

The Connecting Issue of Asylum Seekers and Irregular Migrants in Southeast Asia

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Abandoned by neighbors, 30,000 Rohingya and Bangladeshi asylum seekers were left stranded in the Andaman Sea and Malacca Strait in mid-2015. They were either turned out or rejected by neighboring authorities in Indonesia and Malaysia before finally being offered temporary shelter. The migrant crisis was the second biggest faced by Southeast Asia since the Indochinese Crisis back in the 1960s and 70s. This time, however, Southeast Asia appeared unprepared to face the crisis. The regional response was dull, insoluble and temporary. This absence of sound and viable refugee policy can be attributed to the lack of existing mechanisms to manage refugees in the region. The regional response, dubbed as "Bangkok Meeting on Irregular Migration in the Indian Ocean", only dealt with surface problems, providing merely 'a bed for the night' for the refugees without suggesting for a more long-term and sustainable solution.

Even a year on, the situation has not improved. Indonesia currently hosts around 13,000 refugees (Brown & Missbach, 2016). Indeed, it has a long history of hospitality to strangers. During the Indochinese refugee crisis, Indonesia hosted tens of thousands of refugees before they were resettled in third countries such as Australia, Canada and the US. Indonesia remains a key transit country for asylum seekers wanting to be resettled in Australia. In recent years, asylum seeker and refugees have become virtually stuck in Indonesia, as the global refugee crisis has increased flows of forced migration, regional cooperation has emphasized people smuggling and irregular migration over managing refugees, and Australia's treatment of asylum seekers has become increasingly tough and preoccupied with border security.

Global Refugee Crisis and Australia's Denial of Refugees from Indonesia

In November 2014, Australia announced that it will no longer take refugees from Indonesia who registered with the United Nations High Commissioner for Refugees (UNHCR) after July 2014. Since then, Australia has reduced the refugee intake from Indonesia to only 450 per year after previously in 2013 it had accepted 850 from 900 refugees (Brown & Missbach, 2016). It was recorded that by August 2015, around 5100 asylum seekers had already registered, waiting to be resettled. Australia came under heavy criticism from Indonesia for not accepting Rohingya refugees during the Andaman crisis (Topsfield, 2015).

Meanwhile, 10,316 asylum seekers and refugees remained stuck in Indonesia, three months after the inception of Operation Sovereign Borders. The number reached 13,679 in January, the highest in the last 16 years, (Brown and Missbach, 2016) meaning that the average waiting period for Refugee Status Determination (RSD) increased from seven to 11 months to eight to 20 months. This is worsened by the fact that there are simultaneously increased numbers of refugees and a shrinking number of resettlement places.

Australia's unilateral policy of boat turn backs and denying resettlement places to refugees in Indonesia has made the management of asylum seekers in Indonesia more difficult. Indonesia's Director General of Immigration, Ronny F Sompie, has claimed that Indonesia's 13 immigration detention centers are currently overcrowded. The number of irregular migrants has also risen more than fivefold over the past seven years (Lubis, 2016). With a shortage of funding and human resources to manage asylum seekers and refugees in Indonesia, this situation is increasingly

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alarming.

However, this alarming situation implies both luck and frustration experienced by refugees. As an English teacher with the Jesuit Refugee Service Indonesia, Max Walden has revealed the daily struggles of refugees (Walden, 2016). The results were surprising. Firstly, he was working with the “lucky ones” who had gone through the so-called proper channels by applying for refugee status through the UNHCR in Jakarta. Upon being granted refugee status they were moved from detention into community housing, where they are provided a modest monthly allowance by the International Organization for Migration.

The other case involved an Afghani who felt he had been deliberately deceived – Indonesian officials had told him he would get resettled quicker if he entered a detention facility and applied to the UNHCR. In the Pontianak detention center he was tortured. Now, after almost two years in immigration detention and more than a year in Yogyakarta, progress towards his resettlement is as uncertain as ever. Another refugee from Myanmar had been in Indonesia for five and a half years. During this time he had learnt Bahasa Indonesia, obeyed the country's laws and had endured detention while awaiting refugee status. Unable to work or undertake formal education, both men's lives are characterised by boredom and anxiety for the wellbeing of their families back home – intensified by a 24-hour news cycle providing regular updates on the situation in Afghanistan and Myanmar.

Moreover, the case of Ghaazi, a refugee living in a shelter for unaccompanied refugee minors near Puncak in West Java, reveals complex interrelation between refugees and local community. Having paid a people smuggler around A\$15,000 to escape from Afghanistan to Australia, Indonesia was as far as he got. As an unaccompanied minor, he was provided with a place to stay and weekly pocket money of Rp 120,000 (A\$12) by the UNHCR. Ghaazi explained that he urgently needed money to send to his mother, who was living with his younger siblings in Pakistan. Although she does the laundry for wealthier neighbors, she cannot make ends meet, yet her creditors keep pushing her to repay the debts. After his older brother and father had disappeared, she borrowed money from different people to pay a smuggler to take Ghaazi to Australia (Sinanu & Missbach, 2012). Simultaneously, the case of Ghaazi also demonstrates communication problems between asylum seekers with local communities. Language and cultural barriers are two major problems that must be resolved by Indonesian refugee advocates, so that constructive relationships can develop between the two groups.

Subsuming Refugee Issues under Irregular Migration and Smuggling

The complexity of refugee and asylum seeker problem does not end with the issue of shelter and provision of services. Another thorny matter is the overlap between the issue of refugees and asylum seekers with that of irregular migrants. Currently, refugees and asylum seekers follow the path of illegal migrants which makes them prone to be the target of international criminal networks of organized people smugglers. Stigma towards those who employ people smugglers gives rise to potential ‘double victimization’ of refugee and asylum seekers.

