

Handling People Smuggling Crimes in Border Areas: Batam City Case Study

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Abstract. Riau Islands is its territory, mostly surrounded by the sea, and is an international trade route in the Strait of Malacca. Batam is one of the areas included in the Riau Islands and is directly adjacent to neighboring Malaysia and Singapore. The border area owned by Batam has strategic problems to be studied. From this problem, the condition of the border area can harm the site, one of which is people smuggling. So, from this, the researcher aims to examine the problem of handling people smuggling crimes in the border area of the Batam City case study. The research method carried out is descriptive qualitative. Researchers also obtained primary data from various interviews with related agencies and different secondary data in addition to completing this study. The interim result of this study is the problem of transnational crime. This study's provisional result is that international crime is crossing the boundaries of a country whose actions have detrimental and dangerous effects. One of the ways to overcome this problem is the United Nations Convention Against Transnational Organized Crime (UNTOC), which aims to eradicate transnational organized crime, one of which is related to people smuggling. In Indonesia, there is Law No. 6 of 2011 concerning Immigration, which also regulates people smuggling crimes in Indonesian territory, including Batam City. This law is one of the efforts to prevent people smuggling crimes. The border area as the front guard in maintaining the stability of the Republic of Indonesia must be maintained and supported. Because people smuggling has very potential as a gateway in and out of international criminal acts such as narcotics, human trafficking.

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1 Introduction

Developments in the world of transnational crime have become a threat that is considered quite serious to the safety and welfare of the international community, on the other hand, transnational crime in its activities has become a very profitable business. The occurrence of various deviations from this transnational crime starts from the exploitation of both natural and human resources. The existence of transnational crimes is in the nature of crossing the boundaries of a country whose actions have detrimental and dangerous effects. The presence of UNTOC or better known as the Palermo Convention from the results of the United Nations meeting at the 62nd plenary meeting in 2000 which was ratified by countries that agreed to the convention in combating transnational organized crime, one of which is related to illegal people smuggling.

The United Nations Convention on Transnational Organized Crime (UNTOC) is an international treaty created as a mechanism that multilaterally aims to combat transnational crimes, whose forms of crime pose a severe threat to world security and prosperity and whose nature affects several countries involved in it. The establishment of the UNTOC in 2000 serves as an essential guide for countries in their efforts to combat transnational crime [1].

People smuggling, as defined in Article 3 of the 2000 Palermo Protocol on People Smuggling, is defined as how a perpetrator attempts to obtain either directly or indirectly a financial or other benefit from the unauthorized entry of a person into a part of another country of which this person is not part of the national to whom he is intended or enters illegally by crossing the country's borders without comply with regulations or permits required to enter the territory of the country legally or officially [2].

Human Trafficking and People Smuggling have almost the same elements, namely, there are elements of process, way, and purpose. First, regarding process elements, there is a person's transfer activity, the same as Human Trafficking. Second, herein lies the difference where, in terms of the component of means in people smuggling, there is no element of misappropriation of personal will approval, nor the use of force can be interpreted as coming from personal will to do so. It is common for would-be migrants to seek and initiate communication with people in charge of smuggling to realize that they will reach their destination across national borders by doing so illegally.

Meanwhile, the destination element always benefits from how these would-be migrants are monetized by crossing national borders through official ports or existing rat ports. In the case of people smuggling that occurs in the Southeast Asian region, the tendency is that people who are smuggled are asylum seekers or refugees. They make the territory of countries in Southeast

Asia a transit country to settle in third countries such as Australia or Canada. In addition to asylum seekers or refugees, other smuggled people come from migrant workers, such as in the Indonesian region, where those who are indeed Indonesian citizens who want to work abroad in a non-procedural way are smuggled through official ports or smuggled through "rat ports".

