

Dilemmatic Border Protection: Indonesia's International Obligation for Refugees vs National Interests

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1 Introduction

The United Nations High Commissioner for Refugees (UNHCR) has reported that by 2022 alone, around 108.4 million people have experienced forced displacement.¹ Looking close to Indonesia, the conflict that was triggered by a military coup in February 2021 in Myanmar has caused thousands more refugees to flee the country.² This has caused the Myanmar Refugee crisis to become a new and protracted issue following the massive waves of ethnic Rohingyas refugees fleeing persecution and human rights abuses in the last decade from Myanmar.³

The global refugee crisis has caused issues that have impacted the international community disparagingly. The costs of providing for refugees have mostly been a burden for developing nations, where around 85% of refugees are under the care of such nations.⁴ The influx of refugees may lead to shortages and higher living costs for the host community and local governments.⁵ There are a few more significant and multifaceted impacts for host and transit nations from social, economic, and security perspectives.⁶ On the social

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1 UNHCR, Global Trends: Forced Displacement in 2022 (June 14, 2023), <https://www.unhcr.org/global-trends-report-2022>.

2 UNHCR, Myanmar Situation (2022), <https://reporting.unhcr.org/operational/situations/myanmar-situation#:~:text=Thousands%20more%20refugees%20have%20fled>.

3 *Id.*

4 Asosiasi Dosen ISILL, *POLEMIK KEBERADAAN PENCARI SUAKA DAN PENGUNGSI: DILEMA KEPENTINGAN NASIONAL ATAU INTERNASIONAL [Polemics on the Existence of Asylum Seekers and Refugees: A Dilemma of National or International Interests]*, YOUTUBE, at 05:43:00 (Jan. 18, 2024), <https://www.youtube.com/live/geGXobEmCjI?si=N7ncJmVikooOjTo&t=20581>.

5 Paolo Verme, *Theory and Evidence on the Impact of Refugees on Host Communities*, WORLD BANK BLOGS (Mar. 28, 2023), <https://blogs.worldbank.org/dev4peace/theory-and-evidence-impact-refugees-host-communities#:~:text=In%20urban%20areas%20C%20the%20influx>.

6 See Asosiasi Dosen ISILL, *supra* note 4, at 01:18:00, 01:57:00, 05:50:00.

side, a few issues arise.⁷ The influx of refugees can strain social services such as healthcare, education, and housing, leading to increased demand and potential shortages. Tensions between the host community and refugees may also arise, leading to social unrest or conflicts. Integration can also be a challenge when related to language barriers, cultural differences, and employment opportunities. A security issue has also presented itself, where border security regarding managing the flow of refugees across borders poses a security challenge for host and transit nations.⁸ This issue is further exacerbated by the role of organized crime and smugglers, as well as human traffickers, in illegal movements and transportation of refugees across state borders.

This has presented a problem for host and transit nations of refugees. As discussed before, many issues exist for host and transit nations facing a wave of refugees. On the other hand, under international law, host and transit nations have a few critical responsibilities regarding their actions on refugees. Host and transit states are obligated not to return refugees to a country where they would face persecution or serious harm. This principle is enshrined in the 1951 Refugee Convention and its 1967 Protocol and is considered a customary norm of international law.⁹ Also, host and transit nations ensure refugees' physical safety and well-being within their borders. This includes providing access to shelter, healthcare, education, and other essential services.¹⁰ Host and transit nations are also encouraged to cooperate with international organizations such as the UNHCR and the International Organization for Migration (IOM) to enhance refugee protection and assistance.

This dilemma of threats and responsibilities is a serious issue, considering the rise of refugee numbers in the coming decade. As stated before, Indonesia faces a refugee crisis of its own. In contrast, there are currently around 13,168 refugees concentrated in the provinces of Aceh and North Sumatra.¹¹ This wave of refugees came through Indonesia's western maritime borders due to its archipelagic nature. Boats of refugees have been regularly intercepted and rescued by both Indonesian authorities and local fishermen. Rohingya refugees in Aceh have been historically welcomed. Still, in late 2023, incidents of protests, riots, and forced displacements by local Acehnese sparked fear of unrest and violence against the refugees following a recent surge of new

7 *Id.* at 01:59:00.

8 *Id.* at 00:54:00.

9 Annick Pijnenburg, *Containment Instead of Refoulement: Shifting State Responsibility in the Age of Cooperative Migration Control?*, 20 HUMAN RIGHTS LAW REVIEW 306, 316 (2020).

10 See Asosiasi Dosen ISILL, *supra* note 4, at 04:53:00.

11 *Id.* at 00:55:00.

Rohingya refugees.¹² The protests are allegedly sparked by hoaxes spread on social media regarding the refugees and have pushed the government to relocate the refugees.¹³

This incident has sparked a debate on Indonesian maritime border protection architecture and its response to the influx of Rohingyas Refugees, where the question of national interests clashed with international obligations toward refugees. There exist different arguments in Indonesia regarding this question around refugees or asylum seekers, as some would denote them. This ranges from how this new influx of refugees is classified, as there is evidence that a vast number of them came not from Myanmar itself but from refugee camps in neighboring Bangladesh. Thus, their status as refugees or undocumented immigrants is put into question. Another issue also arises, seeing a dilemma on how Indonesia as a transit country reconciles between law enforcement on these new waves of refugees and the international obligations for their genuine protection. In this article, those questions will be put into context and examined.

This article will begin by examining Indonesia's architecture for maritime border protection. This is done to explore and analyze the mechanism that exists for Indonesia in dealing with maritime-based smuggling and the issues and challenges that hounded its maritime security. Next, an understanding of the cause and chronology of the newest influx of Rohingya refugees will be analyzed. This is an effort to contextualize the incidents that sparked the debate around refugee protection in Indonesia, how the Rohingya refugee crisis and the newest influx influenced it, and how questions of obligations by Indonesia came to be. Lastly, the dilemma between genuine protection and law enforcement must be analyzed and understood. This is to see how the two concepts clash and reconcile and how they are practiced with the newest international developments that influence the dilemma.

2 Indonesia's Architecture Maritime Border Protection

To understand Indonesia's architecture for maritime border protection, a few key issues must be analyzed and put into context. First, a basic understanding

12 *Pengusiran pengungsi Rohingya oleh mahasiswa di Aceh, menyisakan trauma dan ketakutan – 'Kami kira akan mati di sini' [Rohingya refugees expelled by students in Aceh, leaving trauma and fear – 'We thought we would die here']*, BBC NEWS INDONESIA (Dec. 29, 2023), <https://www.bbc.com/indonesia/articles/cyr3ykvjxpoo>.

