Securitization and Desecuritization of Migration in Indonesia: Its Implication to Refugee Rights in the Southeast Asian Region

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Abstract

This paper is aimed at understanding the nexus between the securitization of migration and refugee protection by Indonesia within a regional context. By employing an analysis of the securitization of migration, this paper looks closely into a number of regulations, as well as practices by the government and civil society in Indonesia to identify the main rhetoric regarding migration and the migration of refugees. Furthermore, the recent activities of the government and civil society on a regional level is analysed using the same approach. The findings in this work suggest that the securitization of migration remains through utterances in the regulations and discursively within the actions of the government even when the human rights aspects of refugees are included in regulations or practices. The civil society discussed in this work to some extent has de-securitized refugees in Indonesia. On the regional level, nonetheless, the civil society's contribution to humanitarian aid still has not necessarily challenged a securitization of migration. The paper does not identify all civil society organisations based in Indonesia working in this area, so the discussion does not represent the whole. The implication of refugee rights is indicated through the recent situations of refugees in the region. Their remaining vulnerability to detention and poor living conditions indicate that securitization of migration undermines refugee protection in the region.

Keywords: De-securitization, Migration, Protection, Refugees' Rights, Securitization

I. INTRODUCTION

The Southeast Asian region has been the origin of and host for refugees over the past years. At the end of 2017, there were at least 3,2 million refugees in Southeast Asia. September 2014 United Nations High Commissioner for Refugees (UNHCR) data shows Myanmar, Afghanistan, Sri Lanka, and Pakistan as the four biggest origin countries. In the past few years, the flux of refugees was dominated by those fleeing from Myanmar as the conflict in Rakhine increased. As many as 87.000 refugees crossed the border between October 2016 and July 2017. This number jumped to 600.000 in the aftermath of the August 2017 attacks, most of them crossed the border into the neighbouring state of Bangladesh. At the time, there are at least 900.000 refugees in Bangladesh and 500.000 in Thailand. Other countries who has been receiving refugees include Malaysia and Indonesia, with refugees mainly coming from Myanmar, the Philippines, and countries in the Middle East such as Afghanistan and Syria.

These numbers reflect how Southeast Asia has become a transit region for refugees before their settlement to target countries, like Australia and United States. Even so, there are only three countries, two among ASEAN member-states, that signed the 1951 Convention related to the Status of Refugees.⁷ As such, there are no specific laws governing the protection of refugees. In these transit countries, refugees face several options. First, they could be accommodated inside shelters or camps whilst their status and settlement are being processed. This, however, does not guarantee good living conditions since these shelters and camps have been said to be insufficient.⁸ In turn, secondly, many refugees choose to live outside of these camps for better living conditions. This, however, could result in these refugees being classified as illegal migrants, thus they risk facing detention. For those with no proper legal framework, immediate detainment upon arrival inside immigration centres is the third option before they could be granted refugee status. Even with refugee status, these people find themselves deprived of

UNHCR Global Focus, "South East Asia | Global Focus", (22 July 2018), online: http://reporting.unhcr.org/node/39.

² UNHCR Regional Office for Southeast Asia, "South-East Asia Fact Sheet", (21 July 2018), online: *UNHCR* https://www.unhcr.org/protection/operations/519f67fc9/south-east-asia-fact-sheet.html.

UNHCR Global Focus, "2018 Planning Summary: Subregion South East Asia" (2018) 5.

⁴ UNHCR Global Focus, "2018 Planning Summary - Operation: Bangladesh" (2017) 3.

UNHCR Global Focus, "2018 Planning Summary - Operation: Thailand" (2018), online: http://reporting.unhcr.org/sites/default/files/pdfsummaries/GA2018-Thailand-eng.pdf.

⁶ UNHCR Global Focus, "Indonesia | Global Focus", (22 July 2018), online: http://reporting.unhcr.org/node/10335?y=2018#year.

Penelope Mathew, "Whither Regional Cooperation in Southeast Asia's Refugee Crisis?", (23 July 2018), online: *The Diplomat* https://thediplomat.com/2015/08/whither-regional-cooperation-in-southeast-asias-refugee-crisis/.

Penelope Mathew & Tristan Harley, "Refugee Protection and Regional Cooperation in Southeast Asia", (2014), online: https://core.ac.uk/download/pdf/156623449.pdf.

their living capabilities by their inability to find work and other basic necessities such as education.⁹ Depending on the transit country's policy, these refugees could either face years of detainment or eviction after a certain amount of time.

It thus falls upon external involvement, such as UNHCR, to protect the rights of refugees within transit countries in Southeast Asia, especially in Indonesia, Malaysia, Bangladesh, and Thailand where the refugees mainly rally. Governmental cooperation is deeply encouraged as well as training in concerned countries such as Myanmar, Vietnam, and the Philippines to decrease cases of statelessness. However, these efforts are often hindered by financial issues, since these developing, transit countries seldom possess a large enough budget to ensure the wellbeing of the refugees.

