



Indonesia as a Transit State in Handling Overseas Refugees from the Aspect of Immigration Policy

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Abstract

Indonesia is a key transit country for refugees in Southeast Asia, particularly for those aiming to reach Australia. Despite not having ratified the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, Indonesia continues to see an increasing number of refugees due to global geopolitical conditions. This increase is not matched by a corresponding increase in refugee absorption quotas by Convention countries. Consequently, Indonesia faces a significant challenge as the number of incoming and transiting refugees exceeds those leaving. The successful handling of Vietnamese refugees over a period of almost 25 years now seems difficult to replicate, with only 13% of foreign refugees and asylum seekers resolving their cases through resettlement or repatriation since 2004. This study aims to analyze Indonesia's immigration policies and their effectiveness in managing the current and uncertain future of foreign refugees. By examining these policies, the study seeks to understand the measures taken by the Indonesian government to address the challenges posed by its position as a transit country.

Keywords: Transit State, Refugees, Immigration Policy.

INTRODUCTION

Indonesia is one of the countries in the world that is a crossroads for many refugees because it has a strategic geographical position, located between the Asian continent and Australia, as well as between the Indian and Pacific Oceans. Although it is not a final destination country or a target destination for refugees who have gone through the resettlement process, Indonesia is one of the 'transit countries' or an appropriate international 'hub' for refugees from the Middle East, Central Asia, Southeast Asia, South Asia, and Africa who are experiencing conflict to stop by on the way to escape in search of refuge or asylum to the final destination country, such as Australia, New Zealand, Canada, and the United States (Hugo et al., 2017; Missbach, 2019).

Apart from being only a 'transit country', Indonesia, along with the majority of other Southeast Asian countries, such as Malaysia, Thailand, Singapore, Brunei Darussalam, Vietnam, Myanmar, and Laos, is not a ratification of the 1957 Convention and the 1961 Protocol on the Status of Refugees that has the obligations, rights, and responsibilities to receive refugees as

stipulated in the international policy. However, Indonesia must remain open to accepting refugees as customary international law prohibits the state from denying refugees who escape persecution (the principle of non-refoulement).

Some of Indonesia's neighboring countries that have also ratified the two instruments of international law are Papua New Guinea (ratified on July 17, 1986), Australia (ratified on January 22, 1954) and New Zealand (ratified on August 6, 1973). These countries are certainly obliged to accept refugees into their countries.

For those who go to save themselves through the waterway (sea), Indonesian waters, coastal areas, and scattered islands become a 'means' for them to prepare for their 'dream country', especially Australia, which is in the southern part of Indonesia. Therefore, Indonesia, including neighboring countries, such as Malaysia and Thailand, has a strategic role for Australia in managing refugees heading to its country.

The issue of international refugees cannot be ignored because it has begun to show its urgency by reflecting on the increasingly heated global geopolitical conditions (Dempsey, 2020; Turam, 2024). Starting from the Syrian conflict, the war between Ukraine and Russia, and the latest Israeli attack on Palestine in the Gaza Strip, are the causes of an increasing number of people fleeing to places they consider safe, resulting in an increase in the number of refugees in the world. For example, the conflict in Syria has caused a massive wave of refugees heading to Europe who have to go through the Mediterranean. Then, the war between Russia and Ukraine made many Ukrainian civilians evacuate to other countries in the European region, such as Poland, Germany, and the Czech Republic, and there are even some of them who have fled to Russia. Recently, the Israeli military's brutal attacks on Palestinians in the Gaza Strip have forced local people to leave their homes to safer areas in the southern Gaza Strip and some have fled outside their country through the Palestinian-Egyptian border in Raffah and the Palestinian-Jordanian border (Eisele, 2023; Sarwindaningrum, 2023).

As a result of these conditions, Indonesia can be directly or indirectly affected by Indonesia, including Australia. The number of Indonesian refugees abroad can increase in proportion to the increase in the number of global refugees. Until 2024, there are around 13 thousand more refugees from abroad spread across various regions of Indonesia, which has a ratio to the total population of Indonesia of around 1:2,000,000. These refugees come from various countries with diverse and different ideological, political, social, and cultural backgrounds from Indonesia, which of course provides reactions and impacts to the Indonesian people (Arifin et al., 2024).

On the other hand, the policies of Australia and the countries parties to the 1951 Convention and the 1967 Protocol began to significantly reduce the number of refugees to be placed in their countries also affected Indonesia's condition as a transit country. There is a stagnation in resolving the refugee problem, namely the accumulation of the number of refugees accompanied by a longer waiting time for refugees at the 'bus stop' which is also a burden on

Indonesia. Since 2004, only about 13% of the total accumulated refugees and asylum seekers have been successfully resolved through resettlement or voluntary repatriation (UNHCR, n.d.).

