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"The Scum of the Earth"?
Foreign People Smugglers and Their Local Counterparts in Indonesia

Antje Missbach and Frieda Sinanu

Abstract: Since 2008, the number of asylum seekers and refugees trying to reach Australia from Indonesia by boat has increased. With many of them hailing from conflict-ridden countries such as Afghanistan, Iraq and Sri Lanka, most entered Indonesia with short-term tourist visas or fraudulent papers or no documents at all. It is widely known that a significant number of these 'irregular' migrants pay various types of brokers (often labelled, accurately or otherwise, 'human smugglers') at least at one stage – either to enter the country or to escape it. As a non-signatory to the UN Refugee Convention, Indonesia does not permit local integration. While a substantial part of these migrants are detained in the 13 immigration detention centres scattered around the archipelago, many roam freely, looking for opportunities for onward migration. Due to the restrictive border protection arrangements between Australia and Indonesia and a number of bilateral intelligence measures for deterring 'unwanted' migrants, human smugglers have been gradually forced to adapt strategies, routes and prices. According to much of the available data, most human smugglers are not Indonesians but foreigners who have been lingering in Indonesia for many years. This article demonstrates, moreover, that these foreigners depend upon local contacts to successfully carry out their risky business. Most often, the Indonesian counterparts are solely facilitators or handymen, but in a number of cases Indonesian authorities have also been involved in this highly lucrative business.

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People Smuggling across the Globe

On 2 November 2011, an unseaworthy and overloaded vessel carrying more than 60 Middle Eastern asylum seekers sank near Pangandaran Beach, West Java (Indonesia).[1] Due to rough seas that complicated the rescue mission, more than seven people lost their lives while many others went missing (*The Herald online* 2011). The survivors of that incident were later taken to a near-by town and put into a hotel. Within hours a number of the survivors escaped, allegedly with the help of local citizens (*ABC net* 2011a). Although this story might appear extraordinary, in fact the last three years have witnessed a number of fatal accidents involving refugees drowning in the seas that separate Indonesia and Australia. For example, on 15 December 2010, at least 28 asylum seekers drowned when their boat sank on approach to Christmas Island during a storm (*Herald Sun* 2010). Australia has become a more popular destination country for refugees and asylum seekers especially since Europe has adopted more restrictive refugee policies in the past.[2] This counts true even for refugees hailing from countries that are located closer to Europe that Australia. Even though EU countries receive by far more asylum seekers and applications for asylum than Australia (Phillips 2011), some asylum seekers nowadays explore new routes, which also includes Australia. For a number of assumed or real advantages, such as average annual refugee acceptance quotas or cheaper prices for smuggles, they hope that it is easier to make their way to Australia and receive protection there.

Therefore, Indonesia has become one of the most popular transit countries for refugees from the Middle East on route to Australia. Whereas the

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[1] It was the Australian Prime Minister Kevin Rudd who called people smugglers the "scum of the earth", following a fatal boat accident near Ashmore Reef that claimed the lives of three Afghans. His full statement reads: "People smugglers are engaged in the world's most evil trade and they should all rot in jail because they represent the absolute scum of the earth. People smugglers are the vilest form of human life. They trade on the tragedy of others and that's why they should rot in jail and in my own view, rot in hell" (*ABC net* 2009).

[2] Since the enactment of the Schengen Convention in 1990 for example, visitors from non-OECD countries face stricter controls at the external borders of the European Union (EU). Moreover, the Dublin Conventions have made it more difficult for asylum seekers from African or Asian war zones to find refuge within the EU country of their choice. In particular, the Dublin Regulation (Regulation 2003/343/CE), adopted in 2003, requires EU member states to examine claims for international protection under the 1951 Refugee Convention. The country responsible for deciding an asylum application is the state, which the seeker first enters when arriving in the EU. Asylum seekers who lodge their application in a EU country other than the country of first entry are transferred to the initial state of disembarkation.

risky journeys of asylum seekers and refugees (as well as economic migrants) into Europe (and North America) have received widespread academic attention, so far the presence of asylum seekers in Southeast Asia on their way to Australia remains understudied. Although much research covers the Australian perspective, including Canberra's refugee and migration policy (Pugh 2004; Tazreiter 2005; Savitri Taylor 2010; Taylor and Rafferty-Brown 2010a and 2010b; Kneebone 2010) and Australia's domestic debates on people smuggling (Kampmark 2006; Philipps and Spinks 2011), studies of the situation that asylum seekers and refugees face in the transit countries are comparatively scarce.

In a nutshell,

> [h]uman smuggling arises out of the existence of borders and because border crossing is possible only under certain defined legal conditions, while the motivation for global migration exceeds the given legal possibilities (Heckmann 2004: 1120).

This article[3] investigates how human smuggling works in Indonesia. It examines how deals are struck between people smugglers and their 'clients' and how national authorities as well as international organisations are involved in the process. Furthermore it seeks to contribute to the current debate about people smuggling by, first, shedding light on the ongoing Indonesia–Australia bilateral cooperation, and second, by providing empirical evidence from Indonesia that shows not only how people smugglers are adapting to the bilateral restrictions but also reveals the involvement of some Indonesian authorities in the lucrative people smuggling business. The article supports the argument that stricter immigration and asylum regimes have also strengthened the demand among 'irregular migrants'[4] for professionally organised people smugglers who arrange illicit transfers and passages (Nadig 2002; Heckmann 2004; Jandl 2007; Koser 2008, 2010). The paper draws on material collected during several short-term field studies in Western Indonesia in 2010 and 2011 as well as open-source data collection.[5]

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3   We are grateful for the assistance provided by Church World Service Indonesia. We would also like to acknowledge the critical comments of David Jansen, Tim Lindsey, Annett Fleischer and two anonymous reviewers from the *Journal of Current Southeast Asian Affairs*. Responsibility for comment lies with the authors.

4   We prefer to adopt this neutral terminology rather than accept the preferred state appellation 'illegal' migration, as the latter assumes refugee claims are unlawful *ipso facto*, and this is a hotly contested point.

5   We supplement our open-source data with selective accounts from informants who were/ are asylum seekers. We approached most of them in public spaces known to serve as 'hang outs' among asylum seekers. After an initial chat and informing them about our whereabouts and intentions, we would ask whether we could meet again

Australia: Keeping the Boats out

Australia has a long history as a refugee destination country (Neumann and Tavan 2009). Especially in the aftermath of the Indochina war, Australia accepted thousands of refugees and integrated them into society (Grewcock 2010; Phillips and Spinks 2011). Australia has increasingly tried to close the door to asylum seekers, particularly after the early 1990s like many European nations, recent Australian immigration and refugee policies were designed to create obstacles for refugee claims.[6]

Measures to stop asylum seekers have often been comprehensive and tough. In May 2000, the Australia Federal Police (AFP) acting jointly with the Australian Department of Immigration and Citizenship (DIAC) established a People Smuggling Strike Team (PSST) that aimed to identify, investigate and prosecute people smuggling syndicates (Munro 2011). Especially under the Howard government (1996–2007), Australia introduced a series of policies popularly grouped under the term the "Pacific solution" that aimed to deter asylum seekers from coming to Australia by imposing mandatory detention, excising external territories from the Australian migration zone (mostly islands on Australia's northern and western littoral waters), the offshore processing of asylum seekers and the introduction of temporary refugee protection visas as opposed to permanent residency for recognised asylum applicants (Neumann and Tavan 2009). In 2001, the Australian government also introduced the 'Border Protection Law'. This statute was designed specifically to ward off asylum seeker boats. It provided the government with the power to remove any ship in the territorial waters of Australia and use force to do so. The law permitted any persons who were on the ship to be forcibly returned to the ship, and guaranteed that no asylum applications may be made by people on board an intercepted vessel (Neumann and

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for a more formal talk. Most were very keen to share some of their experiences, but others declined our request. Given the need for confidentiality we will refrain from using their names and the locations where interviews took place. We have selected only what we consider the most reliable and truthful accounts. But we remind the reader to consider our informant's accounts with healthy scepticism, given their uniquely vulnerable circumstances and the illegal activities in which they might participate.