As for Indonesia, reported by UNHCR, in June 2017 there were 5,274 asylum-seekers and 8,819 refugees under the protection of UNHCR in the country. Indonesia did not sign the 1951 Refugee Convention or the 1967 Protocol; therefore, some of the protection of asylum seekers and refugees in Indonesia are being helped by UNHCR. Despite being a non-signatory country, Indonesia has actively contributed to refugee protection issues. As a transit country, Indonesia accommodates refugees and asylum seekers on their way to target countries such as Australia. However, with Australia's refugee gate closing, these refugees become stuck in Indonesia. Consequently, Indonesia is then trapped with an ongoing refugee flow with no certain destination. It becomes imperative for Indonesia to take a more active role in refugee issues with the rising number of people forced to move by conflict or state's instability, which was reflected in 2016 policy.

The intensity of Indonesia's initiatives in refugee assistance in the region, amidst its own refusal to sign the Refugee Convention and exercise of Immigration Act to manage refugees, has provided the urgency to analyze the nexus of migration policy and refugee protection. This paper attempts to review the situation not in a realist security perspective but more of a constructivist one; hence, this is a securitization study. Securitization of migration has been an important development in securitization studies, aimed to disclose how national security dangers of migration are not necessarily real and in large account fabricated and signified by policy or language. In Indonesia, securitization of migration has remained under-scrutinised in terms of the application of the theory

UNHCR, "Refugee Status Determination", (22 July 2018), online: UNHCR https://www.unhcr.org/id/en/refugee-status-determination.

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⁹ European External Action Service, "The Invisible Refugees of Indonesia, Malaysia and Thailand", (10 July 2018), online: *EEAS - Eur Extern Action Serv - Eur Comm* https://eeas.europa.eu/delegations/association-southeast-asian-nations-asean/48201/invisible-refugees-indonesia-malaysia-and-thailand_en.

¹⁰ UNHCR Global Focus, *supra* note 3.

Refugee Council of Australia, "Australia closes door on persecuted Rohingya", (21 May 2015), online: https://www.refugeecouncil.org.au/latest/australia-closes-door-on-persecuted-rohingya/.

of securitization in understanding the notion of security. Previous work by Zayzda has made the initial step toward analysing securitization of forced migration, arguing that the Immigration Act, the Government Regulation on Surveillance on Foreign Citizens, and the past Directorate General of Immigration Regulation on Management of Illegal Migrants contain utterances of security threats. This past study needed an intensified discussion.¹³

Unlike previous work, this paper aruges further on the implication of such a securitization process to the protection of rights of refugees, and the discussion is placed in a Southeast Asian context. This paper is arranged into two further parts: the theoretical account of securitization and the discussion which is then derived into three sub parts. These sub-parts are: the securitization, the de-securitization of migration in Indonesia and their consequences in regional protection of refugees.

SECURITIZATION AND DE-SECURITIZATION OF MIGRATION

It is useful to start our concept discussion from Wæver's statement that, "something is a security problem when the elites declare it to be so." 14 Securitization, as theory or concept, encourages researchers and readers to depart from the accepted understanding of security and existential threats. Wæver further uses language theory to regard security as a speech act, referring to the 'utterance' of security by the State or its representatives that make security problems exist. 15 Securitization can be referred to as the construction of an issue as a security issue 16, commonly comprising of a securitizing actor and a referent object or the elements in the community that is believed to be threatened by a certain threat.¹⁷

With such an understanding of security and securitization, Wæver then coined the notion of de-securitization, highlighting that the very core of security studies should indeed be disclosing the process of both securitization and desecuritization. As Wæver puts it:

"When, why and how elites label issues and developments as "security" problems; when, why and how they succeed and fail in such endeavors; what attempts are made by other groups to put securitization on the agenda; and whether we we can point to efforts to keep issues off the

Nurul Azizah Zayzda, "Sekuritisasi Migrasi Paksa Pengungsi Lintas- Batas di Indonesia" (2017) 3:1 Semin Nas Huk Univ Negeri Semarang 43.

Ole Wæver, Securitization and Desecuritization (Centre for Peace and Conflict Research, 1993).

¹⁵ *Ibid*.

 $^{^{16}\,}$ Holger Stritzel, "Towards a Theory of Securitization: Copenhagen and Beyond" (2007) 13:3 Eur J Int Relat 357.

