

## **“REFUGEE CRISIS”: RE-THINKING THE INDONESIA’S PERSPECTIVE**

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### **ABSTRACT**

Initiated by latest critical circumstances with Rohingyas, this study attempts to investigate the existing domestic policy and legal provision concerning refugees and asylum seekers in Indonesia. In this regard, qualitative and literature study has conducted, as well certain observation from empirical cases which also be adopted during this research. Whilst this research has found disadvantages over the refugee management in Indonesia and suggested the need for a better policy, rational decision-making model in this study offers a problem-solving focusing on objectivity and logic instead of subjectivity and intuition to achieve an intended and more appropriate arrangement to deal with the refugee crisis.

Looking into the discursive refugee management of crises in Indonesia is important to understand their effects, at present and in the future. More than that, when it comes to policy, it is about capacity of the official policy on addressing issues to gain fruitful advantages for the country without violating human rights principles. Insight from maritime security is also being added to enrich the discussion on account that maritime is considered as crucial theatre regarding law enforcement at sea related to the main issue.

**Keywords:** refugee, maritime security, regulation, policy

### **A. Introduction**

Since the beginning of 2000, Indonesia have been experienced considerable number of people from South Asia and Middle Eastern and African countries (MENA) region fleeing from humanitarian crisis such as armed or political conflict, repression regime, persecution, genocide, and poverty — traversing the border – mostly through sea - for mere transiting in Indonesia and/or for their journey to the actual destination. Asylum seekers transit to Indonesia to gain supplies and boats, arranged by people smugglers, to take them across the Timor Sea down to Australia which made people smuggling become a perennial issue in Indonesia and Australia relations (Supriyanto, 2014). In this regard, this study argue that Australia is most likely to be the final scene of the trip for those fleeing from these regions.

In fact, the crisis has turned refugees, asylum seekers and irregular migrants intertwined with immigration, border control and state sovereignty, making them not only political and security issue but also state responsibility to deal with. For instance, Indonesia’s laws often

restrict refugees’ social and economic rights causing them are not allowed to legally work and/or attend school and university (UNHCR, 2024). More than that, numerous cases of irregular migrants from MENA countries which committed sea journey through Indonesia jurisdiction in their route to Australia have also contributed to affecting the diplomatic relations between two countries and mainly have an impact on the national stability for both transit and destination countries as well (Tisna, 2022).

As a result, the government of Indonesia has put into place policy, regulatory, administrative, and material changes that will put the country to better managing and governing refugees. However, enabling such changes with long-term, sustained action, and resources for progress remains a key challenge for Indonesian policymakers. For example, the Immigration Law was not created to deal with refugees and asylum seekers related matters. Hence, immigration authorities should not involve into and apply immigration law and policies to them. Within the Indonesian immigration framework, most refugees and asylum seekers could be regarded as victims of people smuggling or human trafficking in some cases, meaning they should be protected and excluded from any punitive measures under the Law (Yonesta, 2019).

Upon writing this study sets a question on how should the Government of Indonesia be approaching challenging circumstances regarding refugee in Indonesia? Particularly for Indonesia that the condition is more problematic due to the length of the coastal line and massive territorial, aside from issue such as political and legal constrains that so far have been hindered implementation of appropriate policy. This study identifies the weakness of the implementing policy and regulation on refugee as an initial step in an overall assessment of capability requirements and gaps.

Therefore, we need to consider the role of state and governmental actors in the policy-making process to emphasise how their strategies and endeavours to frame events are key to develop understanding on handling the issue. The mobility of people intensifies the elasticity of crimes with transnational character, mainly people smuggling and trafficking in persons which, indeed, exposing human as their commodity of business (Tisna, 2012). Amongst transnational organised crime’s (TOC) activity is irregular migrants, as declared by scholar from Council for Security Cooperation in the Asia Pacific (CSAP) Study Group on Transnational.

For these reasons, geo-politic and geostrategic awareness of Indonesia maritime security shall also be a crucial requirement to manifesting national policy and its implemented regulation concerning refugee and asylum seeker issue. Maritime security is one of the latest additions to the vocabulary of international security. Initially coined in the 1990s, the concept has received growing attention due to the intensification of concerns over maritime terrorism since 2000, the rise of modern piracy off the coast of Somalia and elsewhere, maritime crimes such as human trafficking, and the increasing significance in recent years of the so-called ‘blue economy’ and issues relating to maritime environmental

protection and resource management (Edmunds & Bueger, 2017). Hence, for maritime stakeholders, particularly those responsible for maritime security and maritime safety, both comprehensions are critical, in which it can construct through the improvement of national awareness towards the issue (Tisna, 2022).