6   Between 2001 and 2008 Australia sought to divert asylum seekers to extra-territorial processing centres in Nauru and Papua New-Guinea. This strategy mirrors the approach of some European Union member states that have entered into similar agreements with North African countries. However, as recent statistics on new arrivals from various African countries to Italy and Malta show, if the pressure to leave one's homeland is massive enough, nothing can stop people from crossing over (Bredeloup and Pliez 2011).

Tavan 2009: 57ff.). Australia also started to survey smuggling activities at overseas international airports. Australian officers were posted to foreign countries with the task of identifying potentially fraudulent documents of travellers planning to come to Australia (DIMIA 2002). In line with this, Australia improved its coast watch, customs and defence force capabilities for detecting and intercepting unauthorised boat arrivals (Millar 2004). Consequently, the intake of 'unauthorised non-citizens' dropped strikingly after 2001.[7]

All this changed with the election of a centre-left government in late 2007. With its conscience provoked by humanitarian criticism at home and abroad, in November 2008 the government of then Prime Minister Kevin Rudd put an end to the Pacific Solution by closing down the last detention centres in Manus Island (Papua New-Guinea) and Nauru and allowing the few refugees remaining there to settle in Australia. The government also ended the policy of mandatory detention and temporary protection visas that had made the processing experience so hard for asylum seekers (Phillips and Spinks 2011). The dissolution of Australia's hardline defensive migration barrier had unexpected (though, in hindsight, hardly surprising) consequences. With the Pacific Solution gone, new boat arrivals to Australia jumped exponentially between 2009 and 2011.

Table 1: Numbers of Unauthorised Maritime Arrivals to Australia since 2000

Year	2000	2001	2002	2003	2004	2005
People	2,939	5,516	1	53	15	11
Year	2006	2007	2008	2009	2010	2011
People	60	148	161	2,750	6,879	4,565

Note: The number of people arriving irregularly by boat is not included in Australia's annual intake of roughly 13,000 refugees under its special Humanitarian Program. Online: <www.immi.gov.au/media/fact-sheets/60refugee.htm> (4 November 2011).

Source: See FN 7 of this article.

Thus the ironic result of embracing a more principled approach to migration policy was that Labor proved no good deed goes unpunished. In 2010, the political successors to John Howard in the opposition Liberal Party mercilessly hammered the Labor government into returning to aspects of their old policy (*The Age* 2011a; also see *Herald Sun* 2009). The cumulative lesson from the Australian experience appears to be that a tough refugee policy

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7   Online: <http://www.aph.gov.au/library/pubs/bn/sp/BoatArrivals.htm#_Toc23 3686295> (4 November 2011).

seems to work. Whether the moral and financial costs make the policy worthwhile is a separate issue.

Asylum seeker boats bound for Australia most often set sail from Indonesia. Although the numbers of people currently arriving in Australia by boat remain relatively low compared to other parts of the world, many Australian politicians are anxious nevertheless.[8] Again and again, commentators in the media and numerous politicians have projected fears that a deluge of asylum seekers will inundate Australia (Dunn, Klocker, and Salabay 2007; Grewcock 2010). Therefore within Australia refugee issues tend to securitised rather than treated as a humanitarian problem.

Since the end of 2009 and the new surge of boat arrivals, Labor governments under Kevin Rudd and his successor Julia Gillard have been searching for a compromise that would deter asylum seekers on the one hand, while avoiding the most draconian aspects of the Howard era policies on the other. At its core, these efforts were a desperate, politically driven effort to stop refugees setting foot on the mainland. From December 2009 until his deposition in mid-2010, Prime Minister Rudd favoured an "Indonesian Solution" that had at its centrepiece onshore processing in Indonesia. His overtures were rebuffed by his Indonesian interlocutors. Prime Minister Julia Gillard tried in August and September 2010 to convince the East Timorese government to build an offshore refugee centre in that country without avail (*The Age* 2011a). The latest step to discourage people from making the dangerous journey was a bilateral agreement with Malaysia, signed 25 July 2011, that would have enabled Australia to send 800 asylum seekers to Malaysia for the processing of their claims by the United Nations High Commissioner for Refugees (UNHCR), while accepting 4,000 verified refugees in return (*ABC net* 2011b). This deal, which would have cost more than AUD 300 million, was criticised heavily by Australian, Malaysian and international human rights activists and a large number of nongovernment organisations. The main argument put forward by the opponents was that Australia would be in dereliction of its obligations to the human rights of asylum seekers by sending them to a country known for criminalising and abusing refugees (Kaur 2007). In the recent past, asylum seekers in Malaysia

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8   In regard to global 'burden-sharing', Australia only receives 0.6 per cent of the world's refugees. Overall, the numbers of 'boat people' are outnumbered by visa over-stayers, who constitute the largest group of 'irregular' migrants in Australia (Phillips 2011: 3 and also footnote 3). In comparison, estimates about 'irregular' entries into the European Union in the early 2000s, ranged between 400,000 and 600,000 per year (Jandl 2007: 292). In the first half of 2011 alone more than 43,000 'boat people' arrived in Italy fleeing the political turmoil in Tunisia and Libya (*Spiegel* 2011).

have been arrested, detained and deported despite possessing UNHCR protection letters (Missbach 2011). The "Malaysian Solution" was eventually defeated despite the agreement of the governments of both countries. On 31 August 2011, the Australian High Court ruled the agreement violated the terms of Australia's Migration Act. The deal was thus scuttled (*The Age* 2011b). Meanwhile the Australian opposition remains committed to reviving its old deal with Nauru (*Radio Australia online* 2011).

The current state of Australia's migration policy is, to put it mildly, chaotic. The government is now committed to finding a third party state to handle Australia's refugees, but has so far been frustrated at every turn. It has disavowed Nauru as a potential option, for legal reasons, but probably due to its visceral denunciations of the Pacific Solution during Labor's time in opposition (*Sydney Morning Herald* 2011). Whether or not the true scale of the threat warrants such panic is debatable. Compared to all the irregular boat arrivals in 2010, in 2011 Australia saw in fact an overall decline of asylum seekers coming by boat.[9] Nevertheless, public attention has been stirred up steadily. Politically, Labor feels it must be seen to act tough after the shocking increase in asylum numbers after 2008. The government is desperate for a deterrent as menacing as the Pacific Solution but is wedged by its commitment not to readopt Howard era policy (in shape if not in kind). It therefore cannot retreat to Nauru. On the other hand, the government has been obstructed from moving forward to processing in other countries by legal precedent. Pinned down and unable to provide a suitably threatening deterrent, the Australian government now relies almost solely on cooperation with the governments of transit countries. History shows such cooperation to be very hit-and-miss indeed.

