparation facilities for sending to third countries, education, health, shelter, and food and clothing financed by IOM.

Then in the context of PMI as victims of human trafficking in Australia, it is the state's obligation, following the mandate of Act Number 18 of 2017 concerning the Protection of Indonesian Migrant Workers as a replacement for Act Number 39 of 2004 concerning Placement and Protection of Indonesian Workers Abroad. One of the duties of the Government is to take care of the return of Indonesian Migrant Workers in the event of war, natural disasters, disease outbreaks, and Indonesian Migrant Workers with Problems. It is carried out by the Central Government, Provincial Regional Government, and Regency / City Regional Government. The phenomenon of human trafficking is like a mountain where the number of reported cases is only a fraction of the total cases.

In the protection of victims, some things need to be considered. Victims should not be detained or prosecuted for illegally entering or staying in a country. Includes other illegal acts or crimes committed directly from the pressure of exploitation. Victims should be given access to adequate physical and psychological health care. Legal and similar assistance is also provided in criminal, civil, or other proceedings. Child victims of trafficking are provided with appropriate assistance and protection, follow-



ing their vulnerabilities, rights, and needs. The receiving country and the country of origin guarantee their safe return. Victims should also be given access to adequate and appropriate legal remedies.⁴⁶

Through the Assisted Voluntary Returns and Reintegration (AVRR) program, the RSO Bali Process, together with cooperating countries (including Indonesia and Australia), has facilitated and assessed the return of migrants. The AVRR program has supported more than 1,400 returns to migrants' countries of origin since 2021 (Regional Support Office (RSO) to the Bali Process, 2021). These efforts are reinforced by national law as stipulated in Government Regulation Number 59 of 2021. Paragraph 8 regulates the facilitation of repatriation for Indonesian Migrant Workers who are victims of criminal acts abroad. The facilitation of repatriation is intended to provide protection, assist and gather victims and facilitate their return.

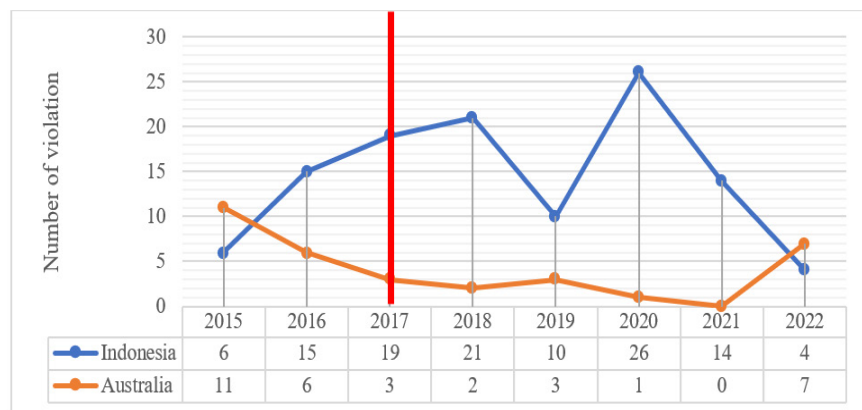
Then, to protect Migrant Fishing Crews, it is regulated in Government Regulation Number 22 of 2022. The Representative of the Republic of Indonesia in Australia will provide legal assistance, assistance, and mediation for problems faced by Migrant Boat crews. The Indonesian Embassy / Consular Office provides advocate services by prioritizing pro bono legal assistance under local state law, except for the death penalty. In contrast to land-based PMI, protecting crew members who experience problems tends to emphasize legal assistance. Indonesian crew members in human smuggling practices are important actors (especially the captain and engine room chief), so before repatriation, they will serve a sentence according to the verdict. While awaiting repatriation, the crew members will be accommodated in Immigration Detention Centers (IDCs).

Prior to collaboration, human smuggling cases handled by Indonesia and Australia were closely intertwined. The illegal en-

46 Regional Support Office (RSO) to the Bali Process, "Policy Guide on Protecting Victims of Trafficking," 2015, <https://www.baliprocess.net/UserFiles/baliprocess/File/Policy%0AGuide%0Aon%0AProtecting%0AVictims%0Aof%0ATrafficking.pdf>.

try into Australia was often an undetected effort by law enforcement officials, with illegal immigrants only being identified in certain events. From 2017 to 2021, the number of cases with Indonesian locations significantly increased, indicating an improved detection rate by Indonesian law enforcement against the threat of human smuggling. The management of cases has also shown notable improvement. However, as Indonesia acts as a barrier country for Australia, the impact of this crime is more acutely felt within Indonesia. Immigrants held captive in Indonesia face challenges in terms of resolution since Indonesia has not ratified the Refugee Convention. The limited shelter areas also give rise to social conflicts in the neighborhoods.