The conceptual discourse on prevailing statist perspectives of national security informs how asylum seekers are framed in the region. Susan Kneebone contends that the securitized discourse regarding refugees and asylum seekers in Southeast Asia has existed since the 1990s, when the issue of refugees and asylum seekers become tightly tied up to the issue of human trafficking and transnational crime under the umbrella issue of irregular migration (Kneebone, 2015). In Kneebone's words, the crisis was labeled an “alarming rise in the irregular movement of persons in the Indian Ocean” showing the emphasis of national security discourse and less on human-centered approach of protection for refugee and asylum seekers. Instead of treating displaced persons as victims of instability in places of first asylum, they are perceived by Southeast Asian states purely as irregular migrants who are becoming a costly burden for national security and stability.

This conceptualization of refugees and asylum seekers as irregular migrants also strongly influences the Bali Process, which is virtually the only mechanism in the region in dealing with refugees, further reflecting the prevailing state-centric discourse. The long and complex decision making associated with the Bali Process has resulted in a failure to implement affirmative handling of refugees and asylum seekers. Amnesty International reported that in 2015, at least 920 refugees died on the way crossing Bay of Bengal due to several factors, such as starvation,

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dehydration, or being beaten by traffickers and smugglers (Murdoch, 2015). Prior to the conference in March this year, Indonesian Foreign Minister Retno Marsudi issued a statement that the failure of the Bali Process as a key regional forum on people smuggling to address the refugee crisis in Southeast Asia must not happen again (Topsfield, 2016).

Subsuming the issue of asylum seekers and refugees into broader issue of irregular migration means that they could further victimized as illegal economic migrants if they cannot provide legal documents. For example, it was reported in July 2015 that Malaysian police commonly used extortion while accepting Kachin refugees from Myanmar in Kuala Lumpur. Local police regularly stop them and threaten to detain them, from where they could be sent to an immigration detention center if they do not pay money. The police call those without documents *kosong*, meaning “zero” in Malay. As one man explained, “They tell us, ‘you are *kosong* people. We can do anything to you” (Palmgren, 2015).

Connecting Issues: Asylum Seekers and People Smuggling

There is a concurrent trend of Indonesian policy makers equating anti-trafficking efforts with tougher migration policy and border controls. Ironically, this highlights that refugee and irregular migrant issues are conflicting. The prevention of access to asylum will further reduce protection and promotes a vicious cycle of marginalization and vulnerability. Both issues are often regarded as analogous, so as not to create space for Indonesia’s public discourse to further explore the problems faced by refugees and asylum seekers. Such treatment significantly lead to ‘double victimization’ of refugees and asylum seekers: treated as a threat against national security, criminalized and thus not given necessary protection as they have a right to under Indonesia’s constitution as well as international law. The more militarized migration policies become, the greater the likelihood that refugees will fall into the arms of traffickers, thus contributing to the magnitude and complexity of the trafficking business. (BBC, 2016).

Ending the vicious cycle

Reducing the trafficking risk for refugees is thus vital in order to increase and prioritize protection. Improving legal protection and maintaining cross coordination and information-sharing between transnational bodies concerned with refugees and human trafficking are vital starting to further the understanding of these issues as interconnected. Protecting refugees reduces their risk from ‘double victimization’ by traffickers and smugglers. The following policy recommendations would provide for a lasting and durable solution.

Persuading Indonesia to sign the Refugee Convention

Considered as the one of prominent countries in tackling down the issues of refugee and asylum seekers in region, Indonesia must sign and ratify the Refugee Convention. Out of ASEAN nations, only Cambodia and the Philippines have as yet done so. Following the logic of state-centric approach, it is necessarily important to encourage Indonesia to be subject to international legal standards as one of the commitments besides playing a constructive role in the region handling the issue of refugees and asylum seekers through the Bali Process.

Strengthening civil society, civil society organizations and refugee’s agency

This process cannot be run without the constructive role of the domestic and international community. The issue of refugees and asylum seekers, which is a deeply human issue, is not easily comprehended by conventional states’ logic, thus, role of civil society actors will be crucial in this regard. Civil society play crucial issue in helping refugee to survive in their new environment. In Indonesia, for example, in Sewon Refugee Center, Bantul, Yogyakarta, Indonesia, many refugees are living side by side with community instead of be placed in detention centers (Tricesaria et al, 2014). The Jesuit Refugee Service (JRS) has not only provided both educational and recreational programs, but also the socialization program to raise the awareness of local community and government regarding refugees’ presence. Despite language barriers, local community’s acceptance and assistance to the newly arrived refugees will surely help them to survive in their new environment both in material and psychological aspects. Civil society must actively facilitate cross-cultural communication between asylum seekers and local communities.

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Providing access for refugees and asylum seekers to employment and education, however, is important in allowing them to avoid being exploited by people smugglers. Equally significant is the need to alter public perception of refugees and asylum seekers. The old framing of refugees and asylum seekers as merely victims who are weak and unable to help themselves is no longer the reality. Refugees also possess their own agency as human beings which should and could be empowered in order to help them survive daily life whilst in transit. The case of Remo Fouad, a 50-year-old pastry and dessert-maker who has brought himself successfully engaged with economic activities, challenges traditional notions of how states must treat refugees (Srivastava, 2016). This phenomenon must therefore be approached by establishing sustainable, humane systems of regional and domestic governance specific to asylum seekers and refugees, allowing people to live their lives in what is an increasingly prolonged state of 'transit'.

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