People smuggling is a crime because people smuggling violates the official provisions of the countries concerned. It has been recognized that people smuggling violates human rights and contemporary forms of slavery. Immigrants are treated unkindly; very often, inhumane travel conditions are piled up in crowded and crowded (generally boat) transport, and even fatal accidents often occur. Upon arrival, their illegal status caused them to become slaves to smugglers and forced them to work for years in the unfair labour market [3].

The practice of people smuggling has increased in recent decades, and at present, significant reports of unofficial immigration continue to grow in various countries, including Indonesia, which was initially a transit country but is now a destination country. People smuggling can generally occur with the consent of the person or group who wishes to be smuggled. The most common reasons for them are the opportunity to get a job or improve economic status, the hope of getting a better livelihood for oneself or family, and leaving conflicts in the home country.

Indonesia itself, in its efforts to eradicate the crime of people smuggling, often called People Smuggling and other transnational organized crime, has ratified from UNTOC, which has been confirmed by the Indonesian House of Representatives (DPR RI) on January 12, 2009 based on Law Number 5 of 2009 ratifying the United Nations Convention Against Transnational Organized Crime. The submission of ratification is one manifestation of a commitment by Indonesia to prevent and eradicate all transnational organized crimes, one of which is people smuggling.

The cause of transnational crime is not only due to weak law enforcement and legal policies in Indonesia, but also because of the geographical conditions of Indonesia as a country that has the potential for transnational crime to occur. Indonesia's geographical conditions include an area flanked by two oceans and two continents. By having a cross lane position then across international markets, this provides open and free access to Indonesian territory for anyone. Apart from that, efforts to secure border areas are still low, which is due to the lack of access to technology to monitor all regions of Indonesia which has led to the increasing emergence of transnational criminal practices. Sam Fernando in his article on Government Legal Politics (Directorate General of Immigration) in *Overcoming the Problem of Human Smuggling* explains that transnational crime "is realized if the crime involves more than one country, there is a preparation, direction, creation plans and supervision carried out by other countries, the involvement of organized criminals, and also if these crimes have a negative impact on the country [3].

And also in an article entitled *Criminal Policy in Combating Human Smuggling in Indonesia* by Evlyn Martha Julianthy, Dahlan Ali, and Mujibussalim. They explained that the

problem with human smuggling lies in the regulations for dealing with human smuggling which still have many weaknesses, especially in legislative policies. Article 120 of the Immigration Law is considered to still not be able to cover all aspects of countering human smuggling and should be regulated in regulations special one [4].

Regarding people smuggling, for Indonesia itself, the factor causing an increase in cases every year is due to the geographical condition of Indonesia as an archipelagic country with many small islands directly adjacent to other countries. In this case, for example, between Indonesia and Malaysia. In addition, the ignorance of people in these areas about people smuggling crimes and economic needs are factors that cause an increase in people smuggling cases [5].

The Riau Island region is a province whose overall territory is directly adjacent to neighbouring countries such as Malaysia and Singapore, making Riau Island Province one of the many regions of Indonesia with a relatively high number of people smuggling crimes. Riau Island has a strategic area with its northern part bordering Vietnam and Cambodia for the eastern region directly adjacent to the country of Malaysia and also the province of West Kalimantan. Singapore borders the southern part of the Riau Island, Bangka Belitung Province, and Jambi. The western region is directly adjacent to Riau Province and Malaysia. This causes easy access for people smuggling actors in their activities because the Riau Island region has direct borders with several neighbouring countries such as Malaysia, Singapore, Vietnam, and Cambodia [6].

In this case, Batam City is a strategic area for Indonesian migrant workers who want to enter the territory of other countries illegally because of the many rat ports that provide round-trip routes without the need for official travel documents that should be owned by every citizen who wants to travel outside the territory of Indonesia or vice versa. In 2019, the number of people smuggling cases was 318 cases, which then increased due to 400 issues in 2020 with several mode uses, starting from victims who travelled to the destination country through rat ports located in Teluk Mata Ikan, Nongsa, Galang Island, and so on. Then, some victims travel through official ports, but victims use travellers' passports, and some victims use a 20-day stay permit to work [6].