Figure 5.
People Smuggling case development 2015 - 2022



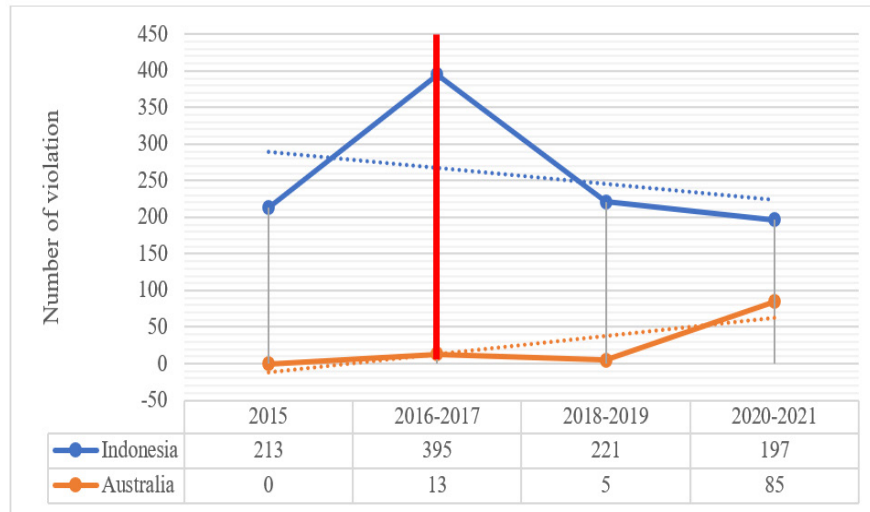
Sources: Research result, 2022.

IUU fishing has been a significant challenge for Australia over the past few decades. Prior to the implementation of cooperation between Bakamla RI and ABF, it seemed that IUU fishing at the border of the two countries had been effectively managed. The peak year for offenses in Australia's northern waters was in 2005, and this situation gradually improved, leaving two vulnerable areas, namely the waters around the MoU Box (Ashmore Conservation Zone) and the waters around Merauke. Post-cooperation, the handling of IUU fishing cases is assessed based on the documented catches of vessels and the confiscation of their cargo by law enforcement officers. This data, released by the Centre

for Sustainable Ocean Policy, which studies IUU fishing practices in the Timor-Arafura Sea region, is combined with publications from Bakamla RI and ABF.

Figure 6.

IUU Fishing case development 2015 – 2022



Sources: Research result, 2022.

The data above illustrates the contrast in the handling of IUU Fishing between the two countries. In 2015, following efforts to control illegal fishing, Australia established IUU Fishing-free waters. However, subsequent years witnessed a resurgence in cases. Even in 2020-2021, it is noted that the ABF experienced an upward trend in cases, reaching 17 times the number observed in previous years. In the fiscal year 2022, more than 100 cases were reported within three months.⁴⁷ In contrast to Australia, Indonesia, in fact, experienced a decline.

D. Conclusion

Cooperation in handling cross-border maritime crime focuses on law enforcement at sea based on the Joint Interagency Task Force concept. The stages consist of intelligence data collection, early detection, data sorting, surveillance, interception/release, and arrest to the investigation. In its handling, there are Special Task Forces such as Task Force 115 (IUU Fishing) and Task Force Human Trafficking (People Smuggling). Since cross-border

⁴⁷ Jessica Hayes and Hannah Murphy, "Calls for Illegal Fishing to Be Priority in Indonesia-Australia Diplomacy at G20 Summit," *ABC Kimberley*, November 11, 2022, <https://www.abf.gov.au/newsroom-subsite/Pages/illegal-foreign-fishing-vessels-boarded-and-destroyed-01-06-2021.aspx>.



crimes require cross-border cooperation, international channels are used in their handling. Three channels can be used to request assistance: the INTERPOL Channel, the Diplomatic Channel I, and the Diplomatic Channel II.

