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## **Declaration**

I, Julia Paulsen, declare that this thesis is a result of my research investigations and findings. Sources of information other than my own have been acknowledged and a reference list has been appended. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature.....

Date.....

## **Abstract**

This thesis explores Australia's immigration history and refugee policies. Focusing on one policy in particular, Operation Sovereign Borders (OSB), this study aims to understand the implementation of the policy and how it has influenced the relationship between Australia and Indonesia. In order to examine these bilateral relations, this study presents several events that have led Australia and Indonesia either to a stronger sense of cooperation or created tension. By comparing the OSB with other events, this study shows that OSB has had no significant influence on the bilateral relations. Data collection from this study has been completed through document analysis and interviews. Using the securitization theory, this thesis argues that the issue of asylum seekers in Australia has been successfully securitized by shifting the security agenda from societal to military. Meanwhile the relationship between Australia and Indonesia is analyzed through the concept of absolute and relative gains of the neo-neo debate in International Relations. Using the Prisoner's Dilemma, this study argues that Indonesia is motivated by absolute gains, while Australia is motivated by relative gains.

For asylum seekers and refugees

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## Table of Contents

<b>Abstract .....</b>	<b>iii</b>
<b>Acknowledgment .....</b>	<b>v</b>
<b>Table of Contents .....</b>	<b>vi</b>
<b>List of Tables and Figures .....</b>	<b>viii</b>
<b>List of Acronyms .....</b>	<b>ix</b>
<b>1. Introduction .....</b>	<b>1</b>
1.1. Research questions .....	3
1.2. Conceptualization.....	3
1.3. Organization of study.....	5
<b>2. Theoretical Framework .....</b>	<b>6</b>
2.1. Securitization theory .....	6
2.2. Absolute gains and relative gains.....	9
<b>3. Methodology .....</b>	<b>12</b>
3.1. Research approach .....	12
3.2. Research questions .....	12
3.3. Research strategies and methods.....	13
3.4. Data collection: interview and document analysis.....	14
3.5. Challenges in data collection .....	17
3.6. Research ethics.....	18
<b>4. Australia's Immigration History .....</b>	<b>20</b>
4.1. The convicts and the free settlers .....	20
4.2. The gold rush .....	22
4.3. Assisted passage scheme.....	23
4.4. The White Australia policy .....	24
4.5. Refugees in Australia .....	26
4.6. Visa as policy .....	27
4.7. Government's immigration agency.....	29
4.8. Conclusion .....	30



<b>5. Refugee and Asylum Seeker Policies in Australia.....</b>	<b>32</b>
5.1. Humanitarian Program .....	33
5.2. Detention policy .....	36
5.3. The Pacific Solution (offshore detention and resettlement).....	38
5.4. Operation Sovereign Borders (turning back boats).....	40
5.5. The policies' controversial sides .....	42
5.6. Conclusion .....	44
<b>6. Australia-Indonesia Bilateral Relations .....</b>	<b>46</b>
6.1. The dynamics of bilateral relations .....	47
6.2. Illegal immigrants, asylum seekers and refugee: the Indonesian perspective .....	52
6.3. Cooperation in combating people smuggling and handling asylum seekers and refugees .....	58
6.4. Indonesia's reaction to Operation Sovereign Borders .....	59
6.5. Conclusion .....	60
<b>7. Analysis and Discussion .....</b>	<b>62</b>
7.1. Securitization, desecuritization, and re-securitization of asylum seekers.....	62
7.2. Operation Sovereign Borders: a successful securitization .....	65
7.3. Australia's security agenda: From societal sector to military sector .....	67
7.4. The influence of Operation Sovereign Borders to the Australia-Indonesia relationship.....	68
7.5. Australia-Indonesia cooperation: a motive to achieve absolute and relative gains .....	69
7.6. Conclusion .....	70
<b>8. Conclusion.....</b>	<b>72</b>
<b>9. References .....</b>	<b>75</b>
<b>Appendix A .....</b>	<b>89</b>
<b>Appendix B.....</b>	<b>91</b>
<b>Appendix C .....</b>	<b>92</b>
<b>Appendix D .....</b>	<b>93</b>