13 *Id.*

of Indonesia's geographical makeup and its unique archipelagic nature must be examined in the context of how it shapes the country's borders, national interests, possible threats, and challenges in addressing them. Second, how do Indonesia's national laws regulate maritime border protection from a legal and practical view? Third, how this architecture of maritime border protection is put into practice through relevant bodies and governmental organizations. Fourth and lastly, how has this architecture evolved, and how has it been historically affected by the crisis, specifically the Rohingya Refugees, and with the newest influx in 2023?

Indonesia is located off the coast of mainland Southeast Asia between the Indian and Pacific Oceans.¹⁴ Indonesia is an archipelago that lies across the equator and is made up of islands that can be grouped into the Greater Sunda Islands of Sumatra (Sumatera), Java (Jawa), the southern extent of Borneo (Kalimantan), and Celebes (Sulawesi); the Lesser Sunda Islands (Nusa Tenggara) of Bali and a chain of islands that runs eastward through Timor; the Moluccas (Maluku) between Celebes and the island of New Guinea; and the western extent of New Guinea (generally known as Papua).¹⁵ The total number of islands in Indonesia is approximately 17,508, although this number is disputed due to tidal islands and reefs.¹⁶ Indonesia's territory stretches approximately 5,120 kilometers from east to west and around 1,760 kilometers from north to south.¹⁷

A few key things can be seen in its geographical makeup. Indonesia is primarily a maritime nation with vast maritime territories surrounding its islands. With this unique fact, it is unsurprising to see that most of its borders are maritime. Indonesia shares maritime borders with ten countries, where its archipelagic nature has influenced its interactions and relationships with neighboring countries, shaping its territorial boundaries.¹⁸ Thanks to its control of critical sea lanes such as the Malacca Strait, Indonesia is a naval power. This maritime power has shaped its national interest, and Indonesia values

14 *Indonesia*, Britannica, <https://www.britannica.com/place/Indonesia> (last visited Apr. 9, 2024).

15 *Id.*

16 *Indonesia*, THE WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/indonesia> (last visited Sept. 22, 2024).

17 *INDONESIA: A COUNTRY STUDY* 98 (William H. Frederick & Robert L. Worden eds., 6th ed. 2011).

18 Fauzan et al., *Maritime Border Security and Challenges for Indonesia*, MALAYSIAN JOURNAL OF SOCIETY AND SPACE, May 2019, at 155, 159.

its territorial integrity to keep its sovereignty over these vital areas.¹⁹ This has also pushed Indonesia to position itself as a critical regional leader to promote regional stability and cooperation. It is in the center of the Southeast Asia maritime region. This is in line with the fact that Indonesia holds a significant and strategic role in ensuring cooperation in the marine domain of the area, especially between ASEAN states and extra-regional powers.²⁰

The vast and remote maritime areas and scattered small islands pose challenges in monitoring and controlling cross-border activities. The geography of Indonesia's territories has made it difficult for the government to address security threats and maintain regional stability.²¹ Due to this issue, a few critical threats are caused by the Indonesian maritime nature. Sea piracy, transnational crimes, border disputes, and weak coordination and integration of governmental agencies made up the critical threats and challenges faced by Indonesia on its maritime borders.²² Indonesia's vast maritime borders are vulnerable to transnational crimes such as smuggling, illegal immigration, trafficking of drugs and humans, and other illicit activities. These activities are made possible and challenging to tackle, thanks partly to the vastness and maritime nature of the areas they are committed to.²³ Smugglers and traffickers have historically used the extensive coastline and numerous islands as multiple entry points for maritime traffic, including potential unauthorized crossings. Due to this, massive resources are required to patrol and survey these activities. The challenge of enforcing laws in areas where maritime boundaries are still under negotiation complicates law enforcement efforts in smuggling cases, adding another layer of complexity to an already challenging situation.²⁴

To address these issues on a policy level, the Indonesian government has made several vital projections regarding developing the country's outer islands to project sovereignty and strengthen its national integrity, especially on its frontier islands. These projections included strategic planning, modernization of the defense and security industry, economic build-up and investments on the

19 Agus Priyanto et al., *Indonesian Sea Border Security in Malacca Strait*, BALTIC JOURNAL OF LAW & POLITICS, Oct. 2022, at 572, 578.

20 Arie Afriansyah & Aristyo R. Darmawan, *Sailing Between Reefs: Balancing Indonesia's Maritime Security Cooperation in the Indo-Pacific*, 40 CHINESE (TAIWAN) YEARBOOK OF INTERNATIONAL LAW & AFFAIRS 166, 179–180 (Ying-jeou Ma ed., 2023).

21 See Fauzan et al., *supra* note 18, at 160.

22 See Priyanto et al., *supra* note 19, at 578.

23 *Id.* at 580.

24 See Arie Afriansyah et al., *Enforcing Law in Undelimited Maritime Areas: Indonesian Border Experience*, 37 THE INTERNATIONAL JOURNAL OF MARINE AND COASTAL LAW 282, 288 (David Freestone ed., 2022).

islands, and prioritizing these areas for law enforcement and defense-related supervision.²⁵ These policies reflect a comprehensive and multifaceted approach by the Indonesian government to develop the outer islands strategically by addressing economic, security, and sovereignty concerns.

A few key regulations are in place on the legal architecture to regulate and safeguard Indonesian maritime borders. These regulations encompass a range of measures, from ratifying the United Nations Convention on the Law of the Sea (UNCLOS) to enacting national laws that govern agencies and internal regulations.²⁶ The UNCLOS, ratified by Indonesia through Law No. 17 of 1985, delineates Indonesia's rights and responsibilities at sea, including territorial seas, exclusive economic zones (EEZs), and continental shelves. Law No. 43 of 2008 on the Indonesian Navy designates the Indonesian Navy as the primary agency responsible for maritime security and defense, including border protection. It outlines the Navy's roles, powers, and duties in enforcing maritime law and responding to threats. Law No. 32 of 2014 on Maritime Affairs provides a comprehensive framework for managing Indonesia's maritime domain, including border protection. Also, in 2014, an evolution of maritime institutions occurred in Indonesia with the creation of its Coastguard agency, *Badan Keamanan Laut* (BAKAMLA). Presidential Regulation No. 178 of 2014 specifies the roles and responsibilities of BAKAMLA in supervising and securing maritime borders. It covers various aspects like fisheries management, marine safety, and pollution control. Law No. 17 of 2016 on Fisheries regulates fishing activities within Indonesia's EEZ and combats illegal, unreported, and unregulated (IUU) fishing, which threatens maritime security. Last, the Indonesian Criminal Code (KUHP) contains provisions related to maritime crimes like piracy, armed robbery at sea, and smuggling.

