Conflict Potential Study, the Existance of Illegal Immigrants That Threatens the National Resilience in the Context of People Smuggling in Indonesia

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Keywords: people smuggling, conflict, transnational crime, impact, and national resilience.

Abstract: This article discusses the conflict potential arising from the existence of illegal immigrants among the local residents, specifically in the case of people smuggling in Indonesia. People smuggling is a form of transnational crime. The purpose of writing this article is to show the conflict potential that can occur between the existence of immigrants and residents. The impact of their presence can disturb the national resilience (such as socio-cultural condition, economic sector, law enforcement sector, political sector, also potentially causing a conflict between local and illegal immigrant). The problem is, Indonesia does not have adequate regulation about people smuggling, there is no comprehensive policy about people smuggling. The government also had not conduct enough socialization to various parties about the regulation and comprehensive policies related to people smuggling. In the discussion section explained: 1) people smuggling as one form of transnational crime; 2) case study about people smuggling in Indonesia; 3) people smuggling which threaten national resilience.

1 INTRODUCTION

The existence of people smuggling in Indonesia is an important issue to handle. People smuggling is a transnational crime which involves three countries, namely the home country, transit country, and destination country. This article discusses the conflict potential due to the existence of people smuggling among the local residents, in the context of Indonesian resilience. At first, human migration in a traditional or conventional sense can be defined as the movement of residents from one country to another country to seek a better life in the destination country. However, the emergence of 52 countries which have sovereignty over territory requires migration to use a legal system. The obstacle in the system of legal migration, encouraging the emergence of involvement of the transnational crime group which seeks to develop a system of illegal migration. The transnational crime group takes advantage of the economic, social, cultural, and psychological condition of the lower class society. The illegal migration then became a new security issue in the form of transnational crime

which progressed further into transnational organized crime such as migrant smuggling (Novianti, 2012).

Based on existing data, around 2,4 million men, woman, and children are annually trapped by the people smuggling mafias. People smuggling did by smuggler is very different human trafficking. If human trafficking victims aware this trafficking, even they were scam or threatened. Goal of human trafficking is to exploited person to do forced labor. Diference between people smuggle is the victim aware to do the whole process with all consequences. There is active inovelment from the victim to get smuggle services form the smuggler it self (IOM, 2012).

From the investigation, one-ninth of people smuggling victims in the whole world between the year 2007 to 2010 were children. The program to eradication people smuggling in 2010 was ratified in the general assembly the United Nations (UN), thus gaining awareness and improvement from various countries to eliminate the phenomenon. However, until now the program has failed to control the crime of people smuggling. Otherwise, the degradation of

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global economic conditions which made millions of people unemployed has boosted the human trafficking business. Many people intend to seek employment in developed countries are trapped by human traffickers (Indonesian IRIB, 2013). The purpose of this article is to examine how the existence of people smuggling in Indonesia has the potential to threaten national resilience. The discussion starts from 1) people smuggling as one form of transnational crime; 2) case illustration about people smuggling in Indonesia; 3) people smuggling which threaten national resilience.

2 DISCUSSION

2.1 People Smuggling as One from of Transnational Crime

People smuggling as one form of transnational crime is the crime of the XXI century. The forms of transnational crime are human trafficking, drug trafficking, illegal logging, environmental crimes, maritime crimes, cybercrimes, and international terrorism. The meaning of people smuggling, as mentioned in Chapter 3 of The Protocol Against the Smuggling of Migrants by Land, Sea, and Air of the United Nations Convention Against Transnational Organised Crime, defined as an attempt to obtain, directly or indirectly, any financial gain or other material, with person logging in illegally to become part of a State in which the person is not a citizen or permanent resident (National Crime Agency, n.d.). Another explanation, concerning human smuggling, is also described by Interpol as an individual's effort, a group of persons, or a particular agent to assist or grant access to a foreigner in order to enter a country, and the country is not a foreigner's country of residence (Interpol, n.d.).

Mitchel P Roth (2010) explain transnational crime reffered to crime that involved two or more countries. From 18 explained categories that immigrant smuggle is exclude this categories. If definition offered by Roth, then immigrant smuggle is include in his categories, which involve many countries as country of origin, transit and destinations.