In response to what has been explained above, in this research entitled 'Handling People Smuggling Crimes in Border Areas: Batam City Case Study' there will be research regarding the process of human smuggling that occurs in Batam City, and also what steps have been taken by Indonesia, in this case including the Batam City government through the implementation of the United Nations Convention on Transnational Organized Crime (UNTOC), as well as providing constructive criticism and suggestions for the government in order to tackle this human smuggling case.

2 Method

This research uses qualitative research which helps researchers understand the phenomenon of people smuggling cases occurring in Batam City using a descriptive research approach. Based on data sources and data collection tools used in the analysis are secondary data and literature study data collection techniques. Secondary data is data obtained through books, journals, theses, news, e-books, or other relevant data, while library research is data obtained through previous data related to the research carried out. Apart from that, data obtained through journals, books, websites, documents and so on through literature studies and Internet Searching/online data where this data will later be collected into one unit that helps researchers to explain the research they want to study.

3 Result

3.1. Batam City Overview

Batam City is one of the parts of Riau Islands Province, which if viewed geographically, has a very strategic location, namely in the international shipping lanes between 00.25'29' LU - 1015'00" LU and 1030.34'35" BT - 1040 26'04" BT has an area of 426,447.06 Ha, consisting of 108,778.09 Ha of land area and water or sea area of 317,668.97. More than 370 islands exist in Batam City, and some of them have the status of the outer islands on the country's border. Batam City itself has 12 districts and 64 sub-districts [7].

In terms of its own borders, Batam City is bordered by several regions as follows:

- East: Bintan Regency and Tanjungpinang City
- West: Karimun Regency and International Sea
- South: Lingga Regency
- North: Singapore and Malaysia

Tabel 1. Division of Batam City Administration Area

NO	DISTRICTS NAME	NUMBER OF SUB-DISTRICTS	An Area (Ha)		
			Land	Sea	Total
1	Belakang Padang	6	7.004,62	68.790	75.794,29
2	Batu Ampar	4	15.911,73	30.101	46.013,20
3	Bengkong	4	35.783,60	185.149	220.932,18
4	Lubuk Baja	5	10.611,66	1.496	12.107,66
5	Batam Kota	6	11.806,92	20.718	32.525,31
6	Sei Beduk	4	7.584,09	3.138	10.721,69
7	Nongsa	4	1.714,22	2.245	3.959,56
8	Sekupang	7	1.425,05	3.119	4.543,79
9	Sagulung	6	4.455,79	229	4.684,74

10	Batu Aji	6	6.341,80	643	6.985,06
11	Bulang	4	4.568,43	1.669	6.237,09
12	Galang	8	1.570,18	372	1.942,49
	Total	64	108.778,09	317.668,97	426.447,06

Source: bapelingda.go.id, 2016

3.2. United Nations Convention On Transnational Organized Crime (UNTOC)

With the impact and development of the broader types of crime, the international community agreed to make international legal instruments to jointly eradicate transnational organized crime through the United Nations Convention Against Transnational Organized Crime 2000 (United Nations Convention Against Transnational Organized Crime, UNTOC). Indonesia itself has ratified the convention through Law No. 5 of 2009. Along with its development in 2004, an additional protocol was formed by UNTOC in 2000: the Protocol Against the Smuggling of Migrants by Land, Sea, and Air, Supplementing the United Nations Convention Against Transnational Organized Crime. Indonesia has ratified this additional Protocol through Law No. 15 of 2009 [8].