Although little has been written about the political role of transit countries in managing securitized migration today, it seems widely assumed that transit countries follow the orders of their stronger neighbors, who seek to prevent irregular movements outside their countries. respective jurisdictions. It is also often anticipated that, if foreign aid is linked to the provision of infrastructure, covers the cost of processing refugees abroad, and enables policy capacity, this will create dependency in those countries, which are unable (or unwilling) to provide assistance to those countries. more of their domestic budgets for the prevention of human smuggling (Taha et al., 2024).

In line with their hierarchy of interests, destination countries or communities of countries, such as the European Union, seek to impose their interests on their neighbors, in the hope of ensuring that their neighbors comply with their migration agenda by offering aid and other incentives (Saraswati et al., 2024; Sari et al., 2023). However, the article argues that, despite providing lucrative funding, material incentives, and other support to combat human smuggling, destination countries cannot simply impose their strategies on their neighbouring transit countries, but may face open rejection and more. subtle forms of non-compliance. This article specifically points out that Australia's outsourced policies to prevent the irregular departure of asylum seekers from Malaysia and Indonesia do not meet the expectations of the respective governments in Indonesia and Malaysia, which want mutually beneficial cooperation in the field of irregular migration.

Various turmoil and responses have begun to emerge in the community, ranging from protests, demonstrations, and even suicide of refugees who are already frustrated in the midst of waiting and uncertainty about their future to be placed in their destination countries. Not to mention the protests and rejection by some people over the existence of refugees, acts of violating the law, and vertical and horizontal friction involving foreign refugees which can trigger the emergence of new problems that can threaten peace and public order, and can even have a bad impact on national resilience and security.

Facing the reality and dynamics of this global political development, the author wants to examine how the policy of handling foreign refugees in Indonesia from the perspective of Indonesia as a transit country and its comparison with other transit countries, such as Malaysia, as well as the influence of Australia as the nearest refugee destination country in Indonesia as a transit country and what steps can be taken

METHOD

This paper uses a descriptive qualitative method with a literature study approach, namely by describing the condition of Indonesia as a transit state and the handling of foreign refugees carried out by the government with various policies for handling refugees that apply globally and

nationally. The data used is secondary data obtained through searching literature, documents, and news articles related to refugee issues. The literature in question includes the results of previous research found in various journals and books.

RESULTS AND DISCUSSION

1951 Convention and 1967 Protocol on the Status of Refugees

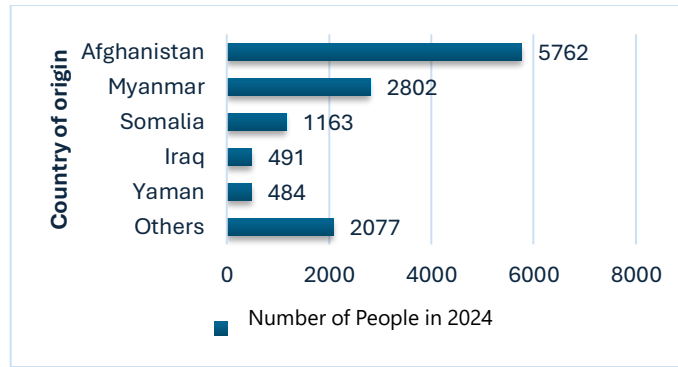
The general basic rights regulated for refugees regulated in the 1951 Convention and the 1967 Protocol are the right not to be expelled and forcibly returned (refoulement) to their country of origin because they are afraid and threatened with their life safety, exempt from punishment as illegal immigrants, carry out mobility within the territory of the country, get legal services, identity cards, access to education, receive public assistance, Freedom to worship and practice religious teachings, get the opportunity to work and be paid, and have the right to have a house to live in. In addition, refugees are also entitled to the same treatment as other foreign nationals in the country who are not refugees, and even receive the same treatment as local citizens (local citizens), which is the obligation of the state to implement the provisions of the convention without discrimination related to ethnicity, religion, race/ethnicity, or country of origin. (Sultoni, 2014)

In addition to the rights, conventions and protocols regarding refugee status also include the obligations of refugees who are in the third country where they live (resettlement) in the form of the obligation to obey the laws and policies applicable in the country in which they are located, as well as to maintain appropriate behavior in order to maintain public order. For countries that have become part of and signed the conventions and protocols regarding refugee status, of course, they are obliged to fulfill the responsibilities and rights of refugees in accordance with the mandate. The Protocol also contains provisions on procedures for the implementation of protocol policies related to administration, diplomatic relations, and working relations with UNHCR as the UN agency that handles refugee affairs.