Michael C Williams, "Words, Images, Enemies: Securitization and International Politics" (2003) 47:4 Int Stud Q 511.

security agenda, or even to de-securitize issues that have become securitized?"¹⁸

Huymans explains that the process taking place in de-securitization is "the unmaking of the fabrication of insecurity¹⁹", deriving from Wæver's argument that it is possible to de-securitize a phenomenon due to the previous securitization's ethico-political issues. This is to say that when securitization influences the social and the politics, the analysts are required to apply a different approach of security rather than taking its claims for granted. Huymans warned that to de-securitize should not simply mean to shift from security to human rights focus. Instead, it is necessary to maintain the security discussionsl; only in this case, the work to be done is the "de-dramatizing" of the security concerns by placing it in everyday context or pluralist politics. This means that the life of immigrants should be taken into account in eliminating the rhetoric of them as posing danger to society.²⁰

The next question on our analytical work is who are the actors that are involved in the de-securitization process, or the *de-securitizing actors*? Wæver's emphasis was on elites while Huymans connotes the daily process of politics or the pluralist understanding on politics.²¹ The work of McDonald and Balzacq, Leonard, and Ruzicka is useful to shed some light on the methodology here. Balzacq, Leonard, and Ruzicka, on their examination of securitization theory, suggest that securitization is to be found in speech acts as well as practices and processes in the government.²² McDonald's work criticized Wæver's narrow focus on speech acts and the elites, which sets limitations to what should be considered as securitization and marginalized various actors in international politics. Therefore, McDonald recommends an analysis of securitization to take into accounts the audiences and to investigate more actors including the non-state actors.²³

Securitization of migration has been a branch of securitization studies, defined loosely as a construction of the migration of foreigners into one's own country as a threat to local socio-economic, security, identity and politics.²⁴ Huysman explained that in securitizing migrants these processes take place: a) spreading fear and trust; b) management of inclusion and exclusion; and c)

¹⁸ Ibid.

¹⁹ "Insecurity" is a notion that Huysmans use to explain a condition where a perception of threat is presented to challenge the security. Jef Huysmans, *The Politics of Insecurity: Fear, Migration and Asylum in the EU* (London, UK: Routledge, 2006).

²⁰ *Ibid*.

²¹ *Ibid*.

Thierry Balzacq, Sarah Léonard & Jan Ruzicka, "Securitization' revisited: theory and cases" (2016) 30:4 Int Relat 494.

Matt McDonald, "Securitization and the Construction of Security" (2008) 14:4 Eur J Int Relat

Ayse Ceyhan & Anastassia Tsoukala, "The Securitization of Migration in Western Societies: Ambivalent Discourses and Policies" (2002) 27:1 Altern Spec Issue 21.

institutionalization of alienation and predisposition towards violence. Aside from the securitizing actor and the method of securitization, another aspect of securitization is the referent object. What is assumed to be threatened by certain subjects, in the minds of the securitizing actor? Ceyhan and Tsoukala summarise the referent objects into: social-economy (resources, employment, social policy, urban environment); security (sovereignty, state borders, internal and external security), identity (identity threats, demographical challenges) and politics (racism, anti-migrants movement, xenophobia).²⁵

A relatively large number of previous researches on securitization of migration and particularly, securitization of forced migrations has been made. For example, Herta's work on the securitization of refugees in Hungary during the recent refugee crisis, 26 Jakešević and Tatalović's description of a micro-level securitization as well as desecuritization in Republic of Croatia, 27 and Ibrahim's and Tkaczyk's work that provides examples of the analysis on the securitization by media.²⁸ The securitization of migration studies in these previous studies provide analytical guidelines for this paper. First, they analyse securitization through the analysis of speech act or utterance of security in public statements, media coverage and policy practices which exemplify the securitization through speech act. Secondly, some of the work highlights the danger posed by securitization to the objects deemed to be threats, namely the immigrants or more specifically, the asylum seekers and refugees. The discussion in this paper resonates the previous studies by looking into the securitization of immigrants arriving to Indonesia through speech acts, found in the language of regulations and public statements. The discussion sets itself apart from the previous studies by looking into the securitization through the practices of policy and even further to the acts of nonstate actors.

This paper employs a critical analysis on regulations related to migration in Indonesia as well as government and non-state actors' practices around it. The discussion is structured in two level discussions: firstly, dynamics of securitization of migration in Indonesia as found in the legal frameworks, policy practices and civil society- narrowed down to the issue of forced migrants or the refugees; and, secondly, the securitization of refugee in the Southeast Asian region.

Laura Herța, "Security as Speech Act: Discourse Construction on the Syrian Refugee Crisis" (2017) Int Conf Redefining Community Intercult Context 283.

Ruzica Jakesevic & S Tatalović, "Securitization (and de-securitization) of the European refugee crisis: Croatia in the regional context" (2016) 53:5 Teor Praksa 1246.

Michal Tkaczyk, "Between Politicization and Securitization: Coverage of the European Migration Crisis in Czech Online News Media" (2017) 8:2 Commun Today; Maggie Ibrahim, "The Securitization of Migration: A Racial Discourse1" (2005) 43:5 Int Migr 163.

