

# Maritime Bordering Practices in Indonesia: Immigration Border Clearance Challenges

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**Abstract.** Maritime practices have uncovered complexities with overlapping authorities along Indonesia's coastal line. To what extent has it adopted the international maritime conventions and been relevant with other border agencies? This paper examines Indonesia's immigration policy on marine border control based on national border policy analysis and governance. The result finds that the Indonesian Immigration Act No.6 of 2011 lacks marine border governance and an immigration border clearance process. Immigration selective policy cannot respond to the emotional issues in Indonesia's maritime areas, such as the exclusive economic zone (EEZ) and the special economic zone (KEK). Furthermore, Indonesia's immigration regulations have not adopted international maritime laws, the Facilitation on International Maritime Traffic (FAL), or national shipping regulations. This study recommends that the DGI adopt the marine Integrated Border Management (IBM) for immigration border clearance which underpins the strategic cooperation and task force.

**Keywords:** Maritime border; immigration border control; immigration selective policy

## 1 Introduction

Indonesia shares its maritime border areas with ten countries with delimited boundaries under the international convention about maritime yet undelimited boundaries, which may raise bilateral, regional, or global conflicts. Indonesia has ratified 35 international conventions on maritime, but some relevant agencies have not published regulations responding to all those conventions. In practice, naval border control by the Indonesian border agencies has uncovered complexities with overlapping authorities across Indonesia's very long coastal line [1]. It suggests a dual agency approach to Maritime borders in Indonesia are fortified by the multi-level government of customs, immigration, and quarantine (CIQ) agencies, including the Indonesian Navy (TNI), the Indonesian Police (Polri), Ministry of Fisheries (PSDKP), and the Indonesian Coast Guard (Bakamla). It may confuse vessel captains, crew members, or sponsors about formalities about arriving at Indonesia's sea borders. In addition, international crime, cross-border crime, and illegal migration may continue to occur at sea since each border authority employs its surveillance strategy, border patrol concepts, and law enforcement [2].

## **2 Research Method**

Qualitative research is descriptive and tends to use analysis [3]. Process and meaning are highlighted in qualitative research [4]. The theoretical basis is used as a guide so that the research focus follows the facts on the ground [5] This paper examines how Indonesia's immigration policy on maritime border control management is practiced based on the analysis of national border policy and government analyses of how the Indonesian government regulation arranges maritime border control in terms of collaboration and coordination. First, this paper discusses to what extent the Directorate General of Immigration (DGI) has adopted the international maritime conventions and conforms with other border agencies, for instance, with the naval border regulations under the Directorate General of Customs and Excise. Finally, policy evaluation is applied to review the national immigration policy and marine border control in border governance, national security, and law enforcement.

## **3 Result and Discussion**

The Indonesian government has ratified three international conventions on maritime boundaries and border control which manage the naval zone (UNCLOS), maritime traffic or entry and exit of ships or vessels (FAL), and safety of life at sea (SOLAS). FAL, or Convention on Facilitation of International Maritime Traffic 1965, was ratified in the Presidential Decree No. 51 of 2002, and SOLAS 1974 was adopted in the Presidential Decree No. 65 of 1980. In 1982, the Indonesian government ratified the UNCLOS 1982 with the enactment of Indonesian Law No. 17 of 1985 About the Ratification of the 1982 United Nations Convention on the Law of the Sea. The principles of international law about the archipelagic states are also reaffirmed in Law Number 6 of 1996 on Indonesian Waters.

However, the International Convention against the Taking of Hostages 1979, the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA) 1988, and the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP) 2006 have not been ratified by the Indonesian government. In addition to ratifications, relevant agencies whose roles are protecting the maritime border have enacted ineffective regulations to manage border control management.

There is extensive literature on wicked problems remaining across Indonesia's maritime borders, such as undelimited boundaries, fragmented regulations, and maritime law enforcement issues. It is unsurprising given that overlapping authorities among law enforcement agencies occur when they apply different controls, management, or measures over Indonesian maritime borders [6], [7]. In this sense, the Indonesian Coast Guard (BAKAMLA) as a law enforcement agency at sea has contributed to the national economic growth, the development of national maritime potential, and the development of maritime security as the task domain of the Indonesian BAKAMLA [8], [9].