To date, Indonesia has not signed the 1951 Convention on the Status of Refugees or the 1967 Protocol, and does not have a legislative framework for the protection of asylum seekers and refugees, so the fulfillment of the rights of refugees is not fully carried out by the Indonesian government. The Indonesian government is still assisted by UNHCR and IOM in terms of data collection and refugee registration, provision of living cost assistance, as well as the resettlement and repatriation process for refugees.

Composition of Refugees and Overseas Asylum Seekers in Indonesia

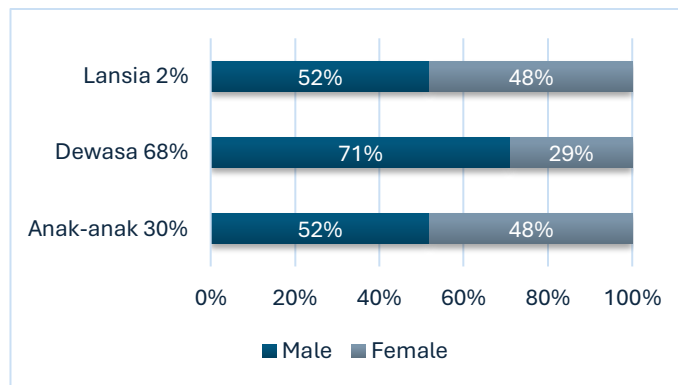
Based on data as of April 2024, there are 12,779 refugees and asylum seekers (7,236 families) who mostly live in urban areas and are spread across Indonesia. Almost half of them are from Afghanistan with a proportion of 45%, followed by Myanmar (22%), Somalia (9%), Iraq (4%), Yemen (4%), and other countries (16%), as shown in graph 2.1.



Source: UNHCR, 2024

Figure 1. Data of Foreigners Registered with UNHCR Indonesia

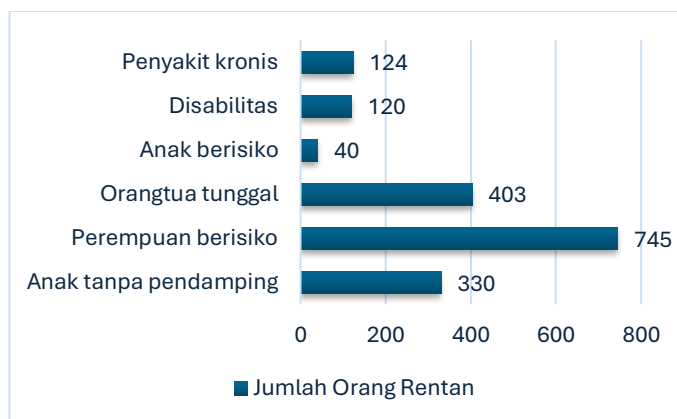
Based on age categories, refugees and asylum seekers can be grouped into three categories. First, the category of children with an age range under 18 years old is 30% of the total. Second, the adult category with an age range between 18 years to 59 years old is 68% of the total number. And finally, the elderly category with an age group over 59 years old with a proportion of 2%. From the gender aspect, the composition of refugees and asylum seekers is dominated by people with the male gender. The composition of these refugees is depicted in graph 2.2 below. (UNHCR, 2024)



Source: UNHCR, 2024

Figure 2. Composition of Refugees/Asylum Seekers by Age and Gender Category

Among refugees and foreign asylum seekers in Indonesia, there are those who have vulnerabilities that fall into several categories of vulnerable groups. A single individual can have or get into more than one vulnerability. Based on data, there are six types of vulnerability, namely 745 women at risk, 435 single parents, 330 children without and/or children separated from their families/companions, 124 people with chronic diseases, 120 people with disabilities, and 40 vulnerable/at-risk children. This refugee vulnerability data can be seen in graph 2.3 below. UNHCR Indonesia (2024)



Sources: UNHCR, 2024.

Figure 3. Refugee Vulnerability Data

Refugees registered with UNHCR Indonesia are spread across various regions in Indonesia and JABODETABEK is the region with the largest number of refugees and asylum seekers, followed by Medan, Aceh, and Pekanbaru, as listed in table 1.