As a party to UNTOC, states are bound by the obligation to make all efforts, namely, forming special legislation which regulates transnational organized crimes, establishing various legal cooperation activities between states, such as extradition, mutual legal assistance in criminal matters, cooperation between law enforcement officials, as well as cooperation between law enforcement officials and collaboration in technical assistance and training. On the other hand, as a ratifying state, it is also bound by obligations such as doing criminal acts that may have been determined as criminal in national laws and regulations, in this case, related to smuggling. For smuggling by sea, each State Party shall strengthen cooperation to prevent and suppress smuggling through territorial waters by international law of the sea and also seek to take all measures as provided for in smuggling cases. Then, to prevent it, cooperation and other efforts are needed to eradicate this people smuggling case.

3.3. People Smuggling Crime in Batam City

Based on Blue Criminology, experts C. Bueger and T. Edmunds categorize Blue Crime into three parts, including Crimes Against Mobility (the occurrence of movement in the sea area, transportation, and piracy), the Criminal Flows (the event of smuggling and trade) and Environmental Crimes (regarding everything referring to environmental destruction in the sea area including illegal fishing) [9].

Transnational organized crime that occurs in maritime areas has become a security problem which is thought to require serious handling, in this case with the division of categories described by C. Bueger and T. Edmunds in their article entitled Blue crime: Conceptualising transnational organized crime at sea whose categories are is Criminal Flow as a category of maritime crime relating to activities in maritime areas which serve as channels for

organizations and criminal groups to commit crimes which in this case are transnational in nature. [10]

There is a category of crime in Criminal Flows called Transit Crimes, with its definition as a crime related to the movement of prohibited commodities or the movement of goods or people carried out non-procedurally or illegally from a source area or their destination area by avoiding detection, customs inspection, control in and out, and other forms of permit regulations. The sea is an area that is very supportive of infiltrators because the sea connects one region to another in the world without an apparent border intermediary, customs posts, checkpoints, and other things. This is due to the vast sea area making it easier for perpetrators to carry out their actions where the actions carried out are difficult to monitor effectively, from the many operandi carried out by Criminal Flows actors, one of them is smuggling people through unofficial ports or what is often referred to as "rat ports". [10]

People smuggling itself, when viewed from Law Number 6 concerning Immigration, is "Acts aimed at seeking profit, either directly or indirectly, for oneself or for others who bring a person or group of people, either organized or unorganized, who do not have the legal right to enter Indonesian territory or exit Indonesian territory and enter the territory of other countries where the person does not have the right to enter the territory lawfully, whether by using valid or forged documents or without the use of travel documents, whether through immigration checks or not" [11].

Based on the definition of Law Number 6 of 2011, people smuggling is defined as an act that takes advantage by bringing people who do not have the right to enter or leave the territory of Indonesia or other countries legally with original or false documents or by going through or not passing through immigration checks.

Some areas in Indonesia that become people smuggling routes to destination countries are Jayanti Beach and Santolo Beach in West Java Province, Bulukumba Regency (South Sulawesi), Batam Island (Riau Islands), Surabaya (East Java), and Rote Island (East Nusa Tenggara). The high number of cases of people smuggling activities in the waters of the Riau Islands, especially in Batam City, is influenced by several factors ranging from the geographical location of Batam City, which is directly adjacent to several destination countries for smuggling actors such as Malaysia and Singapore which makes it easier for them to carry out actions, lack of resources in conducting surveillance in the waters of Batam City, and the high number of cases is also based on smuggling groups that benefit from this action where many victims need perpetrators to be dispatched to destination countries such as Malaysia and Singapore.

3.4. Ability and Capacity of People Smuggling Criminals in Batam City

These perpetrators do not work alone in this people smuggling crime but in groups, where they are intermediaries for victims who want to be departed to destination countries such as

Malaysia and Singapore or repatriated back to Indonesia. Usually, the perpetrators of illegal crossings are called (tekong) captains, who drive boats at sea and are assisted by several crew members. For example, in the case of February 18, 2020, with its location on Tanjung Bemban Beach, Batu Besar Sub-district, there has been an act of people smuggling by bringing in Indonesian Migrant Workers have been legally proven to have committed people smuggling crimes that have the aim of obtaining profits there, which of course this action is legally declared illegal or unofficial. In this smuggling, the perpetrators of captains who carry Indonesian migrant workers are expected to get a salary of Rp.200, 000 per Indonesian Migrant Worker in one trip and also assisted ABK in its operations. In their actions, they usually carry out operations at around 02.00 WIB in the morning with illegal routes from the waters of the Malaysian Rengit River to the waters of Bemban Beach using a speedboat driven by the captain and assisted by the speedboat crew.

