

BORDER POLICY IN PREVENTING HUMAN TRAFFICKING IN ACEH PROVINCE, INDONESIA

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ABSTRACT

This article examines how Aceh's government border policy prevents *human trafficking and its challenges*. Act Number 43, 2008 on State's Territory regulates the territorial borders of the state guaranteeing sovereignty and law-abiding in the territory, sovereignty, rights enforcement, and rules of managing state territory and its borders, including monitoring of borders. A Governor in every region bordering others must manage the region of borders and protect the territory, based on PERKA of the BNPP Number 4, 2019 on the Delegation of State's Border Governance in the ambit of the Indonesia National Body for Governing Border (BNPP). This paper utilizes normative-empirical research methods, in order to analyses the issue in the law and its challenges in its application. Aceh provinces including some regional, including North Aceh, East Aceh, and Sabang borders is included in a bordering region with other states, which prone to human trafficking. The Aceh Government and Regionals/Municipals Governments has not issued the policy on governing the borders' areas, so it is remain challenges in future. Additionally, a better coordination among the law enforcement agencies and establishing the territory and border offices at the provincial and district levels can help to prevent human trafficking in Aceh Province.

Keywords: Policy, Borders, Human Trafficking, BNPP.

INTRODUCTION

Indonesia is part of the Southeast Asia region that straddles the equator and is situated between the Asian continent and Australia, as well as the Pacific and Indian Oceans. Indonesia is the largest archipelagic country in the world, with 17,504 islands and a sea area of 5.8 million km, or two-thirds of its territory (Marsetyo, 2014:91). Thousands islands are dispersed throughout virtually all Indonesian waterways. Indonesia's neighbors include Singapore, Malaysia, the Philippines, India, Vietnam, Thailand, Cambodia, the Republic of Palau, Papua New Guinea (hereinafter PNG), and

Australia. The majority of Indonesia's land boundaries with other nations are divided by water. There are only Malaysia, Papua New Guinea, and Timor-Leste share direct land borders with the continent.

Indonesia's border regions with other nations are administratively divided into 12 provinces and 38 regencies/cities, i.e. Aceh, North Sumatra, Riau, Riau Islands, West Kalimantan, East Kalimantan, North Sulawesi, Maluku, North Maluku, East Nusa Tenggara, Papua, and West Papua. The border region is comprised of land border areas, sea border areas, and air border areas that are widely dispersed and comprise a range of typologies, from the heartland to the most prominent or remote little islands.

Land boundaries are dispersed across three areas:

1. The Republic of Indonesia-Malaysia Land Border Area in Borneo
2. The Republic of Indonesia - PNG Land Border Area in Papua
3. The South East of the Republic of Indonesia-Timor Leste

The length of the national boundary line separating Indonesia and Malaysia on the island of Kalimantan is 2004 kilometers. While the existing boundary line in Papua runs between RI and PNG for 107 kilometers, in East Nusa Tenggara it runs between RI and Timor-Leste for 263.8 kilometers. In the meantime, there are seven maritime boundary regions, which include the most remote islands. The seven (seven) regions are: The maritime border area of the Republic of Indonesia with Thailand, India or Malaysia includes the two outermost small islands in the Provinces of Aceh and North Sumatra, the maritime border area of the Republic of Indonesia with Malaysia or Vietnam, or Singapore includes the twenty outermost small islands in the Riau Province and the Riau Archipelago, the maritime border area of Indonesia with Malaysia and the Philippines includes the two outermost, the maritime boundary zone between Indonesia and Palau consists of the eight most distant tiny islands in the Provinces of North Maluku, West Papua, and Papua, sea border area with Timor-Leste and Australia, includes 20 (twenty) of the provinces of Maluku and Papua's most remote tiny islands, the Indonesian Sea Border Area with the State of Timor Leste consists of the five most distant tiny islands in the East Nusa Tenggara Province, and the provinces of Aceh, North Sumatra, West Sumatra, and Bengkulu are home to 19 (nineteen) of the world's most remote tiny islands. Lampung, Banten, West Java, Central Java, East Java and West Nusa Tenggara.