In practice, Indonesia regulates its maritime borders through a combination of laws and regulations that regulate activities on it and assign roles and responsibilities to various agencies and institutions in its enforcement. Traditionally, law enforcement at sea is handled sequentially by the police and judiciary.²⁷ In its development, Indonesia has established governmental agencies such as BNPP and BAKAMLA to manage, supervise, and enforce its rules and sovereignties on its maritime borders.²⁸ BAKAMLA itself was established under Law No. 32

25 Muhammad Dzaki Fadhiil & Arie Afriansyah, *Strategic Development of Indonesia's Outermost Islands as an Enhancement of National Maritime Defense and Sovereignty*, 6 UDYANA JOURNAL OF LAW AND CULTURE 83, 83 (2022).

26 See Lyle J. Morris & Giacomo P. Paoli, "A Preliminary Assessment of Indonesia's Maritime Security Threats and Capabilities," RAND Europe (2018).

27 See Afriansyah et al., *supra* note 24, at 296.

28 See Priyanto et al., *supra* note 19, at 576, 578–579.

of 2014, which also created the Maritime Zone Maritime Security Office for safety purposes with a Law Enforcement Unit that carries out the tasks of prosecution, investigation, and prevention of lawlessness at sea.²⁹ The unit itself has functions that include investigating criminal offenses and violations of law, caring for detainees and evidence, and conducting patrols and escorts.³⁰

Currently, within the Indonesian legal framework, around six governmental agencies have the authority to conduct patrols in the maritime domain.³¹ These consist of the Indonesian Armed Forces (TNI), the National Police (POLRI), the Ministry of Maritime Affairs and Fisheries, the Ministry of Transportation, the Ministry of Finance, and BAKAMLA.³² Indonesia has established coordination mechanisms to ensure collaboration between these agencies. However, this still needs to be solved due to existing overlapping jurisdictions and roles between the different ministries, institutions and agencies.³³ More than fifteen statutory-level legal arrangements currently regulate activities or issues in the maritime domain.³⁴ In practice, Indonesia has a robust albeit overlapping legal framework regarding its maritime border protection. It is a part of UNCLOS that regulates its border delimitations. In contrast, its national laws have regulated both fundamental and specific issues regarding the use and protection of maritime border areas. Indonesia also has a few key agencies specifically tasked with monitoring and law enforcement on its maritime borders, albeit with challenges.

In its function and duties, BAKAMLA has emerged as the central actor and role model in Indonesia's maritime border protection architecture. It has been granted broad authority to enforce maritime security and is tasked with maintaining sovereignty and safety in Indonesian territorial waters and jurisdiction.³⁵ It is responsible for maritime security, including early warning information systems, law enforcement at sea, customs, security and safety

29 See Afriansyah et al., *supra* note 24, at 298.

30 *Id.* at 298–299.

31 Arie Afriansyah, *Tata Kelola Keamanan Laut Indonesia [Indonesia's Maritime Security Governance]*, SINDONEWS (July 10, 2020), <https://nasional.sindonews.com/read/96032/18/tata-kelola-keamanan-laut-indonesia-1594303650?showpage=all>.

32 Arie Afriansyah, *Urgensi Pengaturan Nasional Mengenai Keamanan Laut di Indonesia [The Urgency of National Policy on Indonesia's Maritime Security]*, 11 MAJALAH FORUM HUKUM 7 (2022).

33 See Priyanto et al., *supra* note 19, at 574.

34 Arie Afriansyah, *Indonesia*, in *ENCYCLOPEDIA OF OCEAN LAW AND POLICY IN ASIA-PACIFIC* 267, 282 (Seokwoo Lee ed., 2023).

35 Rika Kurniaty et al., *The Role of Marine Security Agency (BAKAMLA) as Sea and Coast Guards in Indonesian Water Jurisdiction*, 15 FIAT JUSTITIA: JURNAL ILMU HUKUM 221, 230 (2021).

of shipping, control of natural resources, search and rescue operations, and state defense during war.³⁶ BAKAMLA safeguards Indonesia's maritime borders through a few key measures. This includes surveillance and monitoring, responding to maritime incidents, collaborating and coordinating with other agencies such as the Indonesian Navy and water police, enforcing maritime laws and national jurisdictions of Indonesia, collecting and analyzing intelligence regarding maritime security threats, and enhancing its capabilities through cooperation.³⁷ In essence, BAKAMLA is central in coordinating the various agencies with similar mandates and functions. In practice, BAKAMLA has evolved into a multifunctional maritime law enforcement agency over time. The agency has addressed issues and challenges such as illegal fishing, piracy, law enforcement, and maritime security. BAKAMLA has tried to enhance coordination and intelligence sharing and improve operational capacity within Indonesia's maritime law enforcement architecture.³⁸

Besides BAKAMLA, the Indonesian Navy and Directorate-General of Surveillance and Control of Marine and Fishery Resources (PSDKP) also play a crucial role in Indonesia's maritime border protection. The Indonesian Navy has been the traditional governmental agency tasked with maritime border protection. In practice, the Navy is responsible for safeguarding Indonesia's territorial waters, protecting maritime borders, conducting patrols, and responding to security threats.³⁹ The Directorate-General of Surveillance and Control of Marine and Fishery Resources (PSDKP) under the Ministry of Maritime and Fisheries (KKP) plays a crucial role in monitoring fisheries resources and supervising the use of marine resources, particularly in the fisheries sector.⁴⁰ It can be seen that BAKAMLA faces challenges related to overlapping jurisdiction with other institutions involved in maritime security and law enforcement in Indonesia. Various agencies, such as the Directorate-General of Customs and Excise, the Immigration Directorate-General, the Ministry of Transport's Coast Guard Directorate, the Ministry of Fisheries and Marine Affairs, the Indonesian Navy, and the National Police Marine Division, also have the authority to conduct

36 *Id.*

37 Achmad Abdul Lathif & Suhirwan, *Rekonstruksi Penguatan Bakamla Dalam Pembangunan Keamanan Laut Nasional [Reconstruction of Bakamla Strengthening in National Marine Security Development]*, JURNAL DEFENDONESIA, Oct. 2021, at 24, 29 (Indon.).

