



# Indonesian Political Policy in Overcoming Illegal Immigrant Problems in Indonesia

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## ABSTRACT

The purpose of this study is to find out why Indonesia has become a transit country or traffic line for illegal immigrants and to find out the extent of Indonesia's efforts in addressing this problem. This research is descriptive explanative in nature. The data were collected through literature review, known as Library Research. The technique used in analyzing the data is qualitative analysis. The result showed that the primary purpose of these illegal immigrants is that they seek a better life and security. They are seeking asylum in another country because there is no more dream or hope for a decent life. They mostly come from countries at war. They want to open a new chapter for their generations. They assume that Indonesia is the most appropriate place for them which is more like a dreamland for them. In addition, they have a strong network such as the trilogy links. This network has been around for ten years and has acted as board of protection and apply fundamental rules of all the countries concerned.

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## 1. INTRODUCTION

Current strategic environmental problems cover various aspects, both ideological, political, economic, socio-cultural and defense and security aspects, where these problems affect the condition of a country either directly or indirectly on existing problems (Wahyudin, 2013) (Fakih, 1996) (Haris, 2005) (Puspitasari, 2013). One of the strategic environmental problems that often occurs in several countries in the world is the problem of migration. Migration or movement or movement of people from countries of origin to other countries is not a new phenomenon (Irianto et al., 2011) (Priyohadi, 2013) (Azmy, 2012). Over the centuries, long before countries were formed, humans had traveled to move in search of a better life by seeking better fortunes in other countries, this has led to positive aspects and negative aspects of both developed and developing countries (Lan & Manan, 2011) (Gouda, 2007) (Imran, 2014). Migration can be divided into 2 (two) ways, namely registered/documentated

migration through procedures that have been determined by the destination country, and immigration that is not registered (unregistered/undocumented) by not going through procedures that have been determined by the destination country. Immigrants who enter a destination country by being registered will enter the destination country legally (through official immigration gates) and registered as legal immigrants are usually called legal immigrants, but immigrants who enter a destination country without being registered will enter the country. destination illegally (usually through a transit country to enter secretly through an unofficial port), is known as an illegal immigrant. Immigration problems(Imran, 2014)(Kusmanto, 2014)(Putri Jazilah et al., Nd). Legal immigrants who enter a destination country legally in accordance with the applicable regulations in the destination country will not cause problems in the destination country in the future and even tend to provide benefits to the destination country(Kesuma, 2011)(Binarto, 2006)(Imran, 2014). However, it is different from illegal (illegal) immigrants who enter the destination country illegally and do not follow the applicable procedures in the destination country, usually it will cause problems in the destination country in the future, including impacts in the fields of ideology, politics, economy, social culture and security, this applies in countries that are used as transit countries before heading to the destination country. The entry of illegal immigrants in Indonesia has had many negative impacts, including in the fields of ideology, politics, economy, socio-culture and security(Siregar, 2008)(Sinaga, 2014). In the field of ideology, illegal immigrants carry a lot of ideological understandings that are different from the existing ideologies in Indonesia, thus giving rejection from the surrounding community(Li, 2001)(Peluso, 1992)(Kingston, 2013). In the field of politics, the problem of illegal immigrants provides debate in politics within the country as well as outside the country, especially illegal immigrants who come from war conflict countries because they can be used as an escape from terrorist groups who try to escape under the guise of immigrants(Ramdan, 2009)(Sisi-Sisi, Nd). In the economic sector, the presence of illegal immigrants requires the Government to provide shelter and accommodation facilities, thus creating an economic burden for the accommodating regions(Indonesian, nd). In the socio-cultural field, the presence of illegal immigrants in detention centers with the socio-cultural character of their home country and living for a long period of time greatly influences the socio-cultural character of the local community(Angelina, Nd)(Nurika, 2012)(Imran, 2014). In the defense sector, the entry of illegal immigrants from countries affected by war conflicts may be infiltrated by terrorists who infiltrate under the guise of illegal immigrants, this could result in the terrorists developing their influence in Indonesian territory to turn local people into terrorists(Angelina, nd)(Weiner, 1992)(Freilich & Guerette, 2006). In the field of security, illegal immigrants in detention centers often commit acts that violate the law and have an impact on the security and order of the surrounding community(Sari, 2014)(Angelina, nd).