Aceh Province has a sea border with Thailand, India, and Malaysia, as well as the Indian Ocean, due to its geographical location, among other factors. The flow of globalization gives rise to

transnational crimes, such as criminal acts committed by a citizen of a country or a foreign national, by foreign nationals driving foreign nationals' vehicles, or evidence or proceeds of crime or tools used in other countries or illegal products in other countries which is that the elements of transnational crimes are met (Police Central Office, 2008:4).

Indonesian police have categorized transnational crimes as terrorism, illegal drug trafficking, human trafficking, sea piracy and armed robbery at sea, arms smuggling, and international economic crime; Crimes against state assets, such as illegal logging, illegal fishing, illegal mining, and smuggling, have the potential to occur in the territorial waters of the Unitary State of the Republic of Indonesia (Police Central Office, 2011: 1). In addition, the form of an archipelagic state with an open coast of territorial waters entails that the Indonesian waters, which make up approximately two-thirds of Indonesia's territory as an archipelagic state, include waters under national sovereignty and jurisdiction, covering an area of approximately 6 million square kilometers. These factors contribute to the government's lackluster response to transnational crime, particularly people trafficking that uses the Strait of Malacca to cross into international territories.

Along with this, the Indonesian government adopted the concept of preventing, eradicating, and handling human trafficking in its approach to the criminal act of human trafficking, namely the promulgation of Act Number 21 of 2007 concerning Eradication of the Crime of Trafficking in Persons and Act Number 14 of 2007 concerning the Ratification of the Protocol to Prevent, Respond, and Punish Trafficking in Persons, Especially Women, and Children. The enactment of this law complements the United Nations (UN) convention against transnational organized crime. (Hatta Muhammad, 2012:6).

Article 2 paragraph 1 of Act Number 21 of 2007 concerning the Eradication of Trafficking in Persons provides a more explicit definition of the prohibition on human trafficking:

“Anyone who recruits, transports, harbors, transmits, transfers, or receives a person in a position of vulnerability or under threat of violence.” Debt entrapment or giving payments or benefits despite approval from a person with control over another person to exploit that person within the territory of the Republic of Indonesia shall be punished with imprisonment for a minimum of three years a maximum of fifteen years and a minimum fine of IDR. 120,000,000.00 and a maximum fine of IDR. 600,000,000.00”.

Article 1 paragraph 1 of Act Number 21 of 2007 regarding the Eradication of the Crime of Trafficking in Persons states:

“Trafficking in persons is the act of recruiting, transporting, harboring, sending, transferring, or receiving persons using the threat of force, the use of force, abduction, confinement, fraud, deception, abuse of power or a position of vulnerability, debt bondage or payment or benefit, to obtain the consent of the apprehensive party”.

In addition, Article 1 paragraph 2 of this Act encompasses any action or sequence of activities that satisfy the requirements of criminal conduct as specified by this Law. The elements of the criminal act of human trafficking consist of three (three) essential components. The above definition of human trafficking contains three primary aspects, particularly the first element of activity, which involves recruiting, conveying, transferring, hiding, or receiving. Second, elements of means or methods to control victims, such as threats, the use of coercion, various forms of violence, kidnapping, fraud, fraud, abuse of power or a position of vulnerability, or the giving/accepting or benefit of obtaining consent from individuals who have control over the victim. Third, the aspect of the objective, which includes at least prostitution and other types of sexual exploitation, forced labor, slavery, servitude, and organ harvesting (Henny Nuraini, 2011:52).

In this context, a victim is a person who suffers psychological, emotional, physical, sexual, economic, and/or social harm as a result of the illegal act of human trafficking. Exploitation is defined as any act committed with or without the victim's consent, including but not limited to prostitution, forced labor or services, slavery or practices similar to slavery, oppression, extortion, physical, sexual, or reproductive use, or the illegal transfer or transplantation of organs or tissues. body or exploit one's energy or talent for the advantage of a third person for material or immaterial gain. In contrast, sexual exploitation refers to any sort of exploitation of the victim's sexual organs or other organs for financial gain, including but not limited to prostitution and obscenity.