Australian–Indonesian Cooperation to Prevent People Smuggling

So far, the attitude to cooperation of Indonesia, the most significant country of transit for potential boat people, has been lukewarm. This is despite the many formal commitments it has made, both rhetorical and covenant based, to bilateral unity against people smuggling.

The primary statement of Indonesian willingness to cooperate with Australia was made in February 2002, when Canberra and Jakarta agreed to co-chair the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime in Bali. At the bilateral level

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9   Online: <www.aph.gov.au/library/pubs/bn/sp/boatarrivals.htm> (5 November 2011).

in November 2006, Indonesia and Australia signed a comprehensive security treaty, which included combating transnational crime, people smuggling and developing police cooperation to combat refugee flows.[10] This agreement complimented the existing field level cooperation between line agencies of the two countries. Australia has, for example, equipped Indonesian patrol boats with satellite navigation and other intelligence measures for intercepting boats, among other gestures (e.g. *Antara News* 2008). Furthermore, at the 9th Australia–Indonesia Ministerial Forum in 2008, the meeting produced a Joint Statement on People Smuggling that roundly denounced the practice as a crime and restated the need to counter people smuggling, both bilaterally and regionally.[11] It is clear therefore that there is no shortage of rhetorical or diplomatic commitment to oppose people smuggling. Action however is a different issue.

Australia has repeatedly insisted that Indonesia should accept greater responsibility for managing migrant flows. Often, this has taken the form of insisting that Indonesia be willing to readmit asylum seekers who have fled Indonesian territory but have been intercepted by Australian border control forces on the high seas. Indonesia has consistently refused to accept this principle. In August 2001 the Norwegian flagged bulk carrier MV Tampa took aboard a listing vessel filled with 438 asylum seekers that had departed from Indonesian waters. Australia refused the vessel entry and insisted Indonesia receive the refugees. Indonesia rejected the proposal and pushed the problem back to Australia. Canberra eventually intervened by detaining the immigrants on an Australian navy boat and transferring them to Nauru (thus initiating the so-called Pacific Solution) (for detailed information see: Marr and Wilkinson 2003). By 2009 the Indonesian position had softened but in-principle opposition to repatriation remained. In late October 2009, the Australian Customs Service vessel Oceanic Viking intercepted 78 Sri Lankan asylum seekers who had left Indonesia by boat. Although being closer to Indonesian than Australian shores, Jakarta initially refused to accept the refugees.[12] Following a personal plea by Prime Minister Rudd, Indonesian President Susilo Bambang Yudhoyono reluctantly acquiesced to Australia's overtures (*Brisbane Times* 2009). At the same time Indonesian officials made it clear his generosity was purely a once-off. Speaking to the Australian media Indonesia's Foreign Minister Marty Natalegawa rebuffed any idea that the Viking incident would become a template for future policy, insisting

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10   Online: <www.dfat.gov.au/geo/indonesia/ind-aus-sec06.html> (5 November 2011).
11   Online: <www.foreignminister.gov.au/releases/2008/9_aimf_statement_ps.html> (5 November 2011).
12   Online: <www.theage.com.au/national/sri-lankan-asylum-seekers-refuse-to-leave-boat-20091027-hj1d.html> (6 November 2011).

instead Australia find an 'Australian solution' to the problem (*Sydney Morning Herald* 2009). Thus, it becomes apparent that Indonesia is willing to offer strong stated commitments to combat smuggling. But acceding to Australian wishes, accepting an embarrassing status as a base for irregular migrants, and shouldering responsibility for housing people Indonesia did not want in the first place, is quite a different proposition.

It is not correct, however, to maintain that Indonesia does nothing to stop irregular boat movements. With the support from the Australian Federal Police, the Indonesian Police has established a special task-force to combat people smuggling. As of mid-2010, there were already twelve such task-forces at regional police commands around Indonesia (*Berita Sore* 2010). More than 140 boats carrying asylum seekers have been intercepted in Australian waters since early 2010 and countless others have been stopped from departing by the efforts of the Indonesian police (*Jakarta Globe* 2011b). It is debatable though as to whether the Indonesian police and immigration services are motivated by sincere concern for stopping people smuggling, or whether they are merely offering quid pro quo for the substantial material assistance of the Australian government. Australia, in fact, annually contributes millions of dollars to the Indonesian government for migration management.[13] Both UNHCR and the International Organization for Migration (IOM) receive substantial funding from Australia, aimed at providing services that will make life easier for refugees in Indonesia.[14]

Yet the conclusion to derive from all of these efforts is that they have been initiated by the Australian government for its own political benefit. Indonesia has, for the most part, been a reluctant, foot-dragging partner. Indonesia's willingness to reciprocate Canberra's overtures has spanned a quite predictable spectrum, from very willing when it comes to diplomatic statements, to moderately willing when it comes to law enforcement cooperation, to hostile when the issue turns to the repatriation of asylum seekers to Indonesian territory. Quite plainly, Australia obtains the most cooperation from Jakarta when the Indonesian government is least inconvenienced. Thus Indonesia – quite correctly – views the issue as primarily an Australian problem. As this article will go on to show, it is little wonder therefore that

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13   According to the 2010/11 budget, the Australian government will provide AUD 32.9 million over the next four years to enhance Indonesia's capacity to manage irregular migration flows and combat people smuggling activities in the region. Online: <www.budget.gov.au/2010-11/content/bp2/html/bp2_expense-15.htm> (23 November 2011).

14   IOM 2011; Munro 2011. From July 2000 to January 2008, Australia provided AUD 27.9 million to IOM to cover the costs of its role in the Regional Cooperation Model.

once refugees gain UNHCR asylum status, their experiences at the hands of the Indonesian government can best be termed benign neglect.

The Adaptability of People Smuggling Networks

Before elaborating our findings on people smuggling in Indonesia, a few conceptual explanations regarding to the term 'people smuggling' need to be made. People smuggling is a consensual business transaction between an irregular migrant customer and a provider of smuggling services. The agreement usually terminates upon arrival at the destination location (Salt and Stein 1997). Human smuggling has become a lucrative international business in which migrants are actively recruited.[15] Rather than abducting and/or deceiving their victims as human traffickers do, smugglers recruit their clients by offering services, leaving migrants more freedom of decision. Human smugglers facilitate the entry of persons across international borders either by bringing them clandestinely or through deception, for example through the use of fraudulent documents. Andreas Schloenhardt has distinguished a cluster of potential operatives including: arrangers, transporters, recruiters, corrupt public officials, informers, guides, air and maritime crew, debt collectors, enforcers and money launderers (Schloenhardt 2001: 341). Not all people involved in smuggling operations source their primary income from this black economy. Similarly not all personnel within a network are intimately connected with its operation. The knowledge of minor handymen such like transporters, is most often limited.