38 Interview with Hudiansyah Is Nursal, Deputy Director, Indonesia Coast Guard Agency (BAKAMLA) (Oct. 11, 2023).

39 *Id.*

40 Interview with Arif Hidayatullah, Head of Division of Legal Affairs, Cooperation, and Public Relation, Directorate-General of Surveillance and Control of Marine and Fishery Resources of Indonesia (PSDKP) (Oct. 2023).

patrols and inspections in Indonesian waters.⁴¹ This overlapping jurisdiction has led to multiple issues, such as a need for coordination and enforcement of patrols and overseeing activities.

This issue of overlapping jurisdiction is essential, especially since BAKAMLA itself was established to address the issue of overlapping jurisdiction and duplication among national maritime agencies in Indonesia.⁴² BAKAMLA's creation was aimed to shift the law enforcement paradigm from a multi-agency multi-task to a single-agency multi-task approach, thereby streamlining operations and enhancing effectiveness and efficiency in safeguarding Indonesia's maritime territory.⁴³ However, in practice, such a shift is difficult to push. To address this persistent issue, a plan is to integrate BAKAMLA with a few key agencies, such as KPLP.⁴⁴ This was to integrate the various agencies dealing with maritime protection in Indonesia.

On the issue of refugees and asylum seekers, Indonesia does not have a specific law regarding the problem. Still, it has a particular regulation that addresses handling foreign refugees. Presidential Regulation No. 125 of 2016 concerning the Handling of Foreign Refugees regulates the handling of asylum seekers and refugees in Indonesia. The Regulation provides guidelines and a delegation of functions for supervising and managing refugees, including their identification, placement, and coordination with relevant authorities such as the Ministry of Foreign Affairs and the UNHCR.⁴⁵ Several agencies are at play in handling refugees, especially in maritime borders. These are the Indonesian Navy, the National Police (POLRI), BAKAMLA, Immigration Offices, the Ministry of Foreign Affairs, and external partners such as the UNHCR and the IOM.⁴⁶ The regulations put overlapping functions of its maritime border protection agencies. The role of patrolling, intercepting, and conducting rescue

41 *Id.*

42 See Kurniaty et al., *supra* note 35, at 221.

43 *Id.* at 226.

44 *Pemerintah sepakat bentuk Indonesian Coast Guard melalui fusi antara Bakamla dan KPLP [Government Agrees to Form Indonesian Coast Guard Through Fusion Between Bakamla and KPLP]*, KEMENTERIAN KOORDINATOR BIDANG KEMARITIMAN DAN INVESTASI RI (June 27, 2023), <https://maritim.go.id/detail/pemerintah-sepakat-bentuk-indonesian-coast-guard-melalui-fusi-antara-bakamla-dan-kplp>.

45 M. Alvi Syahrin & Yusa Shabri Utomo, *Implementasi Penegakan Hukum Pencari Suaka dan Pengungsi di Indonesia Setelah Diberlakukannya Peraturan Presiden Nomor 125 Tahun 2016 Tentang Penanganan Pengungsi Dari Luar Negeri [Implementation of Law Enforcement of Asylum Seekers and Refugees in Indonesia After the Enactment of Presidential Regulation Number 125 of 2016 Concerning the Handling of Refugees from Abroad]*, JURNAL ILMIAH KAJIAN KEIMIGRASIAN, Oct. 2019, at 83, 88 (2019).

46 *Id.*

missions is being held by both the Navy and BAKAMLA.⁴⁷ The National Police, on the other hand, are delegated the function of handling asylum seekers and refugees who may be found within Indonesian territory or maritime borders. These range from various law enforcement tasks related to protecting and managing refugees, such as identification, registration, and coordination with local authorities.⁴⁸

This overview of Indonesia Maritime Border Protection Architecture shows a key event regarding its response to the newest influx of Rohingya Refugees in late 2023. Indonesia has conducted search and rescue operations to assist Rohingya refugees who arrive by sea, providing humanitarian aid and medical assistance and ensuring their safety upon arrival.⁴⁹ This highlights a unique response where Indonesian Maritime Protection Architecture has put aside its role of law enforcement in humanitarian efforts following Indonesia's international obligations towards refugees.

3 Current Influx Rohingya's Asylum Seekers in 2023

Over three days, from November 14th to 16, 2023, three boats carrying around 592 Rohingya Refugees landed in Aceh, Indonesia.⁵⁰ The first ship landed on the beach of Gampong near Desa Blang Raya in the Muara Tiga District on the 14th, carrying around 196 Rohingya Refugees. The second ship landed on the 15th in the Batee District, carrying around 147 Rohingya Refugees. On the 16th, another ship landed near the village of Aron in the Muara Batu District, carrying around 249 Rohingya Refugees. This totals approximately 592 Rohingya Refugees who landed in Aceh over the three days in late 2023. However, this figure still needs to be completed and is subject to change.⁵¹ Temporary shelters and provisions such as food and medical attention have been given to this new influx of Rohingya Refugees. The local UNHCR, in accordance with Presidential Regulation No. 125 of 2016 on Handling Refugees, has collaborated

47 Peraturan Presiden (Perpres) Nomor 125 Tahun 2016 tentang Penanganan Pengungsi Dari Luar Negeri [Presidential Regulation (Perpres) Number 125 of 2016 Concerning the Handling of Refugees from Abroad], LN No. 368/2016 art. 7 (Dec. 31, 2016), <https://peraturan.bpk.go.id/Details/41029/perpres-no-125-tahun-2016> (Indon.).

48 See M. Alvi Syahrin & Yusa Shabri Utomo, *supra note* 45, at 94.

49 See Asosiasi Dosen ISILL, *supra note* 4, at 00:57:00, 05:01:00.

50 Zulkarnaini, *In Three Days, 592 Rohingya Immigrants Landed in Aceh*, KOMPAS.ID (Nov. 16, 2023), https://www.kompas.id/baca/english/2023/11/16/en-dalam-tiga-hari-sebanyak-592-imigran-rohingya-mendarat-di-aceh?status=sukses_login%3Fstatus_login%3Dlogin&status_login=login.