The following are the elements of the criminal act of trafficking in persons. The perpetrator element is whoever, as defined by the Eradication of the Crime of Trafficking in Persons commits trafficking in persons, whether an individual or a company. In addition, a process element is a series of actions or occurrences, including the recruiting, conveyance, harboring, dispatch, transfer, or acceptance of a person. Furthermore, elements of manner is certain forms of actions/actions taken to ensure the process can be carried out, including threats, violence, use of force, kidnapping, confinement, forgery, fraud, abuse of power or a position of vulnerability, debt bondage, or giving

payments or benefits to obtain the consent of the person who has control over the other person. Moreover, the aspect of intent is something that will be accomplished or realized as a result of the criminal crime of trafficking in persons, involving the exploitation of individuals or causing people to be exploited. In formal legal terminology, crime is a form of conduct that breaches the criminal code. Therefore, illegal conduct must be avoided, and those who violate the law will be punished. Consequently, some prohibitions and responsibilities that every citizen must observe must be contained in laws and government regulations at both the national and regional levels.

In 2005, the government began drafting the National Long-Term Development Plan (hereinafter RPJPN) 2005-2025, which was designed to give long-term development policy directives that might serve as a guide for the drafting of the National Medium-Term Development Plan and other sectoral policies. In the 2005-2025 RPJPN, border management efforts received special attention and affirmation, as evidenced by the inclusion of the following policy directions: "Border areas are developed by changing the direction of development policies that have tended to be inward looking to outward looking so that they can serve as a gateway for economic activity and trade with neighboring countries." "Special attention must be directed to the previously overlooked little islands in the furthest reaches of the ocean." This aligns with the vision and objective of President Joko Widodo, also known as Nawa Cita, in which one of his projects is to build from the margins.

By Presidential Decree Number 12 of 2010 establishing the National Border Management Agency, the government has formed the National Border Management Agency (hereinafter the BNPP) for the management of the country's territory and border areas. The National Border Management Agency is responsible for creating policies on border development projects, determining budgetary requirements, coordinating implementation, and evaluating and supervising the management of State Boundaries and Border Areas.

Based on a map published by the 2015 of the BNPP, Indonesia is bordered by Singapore, Malaysia, the Philippines, India, Vietnam, Thailand, Cambodia, the Republic of Palau, PNG, and Australia, as depicted in the picture. Three (three) of the ten (ten) countries, namely Malaysia, PNG, and Timor-Leste, border the mainland directly. Article 1 of State Territory Act Number 43 of 2008 stipulates that: "The Territory of the Unitary State of the Republic of Indonesia hereinafter referred to as the Territory of the State, is one of the elements of the state constituting a unitary area of land, inland waters, archipelagic waters, and the territorial sea, as well as the seabed and the land beneath it, as well as the air space above it, as well as all sources of wealth contained therein. If the State

Territory Boundary is on land, the Border Area is in a subdistrict. The Border Area is a portion of the State Territory that is located on the interior side of Indonesia's international borders with other nations.”

By the provisions of Act Number 43 of 2008 regarding State Territory, the existence of state boundaries can guarantee the territorial integrity of the state, state sovereignty, and order in the Border Areas in the interest of the welfare of the entire nation, uphold the sovereignty and sovereign rights and regulate the management and utilization of the territory of the state and the border area, including the control of its borders. This is an agreement with the declared goal of establishing the state's territory in Article 3 of Act Number 43 of 2008 on the State's Territory.

In carrying out its tasks and responsibilities, the BNPP coordinates with regional border management authorities. The Governor, in his capacity as a representative of the government and a member of the BNPP, coordinates the border management agency's duties and responsibilities in the areas. Based on BNPP PERKA Number 4 of 2019 concerning the Delegation of Partial State Border Management Affairs within the Scope of the National Border Management Agency, the governor in each border area is responsible for managing border areas to defend the country's territory. The existence of the BNPP PERKA highlights the significance of the responsibility of local governments in border regions in the management of numerous concerns, including the issue of human trafficking.