While popular opinion assumes smuggling syndicates are highly coordinated (Meliala et al. 2011: 52), it appears that the human smuggling agencies in Indonesia are more often loose, temporary and acephalous networks. Rather than being steep hierarchical structures, it seems that the smuggling networks have flat hierarchies and resemble more what Ahmet Içduygu and Sule Toktas describe as "a loosely cast network, consisting of hundreds of independent smaller units which cooperate along the way" (Içduygu and Toktas 2002: 46). From other comparable case studies it is known that human smuggling operates "as flexible systems of social networks and institutions" (Nadig 2002: 7), not necessarily steered by godfather-like figures in mafia organisations. People smuggling is thus most often organised in a decentralised configuration relying on interpersonal relations of trust between smugglers and migrants across borders (Içduygu and Toktas 2002). Kinship and ethnic affiliations often play a great role in forging contact

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15 Nadig 2002. Aspasia Papadopoulou (2004) pointed out that in Greece some smuggling agents even advertise their services in local newspapers.

between smugglers and potential clients. The Indonesian experience pro-
vides a classic demonstration of this. Finally, even though human smuggling
is commonly characterised as a "victimless crime" (Brettell 2003; Schendel
and Abraham 2005), one cannot ignore the asymmetric power relations
between the smugglers and their "clients", which often lead to material ex-
ploitation. Furthermore, the fatalities, deprivation and indignities that occur
many times during often long and hazardous journeys frame the industry as
a far from noble business (Schloenhardt 2001; Missbach and Sinanu forth-
coming). While Kevin Rudd's characterisation of smugglers cited in the title
of this article seems inappropriate, people smuggling is indeed an exploita-
tive affair.

Indonesia as a Transit Country

On the passage to their final destination people often pass through several
transit countries. Given Indonesia's geographic position, its porous borders
and the relative political stability of the last decade, the archipelago has be-
come the launch point for many risky voyages to Australia. The size of the
asylum seekers' community in Indonesia can be estimated in the many thou-
sands. In early 2011, there were 2,880 refugees and asylum seekers registered
with the UNHCR in Jakarta (UNHCR 2011). By late 2011, IOM had more
than 1,800 people under its care (IOM 2011). As not every new arrivee has
the chance to register with any of these two organisations, it can be assumed
that the numbers of unreported cases are at least twice as high (Meliala et al.
2011: 76). The vast majority of irregular migrants in Indonesia are from war-
torn countries like Afghanistan, Iraq and Sri Lanka (UNHCR 2009 and
2010). In 2011, the changing character of conflicts in Africa also led to an
expansion of the number of asylum seekers from Somalia, Congo and
North/ South Sudan, but early numbers are difficult to estimate.

As at late 2011, more than 1,800 refugees and asylum seekers are held
in Indonesian detention centres, including the Tanjung Pinang facility on
Bintan Island, Kali Deres in Jakarta and others (Jessie Taylor 2009 and 2010).
Many detention centres have been built or upgraded with Australian fund-
ing,[16] but most of the 13 detention centres are overcrowded. In addition to
these centres, a number of recognised refugees and highly vulnerable asylum
seekers also live in local communities, either under the auspices of the

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16   The 2008 refurbishment of the Tanjung Pinang detention centre cost approximate-
     ly AUD 6.862 million. The Australian Department of Immigration and Citizenship
     footed the bill through grants awarded to the IOM. Online: <www.immi.gov.au/
     about/reports/annual/2007-08/html/outcome1/administered1-11.htm> (2 Au-
     gust 2011).

UNHCR or their local partner organisations, as they wait for their claims to be processed. If the asylum seekers are not yet registered with the UNHCR, they tend to live in urban slums or the outskirts of major coastal cities. Other studies have found that a relatively small number of people have also settled into local communities by acquiring Indonesian documents through unofficial channels (Taylor and Rafferty-Brown 2010b). The majority of transit migrants, however, tend to register with the UNHCR because this provides them with a minimum level of protection. Indonesian authorities normally acknowledge UNHCR papers held by asylum seekers and recognised refugees awaiting resettlement. Asylum seekers who are not recognised as genuine refugees are therefore not entitled for resettlement through international channels. If applying for refugee status, an applicant may be rejected twice and appeal to the UNHCR. If rejected three times, they can either accept 'voluntary' repatriation to their homeland (supported by the IOM) or remain in Indonesia "illegally" (Kurnia 2011). Formal integration into the Indonesian society is out of question, as Indonesian immigration policy does not permit refugees to claim permanent residency or citizenship. It is a testimony to the harshness of life for refugees in Indonesia that more than 1,400 rejected asylum seekers have returned to Iraq and Afghanistan since 2009, despite the worsening conflicts engulfing these countries (IOM 2011). Others, being stuck between the figurative rock of a war ravaged homeland and the hard place of an unstable life in Indonesia, opt to risk a dangerous boat journey to Australia.

The main obstacle for refugee protection is that the government of Indonesia is not a signatory to the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol. Indonesia therefore lacks a legislative framework for the protection of refugees. As mentioned, the Indonesian government does allow, however, refugees to remain in Indonesia until a suitable solution is found for them by international migrant organisations such as the UNHCR and the IOM.[17] Because the legal channels for migration in the home countries of refugees are often unavailable and resettlement policies in transit countries are insufficient, there is a demand among asylum seekers for newly evolving and reinvigorated smuggling networks. Stricter border protections between Australia and Indonesia, and the fact that it is difficult to realise 'self-smuggling', has prompted 'irregular' mi-

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17   According to its mandate, the UNHCR works to protect refugees and to find long-term solutions for them. The UNHCR has three options for handling refugees: voluntary repatriation, resettlement and local integration. However, the most feasible option (usually the only option) for refugees in Indonesia at the moment is resettlement.

grants to rely more on 'professionally'-operating smugglers and to accept higher prices as well as higher risks.[18]

Although Indonesia has undergone a democratic transition since 1998, civic life today is still characterised by a culture of government shaped during the country's authoritarian past. The government's civic registry mandates that residents (Indonesian and non-Indonesians) carry civil registration papers. Every adult Indonesian citizen (from seventeen years old and above or if one has married) must have an identification card (KTP). The process of obtaining these cards and renewing them every five years involves visiting up to three local government offices.[19] The paperwork for Non-Indonesians to reside and work in the country is even more complicated. After obtaining a visa to enter Indonesia, one must apply for a series of registrations and permits at the immigration office, the local police office and the local neighbourhood council. These must be renewed regularly.[20] Foreigners in Indonesia are also subjects of the state's surveillance through layers of government coordination bodies, which exist at the district, province and national levels to monitor their activities.[21]

Against this backdrop, the Indonesian Government's regulations and procedures concerning irregular migrants in Indonesia are consequently

18 Self-smuggling is organised by the migrants themselves. They might purchase the services of forgers, boats, etc., but they do not entirely rely on smuggling agents for sorting out routes. Although we have been working on this subject for some time, we have not come across significant indications for self-organised onward migration to Australia. In contrast, self-smuggling is more common for asylum seekers and economic migrants into Europe (Bilger, Hofmann, and Jandl 2006). Many asylum seekers interviewed for this article feared crossing the ocean between Indonesia and Australia on their own and preferred to be taken by more experienced smugglers. This is especially true for people who hail from countries without any access to the sea, such as Afghanistan. Many of our informants had never seen the ocean before and cannot swim.

19 See online: <www.kutaikartanegarakab.go.id/index.php/static/permohonan_kartu _tanda_penduduk_ktp/> (3 February 2011) for a simple chart of the process involved.

20 For procedures on how to obtain a foreigners' residence permit and documentation process in Indonesia see online: <www.expat.or.id/info/docs.html> (3 February 2011).