Table 1. Number and Distribution of Refugees and Asylum Seekers Registered with UNHCR Indonesia

| Location | Sum |
|------------------------|------|
| Aceh | 1213 |
| Terrain | 1651 |
| Pekanbaru | 1187 |
| Tanjung Pinang % Batam | 726 |
| Jabodetabek | 5794 |
| Semarang | 36 |
| Surabaya | 399 |
| Denpasar | 49 |
| Makassar | 1050 |
| Kupang | 175 |
| Other | 497 |

Sources: UNHCR, 2024.

Some of them live in temporary shelters or community houses provided by local governments, UNHCR, or IOM. They also received 'pocket money' to meet their needs from IOM. Others live independently outside shelters provided by the authorities and do not receive pocket money assistance from IOM. In this temporary shelter, the refugees are monitored by implementing a mandatory reporting system to the supervisors. However, those who live independently are also subject to mandatory periodic reporting at a predetermined immigration

detention house or post. The handling of foreign refugees in Indonesia is currently regulated through Presidential Regulation Number 125 of 2016.

Indonesia's Experience in Handling Overseas Refugees from Vietnam

Indonesia once received nearly 250 thousand Vietnamese refugees who escaped by boat due to the civil war that raged in 1979 or known as boat people. Because the Government of Indonesia does not have the authority and policy related to the handling of refugees, the Government then coordinated and cooperated with the United Nations agency in charge of refugees, namely the United Nations High Commission for Refugees (UNHCR) and designated Galang Island as a Vietnamese refugee camp on February 21, 1971.

The refugees at that time tended to be homogeneous (coming from almost the same country or ethnicity, and cultural background) concentrated in one shelter. Galang Island was chosen because it has a strategic position, easy access because it is close to the city center, and is not yet inhabited. By living on this island, the active interaction of refugees with local residents can be minimized, even separated. However, the Galang Island refugee camp is equipped with various facilities and infrastructure that can support the survival that fulfills the human rights of refugees, such as places of worship, educational facilities, residences, and places of economic activities. (Setyaninger, 2023)

After the war subsided, all the refugees finally managed to return to their home countries facilitated by UNHCR (repatriation). The Galang Island refugee camp finally stopped operating on September 3, 1996 after almost 25 years of operation. This is an achievement and the first good practice experience of the Government of Indonesia in handling foreign refugees as a 'transit' country. (Rosari, 2023)

After the fall of Saigon in 1975, tens of thousands of people left Vietnam and, later, Cambodia to seek refuge in the region, including in Indonesia and Malaysia, before most were eventually resettled in France, Australia, the United States, and Canada or repatriated to other countries. Vietnam (Battle 1995)

Handling of Overseas Refugees in Indonesia after Vietnamese Refugees from the Immigration Aspect

After successfully becoming a 'transit country' for overseas refugees from Vietnam for 25 years, Indonesia has entered a new chapter in facing the challenges of handling refugees from abroad. It remains consistent with its position as a non-state party to the 1951 Convention and the 1967 Protocol. In addition, UNHCR also still has a big role in handling refugees in Indonesia, especially as the 'main actor' that determines whether a person or 'asylum seeker' can be granted 'refugee status' through the RSD or Refugees Status Determination process. The determination of refugee status or RSD does not involve the Indonesian government at all to determine what qualifications are available for foreigners entering Indonesia who apply for refugee status and are admissible.

Foreigners who enter Indonesia and register as asylum seekers with UNHCR are given 60 days or more than two months to apply for refugee status. If the application for refugee status is not made, then this foreigner can change his status as an illegal immigrant or a foreigner who is illegally absent without a travel document or violates the provisions of the entry permit/residence permit for the foreigner that has been granted so that he can be detained and detained and sanctioned.

For asylum seekers who apply for refugee status, they must go through a series of processes, starting from the registration process, then followed by an in-depth interview to ensure whether they really meet the rules and requirements as refugees as stipulated in the 1951 Convention and the 1967 Protocol. Interviews are conducted individually and are usually accompanied by a language translator. If a person's request for refugee status is denied, they have one chance to appeal. For those who are accepted, they will get a refugee identity card issued by UNHCR.

Rejected asylum seekers can be deported out of Indonesia to their country of origin or stateless can be returned to the country where the asylum seeker departed. For those who are granted refugee status, they will be granted permission to temporarily stay in Indonesia with the restrictions as stated in the regulations and will wait for the completion of a 'long-term solution' by UNHCR, in the form of resettlement to a third country, voluntary repatriation to the country of origin (repatriation) or through local integration.

For the resettlement process, UNHCR is also the one who bridges these refugees with third countries. They will register refugee candidates to the third host country. However, in terms of acceptance, it is the country of the party that decides. So, UNHCR has no intervention in this resettlement process. All costs of evacuation to a third country and return to the country of origin are covered by UNHCR and IOM.