51 *Id.*

with local authorities and partners to ensure the protection of provisions for this new influx.⁵² This new influx of refugees, coupled with other arrivals in November and December 2023, brings the total number of Rohingya Refugees new arrivals to around 1,100 individuals.⁵³

To understand this influx of Rohingya Refugees, an understanding must be taken of the cause and nature of the Rohingya Refugee Crisis itself. The Rohingya people themselves are stateless Muslim minorities hailing from Myanmar, considered to be one of the most persecuted groups in the world.⁵⁴ The Rohingya were considered terrorists and noncitizens by the Myanmar Military Junta and have faced persecution for decades. This has led to massive migration and flight of the Rohingya population out of Myanmar to other countries such as Bangladesh in search of protection.⁵⁵ The persecution and flight of the Rohingya have deep roots that date several decades back. Ethnic and religious differences, denial of citizenship, persecution and violence, forced displacement, and a plethora of other human rights abuses have triggered a massive exodus of the Rohingya.⁵⁶ Living in a predominantly Buddhist country has fed tensions and discrimination for decades. A citizenship law passed in 1982 stripped the Rohingya of their citizenship, rendering them practically stateless.⁵⁷ These two factors, coupled with the Military Junta's need for a political scapegoat, have led to massive crackdowns since the 1970s and human rights abuses that some have attributed to acts of genocide.⁵⁸

The ongoing Rohingya Refugee Crisis was triggered by a series of ongoing persecutions by the Myanmar military starting in 2016. Since 2015, strong evidence of continuing genocide has been committed against the Rohingya following regular human rights abuses committed by the Burmese government

52 *Id.*

53 Agence France-Presse, *More than 100 Rohingya Refugees Land in Indonesia: Officials*, THE JAKARTA POST (Dec. 2, 2023), <https://www.thejakartapost.com/indonesia/2023/12/02/more-than-100-rohingya-refugees-land-in-indonesia-officials.html>.

54 Kyle Almond, *A New Life for the Rohingya*, CNN, <https://www.cnn.com/interactive/2017/10/world/rohingya-refugees-cnnphotos>.

55 *Id.*

56 Mohammad Fazlul Kader & Anwar Hossain Choudhury, *Historical Background of the Rohingya Refugee Crisis and the Implication of Their Statelessness*, 1 INNOVATION JOURNAL OF SOCIAL SCIENCES AND ECONOMIC REVIEW 8, 9 (2019).

57 *Id.*

58 See Associated Press, *AP Finds Mass Graves, Latest Evidence of Rohingya Genocide in Myanmar*, CBS NEWS (Feb. 1, 2018), <https://www.cbsnews.com/news/myanmar-mass-graves-latest-rohingya-slaughter-genocide-ap>.

with the help of extremist Buddhist groups.⁵⁹ In October 2016, reported armed attacks against police posts in Myanmar Rakhine State by the Arakan Rohingya Salvation Army, a Rohingya insurgent group, led to a massive and systematic crackdown on the Rohingyas by the Burmese military.⁶⁰ Arbitrary arrests, extrajudicial killings, gang rapes, brutalities against civilians, and looting were carried out.⁶¹ This 2016 crackdown spilled over into 2017, with Rakhine Buddhist groups joining the military in attacking Rohingya communities. The two recent crackdowns and explosions of violence have pushed waves of Rohingya Refugees to cross the border into neighboring Bangladesh.⁶² Many Rohingya Refugees have also crossed through sea lanes in attempts to reach Australia and other countries and have been regularly found stranded at sea.⁶³ Following the military coup in February of 2021, the situation in Myanmar took a turn for the worse and created a more precarious position for the Rohingyas.

The coup has led to increased instability and violence in Myanmar, affecting not only the Rohingya but also other ethnic and religious minority groups in the country.⁶⁴ The resulting ongoing civil war between the Military Junta Government and various armed groups forecasted a more unstable and violent Myanmar in the near future. This series of events has pushed more waves of Rohingya Refugees to seek refuge in neighboring countries and other nations. The largest numbers of Rohingya Refugees are still in Bangladesh, primarily in camps in Cox's Bazar district, including Kutupalong and Nayapara camps, which are now among the largest refugee camps in the world.⁶⁵ However, worsening living conditions in those camps and a lack of opportunities and facilities have pushed many Rohingya Refugees to seek their way elsewhere,

59 Alladr K. Lowenstein International Human Rights Clinic, Yale Law School, "Persecution of the Rohingya Muslims: Is Genocide Occurring in Myanmar's Rakhine State? A Legal Analysis (2015).

60 James Griffiths, *Is the Lady Listening? Aung San Suu Kyi Accused of Ignoring Myanmar's Muslims*, CNN (Nov. 25, 2016), <https://edition.cnn.com/2016/11/17/asia/myanmar-rohingya-aung-san-suu-kyi>.

61 *Myanmar: Security Forces Target Rohingya During Vicious Rakhine Scorched-Earth Campaign*, AMNESTY INTERNATIONAL (Dec. 19, 2016), <https://www.amnesty.org/en/latest/press-release/2016/12/myanmar-security-forces-target-rohingya-viscious-scorched-earth-campaign>.

62 Brian Gorlick, *The Rohingya Refugee Crisis: Rethinking Solutions and Accountability 1* (Refugee Studies Centre, Working Paper Series No. 131, 2019).

63 See R.A. Rizka Fiani Prabaningtyas, *Indonesia and the International Refugee Crisis: The Politics of Refugee Protection*, 9 JOURNAL OF INDONESIAN SOCIAL SCIENCES AND HUMANITIES 131, 139 (2019).

64 Parveen Parmar et al., *The Rohingya Genocide and Lessons Learned from Myanmar's Spring Revolution*, 400 THE LANCET 793, 794 (2022).

65 *Id.* at 793.

primarily in Australia, in search of safety and better living conditions.⁶⁶ This exodus is made through dangerous sea journeys utilizing services by smugglers and human traffickers.⁶⁷ Many of these Rohingya Refugees found themselves stranded in Indonesia and Malaysia due to drifting and forced turnarounds by Australian authorities.⁶⁸

As discussed before, Indonesia has historically taken in Rohingya Refugees who arrived at its maritime borders and beaches seeking asylum and protection. This has made Indonesia a transit country as most of these refugee destinations are either Australia or another third state. These refugees, due to pushbacks and the dangers of sea journeys, found themselves stranded in Indonesian waters. The number of Rohingya Refugees as of early 2024 is around 1,749 individuals, most concentrated in Aceh and North Sumatra.⁶⁹ The UNHCR has noted that Rohingya Refugees have arrived in Indonesian territories since 2015.⁷⁰ Most of them were escaping persecution in Myanmar via sea journeys. Historically, as discussed before, the local Aceh populace has welcomed Rohingya Refugees. The Indonesian government has also provided for these refugees, coordinated with local UNHCR representatives, and ran search and rescue operations on the open seas through BAKAMLA and the Indonesian Navy. The government supported temporary shelters, resettlements, healthcare services, food and water, and other basic needs.⁷¹ Many of these are provided mainly through local Acehnese civil society and local governments.⁷² Local Civil Societies and Organizations have also offered support by giving charities and organizing support for these refugees.