## List of Tables and Figures

Table 1. List of interviewees .....	18
Table 2. The Australian government’s agency dealing with immigration .....	30
Table 3. Australia’s Humanitarian Program 2015 .....	35
Table 4. The arrival of boat people in Australia.....	38
Figure 1. The Spiraling Research Approach .....	12
Figure 2. The Commonwealth of Australia.....	21
Figure 3. Australia’s Humanitarian Program intake .....	36
Figure 4. Detention center from outside.....	55
Figure 5. Double walls inside of detention center.....	55
Figure 6. The detention area was locked.....	56
Figure 7. The condition inside the detention area .....	57
Figure 8. Immigration officials were inspecting the detention center and checking the residents’ documents.....	58

## **List of Acronyms**

ABC.....	Australian Broadcasting Corporation
ACBPS .....	Australian Customs and Border Protection
ADF .....	Australian Defence Force
AFP.....	Australia Federal Police
CBPS .....	Customs and Border Protection
DFAT .....	Department of Foreign Affairs and Trade
DIBP .....	Department of Immigration and Border Protection
DIEA .....	Department of Immigration and Ethnic Affairs
DIMA .....	Department of Immigration and Multicultural Affairs
INGO.....	International Non-Governmental Organization
IOM.....	International Organization for Migration
MCIP .....	Management and Care of Irregular Immigrants Project
NGO .....	Non-Governmental Organization
OSB .....	Operation Sovereign Borders
PNG.....	Papua New Guinea
RCA.....	Regional Cooperation Arrangement
SAC .....	Special Assistance Category
SHP.....	Special Humanitarian Program
TPV .....	Temporary Protection Visa
UN .....	United Nations
UNHCR.....	United Nations High Commissioner for Refugees



# 1.

## Introduction

The escalating number of asylum seekers and refugees has drawn international attention like never before. They have been considered international problems considering the high numbers<sup>1</sup> and the consequences they bring to the inflicted countries (Whittaker, 2006). Although asylum seeking has occurred for a very long time, it has been granted an international recognition through United Nations High Commissioner for Refugees (UNHCR) Convention in 1951. The 1951 Convention and its amendment, the 1967 Protocol, are some of the legal instruments designated to protect refugees' rights. Presently, 147 states have signed the treaties. They have agreed to adhere to the principles relating to refugees. However, in practice, treatment of asylum seekers and refugees has been different from country to country regardless the country's acceding to the Convention. Reflecting upon its policies, Australia's treatment to asylum seekers and refugees has been described as discriminatory, restrictive, and even hostile (see Crock, Saul, & Dastyari, 2006; McMaster, 2002; Watson, 2009).

Both national and international media have been reporting incidents relating to the Australia's treatment of asylum seekers who attempted to reach Australia. For instance, on 6 January 2014, a wooden boat reached the shore of Rote Island in Indonesia, carrying 45 asylum seekers from Somalia, Sudan, Egypt, Nigeria, Yemen, Ghana, and Lebanon (Gatra, 2014). According to the asylum seekers, their boat had made the journey from Sulawesi, Indonesia to Melville Island in Australia (ABC, 2014a). However, after the Australian authority intercepted them, they were forced to board the same wooden boat and escorted out from the Australian border. A similar event occurred a month later in the south coast of Java, Indonesia. Thirty-four asylum seekers from Iran, Bangladesh, Nepal, and Pakistan were intercepted outside the Australia's Christmas Island and forced to board a rescue boat before towing it back to the Indonesian territory (Nugraha, 2014).

Returning boat is one of the Australian government's latest strategies to prevent the flow of asylum seekers arriving illegally by boats. This policy is part of the Operation Sovereign Borders (OSB), a joint operation of several Australian government agencies and departments, including Australian Customs and Border Protection Service (ACBPS), Australian Defence Force (ADF), and Department of Immigration and Border Protection

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<sup>1</sup> In 2013, UNHCR reported 42.8 million people of concern. People of concern is term for refugees, asylum seekers, internally displaced people, and stateless people (UNHCR, 2013b).