III. DYNAMICS OF SECURITIZATION OF MIGRATION IN INDONESIAN LEGAL FRAMEWORK

What are the shapes of securitization of migration in Indonesia? In previous work by Zayzda²⁹, it had been argued that a certain degree of securitization is found in Indonesian migration policy. Zayzda (2017) argues that the securitization process is reflected in the Immigration Act No. 6 of the year 2011, the Directorate General of Immigration Regulation No. IMI-1489-UM-08-05 of the year 2010 on Management of Illegal Immigrants. Provided in a historical context, the Immigration Act No. 6 in the year 2011 replaced the Immigration Act No. 9 in the year 1992. Prior to 1992, there was no Immigration Act in place. The new 2011 Immigration Act amended a number of rules, including the extension of the perspective of Immigration authority, now to include data and information-based surveillance, field surveillance and immigration intelligence. A coordinated group called the Foreigners Surveillance Team (Timpora) was established by this act.³⁰ The act was also influenced by the intensity of the Bali Process which was concerned with transnational crime of people smuggling and human trafficking, therefore authorising Immigration to employ detention houses to keep the victims.³¹ The Immigration Act regulates immigration, particularly 'illegal immigration' in Article 119 where it states and puts into detail the employment of immigration detention. The utterance of security was found in the repeated use of 'illegal' migrants in the document, which then justifies the immigration measures including the employment of immigration detention houses. The immigration detention themselves signifies what Huysmans posits as exclusionary practice.

The Directorate General of Immigration Regulation No. IMI-1489-UM-08-05 in the year 2010 on Management of Illegal Immigrants was issued earlier in 2010. The considerations of the regulation as stated at the first page is:

"That in its development, the increasing arrival and presence of foreigners as illegal immigrants who then state themselves as asylum seekers and refugees in Indonesian territory has impacted in ideological, political, economy, social-cultural, national security and immigration vulnerability aspect."

Although this document uses the terminology of refugees and asylum seekers in its introduction, the rest of the document utilises only 'illegal immigrants.' That is to say, the 2011 Immigration Act, as well as the Directorate General Regulation

³⁰ See Article 68-70 of the 2011 Immigration Act.

²⁹ Zayzda, *supra* note 13.

See Article 83-87 of the 2011 Immigration Act.

See Consideration part of the Directorate General of Immigration Regulation No. IMI-0352-GR-02-07 year 2016 on Management of Illegal Immigrant.

on Management of Illegal Immigrants year 2010, securitizes incoming migration to Indonesia and, consequently, also securitizes the refugees coming and staying in Indonesia due to their illegal migratory aspect.

The following part discusses further the securitization process in the following: The Presidential Regulation No. 125 year 2016, the Directorate General of Immigration Regulation No. IMI-0352-GR-02-07 year 2016 on Management of Illegal Immigrants and Immigration Circulate No. IMI-GR-0-03-1194 year 2017. Presidential Regulation No. 125 year 2016 gives an important intersection of desecuritization of migration with the implication of refugees. It was written as implementation of Act No. 37 year 1999 on Foreign Relations, particularly the Article 27 (2). In terms of a speech act, it is not as strong as the previous documents. If any, the securitization of migration included in the regulation concerns two important aspects. Firstly, the regulation entails a security measure aimed to avoid 'criminal cases' which is done by 'keeping refugees within watch,' 'providing security for the surroundings,' and 'establishing rules entailing the rights and obligations of refugees.' The wording symbolises the construction of refugees as a threat to social stability. Secondly, this regulation affirms that the surveillance of refugees remains a priority, performed in all stages: temporary sheltering, resettlement, voluntary returns, and deportation. The procedure of surveillance includes the re-examination of identity, documents, and collection of fingerprints. The procedure also includes producing data documents or special identity cards for refugees issued by the Head of Detention Immigration which is extendable every year.³³

Along with the securitization of refugees is a degree of de-dramatization when the Indonesian military, Indonesian police and other bodies, are demanded to carry out 'search and rescue operation on the boats with refugees' or to 'place refugees in shelter, [...] in which local government utilises the local asset as shelter for the refugees, in the form of lending between the local and Minister as central government.' In the Accommodation Chapter of the Presidential Regulation, an alternative to immigration detention houses is outlined as local governments are urged to provide shelters and coordinate with international organizations to meet the 'basic needs' of refugees, including clean water, food, drinks and clothes, health and sanitary services, and worshipping facilities. This regulation represents the shift from a refugee image of merely undocumented illegal to the controlling/securing of refugees to managing/helping with refugees. This shift is also a transition from an exclusionary practice: the new initiative of Indonesia in handling refugees from legal-formal approach that put the strangers without document as a breach to immigration law to an approach that puts the safety of refugees into attention.

This Presidential Regulation paved the way for the Directorate General of Immigration Regulation No. IMI 0352 GR 02 07 in the year 2016 on the

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³³ See Article 31-39 of the Presidential Regulation No. 125 of 2016 on Immigration.