## **B. Research Methodology**

This research article discusses the effectual result of existing policy and legal provision concerning refugees and asylum seekers in Indonesia, primarily related to the increasing negative acceptance towards Rohingyas. To this regard, this study seeks to define the conditions under which crisis events are transformed into a strategy that actors develop to frame legitimate, salient, and executable solutions. During the analysis, qualitative method conducted by examining primary documents consists of regulations and policy papers related to the issue of refugee related matters, both international and national. This also included academic sources and media reports in both Indonesian language and English. This methodology was used to gather information and knowledge on the context of refugee issue, as well on the wider effect.

In this part, literature review and analysis based on empirical studies has developed as an enrichment to the exploration. In addition, rational decision-making model have been selected based on examination that this method offers to taking emotion out of *making decisions and applying logical steps to work towards* a solution. According to (Russ et al., 1996), this rational style explained as deliberate, analytical, and logical in which rational decision actor assess the long-term effects of their decisions and have a vigorous ground-based task orientation to decision making. The main objective of this agenda is to transparently evaluate the existing policy and regulation, then deregulate them with the constructive legal standing according to the new initiative. As studied from (EU Commission, 2018; Meek, 2010) this agenda should cover and affect towards total policy areas, and it should be intended for addressing legal arrangement in order to achieve policy objectives, as well as to bring benefits at minimum cost. Through this model, the objective of this article is to draw understanding over changing circumstance and provide insight as alternative initiative.

## **C. Discussion**

### **C.1 Understanding International Framework**

To begin with, there are distinct understanding to define identity of those involved in refugee and irregular migrations. In the title, I put quotation marks to ease and in accordance with common term generally being used. Notwithstanding, there are classification according to international law which being applied to equitably provide treatment to whether refugee, asylum seeker and irregular migrant. Taken from legal scholars, it is assumed that tightly

specified criteria increase legal certainty. Nevertheless, this study will focus on the common ground instead of disputes the distinction. Afterward, this study will use “refugee” and “asylum seeker” over the discussion.

The 1951 Convention of United Nations High Commissioner for Refugees (UNHCR) defines a refugee as a person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of [their] nationality and is unable or, owing to such fear, is unwilling to avail [themselves] of the protection of that country.

While according to the Refugees Convention, asylum seeker is defined as is a person who has left their country and is seeking protection from persecution and serious human rights violations in another country, but who hasn’t yet been legally recognized as a refugee and is waiting to receive a decision on their asylum claim. United Nations Office on Drugs and Crime (UNODC) have also emphasised that asylum seekers must allow to stay in such country while waiting approval or acceptance toward their refugee status application under relevant international and/or national law (UNODC, 2010). In sum, it can be said that seeking asylum is a human right of people. This means everyone should be allowed to enter another country to seek asylum, for which they can obtain assurance towards their human rights.

In fact, the length of the status application is never clear as it is UNHCR’s internal policy. Thus, how long applicant could stay in transit countries is uncertainty. Certainly, they are allowed to stay during the application process. However, if the application is rejected by UNHCR, then there is option provided for them to return to their country of origin through assistance of voluntary repatriation (AVR). This option will carefully conduct since studies on refugee cannot be inseparable to the principle of *non-refoulement* which is the core principle of the Refugees Convention. According to this principle, countries are forbidden from returning refugees or asylum seekers to a country where they would be in persecution or dangerous to the extent of threatening their life.

Subsequently, during the dynamic of world migration discourse, there is irregular migrants appeared within. First thought to bear in mind, there is no universally accepted definition for “migrant”. Even though it is not defined under international law, the term is reflecting common lay understanding about people who moves away from their place of usual residence, whether within country or across an international border, for temporarily or permanently, and for a variety of reasons or purposes. Further explanation stated that the term has including several well-defined legal categories of people, such as migrant workers; people whose types of movements are legally defined, such as smuggled migrants; as well as persons whose status or means of movement are not specifically defined under international law, such as international students. These described definitions were developed by International Organisation for Migrations (IOM) for its internal purposes, and it is not meant to imply or create any new legal category.