TNI plays a role as a national instrument in the defense and security sector which in carrying out its duties is based on state political policies and decisions to deter and disrupt every form of military threats and armed threats from outside of Indonesia's territory in the context of maritime sovereignty, territorial integrity, and safety of the nation [10]. Polri is responsible for keeping the national waters and shorelines safe, intelligence, operations, investigations, and law enforcement under the Indonesian rules of law across Indonesia's borders [11], [12]

Regarding border control management, the Indonesian CIQ agencies have fundamental tasks to control and manage the maritime border over the movement of people, goods, animals, plants, and health concerns. In the latest marine policy to fight against illegal fishing and destructive fishing issues, the Ministry of Fisheries (PSDKP) has intensified the particular operation to detect and disrupt illegal fishing vessels in Indonesian waters [13]. It implies that Indonesian border authorities and agencies focus on their roles, responsibilities, and organizational [6]. It can happen in some situations, requiring a more detailed discussion about how these border agencies overlap when taking measures, patrolling, operations, investigations, and intelligence data sharing [14].

There are a series of regulations regarding Indonesian maritime border security and border control management fortified by different bordering Indonesian agencies and authorities, including maritime law enforcement [15], [16]. By carefully examining the national regulations, it is found that the construction of Indonesian maritime laws implies fragmented policies and measures. From the perspective of immigration border control, this study finds that the Indonesian Immigration Act No.6 of 2011 lacks marine border governance, immigration border clearance, investigations, patrols, operations, and law enforcement. Article 17 of this Immigration Act explains the responsibility of transport/ship operators and captains who must enter Indonesia by arriving their ships at Immigration Border Control (TPI) and embark and disembark passengers or crews at TPI ports of entry/exit.

Maritime border control provisions under the Government Regulation No. 31 of 2013 on the implementing regulations of the Immigration Act 2011, and the Regulation of Ministry of Law and Human Rights No. 44 of 2015 on Procedures on Immigration Border Control of Entry and Exit Indonesia's Territory manage the responsibility of transport operators, captains, and crews, the arrangement of visa and residence permits, and roles of immigration officers in conducting an immigration clearance. There did not appear to be any significant concepts in maritime immigration border control because it only highlights administrative procedures rather than proactive border control procedures.

Immigration selective policy and maritime immigration border control, as mentioned in the Indonesian Immigration Act 2011, the Government Regulation No. 31 of 2013, and the Regulation of Ministry of Law and Human Rights No. 44 of 2015, are unable to respond to the dynamic issues in Indonesia's maritime areas such as the exclusive economic zone (EEZ) and the special economic zone (KEK). These regulations are limited to explaining the roles and responsibilities of immigration officers in performing the maritime immigration clearance in which they must check a crew list, passport or seafarer's book, movement alert list (Cekal), and approval by affixing a stamp on a travel document as an approval whenever meeting the entry or exit eligibility. The Regulation of Ministry of Law and Human Rights No. 44 of 2015 writes the provision on supernumerary, supercargo, and superintendents, which do not belong to the crew members, and they should follow the passenger's entry or exit procedures.

Indonesia's immigration regulations have not adopted international maritime laws, Facilitation on International Maritime Traffic (FAL), or national shipping regulations. The marine immigration clearance procedures do not contain risk management, risk assessment, and risk analysis to detect, deter, or disrupt unlawful ships, crews, or travel documents entering Indonesia's waters. Risk management is a substantial element in modern border control to assist border agents in assessing and analyzing risks of people crossing the borders and tackling migration issues and people movement, including cross-border crime [17]. It is expanded to intelligent border control by employing a biometric database that detects unauthorized travelers, such as ATS or ABC [18]. Technological advances in unwanted ship detection are deployed

using sensors and processing platforms called SPUDDS, in particular, to detect the dark ships that inactivate their location [19].