3.5. Spatial Context in People Smuggling Crime in Batam City

The distribution of people smuggling crime cases in Indonesia itself, with the highest issues coming from the Indonesian region, with its economic level lagging with the majority of victims who have a low level of education as well. Some areas often targeted by people smuggling actors include West Java, East Java, Central Java, East Nusa Tenggara, West Nusa Tenggara, Kalimantan Barat, Banten, and Lampung. One of the areas they use as a transit area is the Riau Islands, in this case, especially in the Batam City area [12].

For Batam City, the area of spread of people smuggling crimes is in coastal areas where it is easier for perpetrators to act. These areas, such as Nongsa, Belakang Padang, Sagulung, and Galang, are located along the coast and have direct access to the territory of Malaysia or Singapore. For the spatial context or referred to as a strategic location that often occurs in people smuggling in the Batam City area, usually the perpetrators take refuge in areas along the coast in Batam City in areas where there are canoes or fishing boats as an act of tricking officers in the Batam City territorial waters. It was coupled with the lack of patrol actions in the territorial waters that cannot be done at all times. This makes it easier the perpetrators in carrying out these people smuggling acts.

3.6. Facilitator of Advice and Infrastructure in People Smuggling Crime in Batam City.

In carrying out this people smuggling crime, of course, in smoothing the actions of people smuggling perpetrators, there is interference from parties who support both by providing access to their operations. This facilitator is supplied with the function of facilitating actions in the form of cars, motorcycles, and lodging for the arrival and departure of victims.



Fig. 1. Examples of speedboats used by smugglers

Source: Author's Data, 2023

For facilities at sea, there is a speedboat for transferring victims of people smuggling from one region to the destination area, such as from the Batam City area to Malaysia. They were designed in such a way as to trick the guard officers into the waters, regarding stopover facilities used as rat ports or ports for temporary berths called along. This kelong is not only a stopover but also used as a headquarters for the perpetrators to avoid being easily tracked by patrol officers in the waters in Batam City.

3.7. Efforts to Solve People Smuggling in Batam City.

To prevent people smuggling crimes, Indonesia has made efforts that indirectly regulate the Batam City area in the presence of Law No. 6 of 2011 concerning Immigration, which also regulates people smuggling crimes that occur in Indonesian territory, including Batam City. The regulation of the crime of human abuse is contained in Article 120 of Law Number

6 of 2011, which reads:

"Any person who commits an act aimed at seeking profit, either directly or indirectly for himself or others by bringing a person or group of persons either organized or unorganized, or ordering others to bring a person or group of persons either organized or unorganized, who does not have the lawful right to lawfully enter the territory, whether using valid documents or false documents or without using travel documents, whether through immigration checks or not, is convicted of people smuggling with a prison sentence of not less than 5 (five) years and a maximum of 15 (years) and a fine of at least Rp. 500.000.000,- (five hundred million rupiah) and a maximum of Rp. 1.500.000.000,- (one billion five hundred million rupiah)" [13].

With the definition of this existing criminal provision, several things must be investigated to determine the criminal element in question. First, the rule says "everyone." Everyone here has meaning that this criminal act can be committed by anyone, including corporations, without exception, regardless of gender, age, occupation, and so on. Second, "doing actions that aim to seek profit, either directly or indirectly, for oneself or others." It means that there is an act of seeking profit. The point is that if the action has been done, but the benefits have not been obtained, the perpetrator can already be bound to do the deed [14].