In handling cross-border crimes, each institution has limitations in its efforts to handle cross-border crimes. Therefore, in maintaining maritime security, integration is needed where each agency has a role according to its duties and functions. This division can enforce the authority of an agency on a case handled. An effort to minimize the issue of overlapping. Efforts to deal with cross-border maritime crimes are focused on sea space, land unity, and air support. The involvement of border crossing also shows that one country needs another country, starting from Indonesia or Australia, to control it.

In addition to law enforcement, protection for the victims should be considered in cases of IUU Fishing and People Smuggling. If the victims have arrived in Australia, refugees will be processed under the Asylum Seeker and Refugee policy there. At the same time, non-procedural migrant workers will undergo a detention process to be repatriated through a deportation mechanism. However, if Asylum Seekers are trapped in Indonesia, they will receive protection from the Government with the cooperation of UNHCR and IOM. Accommodation and living needs will be accommodated through Community Housing and Immigrant Shelters. Foreign Migrant Workers who are victims of Human Trafficking crimes will be accommodated in Immigration Detention Centers and nearby Immigration Offices while awaiting repatriation to their respective countries.

The collaborative initiatives between Indonesia and Australia have unveiled significant advancements in their respective approaches to addressing the issues of human smuggling and IUU fishing. Pertaining to human smuggling, the period spanning from 2017 to 2021 witnessed a surge in cases located within Indonesia, indicative of an augmented detection rate by Indonesian law enforcement. Despite improvements in the management of such cases, the impact of this transgression is more pronounced in Indonesia due to its role as a barrier country for Australia. The challenges encountered by immigrants held captive in Indonesia, compounded by the non-ratification of the Refugee Convention and limited shelter areas, contribute to heightened social conflicts within neighborhoods.



Concerning IUU fishing, Australia's endeavors to control illegal fishing led to the establishment of IUU Fishing-free waters in 2015. However, subsequent years revealed a resurgence in cases, notably in 2020-2021, where the ABF reported a substantial increase, reaching 17 times the figures recorded in preceding years. In contrast, Indonesia experienced a decline during the same period. These findings underscore the intricate and dynamic nature of transnational crimes, necessitating sustained collaboration and adaptive strategies between nations to effectively counteract these multifaceted challenges. Thus, prior to and subsequent to the implementation of this cooperation, the incidence of IUU fishing and people smuggling violations in Indonesia remained consistently higher than that observed in Australia. However, there has been a discernible uptick in the number of offenses in Australia following the pandemic. Presently, Australia depends on Indonesia to serve as a buffer country for control measures.

E. References

- Act of the Republic of Indonesia Number 31 of 2004 concerning Fisheries
- Act of the Republic of Indonesia Number 39 of 2004 concerning Placement and Protection of Indonesian Workers Abroad
- Act of the Republic of Indonesia Number 21 of 2007 concerning Eradication of Trafficking in Persons
- Act of the Republic of Indonesia Number 45 of 2009 concerning Amendment to Act Number 31 Of 2004 on Fisheries
- Act of the Republic of Indonesia Number 18 of 2017 concerning Protection of Indonesian Migrant Workers
- Anugerah, Boy. *Menakar BOP Amerika Serikat Dan Tiongkok di Kawasan Asia Pasifik*, 2021. <https://doi.org/10.13140/RG.2.2.13664.81926>.
- Aryanto, Ismu Edy. "Pengusiran Imigran Oleh Angkatan Laut Australia Ke Wilayah Indonesia Dalam Perspektif Hukum Internasional." *Hukum Internasional*, 2015, 1–25.
- Australian Border Force. "GAMSA: Guide to Australian Maritime Security Arrangements." *Maritime Border Com-*