Illegal immigrant is group og immigrant were inbound to Indonesia illegally or does not have travels documents are compliances with Indonesian legal. Immigrant smuggle practices such as illegal immigrant or does have legal and completed travel documents, use the fake travel documents, exceeding travel time, not extended visas, anadequated immigration process.

of Indonesia's Republic Constitution as mentioned in the Law on Immigration (Law Number 6 Year 2011), people smuggling is the act aiming at obtaining benefit, directly and indirectly, for themselves or others taking a person or group of persons, organized and unorganized or instructing the other person to take a person or group of persons, both organized or unorganized, illegally to enter the territory of Indonesia or exit from the territory of Indonesia and/or enter of other state's territory in which such a person does not have the right to enter the territory legally, whether by using valid or counterfeit document or without using the travel document. In general, people smuggling is understood as an attempt to obtain financial or material benefits indirectly or directly (IOM, 2012). Syarnubi (Syarnubi, 2014), in his paper discussing how the process of people smuggling conducted by international syndicates, especially those that occurred in the Jakarta. Smugglers stay in Indonesia as a transit country to communicate and coordinate with the smuggling brain in the country of origin. The author explains the mechanism of the human smuggling, especially when the smuggles collaborate with their victims.

Viewed from the side of the perpetrator, those who are involved in the people smuggling are already part of a syndicate. According to the United Nations Office on Drugs and Crime, the typology of perpetrators in people smuggling are as follows:

- Coordinator or organizer: his role is to be fully responsible for the process of people smuggling. They are the parties who become the main head of the crime of people smuggling.
- Recruiters: the role is to promote the people smuggling services to potential targets, the job including build relationships between the smugglers and migrants. Recruiters are also parties who collect initial fees paid by potential migrants to smugglers.
- Transporter or guides: the responsibility to carry out the practice the human smuggling operations. They are usually locals, and they have to accompany the migrants on their way to the border. Transporter or guide usually has cooperation with a broader network.
- Spotters, drivers, messengers, and enforcer: those responsible for any people smuggling operation. They have a job to provide information related to information about local law enforcement as well as checking operations at the border.

- Service providers' and other suppliers: this section must provide services to smugglers. They usually are the ones who provide transportation, accommodation, service providers' fake documents, and other things that are needed.
- Others: those who accept the bribes and facilitate people smuggling.

Transnational crime is a conventional crime that has been classified as a form of crime in the criminal code of each country. The problem is that when the crime involves two or more jurisdictions, there is a difficulty to criminalize the crime legally since it is possible that a transnational crime act is defined differently by the country concerned (Mustofa, 2006). Crime, in here is as a social phenomenon, which is a pattern of actions that harm society. People smuggling as a crime has a different pattern from human trafficking, as illustrated in Table 1 below.

Table 1: Differences in People Smuggling and Human Trafficking.

	People Smuggling	Human Trafficking
Recruitments	Immigrant finds the smuggler	Human trafficking
Movement	Origin country Transit country Destination country	Origin country Destination country
Procedure	Voluntary without coercion	There is pressure from some actors involved
Goal	Profit from illegal immigrant	Exploitation

Human smuggling did by smuggler is very different human trafficking. If human trafficking victims aware this trafficking, even they were scam or threatened. Goal of human trafficking is to exploited person to do forced labor. Diference between human smuggle is the victim aware to do the whole process with all consequences. There is active inovelment from the victim to get smuggle services form the smuggler it self. In general, those who want to be smuggled (illegal migrants) to the country that is their destination, they have to pay for all the costs of the trip before their departure.

As mentioned above, the people who involved in people smuggling are part of a syndicate. This smuggling syndicate involves agents in the country of origin and transit country (Indonesia). Victims who will be smuggled consciously follow the smuggling process including with all the consequences. There are also the occasion in which people are buying smuggling services from human traffickers (Antara News, 2006).

2.2 Case Illustration about People Smuggling in Indonesia

Indonesia, a country that has more than 17.000 islands. With more than 54,000 kilometres of coastline, national borders mainly at sea, managing this limit has proven difficult for many reasons. First, the complex legal issues surrounding the archipelagic state, and the negotiation of the exact location of the international boundaries of Indonesia. It means that some Indonesian borders remain subject to ongoing legal contestation. The second issue concerning the mapping of Exclusive Economy Zone (EEZ), particularly those related to Indonesia's borders with Australia, and their impact on the life of Indonesian fishers. The third constraint is the fiscal and technology that only have limited capacity to help Indonesia's border police (Ford & et.al, 2013).