21 The state's foreigners supervisory coordination team (*Tim Koordinasi Pengawasan Orang Asing – SIPORA*) exist in each district and city in Indonesia. The body has representatives from the Regional Law and Human Rights Department, the National Intelligence Body, the Regional Police, Army and the regional Government (*Kesbangpol and Linmasda*) as its members. The team works with the government's regional intelligence community (*KOMINDA*), which supplied information concerning irregular migrants in Indonesia. The police also has its own foreigners' surveillance unit.

even stricter than the rules for its 'legal' residents.[22] As mentioned above, Indonesia only allows those who entered the country without proper documentations to remain in Indonesia if they have applied for asylum seeker status at the UNHCR office in the country. Irregular migrants who are found by the authorities without a UNHCR letter – be it a registration letter for an asylum seeker status, or an attestation letter for a refugee status after the UNHCR determined their status – would end up at the immigration detention centres spread around the country. Furthermore, the migrants have to register themselves at the local neighbourhood council (*Rukun Tetangga*, RT) where they reside in Indonesia. The RT head will then report their existence to the local police. If the authorities find a migrant outside his or her residential area, including on a boat in the Indonesian water, the migrant would highly likely be put in detention by the authorities.[23]

Since the Indonesian government is not a party of the 1951 Refugee Convention and its 1967 protocol yet, it does not have obligations to provide for asylum seekers and refugees in Indonesia – be it in terms of surviving in the country as asylum seeker or assisting with the refugee resettlement process. As a result, asylum seekers do not have access to formal economy, education for their children and health services. Nevertheless, the government allows international organisations like IOM and UNHCR through its implementing partner organisation to work with, and support, asylum seekers and refugees.[24] The Indonesian Government also engages in coordina-

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22 The regulations include Law No. 9 Year 1992 on Immigration; the Government Regulation No. 30 Year 1994 on the Procedures of Prevention and Prohibition against Foreigners; the Government Regulation No. 31 Year 1994 on Foreigners Surveillance and Immigration Measures; the Government Regulation No. 32 Year 1994 on Visa, Entry Permit and Immigration Permit; the Government Regulation No. 36 Year 1994 on the Travel Memo of the Republic of Indonesia. In addition, as with other residents of Indonesia, irregular migrants are also subjected to the Indonesian Criminal Code and other national laws.

23 It appears that registering with the neighbourhood association is not mandatory in reality as our observation in the field showed that not many migrants do, in fact, register with their RT. However, this situation made the migrants vulnerable to arrest when they have problems such as a dispute with locals. As with the cases of some, if not many 'legal' Indonesian residents, there are cases of irregular migrants who engage in the act of bribing authorities to get their way around the regulations, and or are off the authorities' radar.

24 UNHCR through its implementing partner organisation in Indonesia, CWS, provides a monthly subsistence allowance to vulnerable recognised refugees based on assessment, access to public health care, basic education as well as sports and recreational activities. The organisation also facilitates refugees to enrol in language and computer classes and vocational training based on their skills (observation during fieldwork January–June 2010). Other international organisation, the Australian

tion efforts with international organisations and collaborates with them in the provision of protection to refugees (for example the free usage of the government-run temporary shelter in Jakarta for gender-based violence victims, basic health services at the local integrated health service in their area) and access for refugees' children to study in local primary school. There are even discussions between the government and UNHCR's implementing partner regarding a possible government-run vocational training centre to provide training for refugees.[25] It should be noted, however, that the number of those with access to international organisations' supports and facilities is only a small percentage in comparison to the total number of asylum seekers in Indonesia.[26]

The number of asylum seekers in Indonesia visibly increased in the past few years and has therefore received more international attention especially from the Australian government. The Indonesian government has reacted by tightening its regulation towards 'irregular' migrants in the country. In September 2010 the immigration department issued a regulation concerning "the treatment of illegal immigrants".[27] This requires the migrants to sign a "declaration of compliance" consisting of five points. First, they should stay at an immigration directorate general-designated area only; second, they are prohibited from entering an airport or a seaport area unless in the company of immigration officers; third, they are required by the Indonesian government to fully comply with Indonesian laws, including by not working or engaging in income-generating activities[28] and driving without a licence.

Government-funded IOM works with Indonesian authorities in providing assistance and case management of intercepted transiting irregular migrants. IOM assists these migrants with their identification process, voluntary return arrangement, medical care through its medical team, English language courses, sports activities and basic skills training. In 2010, IOM claims to assist approximately 1,300 irregular migrants in Indonesia, online: <www.iom.or.id/project/eng/fs/Irregular%20Migra tion%20Fact%20Sheet_2010_eng%28lo%29.pdf> (23 November 2011). The number has raised to 1,800 people in the subsequent year.

25   Observation during fieldwork, June 2010.

26   As a comparison, at the end of December 2010, CWS only assisted 194 out of 811 recognised refugees UNHCR recorded as of 31 December 2010.

27   The Immigration Director General Regulation Number IMI-1489.UM.08.05 Year 2010.

28   Even without this new regulation, it is almost impossible for an irregular migrant to get a job in Indonesia. Job opportunities for foreigners in Indonesia are extremely limited as the Indonesian Government imposes strict regulations on the employment of foreign workers in Indonesia. In order to employ a foreigner, the Indonesian Manpower Law No. 13 Year 2003, which contains regulations on the employment of foreign workers requires the employer of a foreign worker to first obtain a written permission from the Manpower Minister. In addition, a foreigner can only

They must also uphold order in their neighbourhood. Finally, the government required the migrants to report to the immigration office to update their registration every two weeks. The letter stated that failing to implement these points would lead those migrants being taken to the detention centre.[29] The weeks around the release of this new immigration rule saw a more intense surveillance by immigration authorities of irregular migrants, including a major raid by immigration and police officers at migrant accommodation areas to check the migrants' documents and to take migrants' photographs and fingerprints for their record.[30] The recent conditions imposed by the government on 'irregular' migrants in Indonesia discourage asylum seekers from staying in Indonesia, as, indeed they are intended to. Instead they push migrants into making arrangements with people smugglers for their speedy onward movement. For this reason, we consider that Indonesia holds responsibility for the growth of the people smuggling industry, just as Australia's refugee policies have encouraged risky journeys by boat.

People Smuggling in and out of Indonesia

Along with the increasing number of asylum seekers, the people smuggling business in Indonesia and beyond has been growing steadily (Meliala et al. 2011). Most of the time, the money exchanged in such transactions comes from the migrants' life savings, or their families' life savings, or loans from

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hold certain positions, which will be determined through a Ministerial Decision, in a certain period of time in Indonesia. (See the Indonesian Manpower Law No. 13 Year 2003, Chapter Six). In addition, the high unemployment rate in Indonesia (7.14 per cent in August 2010), 11.92 per cent out of this figure are the holders of a bachelor degree, according to the Indonesian Central Statistics Board data online: <www.bps.go.id/brs_file/naker-01des10.pdf> (31 January 2011) does not help foreigners in competing with Indonesians for a job in Indonesia, as the prospective employer's preference would likely go to an Indonesian.

If it is difficult enough for a legal foreigner to obtain a job in Indonesia, illegal migrants without proper documentation would even find it more difficult to gain employment in the country. Furthermore, as will be illustrated later, our observation shows that the general attitude of Indonesians towards foreigners is that foreigners are better off than Indonesians. We also noticed many migrants, out of the cultural and language constraints among others, have very limited interactions with locals in their neighbourhood. Some migrants even developed a strong dislike towards Indonesians. This circumstance further hinders such migrants from gaining employment, even informally – as many of their fellow migrants who interact with locals do.