At times, the country has attempted to implement stricter border controls, but due to the high costs of conducting thorough surveillance, a lack of political commitment, and widespread corruption among border patrol officers and immigration authorities, the country's vast maritime borders remain unprotected. There is an opinion that the Indonesian Immigration Law (2011) and the newly imposed restrictions on the mobility of asylum seekers indicate a level of Australian interference (Connery et al. 2014a; Mathew and Harley 2016; Taylor 2005). Although the extent of Australia's intervention is still questionable, political pressure does not automatically result in full acceptance and implementation by Indonesian officials.

Most asylum seekers and refugees currently living in Indonesia consider themselves transiting, in part because Indonesia does not offer legal options to make them permanent residents and jobs in the informal economy are hard to come by. Asylum seekers and refugees in Malaysia are in the same legal uncertainty, yet many want to stay in Malaysia, as they can find opportunities to work in the informal economy (Hoff staedter 2014). Other countries, especially those from Afghanistan, Sri Lanka, and Iran, find it easy to enter Malaysia, the first destination of their trip. They often do not register with UNHCR in Malaysia and look for opportunities to travel

to Indonesia. Therefore, both Indonesia and Malaysia function as transit countries and destination countries, depending on how asylum seekers and refugees view their future in those countries.

For example, the Rohingya, who are the largest refugee population in Malaysia, see it as a destination country, given that the country is a Muslim country where they can practice their religion freely after decades of oppression in Myanmar. In 2017, the Malaysian government began to convey its problems to ASEAN and the Organization of Islamic Cooperation (OIC). For the second largest refugee population, Christian Chin from Myanmar, Malaysia is still a transit country where they are waiting to be resettled in America or Australia.

Malaysia and Indonesia continue to treat asylum seekers and refugees based on their experiences with the Indochinese and the 1989 Comprehensive Action Plan which led to the resettlement of all asylum seekers and refugees after Malaysia and Indonesia granted them temporary protection based on that understanding. that the international community will take full responsibility for their well-being and resettlement elsewhere (Robinson 2004). Based on this experience, Malaysia and Indonesia consider themselves generous by granting temporary admissions but leaving further responsibility to UNHCR and its international funders.

Both countries reject any financial responsibility for the care of asylum seekers, citing their lack of capacity and lack of domestic support for refugees and refugee rights.

Nonetheless, the Malaysian government has shown a mixed response, using humanitarian reasons to support a number of refugees, especially Muslims from Southeast Asian countries, but ignoring others (Hoff staedter 2017). Malaysia has fully integrated a number of refugee populations, providing citizenship and settlement services, such as the case of Moro refugees in East Malaysia to Cham Muslims in West Malaysia in the 1980s. In Indonesia, it is theoretically possible to obtain citizenship after being a legal resident for ten years, but this requires a rejection of the demand for resettlement elsewhere. Since the relatively friendly reception of Indochinese people between the late 1970s and early 1990s, the treatment of asylum seekers and refugees in Malaysia and Indonesia has changed considerably, partly due to the ongoing pressure from Australia and their external border and asylum policies.

Policies for Handling Overseas Refugees in Indonesia

There are various policies regarding overseas refugees issued by the Government of Indonesia has issued various policies at the national level as an effort to handle the problem of overseas refugees. explained that Indonesia began to try to get to know the law related to refugees in 1981. These efforts began to intensify since 1998 until finally fruitful in Law 37 of 1999 concerning Foreign Relations in article 27 paragraphs (1) and (2) which mandated the determination of refugee policy by the President. Soeprapto (2004).

Table 2. National Policy Regarding Overseas Refugees in Indonesia

| No. | Policy/Regulation |
|-----|-------------------|
|-----|-------------------|

| | |
|----|--|
| 1 | Prime Minister's Circular Letter Number: 11/RI/1956 concerning the Protection of Political Refugees |
| 2 | Presidential Decree No. 38 of 1979 concerning Coordination of Settlement of Vietnamese Refugee Problems in Indonesia |
| 3 | TAP MPR RI Number: XVII/MPR/1998 on Human Rights |
| 4 | Law Number 37 of 1999 concerning Foreign Relations |
| 5 | Law 39 of 1999 on Human Rights |
| 6 | Presidential Regulation No. 11 of 1999 concerning the Handling of Refugees After the East Timor Poll |
| 7 | Presidential Decree No. 3 of 2001 concerning the National Coordinating Board for Disaster Management and Refugee Handling |
| 8 | Presidential Decree No. 25 of 2003 concerning Data Collection of Residents of the Former Province of East Timor |
| 9 | Regulation of the Directorate General of Immigration Number: IMI-1489. UM.08.05 dated September 17, 2010 concerning the Handling of Illegal Immigrants |
| 10 | Law Number 6 of 2011 concerning Immigration |
| 11 | Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad |
| 12 | Circular Letter of the Minister of Education |
| 13 | Circular Letter of the Minister of Home Affairs on the Handling of Overseas Refugees in the Regions |

Source: processed by the author, 2024.