The regulations regarding maritime immigration border operations, surveillance, and patrols remain unclear, resulting in an increasing number of irregular migrants, refugees, and asylum seekers entering Indonesia's waters [20]. Also, with the weak inter-agency collaboration, immigration law enforcement may dispute and overlap; even a captain of one ship will send the same documentation again to every border authority before arriving, upon arrival, and when leaving Indonesia's territory. As such, immigration border control only focuses on verifying visa and residence permits upon arrival rather than initiating an effective border patrol. It indicates poor strategic coordination and the absence of reliable joint operations.

The regulations related to the immigration clearance process in Indonesia have not regulated ship routes with unjustified deviations such as illegal routes (from agreed, direct, customary routes), uninformed/undeclared/unnotified, breach of contract, and justified deviations to respond to immediate danger, of course, saving human life, and liberty to deviate in the agreement [21]. Justified deviations are not limited only to changing the shipping route but also include medical reasons, ship safety reasons, crime on the ship, an accident, machine breakdown, safety of human life, property, and cargo, or other technical reasons. Subsequently, a port of refuge is set up for ships with deviations. A captain must send a report and notification to border authorities. Furthermore, the CIQ agencies will either permit or disagree with the deviation plan [22].

In addition to deviations, stowaway, a person hiding on board a ship without the consent of the ship owner or captain [23], is one of the issues which has not been measured in the Indonesian immigration border clearance process regulations and its enforcement. In that regard, an immigration officer has the authority to examine all crews or passengers on board a ship and check all parts of the vessel. When stowaways are found, Indonesian immigration clearance regulations have not mentioned any provisions of immigration enforcement and ship examination procedures. Stowaway has listed neither in a crew list nor a passenger manifest, sailing with the shipping route [24].

However, a stowaway may be permitted to go sailing by border authorities if only a ship owner or captain reports them onboard before they arrive at ports. In such conditions, a captain saves a person who experiences a shipwreck, machine failure, or accident or a person whose vessel is captured by pirates. Stowaway issues should be arranged with the global governance of stowaway, treatment, and security framework [25]. Border authorities must install an electronic information exchange system. It consists of an advanced passenger information system, crew list travel authorization, cargo information system, and ship live map by a satellite. In addition, border technology should employ a high-tech approach, alert system, and interoperability system and be interconnected among border agencies to enhance maritime border clearance and security as intelligence and surveillance activities [26], [27].

Nevertheless, the Indonesian immigration agency has not rolled out a comprehensive border technology. This challenge is worsened by the fact that Indonesian immigration border technology is not integrated with other border agency's information systems, such as the Indonesian National Single Window or INSW [28] and the Logistics National [29] Ecosystem LNE by Indonesian Customs and Excise, and the Indonesian Maritime Information Centre (IMIC) by Bakamla [30]. As a current Indonesian maritime policy, the Government Regulation No.13 of 2022 on the Arrangement of Security, Safety, and Law Enforcement in the Indonesian Maritime Area and Indonesia's Jurisdiction was enacted to conduct a maritime patrol by border authorities.

It divides Indonesia's naval border agencies into the frontline and specialized agencies. Frontline agencies have the power to conduct marine patrol and patrol boats whose roles include customs, maritime and fisheries operations, shipping, the Indonesian Military, and Indonesian National Police. Specialized agencies have no patrol boats or ships but are responsible for securing Indonesia's maritime borders based on their roles. In addition, both agencies can initiate joint operations, search and rescue activities, and maritime law enforcement to uphold national sovereignty and security.

## 4 Conclusion

In response to Government Regulation No.13 of 2022, this study recommends that the Indonesian maritime border authorities adopt the marine Integrated Border Management (IBM) for immigration border clearance, which underpins the strategic cooperation and task force. In so doing, the Indonesian Immigration Act 2011 should be amended, including provisions on the maritime border authority of DGI based on the UNCLOS, bordering marine practices referring to FAL, and shipping arrangements relating to national shipping laws. In addition, the immigration border control regulations should manage ship-route deviations, governance of stowaways, and maritime border technology. Furthermore, the DGI should reconstruct the concept of marine immigration surveillance, operations, patrols, and control with data-driven profiling and border risk assessment. As such, it should be clear that the idea of maritime border control is divided into regions and share roles.

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