In Indonesia’s context, “refugee” is often dubbed as “irregular migrant”, for which this is to described foreigner who stays in Indonesia without official identity, such as passport and visa (Suyadi, 2010).

The movement of people seeking better lives - whether with purpose of escaping from threatening circumstance or attempting to find better economic situation – has created opportunity for criminals. The mentioned movement is being exploited to gain financial advantages for organised crime. Reasoning for facilitating their journey to destination countries – in illicit method – the syndicate would make profitable financial sourced by those crossing the border. In her study, (Crock-Saul, 2002) explained that people smuggling is exploitative, criminal behaviour, it exists because of desperate demand of among asylum seekers who do not have access to legal channels for fleeing persecution and seeking safety abroad.

Within criminal discourse, UNODC issued Protocol against the Smuggling of Migrants by Land, Sea, and Air, supplementing the United Nations Convention against Transnational Organized Crime (UNTOC), which obliged parties to this treaty must ensure that migrant smuggling is criminalised. Along with the other 190 parties, Indonesia have ratified UNTOC and issued Law Number 15 of 2009 concerning Ratification on United Nations Convention Against Transnational Organized Crime<sup>1</sup>, as the implementing regulation within domestic scale. Notwithstanding, UNTOC acknowledge that even though migrants were compelled to enter a country irregularly or without proper documentation, they should not be detained or penalised. Migrant related to this crime must not be detained with criminals, and the opportunity to seek asylum and to access asylum procedures must be given to them.

## **C.2 Depicting the Crisis in Indonesia**

Back in 1979, Indonesia have experienced of locating Vietnamese refugees – generally mentioned as boat people – in confined shelter in Galang Island, in Province of Riau. Up to 1996, it took seventeen years to eventually given solution to them. Thousands of them were repatriated to their countries when the situation allows them to be safely returned. Whilst the last of the 250,000 documented Vietnamese boat people who arrived in Indonesia passed UNHCR assessment and resettled to countries where they applied to and/or accepted them ([www.refugeecamps.net](http://www.refugeecamps.net)).

Entering the initial phase of 2000, trend changed to those originally from Middle East with Iraqis and Afghani produced the largest number of uprooted people in that period. Compare to refugee wave caused by Arab Spring which made their way to Europe, in this term destination were more varied. Thousands of refugees and asylum seekers are fleeing from their origin with expectation to move to the Australia and New Zealand. Unfortunately,

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1 Undang-undang (UU) Nomor 15 Tahun 2009 tentang Pengesahan United Nations Convention Against Transnational Organized Crime (Konvensi Perserikatan Bangsa-Bangsa Menentang Tindak Pidana Transnasional yang Terorganisasi).

they became stuck where they transited, often with unclear length of stay. As result of this situation, problem appeared for Indonesia due to the strategic position that made an ideal transit point during their journey to those countries.

Midway through 2015, conflict in Myanmar made thousands Rohingya refugees were forced to flee the country. They made their sea journey from Rakhine heading to Malaysia and/or Indonesia. Previously, the people of Aceh have warmly welcomed Rohingya who are stranded in several coastal areas. They are taken to temporary shelter in before they relocated to certain parts of Indonesia which transport and accommodation, as well as emergency basic needs are provided by IOM Indonesia.

Several years later tensions have been escalating as recent surge in violent crackdown by armed forces in *Myanmar* is causing upheaval and displacement among *Rohingya* once again causing more and more Rohingyas arrival in Aceh. This time situation is distinct. There were occurrences formed in refusal of disembarkation from boat added with harsh treatment by locals towards Rohingyas. All due to rejection of locals. It has been recorded that the existence of Rohingyas in Aceh produced many social issues that made locals furious and lost their temper. It is anomaly for community which have tradition of welcoming anyone in need of help, especially for those with same belief.

Nonetheless, not mere Rohingyas, the entire refugees and asylum seekers who remain in Indonesia are problem that must deal with. Currently, there are 7,650 refugees and asylum seekers under IOM care and assistance. Reviewing past years, even though hundreds of them appeared to opt for AVR or reintegration with support from international donors, the sustainability of maintaining the rest who stay was calling into question.