(DIBP) (Coalitions, 2013a). Since the policy's commencement on 18 September 2013, the Australian Government has returned 20 boats carrying at least 600 asylum seekers on board (Dutton, 2015). However, at the beginning of the operation, the number of the returned boats was never made clear by the government due to the operation's strategy which includes secrecy (ABC, 2014e).

Parallel with boat returning policy, Australia has also applied other restrictive policies. Australia's Humanitarian Program that gives permanent residency is no longer eligible for asylum seekers who arrived the country illegally by boat. The Australian government also applies mandatory detention and off-shore processing, which transfers asylum seekers to other countries while waiting for their applications as refugees to be processed and decided. In addition, the government has also announced that asylum seekers who register themselves through UNHCR Indonesia will no longer be considered for resettlement in Australia even though they are found to be genuine refugees (Morrison, 2014b). However, Australia has not always been restrictive towards the incoming of asylum seekers (McMaster, 2002). Asylum seekers and refugees have taken part in the Australia's construction of multicultural society notably since post-World War II. As a 1951 Convention signatory and UNHCR's Executive Committee member, Australia has received approximately 750,000 refugees up until 2009 (DIAC, 2009).

In order to handle the issues of refugee and asylum seekers, Australia has been cooperating with Indonesia and other states in the region. For example, some countries, including Indonesia, have been operating local detention centers with incentive from Australia for accommodating refugees and asylum seekers (Nethery, Rafferty-Brown, & Taylor, 2012). Australia, Indonesia, and other countries in the region are also cooperating in the Bali Process to tackle people smuggling and trafficking. However, by implementing OSB, Australia has acted outside this regional framework. Furthermore, Australia has trespassed in Indonesian water in several occasions during OSB implementation.

Against this background, this study has two main objectives. The first one is to investigate OSB and Australia's changing attitude towards refugees and asylum seekers. The second objective is to examine the relationship between Australia and Indonesia and what motivates their cooperation. In order to understand what is behind the OSB implementation, the investigation starts from Australia's immigration history and policies, followed by the development of refugee and asylum seeker policies. For the latter objective, this study shall discuss several events, including OSB, and its consequences to the bilateral relations between Australia and Indonesia.

### 1.1. Research questions

Research questions for this study are formulated as follow:

- A. *How have the immigration policies evolved in Australia since the arrival of British settlers?*
- B. *What are the refugee and asylum seeker policies in Australia and why does Australia implement the Operation Sovereign Borders?*
- C. *What events contributed to the dynamics of Australia-Indonesia bilateral relations and how does the Operation Sovereign Borders influence the relationship between them?*

### 1.2. Conceptualization

Concepts can have various forms and meanings to various people (Berg & Lune, 2012). In order to be able to answer the research questions, the definition of each concept has to be given in advance. In addition, the readers will be able to understand the concept that is being discussed. In this research, the definition of some of the concepts are given as below:

#### a. Asylum seekers

This study uses definition of *asylum seekers* given by Crock et al. (2006, p.16): “people who lodge a claim for recognition as a refugee”.

UNHCR (2011b, p.21) identifies *asylum seekers* as:

“people of concern to UNHCR and should be granted protection until such stage as their claims for refugee status have been determined.”

This means that asylum seekers may be, but are not necessarily, refugees, until UNHCR decide their status. When later in the process of determination asylum seekers are identified as refugees, they will get further assistance from UNHCR such as resettlement to the third State.