Following the 14, 15, and 16 November 2023, the newest influx of Rohingya Refugees, a shift of tone can be seen among the local populace and the Indonesian authorities. On 27 December 2023, hundreds of students from several universities in Aceh, such as Al-Washliyah University, Abulyatama University, Bina Bangsa Getsempena University, and University of Muhammadiyah Aceh, marched to Balee Meuseraya Hall in Banda Aceh demanding to meet with the Aceh Regional People's Representative Council and voiced action to reject the Rohingya Refugees.⁷³ This march caused distress among Rohingya Refugees,

66 See Asosiasi Dosen ISILL, *supra* note 4, at 00:57:33, 02:12:30, 02:16:00.

67 See Prabaningtyas, *supra* note 63, at 139.

68 See Asosiasi Dosen ISILL, *supra* note 4, at 03:22:40.

69 *Id.* at 00:55:55.

70 See Agence France-Presse, *supra* note 53.

71 See Asosiasi Dosen ISILL, *supra* note 4, at 00:22:30, 05:02:30.

72 See Prabaningtyas, *supra* note 63, at 141.

73 Reza Kurnia Darmawan, *Kronologi Mahasiswa Usir Pengungsi Rohingya di Banda Aceh [Chronology of Students Expelling Rohingya Refugees in Banda Aceh]*, KOMPAS.COM (Dec. 28,

especially women and children. Despite efforts by law enforcement to detain the students and prevent further commotion, a few ran back inside and started to kick the refugees' belongings, throwing mineral water bottles that caused the Rohingya Refugees to sit on the floor and cry in fear.⁷⁴ Police officers later supported the Rohingya Refugees in evacuating through trucks.⁷⁵ After the Rohingya Refugees moved, the students danced and celebrated their actions in front of the Aceh Regional Office of the Ministry of Law and Human Rights.⁷⁶

The UNHCR investigations into the cause of the protests highlight a coordinated online campaign of misinformation and hate speech directed towards the Rohingya refugees.⁷⁷ Various online accounts on social media share fake and misleading stories about Rohingya Refugees. The leader of the protests, Teuku Wariza Aris Munandar, is allegedly affiliated with a political party questioning a political motive behind the protests.⁷⁸ The protests sparked a controversy regarding Rohingya Refugees in Indonesia, with many social media users supporting the demonstrations. The Indonesian President, Joko Widodo, blamed a surge of human trafficking for the sudden influx of Rohingya Refugees.⁷⁹ Despite the protests and their alleged causes, however, it should be noted that there is both support and opposition within local communities in Indonesia regarding the presence of Rohingya refugees.⁸⁰

2023), <https://regional.kompas.com/read/2023/12/28/160157878/kronologi-mahasiswa-usir-pengungsi-rohingya-di-banda-aceh>.

74 *Indonesian Students Evict Rohingya from Shelter Demanding Deportation*, AL JAZEERA (Dec. 27, 2023), <https://www.aljazeera.com/news/2023/12/27/indonesian-students-evict-rohingya-from-shelter-demanding-deportation>.

75 *Id.*

76 Syukri Syarifuddin, *Viral Aksi Joget Mahasiswa Aceh Usir Ratusan Imigran Gelap Rohingya [Achenese Students' Viral Dancing Action Expels Hundreds of Illegal Rohingya Immigrants]*, SINDONEWS (Dec. 28, 2023), <https://daerah.sindonews.com/read/1286591/174/viral-aksi-joget-mahasiswa-aceh-usir-ratusan-imigran-gelap-rohingya-1703725957>.

77 Sultan Abdurrahman, *UNHCR Sebut Serangan Mahasiswa ke Pengungsi Rohingya Akibat Kampanye Kebencian [UNHCR Says Student Attacks on Rohingya Refugees Were Caused by Hate Campaign]*, TEMPO.CO (Dec. 28, 2023), <https://nasional.tempo.co/read/1814535/unhcr-sebut-serangan-mahasiswa-ke-pengungsi-rohingya-akibat-kampanye-kebencian>.

78 Muhammad Saifullah, *Aksi Mahasiswa Tolak Rohingya Dikaitkan dengan Parpol, Ini Kata Korlap [Student Action Against Rohingya Linked to Political Parties, Says Korlap]*, IDN TIMES SUMUT (Dec. 29, 2023), <https://sumut.idntimes.com/news/indonesia/muhammad-saifullah-3/korlap-bantah-aksi-penolakan-rohingya-ada-kaitan-dengan-parpol>.

79 Tito Hilmawan Reditya, *Aksi Mahasiswa Aceh Usir Pengungsi Rohingya Disorot Media Asing [Aceh Students' Eviction of Rohingya Refugees Highlighted by Foreign Media]*, KOMPAS.COM (Dec. 28, 2023), <https://www.kompas.com/global/read/2023/12/28/151500570/aksi-mahasiswa-aceh-usir-pengungsi-rohingya-disorot-media-asing>.

80 See Asosiasi Dosen ISILL, *supra* note 4, at 02:53:00.

The sudden perceived rejection of the newest influx of Rohingya Refugees, however, must be critically analyzed. There is perceived misinformation by the media regarding the commonly held opinions of local Acehese populations regarding both the protests and the newest influx of Rohingya Refugees.⁸¹ There have been instances of violations of the law by a small minority of the Rohingya Refugees, such as breaking traffic laws, violence, fraud, and even pedophilia.⁸² However, the current perception of local Acehese is primarily neutral towards the Rohingya Refugees.⁸³ While the majority of local Acehese populations remain unaware of the Rohingya Refugees issue, there exists an issue where local governments lack the necessary resources and staffing to handle the latest influx of Rohingya Refugees. The lack of capacity for viable facilities to house the Rohingya Refugees and funding to provide their basic needs burdens the local governments, and the role of the central government is perceived as lacking.

These incidents sparked a debate in Indonesia regarding the responsibilities of the Indonesian state towards genuine protection versus its need to enforce laws regarding smuggling and human trafficking. With the influx of Rohingya Refugees through smuggling, a question regarding the role of Indonesian Maritime Border Protection Architecture arises. How do Indonesia and its agencies reconcile its needs and functions for border protection and its obligations towards the Rohingya Refugees? Looking at the issues discussed before, the newest influx of Rohingya Refugees came in waves through smuggling, thus raising the question of their status as refugees or illegal immigrants. Even though Indonesian Maritime Border Protection Architecture has, in practice, treated the Rohingya Refugees as refugees, the latest incidents opened up a debate on whether it should continue to do so.

4 **New Influx: Genuine Protection vs Law Enforcement against People Smuggling**

Under International law, refugees are provided various protections, primarily enshrined in the 1951 Refugee Convention and its 1967 protocol. Principles such as non-refoulement, the right to seek asylum, protection from discrimination, access to legal assistance, the right to family unity, and durable solutions are

81 *Id.* at 02:48:20.