Management of Illegal Immigrants and Immigration Circulate No. IMI-GR-0-03-1194 in the year 2017. The Immigration Regulation on Management of Illegal Immigrants was made to implement the Presidential Regulation and replace the previous regulation. The utterance of security aspects of refugees is still apparent and almost similar to its preceding regulation in the year 2010 discussed above. The regulation was commenced with the following consideration stating that:

"Management of foreigners stating themselves as asylum seekers or refugees in Indonesian territory needs to be done in a comprehensive and sustainable manner to anticipate the vulnerability in aspects of ideology, politics, law, economy, social culture, and national security."³⁴

On the other side, this new regulation uses the terminology refugees and asylum seekers more consistently than the 2010 Regulation on Management of Illegal Immigrants. Furthermore, it extends the approach to refugees' rights. The regulations re-emphasise the rights aspects by mentioning in Article 15 that the cooperation with the International Organization for Migration (IOM) or other international organizations help with the supply of facilities in immigration detention houses. In contrast, in the previous regulation, it was stated that the needs of 'illegal immigrants' during their status determination process with UNHCR is not the responsibility of the Immigration Office or the higher offices.

In addition to these legal documents, which provide only the framework for securitization, some discursive practices of securitization of migration are commonly reviewed for border security protection, employment of immigration detention, and the process of surveillance over foreigners. Border security is a major concern of every state in exercising their sovereignty. In the migration aspect, border security matters to make sure that every entrance or exit takes place in legal manner and is well-documented. A breach to this would be regarded as undermining sovereignty. The immigrants and the migratory process are securitized when irregularity is considered as a threat regardless of the background situation of the migrants. This is the case for the practice of capturing and arresting refugees arriving without documents, in unauthorized vehicles, or with the help of smugglers. Secondly, and related to the first practice, immigration detention houses securitize migration by providing penalites for an irregular entry. The Directorate General of Immigration currently runs 13 detention centers. Numerous past works have elucidated the poor conditions of the detention houses: overcapacity, the lack of freedom of movement, and poor facility has been common problems.³⁵ Thirdly, there is the surveillance of citizens from

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See Consideration part of the Directorate General of Immigration Regulation No. IMI-0352-GR-02-07 year 2016 on Management of Illegal Immigrant.

See Antje Missbach, "Accommodating Asylum Seekers and Refugees in Indonesia: From Immigration Detention to Containment in 'Alternatives to Detention'" (2017) 33:2 Refuge Can J Refug 32; Antje Missbach et al, "Stalemate: Refugees in Indonesia- Presidential Regulation

foreign countries. As mentioned earlier, Timpora, or the Foreigner Surveillance team, was set up for this purpose. In addition to these, the surveillance has been improved with an application for reporting foreigners (APOA), where a sponsor or accommodation owner (hotel, hostel, motel, boarding house, etc) reports the presence of foreigner at their place.

The category of speech act of de-securitization shall commonly 'de-legitimize security knowledge or de-dramatize the security concerns attached on certain issues.' In the instances above, the security knowledge of migration remains existing following the new Presidential Regulation as well as the Directorate General of Immigration Regulation of the year 2016, through the utterances of states vulnerability in social and political aspects as well as the provisions of surveillance and security measures over the refugees, implying the assumption on their existential threat. The change here is with the entry of refugees and asylum seeker terminology in the Regulation on Illegal Immigrants and the new rhetoric on refugees' rights, especially regarding the provisions on assistance for the refugees that need to be pursued by the government as well.

IV. CIVIL SOCIETY AND DE-SECURITIZATION OF REFUGEES IN INDONESIA

In addition to the state practices, the activities of civil societies in rising awareness and de-dramatizing the 'alien' aspect of the refugees is highlighted here. There are a number of civil society organizations based in Indonesia that are concerned with refugee issues within the country. SUAKA is a network of volunteers with the main members currently consisting of Jakarta Legal Aid Institute (LBH Jakarta) and the Human Rights Working Group (HRWG). The network's main aim is to advocate, provide consultation, and disseminate information required by refugees in Indonesia. SUAKA holds public discussions with other organization and has also worked together with UNHCR in holding public events like Refugee Day. Aside from SUAKA, a number of other civil society organizations have been working on protecting refugees, for example the Jesuit Refugee Service Indonesia. This organisation has been working on refugee assistance in Indonesia since 1980. Dompet Dhuafa is another organisation that has been increasingly involved in refugee issues in the past few years. One of its programs is the School

No 125 of 2016" CILIS Policy Pap, online: https://law.unimelb.edu.au/__data/assets/file/0006/2777667/CILIS-Paper-14_Missbach-etal_final.pdf.

³⁶ SUAKA, "Indonesia Civil Network for Refugee Protection", online: https://suaka.or.id/category/news/events/.