29   The Immigration Director General Regulation Number IMI-1489.UM.08.05 Year 2010.

30   Observation during fieldwork, late July 2010.

their entire village communities. It is widely known that a significant number of 'irregular' migrants in Indonesia pay brokers and other types of intermediaries at least once – either to enter the country or to escape detention or to move on to Australia. Depending on the country of origin, the opportunities to easily apply for identity documents and also the visa conditions for travellers to Indonesia, some asylum seekers (e.g. from Iran) can enter Indonesia legally with a valid passport and a 30-day tourist visa on arrival and then simply overstay, whereas others (e.g. some Afghani refugees who have been living in Pakistan for a long time) often 'purchase' fake passports and visa to travel to Thailand or Malaysia, but they then abandon these papers before clandestinely entering Indonesia (often by boat).

Over the last ten years, efficient smuggling routes, routines and networks have developed stretching from the home countries in the Middle East and Central/ South Asia over diverse transit countries, including Malaysia and Indonesia. During our interviews it became obvious that most refugees and asylum seekers in Indonesia have relied to some extent on smugglers from the same ethnic background, with common ethnicity serving as a trust-building measure. For example, Charly,[31] a Somali asylum seeker, explained that back in Somalia, a Somali man who holds an Australian passport offered him to take him to Australia together with eight other Somalis. He paid the smuggler USD 5,000, the entirety of his mother's savings, to organise the flight tickets and the necessary travel documents. After they had travelled half way, Charly was abandoned in the airport in Kuala Lumpur. Together with some of the other Somalis he managed to find a place to stay in Kuala Lumpur for two weeks, which gave him enough time to find another smuggler who would then take him to Medan by boat.

Malaysia, in particular, has become an 'entry point' for asylum seekers, as it offers visas on arrival to passengers from more than 60 countries, in order to boost its tourist industry. As living costs in Malaysia are significantly higher than in Indonesia, asylum seekers usually move on to Indonesia rapidly. Even though there is an UNHCR office in Kuala Lumpur, many prefer to register once they have arrived in Jakarta. Currently, the UNHCR in Jakarta has to deal with only about 3,000 registered cases, whereas the UNHCR in Kuala Lumpur is working on more than 94,000 cases.[32] The passage from Malaysia to Indonesia happens most often by boat and costs between USD 500 and 1,000. As neither the Indonesian nor Malaysian coasts are heavily guarded, irregular entry often takes place undisturbed. In

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31   Not his real name.
32   Online: <www.unhcr.org.my/About_Us-@-Figures_At_A_Glance.aspx> (11 November 2011).

general, a journey takes between six and eight hours, when weather condi-
tions are good.

This was certainly true for Charly. He paid USD 500 to a Malaysian
middleman (contact with whom he had been provided by the Somali smug-
gler), who brought him by boat to Medan (North Sumatra/ Indonesia).
From there he took a bus to Jakarta. Before he had the chance to register
with the UNHCR, he was intercepted by the Indonesian police and put in
detention in Jakarta for four months. As it turned out that Charly was still a
minor, he was released and put into the care of an international organisation
that provides shelter to unaccompanied minor refugees. For now, his plan
to apply for asylum in Australia has been put on hold as he is still awaiting
the outcome of his status determination with the UNHCR.

While a number of asylum seekers reported that they were aware that
they would only be taken to Malaysia or Indonesia and then had to look for
new opportunities to move on, there were also a number of asylum seekers
who had ended up in Indonesia unintentionally. They knew that Indonesia
might be a transit place, but they had paid for the whole trip to Australia and
therefore never imagined that they would be left stranded on the way. Oth-
ers had indeed been instructed by their smugglers to contact the UNHCR as
that would ease their temporary stay in Indonesia. Unlike in Malaysia, where
asylum seekers face massive repression by the local police and immigration
authorities even if they hold UNHCR documents, the Indonesian authorities
normally accept these documents (Missbach 2011). From this point of view,
it is probably safe to say that smugglers operating in Indonesia have inte-
grated the services of the UNHCR into their operations, in a similar way to
that observed in Europe (Jandl 2004). Not only do smugglers tell their cli-
ents to approach the UNHCR and other international organisations for help
by passing on their addresses, they also tell their clients what stories to pre-
sent to the international organisations to make their clients eligible for refu-
gee status and for accessing the services these organisations provide. As an
anecdote, on more than one occasion interviewees would ask us, "[i]s this
for UNHCR or for another organisation?" This was because the interviewee
had different versions of their stories depending on to whom they talked.
Being registered with the UNHCR not only provides the 'clients' of people
smugglers with a minimum of protection (such as non-refoulement[33]), but
more importantly, they win time to prepare the next steps in their onward
migration. Some asylum seekers, who are still solvent refrain from register-
ing with the UNHCR as they deem the process too bureaucratic, but, once

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33   In international law, non-refoulement is understood as a principle for the protec-
     tion of refugees from being returned to places where their lives or freedoms could
     be endangered.

their funds begin to dwindle and attempts to move on keep failing, they also consider registration.

According to most sources, smuggling networks are often operated from outside Indonesia, most often from secure third countries or even destination countries (Tailby 2001; Munro 2011; Meliala et al. 2011). Sponsors for smuggling operations have the financial means to set up the infrastructure, bribery and other costs involved in smuggling operations. These 'investors' occasionally travel to the home countries and transit countries to establish collaboration with subordinate smuggling recruiters and implementers who then coordinate day-to-day business. Generally, these smuggling sponsors rely on collaboration with diasporans of the same ethnic background or on migrants from neighbouring geographic areas for provision of safe houses, forged documents, and transportation (Tailby 2001). If asylum seekers are satisfied with the services of the original smuggler(s), they might continue relying on him and his wider contacts (most smugglers are men). In case they prefer to try out a new smuggler, after entering Indonesia would be the time to do so. It appeared to us, that the majority of people willing to risk a boat journey to Australia looked for new smugglers (with similar ethnic background) rather than relying on the previous one.

One of the linchpins of people smuggling is, in fact, the socialising between smugglers and potential customers willing to rely on the services of human smugglers. Recruitment can be proactive, i.e. migrants are actively seeking (new) smugglers. It is not hard to make contact, as there are many informal meeting points, such as public coffee shops, restaurants, supermarkets or post offices. Approaching smugglers often takes place after asylum seekers are very new to Indonesia and therefore still possess enough funds to purchase their services. However, lacking the necessary experience and knowledge, many fall into the hands of 'fraudsters'. Another crucial moment for choosing to rely on smugglers is when asylum seekers' refugee status are rejected and they therefore cannot access UNHCR's resettlement process. Moreover, among 'voluntary' boatpeople one can find recognised refugees who have lost patience, as they have been waiting in vain for resettlement for many years. Frustrated with their undetermined stay in limbo, they are desperate enough to put their destiny into the hands of people smugglers. Middlemen and smuggling agents also recruit clients with promises and 'special offers'. In fact, recruiters looking for clients even visit the houses of asylum seekers and refugees. From anecdotal evidence we have gathered recently, it appears that smugglers have taken a more aggressive approach to recruiting new clients. Competition seems high; for example, some smugglers offer free journeys to asylum seekers who cannot pay the fare if they

can find a certain number of willing and solvent customers.[34] Prices per person to Australia vary between USD 2,000 and 10,000. Most often, for this last but more dangerous part of the trip, asylum seekers would only pay an advance payment. Their family would only transfer the unpaid balance once they have arrived in Australia. This payment by instalments serves them as money-back guarantee, in case their attempt to move to Australia fails (as it increasingly the case). As some people either do not have family members or friends who could arrange such partial transfers for them or because their financial resources have been exhausted, some smugglers offer cheaper prices if payment is made all at once, thus creating a risk that if the attempt fails, all the money is irretrievably gone.