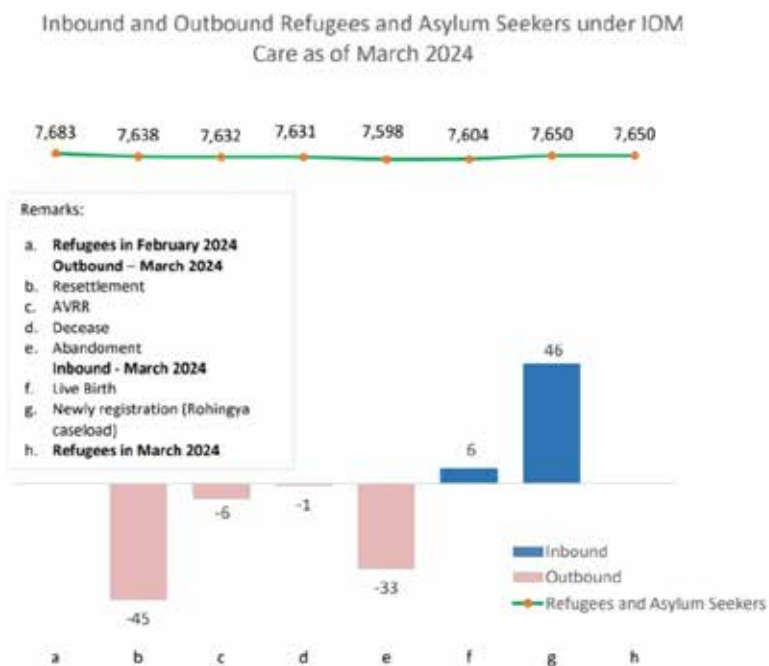


Figure 1. Graphic of Refugees and Assylum seekers under IOM care as per March 2024

One must take into attention, beyond human rights issue, refugees and asylum seekers in Indonesia have also created concern to the Government of Indonesia and law enforcement actors considering its implication which might potentially threatening civil order, and national security in wider spectrum. Nonetheless, the suggestion that the nation-state has its core responsibility for the provisioning of security for the resilience of the nation is continuously applicable upon security in any context (Fjäder, 2014) whilst simultaneously the capability of the nation-states to manage it is being challenged. In this regard, the statement was related to what this study tried to offer.

### **C.3 A Review towards Existing Policy and Legal Provisions**

In managing migration within its territory, Indonesia stipulated Law Number 6 of 2011 concerning Immigration. Despite the fact Indonesia have had extensive experience on refugee and asylum seeker, there were not specific regulation over the issues. Until its first encounter of Indonesia with significant numbers of Rohingya in 2015 which stressed the Government of Indonesia to invent thought as respond toward the emergency crisis. Even though it was questioning on why waiting for more than forty years to create the regulations, this endeavour must be appreciated.

Stimulated by the situation in Aceh, the Government of Indonesia established desk of Managing Foreign Refugees and People Smuggling<sup>2</sup>, which directed by Deputy for National Security of Coordinating Ministry of Politic, Legal and Human Rights<sup>3</sup>. During its implemented actions, to certain extent, the desk had regularly included UNHCR and IOM, as well as discussion with representatives of related embassies to figure out the solutions. As it has explained by (McCay & Jentoft, 1996), the basic principle of co-management is self-governance, but (it lies) within a legal framework established by government, and power is shared between user groups and government. In this context, Indonesia has demonstrated collaboration between stakeholders, particularly between community and government, as well as other relevant stakeholders, and foreign organisations included.

Later in 2016, there is issuance of Presidential Regulation Number 125 of 2016 concerning the Handling towards Foreign Refugees (Penanganan Pengungsi Luar Negeri or PPLN). Led by Coordinating Minister for Politic, Legal and Human Rights, this regulation has been administered ministries, agencies and local governments which related to refugees and irregular migration issues in its cycle. In doing so, it has brought certain issues to the fore, from international relations, legal, financial, security, socio-cultural, and indeed, human rights. It was obviously cleared that determination to assign this Coordinating Ministry is to ease the comprehensive arrangement related matters on account the issues appeared within the crisis.

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2 Penanganan Pengungsi Luar Negeri dan Penyelundupan Manusia (P2MP2S)

3 Author participated in managing the Rohingya crisis during first phase of the crisis in January – May 2015, as well as member of the desk and preparation of the initial draft of the Presidential Directive

Nevertheless, having reach its eight years implementations, it has been scrutinised that PPLN regulation has not sufficient or robust enough to cover the dynamic development of the crisis. We must admit that this regulation is hastily processed due to wave of those stranded in Aceh coastlines from Myanmar. In which, that was first time to Indonesia to cope with such thousands irregular migrants entering the country at the same time, unlike those originated from MENA who came gradually, both time and number of people. Consequently, much to Indonesia disadvantage, there are gaps emerges from the regulation.