#### b. Refugee

In the 1951 UN Convention Relating to the Status of Refugees, the term *refugee* is defined as:

“A person who is outside his/her country of nationality or habitual residence; has a well-founded fear of persecution because of his/her race, religion, nationality, membership of a particular social group or political opinion; and is unable or unwilling to avail himself/herself of the protection of that country, or to return there, for fear of persecution.” (Whittaker, 2006, p.2)

For someone to be recognized as a refugee, the UNHCR conducts a process of ‘refugee identification’ or ‘refugee status determination’. The UNHCR has partners such as NGOs to help with the process (UNHCR, 2011a). Once assessed and recognized as a refugee, the refugee may be admitted to protection and resettlement by the resettlement states. The assessment is basically a line of legal and administrative procedures in accordance with national and international law (UNHCR, 2011b).

c. Resettlement

UNHCR offers three types of durable solutions to the refugees: repatriation, resettlement, and local integration (UNHCR, 2015a). Refugees can get assistance from UNHCR based on which solution is deemed most appropriate to the person’s situation. UNHCR (2011b, p.9) defines *resettlement* as:

“the selection and transfer of refugees from a State in which they have sought protection to a third State which has agreed to admit them – as refugees – with permanent residence status.”

Even though UNHCR indicates resettlement as one of its durable solutions for refugees, the resettlement decision of refugee to a third state is not completely up to UNHCR, but to the third state instead. A *third state*, or a *resettlement state* is a state who have signed the 1951 Convention, ratified 1967 Protocol and offers a resettlement program to refugees (Watson, 2009). So far, 145 states have signed the 1951 Convention and 146 states have ratified the 1967 Protocol (UNHCR, 2015c). The signatory countries are not obligated to be the resettlement state for the refugees, and only 31 states offer resettlement program and are willing to take refugees into their countries (UNHCR, 2014b). Among the resettlement states, the United States of America, Australia, and Canada are the countries with highest number of refugee intake.

d. Boat people and illegal maritime arrival

In Australia, the term *boat people* was firstly used for the Indochinese refugees who came to Australia by boats in the 1970s (Mares, 2001). Today, this term has been used widely by the media to refer the people who make it to Australia by boat. According to K. Doherty and Lecouteur (2007), the terms *boat people*, *refugee*, and *asylum seekers* were sometime even used in interchangeable way in some media. Therefore, this study chooses the term of *boat people* to refer to asylum seekers and refugees who came or try to come to Australia by boat as their means of transportation.

*Illegal maritime arrival* has actually a similar meaning to *boat people*. However, the Australian government, particularly DIBP, has decided to use the term *illegal maritime arrival* (DIBP, 2014a). DIBP (2015b) refers *illegal maritime arrival* as “people who arrived



illegally by boat”. The phrase of *illegal maritime arrival* automatically erase the assumption whether people who aboard the boat are actually asylum seekers and refugees.

### 1.3. Organization of study

This study is organized through eight chapters in the following order: Chapter One presents the background of the study, research questions, and conceptualization. Theoretical framework is given in Chapter Two. Chapter Three explains the methodology of the study. It includes how the data is collected and how it has been analyzed. By elucidating Australia’s immigration history, Chapter Four explains how Australia’s immigration policy has evolved since the arrival of British settlers. Chapter Five describes thoroughly Australia’s ongoing refugee and asylum seeker policies and their implementation. Chapter Six discusses the dynamics of Australia-Indonesia relationship and specifically examines the relationship of the two countries after the OSB commencement. Analysis and discussion are presented in Chapter Seven. Finally, this study is concluded in Chapter Eight followed by references and appendices.

## 2.

### Theoretical Framework

Theoretical framework is developed to examine the research problem, interpret the data, and eventually answer the research questions. There is a vast selection of International Relations theories that can be used to examine state's behavior. In analyzing Australia's Operation Sovereign Borders (OSB) policy, this study uses the securitization theory by Buzan, Wæver, and Wilde (1998). The securitization theory is able to elaborate the process of how the boat people issue is presented as a threat and therefore OSB is adopted to tackle them. Meanwhile, Australia's relationship with Indonesia is analyzed with the concepts of absolute and relative gains of the neo-neo debate. The neo-neo debate is a debate between two contemporary paradigms: neo-realism and neo-liberal institutionalism. The debate is based on varying thoughts about the gains (whether absolute or relative) a state should achieve in a cooperation. Among the leading scholars in the neo-neo debate, this study chooses the work of Grieco (1988). Using his assumptions, this study shows how the relationship between Australia and Indonesia is maintained through cooperation in order to achieve gains.