Peter Munro has observed that most organisers of smuggling operations in Indonesia originate from Pakistan, Afghanistan and Iraq (Munro 2011). Next to people smugglers who hail from the former homelands of the refugees and asylum seekers, there are also smugglers based in the respective host countries, mostly former refugees who have been resettled. The reasons why they become involved in people smuggling include both financial motivation and 'philanthropic' reasons. Besides knowing their way around in the transit country, having developed (criminal) contacts there and being able to communicate in the local language, these former asylum seekers have gained knowledge about legal procedures for immigration and general insights about daily life in their host country. A number of rejected asylum seekers who remained in Indonesia in the last ten years have also become involved in people smuggling. As the Indonesian migration authorities considered their deportation too expensive, for almost a decade these rejected asylum seekers had the opportunity to broaden their horizons and develop beneficial networks for smuggling. According to Munro, many smugglers resumed their work in 2008 after the end of the 'Pacific Solution'. In fact, he stated that

> [f]ar from being ad hoc opportunistic ventures, these smugglers operated labour-intensive operations utilising support infrastructure throughout transit countries like Indonesia and Malaysia. The infrastructure lay dormant for several years but was able to be reactivated quickly when circumstances changed (Munro 2011: 432).

According to the common public depiction, Indonesians are not the heads of the smuggling ventures, but rather are marginally involved, for example as

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34   Some informants even claimed that they could get free boat trips to Australia, but would have to repay their debts to the smugglers upon arrival by working at jobs assigned to them, which in consequence would then resemble people trafficking and bonded labour rather than 'mere' people smuggling.

transporters and service providers. Due to the downturn of the local tourist industry and also to the diminishing fishing industry, people-smuggling creates new income opportunities for fishermen and their underused fishing boats and ferries, after all the cheapest form of transport to Australia (Kurnia 2011). In order to minimise costs, in many cases it is under-aged, sometimes rather inexperienced, fishermen who transport the human cargo to Australia. The boats they use are often in poor shape, not necessarily because they deliberately aim to risk the well-being of their passengers, but because boats that are confiscated by the Australian navy, will be destroyed, so there is no point in risking more valuable craft (DIMIA 2002; Kurnia 2011).

Contrary to other findings that Indonesians only play a minor part in the transnational people smuggling, our findings indicate a much larger involvement of the Indonesian counterparts within the 'people-smuggling industry' (Munro 2011; Kurnia 2011). It is not only the foreign smugglers who benefit financially from organising passages to Australia, but also Indonesians. Local beneficiaries include local criminals who provide falsified papers and documents, but also 'ordinary' Indonesians refugees and asylum seekers have become a source of income, for example by renting out rooms or houses at higher rents than the market average.[35] Apart from these rather less significant beneficiaries, there are scattered indications of corrupt Indonesian securities officials (both from the police and the military) and members of the migration authorities involved in the lucrative people smuggling business and other forms of transnational crime (Honna 2011: 266). Hence, it does not come as surprise to hear, for example, that in February 2010 a bus belonging to the Department of Defence was stopped near Sukabumi carrying a number of 'irregular' migrants from Afghanistan (*Detiknews online* 2010). Also, in April 2010, a retired immigration officer from Makassar was detected in Kupang with a group of nine migrants, for whom he had promised to arrange a passage from Jakarta via Kupang to Australia (for example see *Antara* 2010; *Fajar News* 2010). Another similar case was that of an honorary staff member of the detention centre in Jakarta, who was caught with six Afghanis who neither held valid immigration papers nor UNHCR documents (*Tempo Interaktif* 2010a). Our fieldwork observations have revealed that even prison guards, security officials and immigration authorities try to earn extra money from the intercepted irregular migrants (Missbach and

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35   One informant told us that initially she found it difficult to find a decent accommodation for her family as according to her, "the landlord automatically assumed that because I am a non-Indonesian, I must be rich and so they would mark up the rent. Only after a lengthy talk with the landlord he understood that I was a refugee without any money left and not a tourist." Also see *The Jakarta Post* 2010.

Sinanu forthcoming). For example, one refugee who had been intercepted by the police after a failed attempt to leave Indonesia by boat reported in 2001 that a staff member at his detention centre offered to have another journey organised with the help of the acquaintances of the detention officer. However, despite paying another USD 500 for this attempt, he was kept in detention for six months and the journey never took place. Previously, cases of criminal involvement by corrupt migration officials in Indonesia have been reported (Tailby 2001); however, it seems that nowadays the extent of such involvement has increased. Currently, there are five Indonesian soldiers under investigation for their involvement in organising an attempt to smuggle 250 people out of Indonesia, which cost more than 200 passengers' lives. The overcrowded boat sank in a storm on 16 December 2011 about 55 nautical miles of Java's Eastern coast (*Tempo Interaktif* 2012).

Unfortunately, we did not have the opportunity to interview a head of a smuggling network or any detained Indonesian middlemen; however, we learned about a symptomatic case that involved an Indonesian middleman who had been working for a NGO in Indonesia that takes care of asylum seekers and refugees. As internationally-operating smuggling networks rely on local people and local knowledge, it is worth to asking how Indonesians become involved in these smuggling networks. Alex's story provides an illustration of this and indicates how tempting these lucrative ventures can be.[36]

Alex, an Indonesian man in his early forties, lives in Puncak, the mountainous area near Jakarta.[37] He speaks good English, has an outgoing personality, and until February 2010 he worked as a casual employee for an organisation involved in the 'irregular' migrant sector. Both Alex and his wife Melinda befriended a number of asylum seekers. As time went by, they became involved with people smuggling networks. Initially, Alex just wanted to help his wife and her boss called Jane who worked for a law firm in Jakarta. Her firm provides services to help expatriates obtain work permits and business visas in Indonesia. The nature of their work frequently led Jane and Melinda to visit the national immigration office in Jakarta, where they made

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36   As noted earlier, all names are pseudonyms.
37   This area is a popular weekend and holiday destination for many Jakartans but also for tourists, especially from the Middle East, due to its lush scenery, fresh air and cool climate as well its close proximity to Jakarta. For 'irregular' migrants this area is attractive as living costs are cheaper compared to Jakarta. In regard to people smuggling in Indonesia, this area serves as a major hub, connecting the web of people smugglers and their clients (be it potential, existing or even, in some cases, former clients).

the acquaintance of three officers in the foreigners' permit section.[38] Not long after, Melinda and Jane began acting as 'brokers' for detained irregular migrants (who were mostly asylum seekers) by bribing immigration officers to release their 'clients' from the detention. According to Alex, they charged USD 2,000 for one person to be released from the immigration detention centre in Jakarta (and more than USD 2,000 if the person is detained outside of Jakarta). According to Alex "we [Jane, Melinda and himself] only get a couple of hundred dollars after we pay the related officers". It was Alex's role to pick up the detainees at the detention centre and provide them with temporary housing. The release process also entailed him signing the detainees release papers 'using' his affiliation with his own employer. It should be noted, moreover, that these immigration detainee release letters were official documents, as a high-rank immigration officer signed them.