- mand*, no. December (2020). <https://www.abf.gov.au/what-we-do-subsite/files/gamsa-2020.pdf>.
- Bakamla RI. “Bakamla RI – ABF Lakukan Pertemuan Tingkat Tinggi Keempat Kalinya,” 2022. https://bakamla.go.id/publication/detail_news/bakamla-ri-abf-lakukan-pertemuan-tingkat-tinggi-keempat-kalinya.
- . “Peraturan Kepala Badan Keamanan Laut Republik Indonesia Nomor 7 Tahun Tentang Rencana Strategis Badan Keamanan Laut Republik Indonesia Tahun 2020-2024,” 2020.
- Biro Kepegawaian Bakamla RI. “Daftar Pengembangan Kompetensi ABF Dan JCLEC.” Jakarta, 2022.
- Boister, Neil. *An Introduction to Transnational Criminal Law*. Oxford: OXFORD University Press, 2012.
- BPPK Kemlu RI. *Diplomasi Poros Maritim: Keamanan Maritim Dalam Perspektif Politik Luar Negeri. Kajian Mandiri*. Vol. 11, 2016.
- Davis, John, and Ha Anh Tuan. “Illegal Unreported and Unregulated Fishing.” Brisbane, 2018. <https://aseanregionalforum.asean.org/wp-content/uploads/2019/01/ANNEX-19-10th-ISM-on-MS.pdf>.
- Dit Kerma Bakamla RI. “Laporan Tentang Kegiatan the 9th Maritime Security Desktop Exercise and Law of the Sea Course 18 - 21 Juni 2019 Jakarta Pusat.” Jakarta, 2019.
- DJPSPDKP KKP RI. “Petunjuk Teknis Penyidikan Tindakan Pidana Perikanan.” Jakarta, 2011.
- FAO. “Links between IUU Fishing and Crimes in the Fisheries Sector.” 2022. Accessed July 28, 2022. <https://www.fao.org/iuu-fishing/background/links-crimes/en/>.
- Hasan, Iskandar, and Nina Naramurti. *Kerjasama Kepolisian Dan Penegakan Hukum Internasional*. Jakarta: PT Firris Bahtera Pustaka, 2013.
- Hasan, Muhammad Irfansyah. “Kejahatan Transnasional Dan Implementasi Hukum Pidana Indonesia.” *Lex Crimen* 7, no. 7 (2018): 13–20.



- Hayes, Jessica, and Hannah Murphy. "Calls for Illegal Fishing to Be Priority in Indonesia-Australia Diplomacy at G20 Summit." *ABC Kimberley*, November 11, 2022. <https://www.abf.gov.au/newsroom-subsite/Pages/illegal-foreign-fishing-ves-sels-boarded-and-destroyed-01-06-2021.aspx>.
- Iriawan, Sony. "Diskursus Indo-Pasifik: Hegemoni Amerika, Persaingan Strategis, Hingga Transformasi Geopolitik Kawasan." *Jurnal Hubungan Internasional* 1, no. 2 (2018): 282–310.
- JCLEC. "Hybrid Model," 2021. <https://jclec.org/hybrid/>.
- . "Online Delivery Model," 2021. <https://jclec.org/online-delivery-model/>.
- . "Services," 2021. <https://jclec.org/services/>.
- Katong NTT. "Sejak Januari, Diperkirakan 200 PMI Ilegal Gagal Diselundupkan Ke Australia," April 21, 2022. <https://katongntt.com/sejak-januari-diperkirakan-200-pmi-ilegal-gagal-diselundupkan-ke-australia/>.
- Kementerian Pertahanan RI. "Perbatasan Maritim Ri – Australia." Migrasi, 2019.
- Kementerian Koordinator Bidang Kemaritiman Republik Indonesia. "Keputusan Menteri Koordinator Bidang Kemaritiman Republik Indonesia Nomor 128 Tahun 2019," 2019.
- Khairani, Oci. "Kepentingan India Menolak Kerjasama One Belt One Road (Obor) Tiongkok Pada Tahun 2017-2019." *Jurnal Ilmiah Hubungan Internasional* 6, no. 9 (2019): 1–15.
- Kurnia, Aan. *Guarding the Sea for Our Future*. Jakarta: Petroenergy, 2022.
- Lisandro, M. "Perbudakan Terhadap Anak Buah Kapal Penangkap Ikan Asing Di Indonesia." *Indonesian Journal of Criminology* 1, no. 1 (2017): 267421.
- Mackay, Mary, Britta Denise Hardesty, and Chris Wilcox. "The Intersection Between Illegal Fishing, Crimes at Sea, and Social Well-Being." *Frontiers in Marine Science* 7, no. October (2020): 1–9.