#### 2.1. Securitization theory

Buzan et al. (1998) claims that the way to comprehend securitization is through observing its process. The process is called the securitizing process where "the issue is presented as an existential threat, requiring emergency measures and justifying actions outside the normal bounds of political procedure" and a successful securitization only happens when the public accepts the securitizing move (Buzan et al., 1998, p.23). Watson (2009, p.2), reiterates the securitizing process as:

"a process whereby political elites justify emergency measures and break the normal rules by which they are otherwise bound by arguing and persuading an audience that a particular development represents an existential threat to the state or society."

Securitization departs from the concept of security. Traditionally, security agenda was limited to the context of state, where military threats should be overcome with military force. However, in the past three decades, the security concept has been broadened as such that threats are not always in the form of military and threats are not strictly damaging to state but can also be targeting other unit level, such as individuals and the international system. In securitization, therefore, the issue of security may expand from military to other sectors such

as economy, environment, society, and political (Buzan et al., 1998). Both in traditional or contemporary security studies, security needs to be prioritized and treated urgently because it concerns the survival of a referent object.

The matter of security always lies in the political sphere, even sometimes “above politics” (Buzan et al., 1998, p.23). Simply said, the security issue has always been politicized. Securitization, on the other hand, is an escalation from a merely political issue to a security issue. Securitization process starts from when an actor presents an issue as a threat to a referent object. The presentation of the issue as a threat is called a “securitizing move” (Buzan et al., 1998, p.25). A securitizing move is shown in a discourse brought up to the audience in the form of a speech act. The audience, in this case, is the public (Watson, 2009). Securitization can be successful if the audience believes the actor and accepts the discourse (that an issue is a threat), or at least does not oppose it. When the issue has been successfully securitized, measures will be taken against the threat. The measures in securitization are often extraordinary or unusual in both procedures and means. In procedure, for example, it is accepted if the measures skip democratic decision making, break common rules and operate secretly. It also accepted for the measures to use extraordinary means such as military and intelligence (spying).

Securitization involves three units with different roles: actor, referent object, and functional actor (Buzan et al., 1998). Actor or agent has the role of claiming and declaring an issue as something threatening to a referent object. In reality, the issue may not be threatening or a threat to a referent object, however the actor treats and presents it like it is one. A referent object is anyone who needs to be protected from the threat because they have the right to survive. A referent object does not necessarily exist by itself, but is most likely constructed by the securitizing actor. Functional actors are actors who can contribute to the dynamic of securitization of an issue. They can also influence the decision of the securitizing actor without intending to make the issue a security issue. For example, the green political party may act as the securitizing actor in declaring the rainforest is under threat by illegal logging. The rainforest, in this case, is the referent object which actually has existed previously, but then it has been transformed and constructed by the actor (the green party) as an entity that is currently under threat and must be protected.

Looking on the securitizing actors who have specific security agenda, Buzan et al. (1998) classifies securitization into five different sectors: the military sector, the environmental sector, the economic sector, the societal sector, and the political sector. For the purpose of this study, only the military sector and the societal sector will be discussed.

Traditionally, as in the realist tradition, securitization in the military sector is caused by the fear of another's greater military power. A greater military strength of another state can disturb the balance of power, making one state feel threatened by the other. Securitization in the military sector happens when the securitizing actor, usually the state's ruler, projects the military power of other states as existing external threats. The state or the state's sovereignty is the referent object which must be protected in order to survive in the anarchical world. The extraordinary measures after a successful securitization are usually in the form of military policy, either offensive or defensive.