When Alex's employer found out about his criminal activities, Alex was immediately fired. At first Alex tried to obviate further damage by offering to become a 'whistle blower'. This did not work out, so he decided to expand his business establishing his own centre for asylum seekers.[39] Apparently, Alex then even started to operate in Malaysia brokering the demands of 'irregular' migrants planning to travel to Indonesia. Theoretically, there he can recruit new customers on their way to Australia before they even enter Indonesia, thus increases his profits as he can sell them trips to Indonesia and help them negotiate their way in advance.

As illustrated in the case of Alex, becoming involved with the smuggling industry in Indonesia appears to be relatively easy and can happen almost 'accidentally' through kinship links, work-related acquaintances and religious institutions. There is a huge demand for brokers and intermediaries that help 'irregular' migrants to bypass certain legislations or accelerate certain bureaucratic processes, which are known to take place slowly. Becoming a part-time or full-time broker is also a lucrative business. Although local brokers only earn a certain percentage from the overall fee for each complete smuggling activity, a couple of hundreds USD are nevertheless a financial incentive for them. From Alex's account we also gained the impression that he lacked the understanding that the services he provided to the detainees were unlawful, as corruption remains a widespread phenomenon throughout Indonesia. On the contrary, Alex interpreted his intervention as

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38 According to Alex, collaboration was assisted by the fact that the immigration officers belong to the same church congregation as he and his wife.

39 According to an informant who once visited the 'centre', the place was well equipped for example with brand new laptops and also offered lodgings for its clients. It seems likely that Alex must have purchased the toleration of the local authorities, as his centre can exist despite the scrutiny of Indonesian authorities.

"helping people in a difficult situation" from which nobody suffered any damage. To him it was a scenario, in which "everybody won", as the detained migrants were released and he and the corrupt official were financially compensated. The only 'moral' punishment for Alex was his dismissal from his NGO job; but he did not have to fear any further legal inquiry, as nobody even considered taking him to court. Given the lack of capacity on the Indonesian side, people smugglers and their helpers have been able to operate largely undisturbed over the last decade. Although the Indonesian police arrested a few alleged people smugglers in the recent past, most have so far enjoyed impunity and hardly ever face criminal proceedings, as until recently Indonesia lacked adequate laws to convict them for the illegal onward movement of people. Instead, they were usually only held for breaching immigration laws.[40] For example, Sayed Abbas Azad, an Afghan man who has been portrayed as the kingpin of a people-smuggling network in Indonesia, was arrested in 2009 on immigration offences that carry a two and a half year jail term. However, instead of serving his jail sentence he was spotted partying in a Jakarta nightclub in July 2011 (*The Australian* 2011).

Although Indonesia is a major transit route for people wanting to reach Australia, it did not have a law against people smuggling until April 2011, when President Yudhoyono signed a law against people smuggling (Law No. 6/2011) (*Agence France-Presse* 2011). The new law lays out regulations and criminal codes for activities related to people smuggling, from those in charge of vessels entering and exiting Indonesia, the forging of travel documents, to the misuse of power by immigration officials. Under the new law, convicted people smugglers could be jailed for up to 15 years and officials who receive bribes from them could receive five-year prison terms. Currently, the IOM is organising training all over Indonesia, to inform local police officers, government officials and also members of the local judiciary (who are known for imposing only lenient sentences on people smugglers in the past) about the new law. Nevertheless, it remains to be seen how effectively

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40   At court, the Indonesian authorities processing foreign people smugglers commonly rely on the immigration law, as the offenders usually do not have proper immigration paperwork (for example, see *Tempo Interaktif* (2010b), or the criminal code (e.g. for deception or drug abuse). Generally, the Indonesian media provide stories about detained irregular migrants, hardly ever about detained smuggling agents. However, as irregular migrant became a more prominent issue in Indonesia, especially as the government authorities increased their efforts in dealing with people smuggling in the past two years, we find more media coverage about the arrest of people smugglers. For example, see *Tempo Interaktif* 2009; *Antara News* 2010; *Republika Online* 2010; *Kompas* 2010; *Jakarta Globe* 2011a. Nevertheless, news coverage about detained 'irregular' migrants outnumber press reports about detained smuggling agents by far.

the enforcement will be. In Australia there seem to be serious doubts that the law enforcement, which so far has been rather weak, will change. Therefore, despite the fact that Indonesia has now implemented a law against people smuggling, Australia keeps insisting on the extradition of people smugglers caught in Indonesia to put them on trial in Australia for breaching Australian immigration laws. In Australia, people smugglers face mandatory imprisonment of five years (maximum 20 years) and can be punished with fines up to AUD 220,000. So far, however, Indonesia has not answered the demand for Sayed Abbas Azad's extradition or any other case positively.

Conclusion

Although former Prime Ministers characterised people smugglers as "scum of the earth", who deserve to "rot in hell" for recklessly risking their passengers lives at sea, this article has taken the position that people smuggling is a black economy, which has grown up to service the needs of desperate persons. Certainly, exploitation routinely occurs in this industry, but after juxtaposing the harsh obstacles that governments place in the way of people fleeing persecution, it does beg the question: Is the illegal commerce of people smugglers really that much worse? This article shows that in reality no side can claim moral superiority. This paper intended to shed new analytical light on an under-researched area of migration studies: the transit route between Indonesia and Australia. It has reviewed the changing policy and legal framework deployed by the Indonesian and Australian governments to hold irregular migrants away from the territory of Australia. It has also explored how people smugglers do business in this changing environment.

In the first section, the article showed how Australia originally shut the smuggling down. In response to exploding refugee numbers in the early 2000s Australian Prime Minister John Howard created a tough regime labelled the 'Pacific Solution'. The centrepiece of this program was the forced detention of asylum seekers to Pacific Island countries. Howard's plan succeeded in driving away the refugees. Yet just because asylum seekers stopped coming to Australia, did not mean they stopped coming to Indonesia. When a new government in Canberra abandoned the policy the boats also returned. One of the core conclusions of this article therefore is that like the US and Mexico or Italy and Libya, Indonesia's and Australia's migration regimes function as the human equivalent of an integrated eco-system. Changes in one have downstream and upstream effects for irregular migration.

In the following sections, we examined the policy (or lack thereof) of the Indonesian government towards asylum seekers. Indonesia has tradi-

tionally held a live-and-let-live attitude to recognised refugees on its territory. This springs from Jakarta's non-participation in international refugee treaties. Such neglect has in fact been an inexpensive form of deterrent for potential asylum seekers. Under pressure from Australia, Jakarta has, however, gradually increased its punitive surveillance of refugees and criminalised people smuggling.

We also provided case studies of refugees who were smuggled into Indonesia, and Indonesians who smuggled refugees. Although in Indonesia the primary groups involved in coordinating smuggling networks are co-ethnic members of the refugee community. Ordinary Indonesians – either by chance or occupation – only become involved in the trade to gain lucrative side income in non-managements roles. To the extent that this article provides a policy lesson for governments it is to pay attention to the resilience and flexibility of people smuggling networks. Over more than a decade, refugees and their service providers in Indonesia have been opportunistic and cunning. Unless asylum seekers can count on faster help to find protection, some of them will continue to rely on the risky services of people smugglers.

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