82 *Id.* at 00:20:00.

83 *Id.* at 02:31:00.

critical parts of these rights.⁸⁴ In addition to being enshrined in international legal instruments such as the 1951 Refugee Convention and its 1967 protocol, these principles are also enforced by regional agreements and customary international law.⁸⁵ In essence, nation-states are prohibited from returning refugees to a country where their life or freedom would be at risk. Meanwhile, refugees have the right to seek asylum in another country and to have their asylum claims fairly and individually assessed. Host and transit nations are obligated to provide access to asylum procedures, legal assistance, and to try to reunite separated family members. Under international law, host states also offer durable solutions for their host refugees. The principle of non-refoulement and long-lasting solutions are essential when balancing law enforcement with genuine protection towards refugees.

The principle of non-refoulement is one of the most fundamental principles under international law that prohibits the expulsion, return, or extradition of individuals to a country where they may face persecution, torture, or other serious human rights violations.⁸⁶ This principle prohibits state actions against moving refugees back to their fleeing countries. This is to ensure that offenses are not repeated. These principles are enshrined and derived from various international treaties, including the 1951 Refugee Convention, the United Nations Conventions against Torture, and the Convention on Enforced Disappearances, and are considered customary international law.⁸⁷ In principle, non-refoulement ensures that individuals are not sent back to situations where their life or freedom would be at risk. It is the basis for ensuring that refugees' human rights are protected. The principle of non-refoulement itself applies whether an individual has been formally recognized as a refugee or not.⁸⁸

International law provides three durable solutions for refugees. These are voluntary repatriation, local integration, and resettlement.⁸⁹ Voluntary repatriations are when refugees return to their home country voluntarily. These

84 SERENA PAREKH, *NO REFUGEE: ETHICS AND THE GLOBAL REFUGEE CRISIS* 106 (2020).

85 See Pijnenburg, *supra* note 9, at 315–316.

86 Başak Çalı et al., *Hard Protection Through Soft Courts? Non-Refoulement Before the United Nations Treaty Bodies*, 21 *GERMAN LAW JOURNAL* 355, 355 (2020).

87 *Id.* at 355–356.

88 JAMES C. HATHAWAY, *THE RIGHTS OF REFUGEES UNDER INTERNATIONAL LAW* 242 (2d ed. 2021).

89 Maja Janmyr, *Refugees, Peacemaking, and Durable Solutions to Displacement*, in *CONTEMPORARY PEACEMAKING: PEACE PROCESSES, PEACEBUILDING AND CONFLICT* 159, 159 (Roger Mac Ginty & Anthony Wanis-St. John eds., 3d ed. 2022).

can be after the situation that makes it necessary to flee no longer exists. Local integration consists of settling and integrating into the local community of the host country, typically with the host country's approval. Lastly, resettlement involves relocating the refugees to a third country. This is generally done when the host country is overburdened.

The status of being recognized as a refugee is crucial for applying the protections provided under international law. Refugees must first be formally recognized as refugees by the host country or relevant authorities to benefit from the rights and safeguards outlined in international legal instruments.⁹⁰ The criteria of a refugee are typically granted to individuals who meet the requirements outlined and set in the 1951 Refugee Convention and its 1967 Protocol.⁹¹ These criteria include a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group. With official refugee status, individuals may access asylum procedures, legal assistance, or the rights and services provided to refugees.⁹² Therefore, the formal recognition of refugee status is a prerequisite for refugees to receive the protection, assistance, and support guaranteed under the international legal framework.

Looking at the case of Indonesia, the clash between genuine protection for refugees and law enforcement came into focus. There is a constant flow of Rohingya Refugees that enter Indonesian waters without notice. This is due to a lack of resources to conduct patrols on the maritime borders where these crossings are made.⁹³ Implementing Presidential Regulation No. 125 of 2016 on Handling Refugees is also a severe issue, especially on mechanisms and technical levels.⁹⁴ There is also a question of whether the Rohingya Refugees who entered Indonesia are considered refugees under international law or not. This stems from the fact that most are smuggled out of Cox Bazaar camps in Bangladesh. Under Article 33 of the 1951 convention, the principle of nonrefoulement itself is obligated to contracting states, of which Indonesia is not. It is also stated that the refugees cannot be expelled to the territories where their lives and human rights are threatened.⁹⁵ Looking at these circumstances, it became a question whether the refugees who smuggled themselves out of Cox Bazaar could be returned.

90 See PAREKH, *supra* note 84, at 195, 212.

91 See Asosiasi Dosen ISILL, *supra* note 4, at 01:38:30.

92 *Id.* at 01:43:00.

93 *Id.* at 01:03:00.

94 *Id.* at 01:20:00.

95 *Id.* at 02:09:30.

Nevertheless, Indonesia has followed and respected the principles of non-refoulement and non-discrimination.⁹⁶ Indonesia has also, as discussed before, created national regulations for handling refugees. Indonesia has also consistently pushed for international cooperation through shared responsibility, especially in securing resettlement for Rohingya Refugees, especially towards developed nations such as Australia.⁹⁷ This is in part to lessen the overburdened in-state resources. Indonesian maritime agencies have also regularly conducted search and rescue operations for stranded Rohingya Refugees.⁹⁸ This is performed through a coordinated effort between the Indonesian Navy and BAKAMLA. These circumstances have shown that, in essence, Indonesia has respected and used its maritime border protection architecture to ensure the safety of Rohingya Refugees. The question is now around the issue of human smuggling, which is the most common way for Rohingya Refugees to reach Indonesian shores. Under Indonesian law and international law, human trafficking and human smuggling are illegal. However, when the case of refugees is mixed in, a question arises about how maritime border protection architecture can react. In current practices in Indonesia, it can be stated that refugee protection and the state's obligations to it take precedence over law enforcement. Indonesia itself does not penalize both criminally or administratively the illicit crossings of Rohingya Refugees through its maritime borders.⁹⁹ It is interesting to look at Indonesia's national interests of territorial integrity, which took a bit of a backstage regarding refugee protection. To examine this further, a look must be taken at the evolution of maritime security and other practices.

Regarding its evolution, there are a few key things to highlight regarding refugee protection and border controls. There is a trend, especially in the global north, to limit legal options for migration, primarily benefiting those who fit the traditional refugee definition. This has pushed individuals towards irregular migration as a last resort, mainly if they do not fall into the "deserving refugees" category or economically beneficial migrants.¹⁰⁰ This came as there was an expansion of both regional and international frameworks on the definition of who qualifies for international protection. For example, the Organization of African Unity and the EU have protected individuals fleeing

96 *Id.* at 05:06:00.