To underline the flaws, among its aspect written in Article 24 to Article 30 of this regulation is shelter, in which it does not provide specific requirement on the length of time refugees and irregular migrants could stay. Thus, seemingly they can be sheltered in Indonesia without time limit as result of the uncertainty. Meanwhile, let alone asylum seekers, when countries like Australia remain pausing their acceptance towards those with Refugee-status, their policy causing negative impact to temporary shelter-countries such as Indonesia and Malaysia<sup>4</sup>. Mainly for Rohingyas, it can be said that they have small to zero opportunity to be accepted by third countries which prioritised high skills people to be resettled in their countries.

The longer those people staying in Indonesia, the more problem arises.

Financially, Indonesia can obtain support from UNHCR dan IOM regarding refugee and asylum seeker’s basic needs, such as food, clothes, shelter, and medical assistances, as it is interpreted in Article 40. The most prominent problem is shelter that considered strictly localised have not currently existed in Indonesia. Thusly, even if security procedure has applied, potential penetration toward locals remains high. Then, social conflict will occur.

As result of situation, another potential gap to discuss is this Regulation is lack of enforcement materials to enact towards refugees and asylum seekers. If they were committed criminal, then they will be processed by Indonesian penal code. However, when the breach is related to their status as refugee or asylum seekers, then this Regulation is failed to maintain. As simply as example about those leaving the shelter, which considered as wrongdoing since people sheltered inside are not allowed to leave the area. Another prominent case which just taken place in the administrative area of Aceh Barat was a marriage between two Rohingyas. According to Indonesian legal norms, that marriage was an infringement of Law Number 1 of 1974 concerning Marriage<sup>5</sup>. Moreover, they were not reported the wedlock to local Office of Religious Affairs as an official which in charge of marriage related matters.

Not only in Aceh, lack of regulation concerning sheltering period has also been taking

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4 Based on UNHCR statistics, as of end April 2024, the data recorded 188,210 refugees and asylum-seekers registered with UNHCR in Malaysia. There are 164,130 are from Myanmar, comprising some 108,860 Rohingyas, 25,930 Chins, and 30,570 other ethnic groups from conflict-affected areas or fleeing persecution in Myanmar.

5 From this Law’s perspective, marriage is only administered and acknowledged for Indonesian, with minimum of age is 19 years old.



attention even before Rohingyas arrival in Indonesia. This study examined what happened in Puncak, Bogor where refugees and asylum seekers are freely interacted with locals to the extent of marriage under Islamic law (*siri*) and bearing children. Unlike Rohingyas, they – mostly MENA people from earlier period - are not sheltered in confined area. Most of them are those who waiting further process of their Refugee status or resettlement. Once they accept the status and/or depart to resettle, it is common that they straightly leave their local spouse and children in Indonesia due to strict requirements the destination countries. Thus, this situation produces additional issue for the Government of Indonesia.

Based on above occurrences, there is endeavour from the Government of Indonesia to review and renew the PPLN regulation. Remain under the lead of the Coordinating Ministry, this effort is to adjust the regulation towards contemporary situation. In regards with the actors, even though Directorate General of Immigration playing critical role – as in Article 33 to Article 38 - this study scrutinised that this Regulation has administer who is playing what, in which tasks has fully distributed to all related official entities. To account problem that have been mentioned on the above discussion, it would be best to suggest that the Government of Indonesia must assertively stipulate sheltering period for refugee and asylum seekers for being able to temporarily stay in Indonesia, mainly for Refugee status holder. Further option to consider is AVR, which the process can organised with IOM assistance. Another optional idea is reintegration. Overall, the objective of these alternative insights is basically to reduce numbers of refugees and asylum seekers in Indonesia.

The most difficulties to apply is to those with asylum seeker status, such as Rohingyas which can also be accounted as stateless. Hence, among suggestive action to offer is locating them in shelter with ultimate security, far from the locals. This study has scrutinised that sheltering them in buildings under administration of local government was not an exquisite idea to re-experiencing indistinguishable situation as in Bogor.