In the policy of the 1950s to the early 2000s, the Government of Indonesia did not provide a clear definition of refugees. The term refugee is still generally understood as a general meaning of the word refugee as a person who is forced to leave his or her area of residence to a safe place without distinguishing the reasons that cause the person to move, whether due to natural disasters, social disasters or man-made disasters, or due to violence, persecution, and violations of basic rights or human rights (Soeprapto, 2004).

In 2016, the Government of Indonesia issued Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad which regulates a limited number of refugees or asylum seekers in Indonesia. This Presidential Regulation is a mandate from the Foreign Relations Law which, when reviewed, is not in line with Law Number 6 of 2011 concerning Immigration which considers refugees to be illegal immigrants and can be sanctioned.

The existence of foreigners in Indonesia is regulated in Law Number 6 of 2011 concerning Immigration, Government Regulation Number 31 of 2013 concerning Implementing Regulations of Law Number 6 of 2011 concerning Immigration, and its derivative regulations. In general, matters that regulate the entry and exit of Indonesian Citizens and Foreign Citizens, including

requirements, mechanisms, and other technical matters are regulated in the regulation. There is also no clause regulating refugees from abroad and asylum seekers. Thus, when a person or a group of people from a foreign country enter Indonesian territory legally according to procedures or legally and then become refugees and asylum seekers, it can be categorized as an illegal immigrant who commits immigration administration violations. Eventually, the group of foreigners is grouped into one and placed in an immigration detention house, and can even be repatriated to their home country or deported. The imposition of sanctions and deportations is certainly contrary to the mandate of the 1951 Convention which states that refugees who come and enter the country without going through the official process with travel documents (passports) and entry permits (visas) are not punished for illegal infiltration.

Then when talking about foreigners, Indonesian Immigration implements a selective policy, which in essence only foreigners provide benefits and do not endanger security and public order that are allowed to enter and be in Indonesian territory, in order to protect national interests. Although foreigners who are allowed to enter Indonesia have been officially screened according to procedures, there are still some of these foreigners who use entry permits as visitors or use tourist visas and then abuse them by not returning to their home country and settling in Indonesia and becoming refugees.

In addition, Presidential Regulation 125 of 2016 does not distinguish between refugees and asylum seekers so that it can cause confusion in the handling of foreigners in Indonesia who have actually fled due to fear and threats of safety due to the condition of their country that cannot provide protection or asylum seekers who are people who are on the run seeking protection for certain personal reasons, including political reasons.

There is also a difference between the Immigration Law and the Presidential Regulation on the Handling of Refugees from Abroad. The handover of refugees and asylum seekers to immigration detention centres and data collection certainly gives rise to the interpretation that the Indonesian Government gives permission to foreigners to enter Indonesian territory without carrying out the provisions stipulated in the Immigration Law (Novianti, 2019).

Dynamics of Handling Overseas Refugees in Indonesia as a Transit Country and Australia's Influence in Immigration Policy

This article challenges the common assumption that transit countries—at reasonable prices—tend to be implementers of externalized border and asylum policies (Andersson 2014; Curley and Vandyk 2017; Choplin 2012; Kimball 2007; Yildiz 2016). Australia, as we have shown, is indeed providing substantial financial and material support to eradicate human smuggling in the region to prevent the departure of asylum seekers from Indonesia and Malaysia. However, as we have already said, the success of these measures is still questionable. These financial incentives not only have a small impact on the reduction of irregular maritime travel, but more importantly, they have also had a negative impact on bilateral relations as a whole, especially in the case of Indonesia.

Ignoring domestic political interests related to irregular migration in Malaysia and Indonesia has come under heavy criticism for being blatantly oriented towards its own political interests. In particular, Australia's policy of Sovereign Border Operations returning asylum seeker ships to Indonesia has severely weakened mutual trust.