3.8. Cooperation in Efforts on People Smuggling

- a) Bali Process On People Smuggling, Trafficking In Person And Related Transnational Crime.

The Bali Process is intended as a forum for exchanging information and best practices of Bali Process countries in tackling the problem of smuggling and human trafficking. The exchange of information is essential to maximize prevention and early detection efforts, which are Indonesia's primary approaches [12].

- b) Extradiction Agreement

Extradition is a formal submission either based on a previously concluded extradition treaty or based on reciprocity of a person accused of a criminal offense or a person who has been convicted of a crime committed by the state in which he is located, hiding or fleeing, to the accusing or punishing state as having jurisdiction to try him or punish him at the request of the state such with the intent to try or convict him. According to J.G. Starke, the term extradition refers to the process by which, based on a treaty or basis of receptivity (reciprocity), a country submits to another state at its request, a person accused or convicted of a crime committed against the law of the requesting land, the form requesting extradition has the competence to try the accused perpetrator of the crime [15].

Indonesia has carried out bilateral extradition treaties, including the extradition treaty between Indonesia and Malaysia in 1974 and this became the first extradition treaty carried out by Indonesia, later ratified by the Government of Indonesia in Law Number 9 of 1974. In Law Number 9 of 1974 concerning the Ratification of the Agreement Between the Government of the Republic of Indonesia and the Government of Malaysia

Regarding Extradition, Article 1 concerning the Obligation to extradite is "The Government of the Republic of Indonesia and the Government of Malaysia agree to surrender each other by the terms and conditions stipulated in this agreement, persons who authorized officials of the requesting party prosecute for committing crimes or those sought by such officials to serve their sentences." [16].

4 Conclusion

The rise of people smuggling cases, specifically in Batam City, how the process occurs in this case Indonesian Migrant Workers who will enter the territory of other countries such as Malaysia or Singapore by smuggling through the "rat port" route. Its strategic location, directly adjacent to neighboring countries such as Malaysia and Singapore, facilitates this people smuggling crime in coastal areas in Batam City. The difficulty of supervising archipelagic regions such as Batam City, inadequate facilities, and infrastructure causes people smuggling crimes to continue today.

People smuggling is included as one of the forms of transnational crime in the theory of Blue Crime. This people smuggling crime is included in one of the categories of Blue Crime, namely in the Criminal Flows (Smuggling and Trafficking). In this category, crimes whose way of working involves the movement of prohibited commodities or the movement of people or goods by unauthorized means or called illegal from a source location to their destination by avoiding detection, official inspection, entry and exit control, tax payments, and other forms of licensing.

In its steps to eradicate crimes like this, Indonesia also ratified the United Nations Convention Against Transnational Organized Crime (UNTOC) and its two additional protocols, which are by the agreement. If viewed, the presence of this convention is indeed binding for its member states. However, international agreements like this do not directly bind the signatory countries. How this goes back to the national legal provisions of each member country. In this case, handling related to people smuggling crimes in Indonesia, especially Batam City, is still considered ineffective because until now, every year there are still frequent acts of people smuggling crimes.

Based on the research results and discussions that the author has outlined in *Overcoming Human Smuggling Crimes in Batam City*, in this case there are several suggestions and practical input that the author would like to provide in general and in outline. For government parties, especially in Batam City, who have the authority and responsibility for security in the water area, increase supervision and patrols in areas of Batam City which are prone to cases of human smuggling crimes. There is a need to improve the handling of human smuggling crimes, where if we look back, this crime still exists from year to year. The government is expected to provide legal education to the community in areas that have a high number of victims of human smuggling crimes, as well as in areas where people smuggling is also high, such as Batam City, that the act of human smuggling is a crime so that it no longer occurs. The community who are victims, and how this crime really threatens safety during its activities. Then there is a need to improve criminal regulations related to human smuggling considering that this crime is considered serious internationally.

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