Anak Agung Istri Diah Triceseria, Nurul Azizah Zayda & Rizka Fiani Prabaningtyas, "A New Approach to Refugee's Welfare through the Role of Community: Case Study of Refugee's Community Centre in Sewon" (2017) 2:1 Glob South Rev 1.

for Refugees, a non-formal education program for refugee children. This organisation also works closely with other stakeholders to improve awareness of refugee issues.³⁸

Lastly, it is imperative to learn about the growing activities in refugee learning centers run by the refugee community in Indonesia. Their active efforts in improving their life delivers a clear message that they are not a threat to society, and they are only trying to survive. Roshan Learning Center (RLC) is located in Jakarta and was established in 2014 by two Australian citizens, Heather Tomlinson and Ashley Berryhill. As a learning center, refugee children, teens, and adults are welcomed to study in addition to having access to counseling, health clinics, and the ability to use computers. Another refugee learning center named Cisarua Refugee Learning Center (CRLC) was founded and is managed by refugees. Like RLC, its community involvement was made possible through visits to the community.³⁹ An important activity, which may be an important construct for desecuritization, is the engagement with local activities. Kurniasari, in her report, explained that a group of Roshan refugee community students recently volunteered in an American Women's Association (AWA) program to distribute hygienic supplies and small gifts to local Indonesian children in Fatmawati Hospital.40 Other engagements with local Indonesians were done through visitations to the learning centres or involvement in various events.⁴¹

These activities can be explained as part of de-securitization using Huysman's definition which includes the pluralist politics- an analysis into daily life practices. The activities of SUAKA and its networks help with de-legitimazing the security language of refugees. They are portrayed not as 'foreigners' or 'illegal migrants' as the Act or Regulations would but as people in need of global community protection. The RLC and CRLC adds to the picture what it is to 'not merely replacing security language with human rights language,' by softening their image as a security threat to society through increasing interactions with the local community. Critically analysed, the civil society provides a steppingstone for desecuritization; however, without a reception from the community, the security image attached to them will remain strong. Indonesia will still not perceive the Refugee Convention as an urgent international law and norm, and, in a regional context, it is unlikely that Indonesia will create a more open-border refugee policy.

Dompet Dhuafa, "Dompet Dhuafa dan PAHAM Indonesia Dorong Penguatan Mekanisme Penanganan Pengungsi", (September 2017), online: https://www.dompetdhuafa.org/post/detail/8544/dompet-dhuafa-dan-paham-indonesia-dorong-penguatan-mekanisme-penanganan-pengungsi.

³⁹ Cisarua Refugee Learning Center, *Annual Report 2015-2016* (2018).

Triwik Kurniasari, "Roshan Learning Center empowers, brings hope to refugees - UNHCR Indonesia", (18 July 2017), online: UNHCR https://www.unhcr.org/id/en/11072-roshan-learning-center-empowers-brings-hope-refugees.html.

⁴¹ Roshan Learning Center, *The Year in Review - Annual Report 2017* (2018).

1. Are Refugees De-securitized in Southeast Asia with the Humanitarian Aids?

Findings on the character of securitization and de-securitization of migration in Indonesia can be summarised as follows:

- a. Securitization has been taking place through the utterance of security threat imposed by the migrants in the following texts or practices: Immigration Law, Immigration Regulation on Management of Illegal Immigrants (2010), border security, immigration detention and surveillance on foreigners.
- b. Securitization of migration has been taking place in the following legal documents; however, a language of human rights of refugees have been added: Presidential Regulation No. 125 Year 2016, Immigration Regulation on Management of Illegal Immigrants (2016).
- c. Civil society or non-state actors make a part of de-securitization, but it still lacks reception from the audience namely the Indonesian population.

To speak about the impact of securitization and de-securitization trends of refugee's rights in Southeast Asia, more information is required, i.e. Indonesian policy and civil society activities related to refugee issues in regional level. By drawing upon this parallel trend, it is possible to provide the discussion on the refugees' rights. An important development in refugee protection has indeed been taking place in the region. Nevertheless, it is important to note that it was not until the mass displacement of the refugees fleeing from the conflict in Myanmar that the human rights approach toward refugees began to take place. Zayzda and Wijayanti (2017) analysed the Bali Process on People Smuggling, Trafficking in Persons, and other Transnational Crimes co-chaired by Indonesia and Australia since 2002, arguing that the meetings and documents issued undermined refugee protection by emphasizing the illegal aspects of their migration. For example, in Co-Chairs statement in 2002, it was mentioned that the flow of irregular migration has challenged the countries in aspects of security, politics, social and economy because the activities did not respect sovereignty and national borders. As the discussions continued, the Bali Declaration on People Smuggling, Trafficking in Persons and other Transnational Crimes co-chaired by Indonesia and Australia in 2016 was made with more description on protection of refugees. The protection includes temporary shelter, the arrangement of local settlement, the recognition of access for irregular migrants, and alternatives to immigration detention. 42

In 2015, Indonesia, along with two neighbouring countries, Malaysia and Thailand, signed a joint agreement to help 7000 refugees of Rohingya and

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Nurul Azizah Zayzda & Sri Wijayanti, "Negara Maritim Indonesia, Migrasi Tidak Teratur, dan Hak Pengungsi Lintas Batas" (2016) 3:02 Insign J Int Relat 48.