- <https://doi.org/10.3389/fmars.2020.589000>.
- Mahkamah Agung RI. “Putusan Mahkamah Agung Nomor: 107/Pid. Sus/2015/PN.Tul(PerdaganganOrang).” Jakarta, 2015.
- Missbach, Antje, and Melissa Crouch. “The Criminalisation of People Smuggling: The Dynamics of Judicial Discretion in Indonesia.” *Australian Journal of Asian Law* 14, no. 2 (2022): 1–19. <https://doi.org/10.4324/9781003211792>.
- Mitchell, James. “Transnational Organised Crime in Indonesia: The Need for International Cooperation.” *Brawijaya Law Journal* 3, no. 2 (2016): 176–99. <https://doi.org/10.21776/ub.blj.2016.003.02.05>.
- Naval Studies Board. *Maritime Security Partnerships. Maritime Security Partnerships*, 2014. <https://doi.org/10.17226/12029>.
- NCB INterpol Indonesia. “Implementasi Kerjasama Internasional Polri Dalam Bidang Penanggulangan Kejahatan Transnasional.” Jakarta, 2022.
- PIP Semarang. “Kursus Penggeledahan Kapal (Vessel Search Course),” 2019. <https://pip-semarang.ac.id/index.php/2019/02/28/kursus-penggeledahan-kapal-vessel-search-course/>.
- Poerana, Sigar Aji. “Perbedaan Kejahatan Internasional Dengan Transnasional.” *hukumonline.com*, 2019. <https://m.hukumonline.com/klinik/detail/lt5dd55a78997ed/perbedaan-kejahatan-internasional-dengan-transnasional/>.
- Prabowo, Angga Reza. “Diplomasi Maritim Indonesia-Australia Di Era Pandemi Covid-19 : Studi Kasus Kerjasama Bakamla-Australian Border Force” 5, no. 2 (2022): 176–95.
- Quinlan, Gary. “Australia and Indonesia,” 2019. https://indonesia.embassy.gov.au/jakt/AR19_003.html.
- Refugee Council of Australia. “Boat Arrivals.” *Statistic*, 2021. <https://www.refugeecouncil.org.au/asylum-boats-statistics/>.
- Regional Support Office (RSO) to the Bali Process. “Policy Guide on Protecting Victims of Trafficking,”



2015. <https://www.baliprocess.net/UserFiles/baliprocess/File/Policy%0AGuide%0Aon%0AProtecting%0AVictims%0Aof%0ATrafficking.pdf>.
- Risal, Muhammad. “Dinamika Keamanan Maritim Indonesia Pasca Kemerdekaan Timor Leste.” *Journal Interdependence* 5, no. 1 (2017): 37–49.
- Rizkoh, Fathul. “Penyeludupan 25 Pekerja Migran Ilegal Asal Lebak Ke Australia Digagalkan.” *Detik.Com*, March 22, 2022. <https://news.detik.com/berita/d-5997582/penyeludupan-25-pekerja-migran-ilegal-asal-lebak-ke-australia-digagalkan>.
- Rudenim Jakarta. “Jumlah Pengungsi Pada Community House Di Bawah Pengawasan Rudenim Jakarta,” 2022. <https://rudenimjakarta.kemenkumham.go.id/Content/isi/50>.
- Rudenim Kupang. “Data Pengungsi Rudenim Kupang,” 2021. <https://rudenimkupang.com/data-pengungsi/2021/10/31/data-pengungsi-rudenim-kupang-per-31-oktober-2021/>.
- Sari, Sri Mas. “Kapal Penangkap Ikan Sudah Punya VMS, Perlukah Pasang AIS?” *Ekonomi Dan Bisnis*, August 8, 2019. <https://ekonomi.bisnis.com/read/20190808/98/1133845/kapal-penangkap-ikan-sudah-punya-vms-perlukah-pasang-ais>.
- Skylight. “Improving Maritime Transparency to Protect Our Oceans,” 2022. <https://www.skylight.global/>.
- Sugiyono. *Metode Penelitian Kuantitatif, Kualitatif Dan R&D*. 23rd ed. Bandung: CV. Alfabeta, 2018.
- TNI. “Perkuat Keamanan Perbatasan Laut, Bakamla RI - ABF Resmi Tanda Tangan Kerja Sama,” 2018. <https://tni.mil.id/view-124819-perkuat-keamanan-perbatasan-laut-bakamla-ri-abf-resmi-tanda-tangan-kerja-sama.html>.
- Witbooi, Emma, Kamal Deen Ali, Mas Achmad Santosa, Gail Hurley, Yunus Husein, Sarika Maharaj, Ifesinachi Okafor-Yarwood, Inés Arroyo Quiroz, and Omar Salas. “Organized Crime in the Fisheries Sector Threatens a Sustainable Ocean Economy.” *Nature* 588, no. 7836 (2020):



48–56. <https://doi.org/10.1038/s41586-020-2913-5>.