Aceh is the most western part of Indonesia, as well as a region that shares territorial boundaries with other nations; Aceh is included in the border regions with other nations' territories. Aware of this, it is extremely susceptible to transactions through the Aceh region, including through border seas in the Aceh region, such as from North Aceh, East Aceh, and Sabang. In addition to the beaches of Aceh and North Sumatra, the islands of two other provinces. Typically used as a landing. Senuddon is one of the subdistricts whose waters have been utilized by drug traffickers from Thailand to transport methamphetamine into Indonesia. Not only have these waters been used for drug smuggling, but Rohingya refugees have also used them to reach land and escape from refugee camps. without apparent justification If nothing is done, the border regions will continue to pose a threat from a variety of criminal activities.

Priscilla Monique and Vita Amalia Pusparamawarni from Brawijaya University had the research and publication related to migrant workers and human trafficking. The research focused on the cause of the increase in human trafficking in Indonesia and Malaysia. Erwin Wijaya Siahaan, Triono Eddy,

and Alpi Sahari from North Sumatera Muhammadiyah University focused on transnational crimes handled by the marine police of North Sumatera regional police.

This paper focuses on the difficulty of implementing the Aceh government's role in combating human trafficking offenses in the Aceh Border Region. The urgency of this research is to provide knowledge about border area management to prevent human trafficking, and to examine the form of border area management carried out by the Aceh Government so that this information can be used as a reference by Regency/City Governments and Aceh Police, as a reference for those who are working on combating human trafficking.

RESEARCH METHOD

This study employs empirical legal research techniques. Empirical juridical legal research is the study of the application of normative legal provisions (codification, legislation) to certain legal occurrences in society (Abdulkader Muhammad, 2004:134). The purpose of this study is to overview of the administration of border areas by local governments to avoid the incidence of human trafficking. This research is conducted in the Sabang City Region, North Aceh Regency, and East Aceh Regency to reflect the border areas of Aceh Province in the districts or cities interests, regional, and socioeconomic factors impact on the incidence of human trafficking.

RESEARCH FINDINGS AND DISCUSSION

1) Border Management in Preventing Human Trafficking in Aceh

Due to the absence of government and private programs and projects, many border regions are economically disadvantaged. The length of the border, both on land and at sea, is difficult for security forces to check routinely. As a result, border infractions, smuggling, and other illicit cross-border operations occur often. In some regions distant from Indonesian government offices, border residents obtain administrative facilities and public services from neighboring nations, dividing their nationalism. In addition, access to communication and information is frequently more convenient in countries that have developed their border regions.

The BNPP on January 28, 2010, through Presidential Regulation Number 12 of 2010, followed by Minister of Home Affairs Regulation Number 31 of 2010 on the Organization and Work Procedure of BNPP. This is a follow-up to Act Number 43 of 2008 concerning State Territory, which requires the national government and local governments to establish the

National Management Agency and the Regional Management Agency to manage state boundaries and border areas at the central and regional levels.

The BNPP is responsible for formulating border development program policies, determining financial needs plans, coordinating implementation, and evaluating and supervising the administration of State Boundaries and Border Areas. Despite this, the implementation of numerous projects in border regions continues to be marred by duplication between sectors and organizations, as well as a lack of coordination caused by competing ego sectors and objectives. The government's development initiatives in border regions are more likely to reduce border regions to mere security belts. This circumstance leads the majority of bordering settlements to be difficult to reach (isolated) and to have generally inadequate basic infrastructure.

Collaboration between parties with an interest in border management, both centrally and regionally, would expedite the management of border areas so that they can contribute maximally to the welfare of the people and the sovereignty of the Republic of Indonesia. There will undoubtedly be both supporting and hindering factors in the collaboration between institutions, both government and community institutions. It is claimed that these aids and impediments contribute to the administration of border regions.