Bangladeshis. However, those three countries showed different policies instead of commitment to help the refugees. Indonesia provided food, water and fuel but also sent warships and a plane to control its territory. Another two countries also claimed that the refugees' destinations were not their countries. After many criticisms from UNHCR and IOM, the foreign ministers of Indonesia, Thailand, and Malaysia finally agreed to take the refugees into their countries and allow the refugees to be processed but under strict conditions. Another action by the Indonesian government was mediating the refugee crisis in Myanmar. On September 4th, 2017, the Indonesian Minister of Foreign Affairs visited Myanmar and met with Myanmar's high-level officials, including the State Counsellor, Aung San Suu Kyi. That meeting discussed the need of the Myanmar government to attempt de-escalation efforts in Rakhine State and try a multi-prong approach to resolve the conflict involving Rohingya. On September 6th, 2017, Minister Retno also met the Bangladesh Foreign Minister, Mahood Ali, and discussed Indonesia's humanitarian aid plan which arrived in Bangladesh 10 days after the meeting.

Civil society involvement in humanitarian aid has also increased in the wake of rising concerns for Myanmar Rohingya refugees. From Indonesia, the Indonesian Humanitarian Alliance for Myanmar or Aliansi Kemanusiaan Indonesia untuk Myanmar (AKIM) was made in 2017, comprising of 11 humanitarian organizations, including Dompet Dhuafa. The organizations are the Muhammadiyah Disaster Management Centre, Lembaga Penanggulangan Bencana dan Perubahan Iklim – Nahdlatul Ulama, PKPU Human Initiative, Dompet Dhuafa, Rumah Zakat, Dompet Peduli Ummat – Daarut Tauhiid, LAZIS Wahdah, Laznas Lembaga Manajemen Infaq (LMI), Aksi Cepat Tanggap, Lazis Dewan Da'wah Islamiyah Indonesia, Social Trust Fund – UIN Jakarta. This alliance, in collaboration with the Indonesian government, delivers aid programs in health, education, livelihood, and relief. ⁴⁶

Humanitarian aid needs to be analysed critically through the understanding of securitization. Given that humanitarian aid is potentially granted to people who move across borders to avoid violence, the question to be answered is whether

Sheany, "Indonesia Ready to Help Bangladesh Address Refugee Crisis: FM Retno", (6 September 2017), online: Jkt Globe https://jakartaglobe.id/context/indonesia-ready-help-bangladesh-address-refugee-crisis-fm-retno.

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Antje Missbach, "Towards A Real Solution to Southeast Asia's Refugee Crisis", (19 August 2015), online: *The Diplomat* https://thediplomat.com/2015/08/towards-a-real-solution-to-southeast-asias-refugee-crisis/.

Kementrian Luar Negeri Republik Indonesia, "Indonesian Humanitarian Aid Received by the Government of Bangladesh", (2017), online: https://www.kemlu.go.id/en/berita/Pages/Indonesian-Humanitarian-Aid-Received-by-the-Government-of-Bangladesh.aspx.

Dompet Dhuafa, "Release Penanganan Konflik Kemanusiaan Rohingya dan Rakhine di Myanmar", (September 2017), online: *Dompet Dhuafa* https://www.dompetdhuafa.org/post/detail/8241/release-penanganan-konflik-kemanusiaan-rohingya-dan-rakhine-di-myanmar.

humanitarian aid helps the de-securitization of forced migrants? Or is it a part of securitization as a whole? The previous analysis found new human rights concerns in the immigration regulation in Indonesia, but it does not necessarily change the immigration discourse. It is useful to use Loescher's argument about humanitarian intervention, that humanitarian intervention helps to "reduce the likelihood of massive refugee flows across borders." That is to say, humanitarian intervention needs to be understood as part of state politics to contain refugee flows. Zayzda argues that despite the linkage that can be understood as a solution for refugee crisis, it will be problematic when restrictions to refugee movement is established. Indonesian humanitarian aid in Myanmar is carried out in parallel to the current migration and refugee policy which demonstrates a securitization of migration. The aid helps with the situation in the origin country of the refugees; however, it does not challenge the securitization of migration as discussed above.