As the country closest to Australia, making Indonesia a transit place, while the transit process in people smuggling acts not only takes one or two days but for months and even years. It is hard to control the rapid growth the illegal immigrants in Indonesia due to the geographical location, religion and its domestic situation. From 2001 to 2009, there has been recorded 1800 people entering Indonesia from Afghanistan, considering the error rate of 10 to 20%, it is estimated that the number of illegal immigrants entering Indonesia with various motivations reaches about 2 thousand more people per year. In 2010 to 2011, data from the Ministry of Foreign Affairs of Indonesia showed there were at least 2,350 illegal immigrants detained in Indonesia (Meliala, 2011).

Social problems caused by the existence of people smuggling in Indonesia can be seen in Table 2 (Departemen Kriminologi UI, 2011):

Table 2: Social Problems of People Smuggling Cases in Indonesia

Case Location	Social Issues
Batam and Bintan Case	The lack of social interaction opportunities between immigrants in detention (or detainee) with the locals causes the problem related to their

	participation in local social life. The psychosocial condition of illegal immigrants, the condition and background of immigrant detention centers' officers as those directly opposed to illegal immigrants, has the potential to cause a continuing negative impact. North Sumatra has four shelters, three in Medan and one in Tanjung Balai Asahan:
	Belawan Center does not allow the immigrants to interact with the outside world. There is a tendency to escape to their destination.
	Second detention known as YPAP (Yayasan Pendidikan Anak Perkebunan), accommodate illegal
	immigrants who have a functional status, refugees or asylum seekers but have no clarity to where they will be sent, whether to return to their country or the third country,
	which is the destination country. Perumahan Alam Hijau Center
	has a high level of interaction because illegal immigrants have the freedom to manage their own lives without any supervision from the Immigration Officer or
	International Organization for Migration (IOM). Tanjung Balai Asahan Center is usually handling illegal immigrants who arrive by sea. Generally, citizens are not too happy with the presence of immigrants accommodated by the centre.
Makassar Case	The presence of immigrants, both in Detention Center and in the Housing environment has caused disturbance of the tranquility of the surrounding community. The cases occurred among immigrants and residents are usually solved by kinship.
Cisarua – Puncak Case	Some immigrant who blends with local people. Those who are blended with the local causes economic, social and

documents.		legal problems. Their presence had become a burden for the local society. One of the psychological burden the is the mixed marriage which results in the problem regarding the status of the child, hence causing problems when registering for a birth certificate and other official documents.
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Source: Research Report of the Department of Criminology, 2011.

The latest data in 2018, Indonesia, as a transit country provides shelter for refugees in Blang Adoe, North Aceh Regency, Aceh Province. This complex was intentionally built to accommodate a wave of Rohingya refugees who fled due to Ethnic oppression in Myanmar along with economic migrants from Bangladesh in May 2015. together with Malaysia, Indonesia is willing to accommodate them on condition for only one year and receive financial assistance for their living expenses. Economically motivated Bangladeshi migrants have been repatriated to their countries. The shelter complex stands on an area of five hectares, no less than 120 barracks rooms are lined up neatly with walls and floors of boards which are supported solidly by concrete support poles.

In this neighborhood there are large mosques, children's playgrounds, schools, public kitchens complete with gas stoves, ceramic-floored bathrooms and squat toilets. Water flows from the faucet with strong pressure. The cost of development is a helping from various domestic and foreign organizations, including from Turkey, Saudi Arabia, Japan, the United States, Britain, Malaysia and Australia. The construction was carried out by the humanitarian organization Aksi Cepat Tanggap (ACT). The dean of the Faculty of Social Sciences at the University of Malikussaleh, Lhokseumawe, M. Akmal argued that the positive reaction in the early stages of the arrival of a large wave of refugees and migrants was not based on a blueprint so that some of the world's community assistance was in vain. Not even one year the room units in the shelter are now empty. For 319 Rohingya refugees, the Blang Adoe shelter is now only inhabited by 75 people, including six babies born during the past few months. As a result, the existing facilities were not functioning even though the construction of the barracks complex cost Rp6 billion.

Indonesia responded too responsively, which resulted in ministries coming down quickly and clearing all facilities as if they (refugees) would live 1,000 years in our country, he explained to the BBC Indonesia reporter Rohmatin Bonasir on Wednesday (24/02). Until now it is unclear what will be done to the facilities in Blang Adoe, one of the four points of the Rohingya refugee shelter in Aceh. what is clear is the barracks rooms, bathrooms, sports facilities will be increasingly weathered without maintenance, while the residents leave the camps of their own volition. Similar conditions, said a number of officials in Aceh, also occurred in other refugee camps in the province. Because they are not prisoners, as explained by the North Aceh District Secretary, Isa Ansari, they are not prohibited from leaving the shelter even though it is advisable to always report and return.