The above suggested ideas are correlate with President Joko Widodo’s statement concerning response to current Rohingyas cases. It is clearly emphasised that Indonesia will provide (merely) temporary shelter, on the humanitarian grounds. Learning from European experience, refugees and asylum seekers localised in Moria on the Island of Lesbos, Greece. Before it burned down in 2020 in incident, it was accommodated roughly 20,000 people ([www.globalcompactrefugee.org](http://www.globalcompactrefugee.org)), made it the biggest refugee camp on earth. Another reasonable insight to support the idea, is that Australia once imposed the extraterritorial processing policy, for which Australia automatically sent those arriving by boat to Island of Manus, Nauru, where they funded and operated processing facility<sup>6</sup>. Therefore, decision to sheltered refugees and asylum seekers in confined and restricted area is logic and is not impossible to issue.

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6 In June 2023, the last refugee left the facility to continue the resettlement process held by Australia.

More than that, aside from assertive policy and regulation for the benefit of Indonesia’s national interest, diplomacy and relations with international entities are playing crucial role. For instance, following the 2015 Rohingyas crisis, Indonesia was able to have direct discussion with Myanmar, which conducted by a face-to-face meeting between Retno Marsudi and her colleague, high official from Myanmar<sup>7</sup>. Prior to this meeting, Indonesia had communication with Koffi Anan, former UN Secretary General, which at that time assumed duty to lead consulting committee for managing human rights circumstances in Rakhine. Certainly, among important effort to resolute refugee and asylum seeker crisis is figuring out the root of the problem. In this context, this study argues that if the circumstance is manageable in the origin country, it will reduce of even halt asylum seeker flow to other countries. If the humanitarian situation is under control, then AVR is relevant and appropriate to offer.

To summarise, to execute the ideas, as state actor Indonesia can rely on protective principle as in state jurisdiction, for which a country is given jurisdiction over crimes that considered threatening national security and interests. This exclusive jurisdiction is being acknowledged by international community as form of reserved domain or domestic jurisdiction of state. Relies upon state sovereignty, this jurisdiction provide state to authorise, enact and impose national law within its territorial over each citizen, as well as non-citizen (foreigner) (Atmasasmita, 2003).

#### **C.4 Insight from Maritime Security Outlook**

Refugees and asylum seekers are closely related to sea journey. This is to account that this journey is low budget for them, even though the risk is high. It can be said, their option of transporting themselves to other countries is deadly choice. According to FRONTEX - the EU border agency – in 2023 more than 150,000 people crossed the Mediterranean passage in precarious boats. Whilst Rohingyas risk dangerous Indian Ocean which described as such sea journey as among the deadliest route in the world. In the latest tragedy in March this year, boat carrying 145 Rohingyas was capsized off the coast of Aceh, when more than 70 people among them are presumed dead or missing.

More than that, this journey is correlate with people smuggling syndicate, who exploits the conflict by sending hundreds to thousands of people on treacherous journey across the sea to reach the destinations. They cram people into unsafe boats with hardly any navigational preparedness such as life vests, food, water, and fuel. All with little concern for their safety. This is why this study stresses that to spot people in distress at sea before it is too late is crucial.

The duty to rescue person in distress at sea is a fundamental rule which widely recognised as a customary norm under international law. According to Article 33 of the

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<sup>7</sup> In December 2016, Mrs. Marsudi met Aung San Suu Kyi (then, State Counsellor of Myanmar) as part of series of diplomatic endeavours to seek solution toward conflict in Rakhine.

Safety of life at Sea (SOLAS), Chapter V, all ships upon receiving a valid distress signal, are legally obligated and must always respond to them. Hence, in accordance with international law, coastal state which conduct search and rescue operations at sea must have good coordination among its maritime stakeholders.

In Indonesia, search and rescue (SAR) is the main domain of National Search and rescue Agency (Badan Nasional Pencarian dan Pertolongan), publicly known as BASARNAS. Due to its objective of saving life at sea, they conducted non-discriminative principle. Meaning, they will respond to whoever – regardless they are refugee, asylum seeker or stateless person – in need of help. Thus, BASARNAS made up important task in the PPLN regulation, as it is stated in Article 5, along with some other maritime stakeholders such as Marine Police of Indonesia National Police, Badan Keamanan laut (BAKAMLA), and directorate which conducting sea operation of the Ministry of Transportation. Moreover, for a coastal state which located on the route of refugee and asylum seeker’s sea journey, occurrences involving them, and people smuggling crime are most likely to happen. Therefore, this study emphasises that plan scheme to frequently encounter illicit overcrowded boats with peril is essential.