97 *See id.* at 01:49:00.

98 *See* Kurniaty et al., *supra* note 35, at 227.

99 *See* Asosiasi Dosen ISILL, *supra* note 4, at 00:58:00.

100 Annick Pijnenburg & Conny Rijken, *Moving Beyond Refugees and Migrants: Reconceptualizing the Rights of People on the Move*, 23 INTERVENTIONS: INTERNATIONAL JOURNAL OF POSTCOLONIAL STUDIES 273, 277 (2020).

violence, conflict, and human rights violations. This is in concert with the subsidiary protection mechanism introduced to provide legal status and rights to individuals who do not meet the strict criteria of the refugee definition but still face serious harm.¹⁰¹ In the case of interception at sea on ships suspected of carrying or smuggling refugees, a legal question remains. On one hand, the practices align with law enforcement and national jurisdiction outlined in the UNCLOS. On the other hand, the rights of refugees must also be protected during such operations.¹⁰² An apparent lack of uniform international procedural standards governs such operations.

On state practices, there are differing views on the treatment of refugees. Looking at Africa, the African Union has developed various instruments to govern the sea, including the African Maritime Transport Charter (AMTC) and the African Charter on Maritime Security and Safety and Development (ACMSSD).¹⁰³ These instruments provide a general framework for maritime governance that can be useful for issues related to maritime refugees and migrants. However, there are gaps in these instruments in terms of explicitly addressing the rights and protection of refugees and other categories of migrants. The European Union has also dealt with the maritime borders and refugees through various legal frameworks and mechanisms. The EU has established mechanisms for search and rescue operations in the Mediterranean Sea to save refugees and migrants in distress at sea.¹⁰⁴ The EU's border agency, Frontex, plays a role in coordinating these operations.¹⁰⁵ Despite this, however, the EU has faced challenges related to border control techniques, including pushbacks and border police deterrence. These practices have raised concerns about the EU's commitment to providing meaningful protection to asylum seekers and upholding Union values.¹⁰⁶

¹⁰¹ *Id.* at 278.

¹⁰² Mizalfia Nursabrina, *Maritime Interception on Foreign Vessels Carrying Refugees and Asylum Seekers: A Violation Of UNCLOS and Non-Refoulement Principle?*, 4 PADJADJARAN JOURNAL OF INTERNATIONAL LAW 114, 119 (2020).

¹⁰³ Tajudeen Sanni, *Refugees and Migrants on the Sea Under African Continental Maritime Regime*, 549 ADVANCES IN SOCIAL SCIENCE, EDUCATION AND HUMANITIES RESEARCH 32, 32 (2020).

¹⁰⁴ Iris Goldner Lang & Boldizsár Nagy, *External Border Control Techniques in the EU as a Challenge to the Principle of Non-Refoulement*, 17 EUROPEAN CONSTITUTIONAL LAW REVIEW 442, 451 (2021).

¹⁰⁵ *European Border and Coast Guard Agency (Frontex)*, EUROPEAN UNION, https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/search-all-eu-institutions-and-bodies/frontex_en (last visited Sept. 22, 2024).

¹⁰⁶ See Lang & Nagy, *supra* note 104, at 445.

A few critical things regarding genuine protection and law enforcement can be concluded, especially in the maritime setting. The genuine protection for refugees is outlined in international legal instruments, and some principles are considered customary international law. Indonesia has respected and followed such principles despite not being a member of the 1951 conventions. During its evolution, the question of law enforcement versus genuine protection of refugees fluctuates in how it is perceived. In legal frameworks, many have put forward the principles of refugee protection. However, in practice, it is another issue. A regional mechanism is more effective and popular in addressing such an issue.

5 Conclusion

Indonesia's unique archipelagic geography and strategic location have shaped its maritime borders and national interests. With its vast coastlines, maritime territories, and most maritime borders, Indonesia has dealt with challenges towards law enforcement and border protection within its maritime domain. These factors have shaped Indonesia's maritime border protection architecture, which is regulated by several critical regulations. These regulations range from providing a comprehensive framework for managing Indonesia's maritime domain to establishing agencies and delegating powers to some to enforce laws and safeguard its maritime domain. This is achieved mainly by the Indonesian Navy and BAKAMLA (Indonesian Coast Guard), the primary agencies tasked with maritime domain security and law enforcement. In its developments, overlapping issues of jurisdiction and functions coupled with the lack of resources to govern the vast maritime territories have become a serious challenge to this architecture.

Regarding refugees or asylum seekers, Indonesia's maritime border protection architecture is regulated mainly by Presidential Regulation No. 125 of 2016 concerning the Handling of Foreign Refugees. This Regulation delegates functions towards Indonesian maritime agencies in handling the crisis. The Navy and BAKAMLA are tasked primarily with patrols, where the Navy focuses more on security aspects and BAKAMLA on law enforcement. The National Police also plays a role in handling the refugees, providing protection, and supporting the conviction of smugglers.

The influx of Rohingya refugees in late 2023 is a continuation of the ongoing Rohingya Refugee crisis. Fueled by unrest and historical persecution of the Rohingya in Myanmar, the continuing civil conflict has created a more

precarious condition and pushed more Rohingya into fleeing the country. Most of these refugees fled to neighboring Bangladesh, most staying at the Cox Bazaar District camps. Deteriorating conditions in the camps and lack of opportunities, however, have pushed increasing numbers of refugees to take to the seas, utilizing human smugglers to reach Australia and other countries. Pushback by the Australian government and the nature of the sea journeys have led to many stranded in Indonesian waters, where both Indonesian authorities and local fishermen regularly rescue these refugees. The newest influx of Rohingya Refugees, however, has sparked protests and riots. Historically, Indonesia has welcomed and supported these refugees and a welcoming local population in Aceh and North Sumatra. Massive misinformation campaigns allegedly cause these shifts, but signs of disgruntlement by the local populace and overburdened local authorities are also evident. There is evidence that this newest influx is due to human smuggling operations in the area, thus sparking questions on the dilemma between enforcing laws versus genuine protection for refugees.

Despite not being a part of the 1951 Refugee Convention and its 1967 protocols, Indonesia has practiced and respected its principles. Indonesia has worked closely with UNHCR and launched search and rescue operations for refugees stranded on the seas. In practice, refugee protection has a higher status than law enforcement in the Indonesian maritime border protection architecture. Looking elsewhere, similar practices can be seen on a regional level in Africa and by the European Union. However, in practice, many instances of pushback are also evident.