Human Trafficking can use a variety of channels. The available channel can Use land route, air line, or waterway. To shortern the time of journey if the country is far away the smugglers use aircraft more often, but the risk of using the airway is greater for the immigration of the destination country. There Is a possibility of negligence from victims who will be smuggled, causing suspicion to the victim and will be examined by the local immigration. while for waterways and land routes it is relatively safe to use as a smuggling route.

For the Indonesian region there is a land route which then uses the waterway. The land route used is the path through the Malaysian state, many islands in Indonesia can be used as a stepping stone. various regions in Sumatra, including Riau Islands, are easy to reach after transit from Malaysia. from Malaysia then crossed using a small boat to enter the vast territory of Indonesia but lacked control of the security personel, but many choices of transportation routes by land, sea and air to get to the destination country (Nainggolan, 2009).

The handling of people smuggling in Indonesia has been started since May 2011, Indonesia enacted the law of the Republic of Indonesia No. 6 of 2011 regarding immigration and started the human trafficking imprisonment. The progress which made by Indonesians over law enforcement in judging people smugglers in Indonesian also faces consistent challenges its implementational level, especially regarding Immigration and preventing people smuggling more effectively (Missbach, 2016).

The flow of human smuggling that is now rife in Indonesia can actually be mapped in three important areas, namely the country of origin, the country of transit, and the destination country. these three areas are a cycle that needs to be examined in depth in order to find an integrated model on how to handle a human smuggling crimes. First, country of origin. The country of origin of immigrants / boat people are coming from the Middle East and South Asia countries. There are many conflicts and wars and political turmoil in most of Middle Eastern and South Asian countries that encouraging their citizens to run, run away and escape to seek safe protection for themselves and their families so that they will be safed from the conflict and war. many of these Middle East immigrants came from Iraq, Iran, Egypt, Tunisia, Syria and Libya. While many south Asian immigrants came from India, Pakistan and Afghanistan. whereas in recent times, Myanmar has also been a source of immigrants with many tortures of Rohing's Muslim ethnicity so they fled to escape to outside of Myanmar and sought political asylum in Australia. Second, the transit country. transit country is a country that is passed or temporarily visited by immigrants from the country of origin. Most of the transit countries are Indonesia and Malaysia. these immigrants sailed for weeks and then stopped and settled temporarily in Indonesia and Malaysia and then prepared to travel to Australia. Indonesia as one of a transit country used as a temporary stopover by immigrants to simply rest, collect supplies, and prepare personnel to return to sail to Australia. many of these immigrants were assisted and facilitated by individuals who came from Indonesian citizens. These immigrants are usually assisted by Indonesian citizens or foreigners in Indonesia such as helping to prepare all the needs and preparation of the asylum seekers, starting from determining the temporary residence to determining the location of departure and transportation equipment used to transport them for this service, these asylum seekers must pay a certain amount of money up to hundreds of millions. Third, the destination country. The destination country is the target country or the last place to be addressed by immigrants as political asylum seekers. Most of destination country is Australia and New Zealand from the political asylum, but most of them are targeted Australian as a country to stayed. As a country that was asked for political asylum and became the final destination country of refugees who were victims of this conflict, Australia felt troubled and overwhelmed because of the problem of an existing shelter, the process of handling immigration documents was problematic, up to its existence indications of these political asylum seekers being ridden by terrorists who want to enter Australia thus endangering their domestic security (14).

As a country, Indonesia and Australia have not fully implemented the obligations under the United Nations Convention Against Transnational Organized Crime (UNCATOC) and the Palermo Protocol to prevent and handle the crimes of people smuggling, particularly about surveillance of security in maritime boundaries. As a form of responsibility, a serious efforts are needed in each country as well as bilateral, regional and international cooperation. Particularly in this regard, the turn back the boat policy undertaken by the Australian Government is reviewed. and coordination between the two States in various elements of authority and society is of paramount importance for both Indonesia and Australia in performing obligations as State parties UNCATOC and Palermo Protocol (Kristin & Dewi, 2017)

2.3 Literature Review: People Smuggling Threatens Indonesia National Relisience

Social reactions will occur when different cultures meet, as explained by Sellin (Adler, Mueller, & Laufer, 2001), in his theory which states that each group code of conduct norms and the difference of norms between groups can cause conflict. As the case happenedin Batam, Bintan, North Sumatra, Makasar, Cisarua-Puncak. According to the theory of cultural conflict and crime, the existence of people smuggling has brought a severe impact on Indonesia.