## 2. RESEARCH METHOD

This study will use a qualitative analysis research method, which aims to provide a broad and deep description of a problem, symptom, fact, event, and reality in order to obtain a new understanding(Semiawan, 2010)(Mulyadi, 2011). The qualitative analysis method will obtain data through interview techniques, field observations, and available documents. The researcher himself is a data collection tool that collects data directly(Nugrahani & Hum, 2014)(Semiawan, 2010). The selection of qualitative research participants is also based on their credibility as well as the wealth of information they have. The advantage of qualitative research tools is that the research tool, in this case the researcher, can speak and think. The technique used in analyzing the data in this study was the qualitative data analysis technique of Mills and Huberman. In this case, qualitative data analysis was carried out in three steps, namely (1) data reduction; (2) presentation of data; and (3) conclusion/verification(Gunawan, 2013). Data reduction refers to the process of selecting data, focusing data, simplifying and summarizing data, and / or transforming data that appears in field notes, interview transcripts, documents, and other empirical data(Dyahanesti, nd). This process is the process of collecting research data and the process of selecting the data needed or relevant to this research. At this stage, the researcher will try to collect data related to these problems, then select

these data according to existing needs (Hanifah, 2014) (Usman & Akbar, 2008). The next stage is the presentation of the data, where the data obtained is then processed into narrative text which is systematically arranged into important parts. These sections are adapted to the problems that are the focus of this research (Usman & Akbar, 2008). In this process, data is classified according to core themes. Then the last stage is making conclusions and verification, the researcher makes conclusions from the results of the data analysis presented. At this stage, the concluded data still has the opportunity to be given input after being tested for its correctness, which in the end the researcher can draw conclusions.

### **3. RESULTS AND DISCUSSIONS**

#### **3.1. Factors for the Entry of Illegal Immigrants to Indonesia**

The state of Indonesia as one of the countries with the largest population in the world and an archipelago, with an area mostly consisting of oceans, of course also has various kinds of culture and natural wealth (Marsetio, 2013). If in other countries there are 4 seasons, Indonesia only recognizes two seasons, namely the rainy season and the dry season. This condition affects the fertility of its nature, so that it can attract foreigners to come to Indonesia, to live, earn a living, even some are living, it is inseparable from the life struggle factor (J Van, 1987) (Gunardi, 2012). Apart from this struggle for life, there are other factors that cause foreigners to choose to immigrate to Indonesia, namely because of political conflicts in their country and the desire to spread religion. Migration is not a new phenomenon, for centuries people have traveled to seek a better life in other places. In recent decades, the process of globalization has increased the factors that encourage immigrants to seek their fortunes abroad. This has led to an increase in the number of migration activities from developing countries in Asia, Africa, South America and Eastern Europe to Western Europe, Australia and North America. Departing from this phenomenon, then the practice of deviance appears, namely taking action to move people to the destination country illegally due to restrictions and the inability of immigrants to qualify as legal immigrants. Indonesia, as one of the countries in the world, also has a strong potential for trans-national crimes. Transnational crime is not only driven by factors of free trade that are wide open or weak law enforcement in Indonesia, but also supported by Indonesia's geographical area.

Transnational crimes in Indonesia can also occur because of the relatively large population of Indonesia (Fernando, 2014). This has resulted in Indonesia becoming a country that has a large source of labor and as a target for international market developments. Various obstacles faced by Indonesia in dealing with the problem of transnational crime, including lack of competent human resources (HR), constraints in the field of technology, and weak jurisdiction and diplomatically (Fernando, 2014) (Ningsih, 2014). The large potential for transnational crime in Indonesia is an issue that needs attention.

#### **3.2. The impact of the entry and presence of illegal immigrants in Indonesia.**

The impacts arising from the entry and existence of illegal immigrants in Indonesia are:

- a. The increasing number of Indonesia's population, which is not based on the birth rate in the original Indonesian state.
- b. There is exploitation of immigrants indirectly by certain parties for material gain.
- c. Increase government spending to provide a livelihood for the smuggling people.

In addition, the impact of the problems of illegal immigrants on the international world are:

- a. Provide opportunities for smuggling of NAFZA to Indonesia.
- b. The impact on health, it could be that illegal immigrants who come or stop by to Indonesia bring an epidemic of infectious diseases that spreads in Indonesia.
- c. Triggering criminal acts because most of the illegal immigrants living in Indonesia do not have the money to support themselves and their families, therefore they often commit criminal acts such as stealing and robbing the property of local residents.

#### **3.3. Indonesian Government Policy in Dealing with Illegal Immigrants**

In dealing with illegal immigrants in Indonesia, the government takes several steps, both in the form of law enforcement and in the form of policies in dealing with the entry of illegal immigrants to Indonesia.