To cover the discussion, with the issuance of Presidential Regulation Number 13 of 2022 concerning the Implementation of Security, Safety, and Law Enforcement at Sea (Keamanan, Keselamatan dan Penegakan Hukum di Laut or KKPH), the Government of Indonesia reaffirm those agenda in order to maintain state sovereignty, legal certainty, and to improve law enforcement over Indonesian territorial waters and Indonesia jurisdictions, for which BAKAMLA has delegated to manage coordination towards these three aspects. One fine step forward as it was ever noted by the General Secretary of the Ministry of Marine and Fisheries with statement that fighting transnational crime - including people smuggling and human trafficking - is key to Indonesia’s maritime security and integral to the government’s design to establish Indonesia as a World Maritime Axis (Chapsos & Malcolm, 2016).

Therefore, it has raised two critical issues to the surface: national security and moral imperatives at sea. In this regard, even though these two substances are seemingly contradictive, this study examined that maritime patrol is sufficient to cover these two demands. In accordance with its characteristic and objective, maritime patrol is released to maintain security over the area. While objectify the task, maritime patrol is certainly in the right path to implement what considered moral imperatives regarding life at sea, as probability to intercept migrant boat is high.

In other words, I would argue that maritime patrol is shaping up to play vital role within the refugees and asylum seekers crisis in Indonesia. It is saving life at sea, while at the same time conducting law enforcement towards people smuggling.

### **C.5 Never to Ratify the Refugees Convention**

Lastly, up to these days, Indonesia has not ratified the Refugees Convention. Meaning, Indonesia is not bound to the convention and its derived protocols. Nonetheless, Indonesia remains abide towards human rights principle within the Refugee Convention by not returning asylum seekers and irregular migrants to places where they are facing life threatening circumstances.

In seeing the issue, numerous problems exist due to dissimilarity of perception between Indonesia and UNHCR. Although they are actively encouraging Indonesia to ratify and become the party to the Refugees Convention, this study has strongly suggested to never ratify the Refugees Convention due its potential disadvantages for Indonesia. Firstly, as a party to the Refugees Convention, Indonesia will be obliged to sheltering refugees, asylum seekers and irregular migrants. That will include providing access to basic needs to the extent of education related matters. Secondly, status of a party to the Refugees Convention will create such a pull-factor for those seeking asylum to come to Indonesia, expecting to process the application from Indonesia. Therefore, it must be prevented to not create “second chapter of Galang Island”.

Briefly, notion to joining the Refugees Convention is contra productive for Indonesia since considering its geographical situation, Indonesia will never be experiencing shortage of refugees, asylum seekers, and/or irregular migrants (Tisna, 2002). This study is also believed that international demand upon human rights that is being implemented by UNHCR and IOM mission will resulting negative to Indonesia. The existence of both international entities will create protection cover for them, which eventually causing complexities for Indonesia in terms of law enforcement.

### **D. Conclusion**

Refugees and asylum seekers are a wide array of problem obstacles that are likely putting Indonesia into dilemma. Hence, assertive policy to review regulation concerning the issue must be constructed. Particularly targeting those with Refugee-status holder issued by other countries, as well as those which their application being rejected. In the sphere of international relations, it seeks to resolute the crisis by finding solution upon root of the conflict in the country of origin. Considering its key area, increasing security by effectively deploying maritime patrol is highly recommended. This suggestion is proposed due to covering two critical issues over smuggled migrants: saving life and law enforcement at sea. Lastly, rejection to the insistence to join the Refugees Convention is consistently being recommended. Since ratifying the Refugees Convention will create bigger and never-ending problem for Indonesia.

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## **Curriculum Vitae**

Mayor Bakamla (Coast Guard Lieutenant Commander) Ayu Bulan Tisna is a graduate of the School of Law (International) from University of Islamic Indonesia, Yogyakarta, and master’s degree in strategic studies (National Security) from University of Indonesia, Jakarta. Tisna earned her Ph.D in International Relations of Security Studies (Maritime Security) from University of Aberdeen, Scotland, UK. She also graduated from Batch 67 of the U.S. Coast Guard International Maritime Officer Course, Yorktown, Virginia.

She is now servicing in Directorate of Legal, Badan Keamanan Laut Republik Indonesia. Her area of expertise is covering geopolitical and security studies, as well as maritime law enforcement (MLE) and transnational organised crimes (ToC).