It has the potential to threaten Indonesia's resilience. The most severe impacts of people smuggling are related to socio-cultural, economic, legal, political, the conflict between two different cultures and illegal migration, namely, as listed follows (Departemen Kriminologi UI, 2011);

- 1. Related to social culture; many immigrants who are stressed, bored, disappointed can do the behaviors that disturb the discipline and security, such as physical contact with others, escape from the detention house or fight with the outside community. Hence, creating problems for security. In some detention centers' location, local people refused (such as North Sumatra), and the locals have a conflict with the occupants of the detention centers;
- 2. Related to the economic field; Great costs must be borne by Indonesia, such as if not to go to another country or choose to live in Indonesia (although without clear citizenship status), Indonesia should bear the cost of living. Employment opportunities that migrants can take. On a large scale, it can lead to horizontal conflicts between local communities and illegal

migrants. The result will disrupt the unity of the nation;

- 3. Related to the legal field; at this time, the new law can only catch the fishermen or ship commanders because they are joining smuggling business. While intellectual actors, those who finance or who are looking for prey in other countries, are still difficult to reach. There are times when the wider society can easily recognize the mistakes made by these intellectual actors, but relatively it is still difficult to punish them. Therefore, the feeling of unfair treatment affect society and may disturb the defense of the state;
- 4. Related to politics; The existence of illegal migrants often leads the new problems, such as marriage with the local people. At first, the issues are related to the government administration only but then it leads to political problems. Another political problem, when the immigrant involved in a conflict or a crime, the process of solving the conflict can lead to diplomatic tension. Others issues to be mentioned including unclear citizenship, nationality, repeatedly denial by the destination country.
- 5. The conflicts of two different cultures which occurs when the norms of the settlers clash with the local cultures of the local population,

The threat to Indonesia's national resilience, related to illegal migration is when migrants cross the border illegally. The cross the border by using legal documents but for illegal purposes or they stay in Indonesia even when their permit is expired. Their arrivel is motivated by a variety of motives or interests, if the smuggling is not handled properly, it can cause problems to Indonesian law.

The problems regarding this matter are; the Across the border legal because it uses certain legal documents for illegal purposes, or remains in Indonesia, even if it's legal status has been exhausted. The obstacles encountered are:

- the presence of various conflicts and the existence of cruel government or armed conflict between groups in various countries, such as going to other countries for safety and welfare;
- the length of the Indonesian coastline that can be used as the landing site for illegal humangroup boats;
- lack of coordination and data sources between the related department, which causes certain unfair share in solving the issues;

4) lack of willingness to work simultaneously, coordinated and systematically among various government agencies themselves.

3 CONCLUSION

Indonesia has more than 17,000 islands, with more than 54,000 km of coastline, making the national border challenging to manage, especially the maritime borders. There are three reasons to explain it, firstly, the complex legal issues surrounding the archipelagic nation, and the negotiation of the proper location of the international boundaries of Indonesia, which means that some of Indonesia's borders remain the subject of legal contestation. Secondly, regarding the mapping of Exclusive Economy Zone (EEZ), particularly those related to Indonesia's borders with Australia, and their impact on the life of Indonesian fishers. The third constraint, fiscal and technology have limited the capacity of the Indonesian government to its border police. By Sellin's Theory, when meeting two different social groups of norms, there will be opposites. This is experienced by the illegal immigrants who meet local people. There are conflicts related to sociocultural, economic, legal, political, cultures, related to illegal migration. All of this poses a serious threat to Indonesia's national resilience.

To close this paper, the presence of people smuggling can cause problems that threaten Indonesia's national resilience. As discussed above, the social problems experienced by communities wherever illegal immigrants live, such as the case of Batam and Bintan, the case of North Sumatra, the Case of Makassar and the case of Cisarua-Puncak. People smuggling is one form of transnational crime. In the previous description, the perpetrators of the people smuggling in cooperation with the victim to get to the destination country. Their arrivel is motivated by a variety of motives or interests, if the smuggling is not handled properly, it can cause problems to Indonesian law.

In the case of handling illegal immigrant, Indonesia is trapped in a dilemmatic position, on the one hand Indonesia is demanded for its firmness in dealing with illegal immigrants who enter the territory of Indonesa, on the other hand Indonesia is also not appropriate to reject and exel the illegal immigrants directly considering the humanitarian and human rights principles that must be adhered to.

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