### 3.4. Law enforcement.

The implementation of law enforcement against illegal immigrants has not been specifically regulated in the Indonesian legal system but still only refers to Law Number 6 of 2011 concerning Immigration, namely Article 113 which reads; "Every person who deliberately enters or leaves the Indonesian Territory who does not go through an examination by an Immigration Officer at an Immigration Checkpoint as referred to in Article 9 paragraph (1) shall be sentenced to imprisonment for a maximum of 1 (one) year and / or a maximum fine of Rp. 100,000,000.00, - (one hundred million rupiah)". In Law Number 6 of 2011 concerning Immigration, there is also no specific regulation for immigrants who have fake passports, fake visas, and still generally regulate falsification of travel documents.

#### a. Barriers to Law Enforcement Against Illegal Immigrants in Indonesia

The weak legal position possessed by the Indonesian state in overcoming this problem of illegal immigrants has led to the fact that Indonesia is no longer a transit country for illegal immigrants from the Middle East to Australia, but has become a destination country, because people in Indonesia are known to be friendly and friendly. Both in dealing with illegal immigrants who later become destination countries with the target of seeking political asylum, human smuggling agents deliberately make Indonesia a destination country for people smuggling. Obligated parties have made various efforts, such as the National Police. The steps taken by the National Police so far are to arrest illegal immigrants and smugglers. but the investigation process does not use a special law, but a migration law, so that the results obtained do not show significant changes. One of the efforts made by the Indonesian government is to build many detention centers for illegal immigrants, but this is not the right solution. This effort is tantamount to opening up opportunities for illegal immigrants to come to Indonesia more because they are guaranteed a place to live. In addition, building a detention will also cost a lot. In fact, the international cooperation carried out by the Indonesian government and the Australian Government only provides unilateral benefits for the Australian state.

#### b. Policies undertaken by the Government of Indonesia

The Indonesian Government's policies that are closely related to the issue of illegal immigrants are Law Number 9 of 1992 concerning Immigration (Immigration Law) and the Human Rights Instruments in the 1945 Constitution. . Both the legacy of the Dutch East Indies colonialism and the government of the Republic of Indonesia after the Proclamation of Independence on August 17, 1945. However, all existing regulations were declared invalid since the enactment of Law Number 9 of 1992 concerning Immigration on March 31, 1992 which was published in the State Gazette Year 1992 Number 33. Law Number 9 of 1992 concerning Immigration does not provide a definition of what is meant by illegal immigrants, what exists is the definition of immigration, which is about the traffic of people entering or leaving the territory of the Republic of Indonesia and the supervision of foreigners in the territory of the Republic of Indonesia, including: (a). Every foreign citizen who enters Indonesia must have a travel document (document) issued by the competent authority of the country which contains the identity of the holder and is valid for traveling between countries (Article 3). (b). Every foreign citizen can enter Indonesian territory after obtaining an entry permit in the form of a visa to enter Indonesian territory, which is issued by an official of the Directorate General of Immigration at the Ministry of Law and Human Rights (Article 6). (c). Every foreign citizen who enters the territory of Indonesia is obliged to provide actual information regarding his need to enter Indonesia, whether it is only a stopover, a visit, a limited stay, or stay permanently (Article 24). (d). Every foreign citizen who enters the territory of Indonesia without being equipped with an official travel document (document) or not in accordance with the existing travel document (document) will be subject to a fine and if forced to be

expelled or deported by the Directorate General of Immigration in coordination with the representative of the foreigner's country of origin (articles 44 and 53).