From the discussion above it is found that the growing role of Indonesia in refugee protection abroad has gone only so far; it is not strong enough to push the institutionalization of protection, in addition to the fact that most countries have not signed the Refugee Convention. The ASEAN Summit in 2017 failed to bring about the Rohingya crisis into its Chief statement. It was mentioned, only under a category of 'disaster resiliency.' There is no regional control nor universality of policy in each state who either acts as the origin or the target country for refugee.

Refugees and asylum seekers in general still live in dire situations due to the long waiting period or poor living conditions. As of May 2018, there are over 7,600 refugees and asylum seekers in Thailand, over 155,000 in Malaysia, and, in Indonesia, around 18,000. For Rohingya refugees alone, as of September 2018, as many as 921,000 refugees live outside Myanmar, mostly in Bangladesh. There are still limitations in living conditions in refugee camps in Bangladesh with the cramped space, water scarcity, lack of medical service, lack of employment access and threats to exploitation. With the current legal situations in Southeast Asia, the refugees and asylum seekers are always in risk of detention, exploitation, persecution as well as economic issues given the absence of employment access.⁵⁰

Alexander Betts, Gil Loescher & James Milner, "The United Nations High Commissioner for Refugees (UNHCR): The Politics and Practice of Refugee Protection into the 21st Century" (2008), online: https://www.rsc.ox.ac.uk/publications/the-united-nations-high-commissioner-for-refugees-unhcr-the-politics-and-practice-of-refugee-protection-into-the-21st-century.

Nurul Azizah Zayzda, "Sovereignty and Responsibility in Global Refugee Protection and Humanitarian Intervention in the 21st Century" (2015) 2 Insign J Int Relat 82.

⁴⁹ Gotinga, JC, "ASEAN summit silence on Rohingya 'an absolute travesty'", (15 November 2017), online: https://www.aljazeera.com/news/2017/11/asean-summit-silence-rohingya-absolute-travesty-171114211156144.html.

European Commission, "European Civil Protection and Humanitarian Aid Operations: Thailand, Malaysia, and Indonesia" (2018) 2; See also Reliefweb, "Asia Refugee Policy Analysis - Bangladesh", (14 September 2018), online: ReliefWeb https://reliefweb.int/report/bangladesh/asia-refugee-policy-analysis.

The situations reflect how the development of refugee rights protection in the region is still far from sufficient.

V. CONCLUSION

This paper has elaborated on the varying degree of securitization of migration in Indonesia. The migration regulations, policy practices, and civil society activities discussed in this paper illustrate how securitization and de-securitization took place. The language used to describe refugees in regulations in Indonesia is found to have changed and this is parallel to the changes in some practices on the national and regional level. The Presidential Regulation No. 125 year 2016 symbolises the de-securitization as it is the first Regulation to actually make standards for protection of refugees in Indonesia, starting from government responsibility for search and rescue to provision of accommodation. The next analysis was made on the new Immigration Regulation on Management of Illegal Immigrant issued in 2016 which uses the terms 'refugees and asylum seekers' instead of 'illegal immigrant' and they provide the guidelines for assisting the refugees in Indonesia. This change is deemed important given that by solely addressing them as 'illegal immigrants,' the refugees lose their human rights aspect. However, in both the regulations, security languages are maintained through the utterances of states vulnerability in social and political aspects as well as the provisions of surveillance and other security measures over the refugees. All of these imply the assumption of their existential threat, and this consequently forms an institutionalisation of alienation.

The civil society discussed in this paper portrayed a rising concern in refugee issues nationally in Indonesia by creating a counter to the perception of threat and challenging a normalised exclusion as well as alienation. Civil society has mainly worked in provision of aid or assistance, which is aimed to reduce the economic and social constraints faced by refugees. In addition to those, there have been public events held by the non-governmental organizations in collaboration with other stakeholders, which socialises the human rights aspects of refugees to the wider audiences, challenging the exclusion and perception of threat to society normally attached to refugees. An account on the activities of two refugee communities in Indonesia was made, underlining the agency of the refugees themselves. In the given cases, the refugee community is de-securitized through engagement with communities. Nonetheless, the de-securitizing act of the civil society described above still lacks reception from the larger society.

It can be summarised that securitization of migration in Indonesia means that there has been reproduced security rhetoric attached to the forced migrants, i.e. the refugees as aliens and to de-securitize their migration is to weaken that rhetoric. Lastly, an analysis was made on Indonesian humanitarian aid abroad. Critically analysed, the aid helps with the situation in Myanmar, one of the origin countries of the refugees, but it does not necessarily challenge the securitization of

migration. This also means that the activities of the civil society that reached regionally has supported the government's humanitarian aid which does not critically challenge the securitization of refugee's migration in general.

With its limitations on analysing legal documents and practices, especially by that of civil society organisations, this paper still provides a lot of room for further research, by looking separately different specific roles the securitizing and desecuritizing actors play and their strategies. The research on practices is particularly imperative to understand the extent to which civil society makes use of their role to challenge securitization, and how their activities influence the audience and society.

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