In addition, Australia's policy of "stopping the boat" has ignored important changes in perception in Malaysia and Indonesia in light of international expectations of their efforts to help alleviate the global refugee crisis. Indonesia and Malaysia have now become de facto destination countries, regardless of whether they accept this reality or not, and they must move beyond just identifying as transit countries and confronting the post-transit reality. However, Australia's strategic meeting also needs to factor in this change. Australia's unilateral and bilateral approach has negative diplomatic consequences for the entire region and seriously undermines broader regional cooperation focused on irregular migration. As long as these approaches remain grounded in Australian interests and driven by Australian funding, these unilateral approaches and bilateral arrangements run the risk of many pitfalls. The focus on unilateral action against regional instruments, such as the Bali Process, does not take seriously the domestic problems of regional partners related to irregular migration, nor does it respect broader international norms and laws. Equally important, as demonstrated in the Papua New Guinea and Nauru refugee detention and resettlement agreements, by relying on unstable and corrupt regimes, Australia is putting itself in a vulnerable position and reducing its ability to have a voice as a democratic and humane regional country. human rights leaders (Hoff staedter 2013). Therefore, the next step must certainly include the establishment of more multilateral arrangements involving source, transit and destination countries (Missbach & Hoffstaedter, 2020).

Dynamics of Refugee Policy Implementation in Indonesia

The condition of regulatory vacuum that regulates the existence of refugees and asylum seekers creates gaps and uncertainties faced by refugees and asylum seekers because the responsibility for managing affairs over them does not have a strong legal basis. Neither the central nor local governments have the mandate, authority, or responsibility to manage refugees and asylum seekers. The consequence is also related to uncertainty about budget allocation to support refugees and asylum seekers. On the other hand, there is also no clear mechanism to end the uncertainty of the status of refugees from abroad, other than waiting for a third country to give the green light to receive their presence through UNHCR.

In the midst of this legal uncertainty, there are various actions and treatments, both by the authorities and the local community whose areas are visited by refugees from abroad. Some were expelled when they were seen entering Indonesian waters, and some were later rescued and pulled to the mainland. If this is not specifically arranged, it will become a time bomb in the long run. The number of refugees entering is increasing and there is no policy that regulates the time limit for refugees to transit in Indonesia, which can lead to national defense and security problems.

For this reason, in the midst of this specific regulatory vacuum, it is necessary to take preventive measures from immigration, such as by reviewing and reviewing the granting of visas to citizens who have the potential to commit administrative violations by entering Indonesia to seek asylum or become refugees, such as citizens who are experiencing conflict or war. In addition, it is necessary to hold a more in-depth and detailed clearing house forum for every foreigner who applies for an entry visa to Indonesia.

Maintaining the security of the border area is no less important considering that land and sea borders have the potential to become an entry point for refugees from abroad and illegal asylum seekers. Therefore, the involvement of elements of state defense and security, such as elements of the TNI, Polri, BIN, and other security elements, is very necessary. Another policy that the Government of Indonesia can implement is to return foreigners to their countries of origin for those who fail to obtain refugee status from UNHCR in Indonesia and/or after a certain period of time. The deportation step taken is actually in line with the Immigration Law which regulates the existence of foreigners in Indonesia.

Regarding Indonesia's position against the 1951 Convention and the 1967 Protocol, there will be several advantages obtained by the Government of Indonesia if it ratifies the 1951 Convention and the 1967 Protocol according to Komnas HAM, including having the authority to determine the status of refugees and asylum seekers themselves, having the opportunity to receive assistance and/or establishing international cooperation in the context of strengthening national capacity in handling refugees and asylum seekers; and prevent free riders who have negative motives, such as committing human trafficking crimes. However, until now the Government of Indonesia has not decided to ratify the 1951 Convention and the 1967 Protocol.

There has been no collective agreement between ministries/agencies in Indonesia to take a joint decision to ratify the 1951 Convention. On the other hand, Indonesia is one of the countries with the fourth largest population in the world and there are still many people below the poverty line. Because considering the welfare of the Indonesian people as a priority of the Government of Indonesia, the fulfillment of the rights for refugees mandated in the 1951 Convention still cannot be fully fulfilled by the Government of Indonesia, including (Sultoni, 2014):

- a. The provisions of Article 17 which require States parties to the Convention to provide jobs for refugees, while currently the unemployment rate in Indonesia is still quite high.
- b. The provisions of Article 21 containing provisions to provide housing for refugees are also considered very difficult to be implemented by the Government of Indonesia in the midst of poverty and development conditions that have not reached the whole country.
- c. The provisions of Article 22 which allow the state to provide access to education to refugees while in Indonesia itself is still struggling to equalize access to education to the entire community.