c. Efforts to Deal with Illegal Immigrants

In overcoming the problem of illegal immigrants who continue to enter Indonesian territory, the Government of Indonesia, through the relevant Ministries and Institutions, has taken various steps, including: a. Ministry of Defense of the Republic of Indonesia, TNI and Polri institutions Handling of people smuggling cases at the Indonesian Police is carried out by the General Criminal Investigator, who is at the level of the nearest Police Resort (Polres), Regional Police (Polda) or National Police Headquarters (Mabes). Handling illegal immigrant cases at the regional level involves a Regional Task Force (Satgasda) for Dark Immigrants, which consists of regional units of the TNI, Regional Police (Reskrim Umum, Intelligence and Polair) and Immigration., Which work together in an integrated manner based on a Permanent Procedure (Protap). On the basis of the report referred to, the TNI unit, The National Police and immigration will follow up according to their authority by securing immigrants and their evidence and crime scenes. As well as conducting investigations to find out whether there is a criminal act such as organized human smuggling, and to find out the involvement of the people behind it. In addition, considering that most illegal immigrants use the sea route, the Indonesian Navy and Polair units will intercept ships that are suspected of being indicated by illegal immigrants as smuggling or human trafficking. The police apparatus in collaboration with immigration officers will conduct initial checks on immigrants and ensure their status in Indonesia, whether as asylum seekers, war criminals, or as refugees. If there is an illegal immigrant dies and the identification is clear, then the Directorate General of Immigration at the Ministry of Law and Human Rights will report to the Ministry of Foreign Affairs of the Republic of Indonesia to be forwarded to representatives of related foreign countries in the context of repatriating their bodies. When there are findings of other crimes together with human smuggling crimes related to foreign terrorist organizations, the handling will involve agencies from the Ministry of Foreign Affairs of the Republic of Indonesia, the Ministry of Defense of the Republic of Indonesia and the National Police. If the Directorate General of Immigration at the Ministry of Law and Human Rights finds indications of illegal immigrants, they will conduct initial checks and ensure the legal status of those involved in it, both as perpetrators and as people smuggled. After that, illegal immigrants who are identified as smuggled people will be placed in the Immigration Detention Center (Rudenim) while waiting for the confirmation process from representatives of the countries of origin of immigrants and related international organizations (UNHCR and IMO), while immigrants who are identified as perpetrators will be handed over to Polri to be detained for investigation and investigation in accordance with applicable procedures to find out the involvement of supporting organizations both abroad and at home, and to be processed in accordance with applicable laws in Indonesia. Ministry of Foreign Affairs of the Republic of Indonesia, Directorate of Regional, Directorate of Human Rights and Humanities, as well as the Directorate of Consular Affairs, After receiving information from the Directorate General of Immigration at the Ministry of Law and Human Rights or the National Police regarding the presence of immigrants or foreign nationals who are caught and indicated as illegal immigrants, either as perpetrators or smuggled persons, will send a mandatory consular notification (MCN) to representatives of the relevant foreign countries to inform them in an online manner. about the whereabouts of their citizens and the cases against them. Especially when they claim to be asylum seekers and refugees, this notification must be with the consent of the illegal immigrants concerned, especially if they want voluntary repatriation. When there are refugees and asylum seekers in cases of illegal immigrants who need policy direction, the Ministry of Foreign Affairs of the Republic of Indonesia Cq. The Directorate of Human Rights and Humanity will coordinate with the Coordinating Ministry for Political, Legal and Security

Affairs of the Republic of Indonesia to determine further policies. Representatives of the Indonesian Government (KBRI) Abroad at the request of relevant domestic agencies such as the Police or the Directorate General of Immigration at the Ministry of Law and Human Rights, can submit requests for collaborative investigations of illegal immigrant cases to local relevant agencies through the local Ministry of Foreign Affairs, and facilitate the process if cooperation takes place. Meanwhile, to ask someone who is in the territory of another country to be a witness, ask other countries to cooperate in the stages of investigation, investigation, examination, in court and implementation of court decisions, the police make requests for Mutual Legal Assistance (MLA) through the Ministry of Law and Human Rights and the Directorate General of General Legal Administration. This request for MLA explains the intention of the Government of Indonesia to ask for cooperation. The MLA is then forwarded to the RI representatives in the country concerned to be submitted to the local central authorities.

### 3.5. Cooperation between the Indonesian Government and International Organizations in Handling Illegal Immigrant Cases

#### a. UNHCR

In Indonesia, the United Nations High Commissioner for Refugees (UNHCR) is the United Nations agency for refugee affairs, has a mandate to provide international protection and facilitate asylum seekers and refugees, as well as to find sustainable solutions for refugees. This effort is achieved by ensuring the fulfillment of the human rights of asylum seekers and refugees through the provision of humanitarian assistance under certain conditions.

#### b. IOM

In Indonesia, the International Organization for Migration (IOM) seeks to ensure an orderly and humane handling of migration to promote cooperation regarding migration problems in order to help find practical solutions to migration problems and provide humanitarian assistance to immigrants in need, including the refugees and internally displaced persons.

## 4. CONCLUSION

There are 4 (four) attractions for illegal immigrants to make Indonesia a transit country before arriving in their destination country. First, Indonesia is the closest country to illegal entry into the closest destination country. The sea that stretches between the two countries has become a strategic channel for Indonesian ships chartered by illegal immigrants. Second, Indonesia is a transit country because there are still many areas of the sea that are not protected and do not have immigration checkpoints. On the official track, the weak monitoring of immigration officials also contributes to the influx of illegal immigrants. Third, the existence of the international organizations UNHCR and IOM which deals with refugee issues is an attraction for illegal immigrants. Upon arrival in Indonesia using tourist visas, they will immediately go to the UNHCR office and ask for their status as refugees. If given refugee status, illegal immigrants can stay in Indonesia for a certain period of time until they find a third country that is willing to accept them. Fourth, there are certain people, both Indonesian citizens and foreign nationals, including elements of the apparatus, who turn illegal immigrants into a business field.

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