With a complete management policy in place, it is envisaged that the development of border regions will be more planned, programmed, directed, and quantifiable. It is envisaged that the policy on this grand design can be incorporated into the reform of border management laws and regulations and regional rules. The National Long-Term Development Plan 2005 – 2025 lays out the policy direction for the development of the border region, which contains the following two elements. Firstly, border regions will be developed by reorienting development policies, which to date have tended to be inward-looking, toward an outward orientation hence that they can serve as entry points for economic activity and trade with adjacent nations. Secondly, in addition to a security approach, a welfare approach is also required, with specific emphasis paid to the development of small border islands that have gone unnoticed recently.

Border management is strongly tied to issues of national and state sovereignty, public welfare, poorly administered public services to border towns, and environmental sustainability. Various difficulties about state boundaries and border area management have been enumerated, and concerns have been highlighted, within the context of creating national policies for state border management that aim to establish border areas as the state's front porch. The border

problem is a cross-border issue that necessitates international cooperation; consequently, the government must review the various joint border commissions (cooperation), both substantively and functionally, in light of the evolution of the times and changing national interests, taking into account the Aceh Province and North Sumatra Province boundaries, with the Malacca Strait separating the Kingdom of Malaysia.

**Table of Rohingya Refugees' Arrivals
between 2020 and 2022**

Number	Borders Of Regions	Month-Year	Total (People)
1	Lhokseumawe	June 2020	99
		September 2020	296
3	Aceh Timur	June 2021	81
4	Lhokseumawe	December 2021	105
5	Bireun	March	114
Total			695

source: IOM. 2022

The research indicates that between 2020 and 2022, 695 Rohingya refugees will be able to enter Aceh via the East Aceh, Lhokseumawe, and Bireun regions, further demonstrating the inadequate supervision and management of Aceh's border regions. According to statistics collected in 2020, there were 99 Rohingya migrants entered the Lhokseumawe area in June and 296 Rohingya refugees entered through the Lhoseumawe area in September. In December 2021, 105 Rohingya refugees entered the country via the Lhokseumwe region. 81 Rohingya refugees arrived in the East Aceh region. In the Bireun region, in March 2022, 114 Rohingya refugees will be able to come through the region.

2) East Aceh Region

Administratively, East Aceh Regency consists of 24 Districts, 59 Mukim, and 515 Gampong. Its total area is 6,040.60 km². East Aceh Regency is generally lowland, hilly, partially marshy, and covered with mangrove forest, with an elevation range of 0–308 meters above sea level. The coordinates for East Aceh Regency are 4°09 5°16 North Latitude and 97°13 98°02 East Longitude. The following describes the East Aceh region's borders:

- It is bordered to the north by North Aceh Regency and the Malacca Strait
- to the south by Gayo Lues Regency.
- It is bounded by the Malacca Strait, Langsa City, and Aceh Tamiang to the east.
- It is bordered on the west by Central Aceh Regency and Bener Meriah Regency.

East Aceh Regency is one of the regions with lengthy and expansive waterways, and this is where they hunt for fish for licensed sea trade, of course. This is a simple opportunity for individuals who engage in unlawful commerce or transactions. To date, however, there have been no examples of people smuggling (human-level trafficking) from overseas or from East Aceh to abroad via its border districts (Siregar, The Head of Marine Police Unit of East Aceh District Police, interview on April 15, 2022). This is inextricable from the activity of the East Aceh Police, which continues to intensify water patrols. Regular and periodic patrols with the intent of actively promoting and maintaining maritime security. The purpose of patrol is to offer a sense of security, particularly for fishermen who engage in numerous activities at sea. In addition, patrols are conducted to preserve security and prevent marine crimes such as the theft of natural resources, smuggling, and people trafficking. The East Aceh Police, in this case, the Satpolairud, collaborates and synergizes with the Idi Navy Post, comprising the Panglima Laot and the fisherman, during its implementation.