The national interest as the basis of state behavior is in line with Machiavelli's statement that the national interest will always be the justification and basis for state consideration in behavior

and disregard for morality by policymakers in policy-making in state affairs. The morality of a country is reflected in compliance with the laws and agreements that are followed. In this case, it can be said that it is not disobeying or ignoring international agreements because Indonesia has chosen to have not signed the Convention and Protocol on the Status of Refugees until now.

Regarding the implementation of the 1951 Convention and the 1967 Protocol by countries that have ratified, there are still parties to the 1951 Convention and the 1967 Protocol that have not yet fully committed to fulfilling their obligations. One of them is by refusing and closing the entry of refugees into their country. For example, Hungary is one of the countries in Europe that has ratified the 1951 Convention and the 1967 Protocol on Refugee Status on March 14, 1989. Geographically, Hungary is located in the middle of the European continent making this country a gateway for refugees to enter their destination countries. There are about 1,781 refugees who have applied for asylum in Hungary and this figure is the highest in any other EU country. The Hungarian government took steps to build a fence on the border of Hungary and Serbia. In 2017, Hungary also built an electrically powered fence, equipped with heat sensors, cameras, and loudspeakers guarded by police in southern Hungary. This step certainly received condemnation from the world. However, returning to the principle of national interest, Hungary then took the step of a referendum to determine the agreement and national policy regarding refugees. As a result, 90% of Hungarians rejected the arrival of refugees and eight percent agreed. The results of this then legitimize his country's attitude to deny refugees entry into his country (Rachmat, 2020).

Andrew and Renata explained that under the administration of Prime Minister John Howard, Australia implemented the Operation Relex policy and continued with the Turn Back the Boat policy under the administration of Prime Minister Tony Abbott as an effort to remove illegal ships carrying refugees and asylum seekers who enter Australian waters and return the ship to the territory of the country where the ship departed. In Abbott's time, the policy denied anyone who entered Australia illegally by boat and they were not allowed to settle and obtain their rights as refugees in Australia (Ulfa, 2019).

These policies adopted and implemented by Hungary and Australia are contrary to the commitments contained in the 1951 Convention and the 1967 Protocol on the Status of Refugees. However, this is something that needs to be seriously observed if these countries justify their actions in order to maintain their country's resilience and security.

Migration Diplomacy

Migration diplomacy is the use of diplomatic tools, processes, and procedures to regulate the mobilization of state border crossings. It should be underlined that a country's ability to utilize the tools and processes of diplomacy effectively in relation to the migration process will depend heavily on other factors, such as the strength and availability of a country's resources. . The three main scopes related to the definition of migration diplomacy are:(Adamson & Tsourapas, 2019)

1. Migration diplomation refers to the actions of states and investigates how cross-border population mobility is linked to the goals of state diplomacy.

2. A country's migration diplomacy is not the same as the overall migration dynamics in the country, which ranges from strict prohibition policies to freedom of movement.
3. Diplomacy is often about negotiations and migration diplomacy focuses on how the state employs the mobility of people across borders.

The Indonesian government can more actively use migration diplomacy as one of the efforts to optimize the handling and resolution of refugee issues in Indonesia, both by building bilateral communication and negotiations with the countries of the three refugee destinations and through multilateral frameworks through organizations or associations of countries such as ASEAN.

CONCLUSION

Indonesia plays a role as a transit country in handling refugees from abroad, treating asylum seekers and refugees based on their experiences with Indochinese and the 1989 Comprehensive Action Plan that led to resettlement after Malaysia and Indonesia provided temporary protection, in which the international community is responsible for their well-being and resettlement (Robinson 2004). The 1951 Convention on the Status of Refugees and the 1967 Protocol is a multilateralism step under the coordination of the United Nations through UNHCR to deal with refugee issues, aimed at maintaining world peace through cooperation between nations. Indonesia has not ratified the 1951 Convention and the 1967 Protocol, so it cannot grant refugee status and the rights granted by countries that ratify the convention, on the grounds that it focuses on developing people's welfare and maintaining national security and stability. However, Indonesia remains a stopover country for refugees before going to their final destination country, providing shelter facilities with strict supervision based on Law Number 6 of 2011 concerning Immigration. Presidential Regulation 125 of 2016 on the Handling of Refugees from Abroad was issued as a form of respect for the 1951 Convention and the Protocol on refugee status. In dealing with refugees, Indonesia cooperates with UNHCR and IOM regarding funding, assistance, and facilitation of refugees seeking asylum to countries that have signed the 1951 Convention and the 1967 Protocol.

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