3) North Aceh Region

North Aceh Regency encompasses an area of 3,236.86 km²; officially, it is comprised of 27 Districts and 852 Gampong. In general, the North Aceh Region has a very diverse regional terrain, ranging from a large, west-to-east-extending lowland area in the north to mountainous regions in the south. The average height of the territory of North Aceh is 125 meters. Because the eastern causeway of Sumatra traverses the lowlands, this lowland region is more economically developed than the southern portion of the interior. The following describes the North Aceh region's borders:

- To the north by the Malacca Strait and Lhokseumawe City.
- To the south by Bener Meriah Regency.
- It shares an eastern border with East Aceh.
- The western boundary is Bireuen Regency.

Similar to East Aceh Regency, North Aceh Regency is one of the regions with relatively long waterways and direct borders with other nations. This is an ideal site for perpetrators of human trafficking to commence their operations. The North Aceh Police effectively found a case of human trafficking involving a girl from North Aceh, according to an official report. In addition, there has been a case of Human Trafficking involving Rohingya refugees who were "rescued" by a fisherman some time ago, but investigation revealed that the rescue was a method of smuggling. In this instance, the authorities identified four defendants who were each sentenced to five years in prison (Chairul, Vice Chief of North Aceh district police, interview on April 12, 2022).

4) Sabang Municipality

Sabang is the westernmost municipality in the Republic of Indonesia. Geographically, Sabang City lies between 05o 46' 28" and 05o 54' 28" north latitude (N) and 95o 13' 02" and 95o22' 36" east longitude (E) (BT). Weh Island is the main and only inhabited island, while Rondo Island is one of the outer islands located 15.6 kilometers away from Weh Island. Sabang City is administratively divided into two sub-districts, namely Sukajaya District and Sukakarya District, and 18 Gampong (villages). The overall land area of Sabang City is 153 km², which is comprised of the 80 km² Sukajaya District and the 73 km² Sukakarya District. The overall land area of Sabang City is 121.7 km² (12,177.18 hectares), while its water area is 920.5 km² (92,052.77 ha). The following describes the North Aceh region's borders:

- The Strait of Malacca borders the north and east
- The Bengal Strait lies to the south
- The limit to the west is the Indonesian Ocean

Sabang City is strategically important on a geopolitical level due to its proximity to India, Malaysia, and Thailand, as well as its role as an international shipping corridor for ships entering or leaving Indonesian territory from the west. Based on the proposed Presidential Regulation about the Master Plan for the Development of State Boundaries and Border Areas for 2020-2024, the National Border Management Agency pays special attention to 54 provinces/cities, including Sabang. During a previous visit to Sabang by the BNPP, he stated that for the development of the Sabang Area, which is currently a priority location in the development of the national border

area, it is necessary to increase the standard of loading and unloading facilities and the availability of fuel so that the Sabang port can be used as an international hub port. Due to Sabang being the Center for National Strategic Activities (PKSN) in Aceh, there is a tug-of-war for foreign ships crossing the high seas near the island of Weh Sabang (T.Azrul Kamal, The Head of Legal Office of Sabang Municipality, interview on April 20, 2022).

According to published data from the Sabang Resort Police, there have been no occurrences of human trafficking in Sabang yet; nonetheless, this requires special attention because the location of Sabang is highly advantageous for "mafia" human trafficking offenses. In addition, when the field research was done, a member of the Sabang community might have been the victim of a criminal act of human trafficking that was not recorded in writing to the Police.

CONCLUSION

Border management is strongly tied to issues of national and state sovereignty, public welfare, which poorly administered for public services and environmental sustainability. Various difficulties have been enumerated, and concerns have been highlighted, within the context of creating national policies for state border management that aim to establish border areas as the state's front porch. In addition, Aceh is currently included in the direct state border area with other countries from the sea route, which should be of particular concern to the Central and Regional Governments, so that districts/cities that are directly bordered can combat criminal acts that are likely to occur. The most recurrent issue is the rescue of Rohingya refugees, in which the crime of human trafficking had been occurred in the North Aceh Region.

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