However, the military security agenda has evolved and is no longer fixed in the conservative assumption of the classical realists. Threats can come both from outside and inside of a state in any kind of form, military or non-military. They become part of the military security agenda when the state's government believes that only through military means the threat can be subdued. The separatist movement, for instance, can be considered an internal threat which may impact the military security agenda to a state. Meanwhile, migration and foreign ideology that lead to extremism and terrorism may be considered external non-military threats by some states. The referent object of military security agenda is not also restricted to state, but can also be state sovereignty, civilization, the state's ideology, and so on. Buzan et al. (1998) also points out that contemporary military security agenda tends to occur on a regional level. On that case, the securitizing actor is not solely a state, but can also be in the form of intergovernmental organizations.

Unlike the military sector where a state is placed in the center of protection, the societal security agenda puts community as the referent object that must be protected from threats (Buzan et al., 1998). Individuals bind together as a community or social group when they have common identities. Reciprocally, community gives individuals a sense of belonging and where they can identify themselves as members. Identity is constructed through the community and constantly reconstructed and reproduced from the interactions and relations of the members. The consequence of identity is the separation of "we/us" from "others". "Others" can become a threat to "us" because of their distinctive identity. In this matter, a community or society has reason to be protected from threats so that their identity continues to survive. The societal security agenda, therefore, comes out as a motive to protect (national) identity.

Societal security, according to Buzan et al. (1998), is hard to be analyzed as a separate agenda from political security. This is because societal security in the modern state system is often associated with national identity which commonly lies in the political sector. In fact, the

legitimation of securitizing the societal sector is not exclusively owned by the state's leader or government. Securitizing actors can be varied depending on whichever social group's identity is threatened. It could be a religious leader, a clan leader, a political party leader, and so on. However, the societal sector that is discussed in this study is associated with state and national identity. The securitizing actor, in this context, is the person who is in the position of power, such as a state leader or state's government, an opposition's leader, or politicians. The state leader or government as the power holder has the authority to take emergency measures when their national identity, the referent object, is at stake. During the securitizing process and speech act, national identity maybe dubbed as 'state' or 'sovereignty' because is more powerful in the media.

One of the most common issues that is considered to pose a threat to a referent object in societal security agenda is migration (Buzan et al., 1998). States can use migration in its political agenda in order to construct a national identity by having homogenous population. Vice versa, migration can be viewed as a threat to a state who has already a constructed identity. The new migrants may have impact on the national identity. This notion is similar to nationalist theory which believes in cultural homogeneity and that foreign culture can be a threat to the dominant culture (national culture) (Guild, 2005). The power holder is authorized to create policies in order to protect the national identity by including or excluding people using structural and systematic procedures such as citizenship, visa system, etc. If the societal security agenda has been successfully implemented by the power holder, emergency measures will be taken to protect the national identity from foreign identity. However, if the measures involves military action, it means that the power holder moves the issue from societal security to the military security agenda.

## 2.2. Absolute gains and relative gains

The study of world politics, notably after the Great War experience, was intended to avoid future war or any international conflicts (Smith, Baylis, & Owens, 2011). This process has resulted to a diverse school of thought that provides different approaches in understanding international politics. Distinct perspectives and theories in international relations allows diverse understanding and explanation on state behavior. From all of the theories, realism has been considered the dominating theory in international relations because of its competence in explaining the war and the international system (Dunne & Schmidt, 2011). However, relying solely on realist assumptions where the international system is

anarchic and state is the center and rational actor who only cares about power for the sake of survival, international cooperation becomes irrelevant and unfeasible.

Many other paradigms, like liberalism, constructivism, Marxism, the English School, poststructuralism, have come to challenge realism standpoint and offer different propositions regarding the world politics. In response to the early critics against realism, Kenneth Waltz came up with new perspectives and approaches to realism (Lamy, 2011). He argues that the international system is naturally in a structural manner where there is a distribution of power among states. He also suggests that states should try to control themselves in obtaining power so that others will not be provoked or feel threatened. His new version of realism has evoked other realist scholars, such as Joseph Grieco, Robert Powell, John Mearsheimer, Robert Jervis, and Jack Snyder, in defending and continuing the realist standpoints. These scholars have established a new approach in international relations that is widely known as neo-realism. Neo-realism tenets still focus on state and power. However, it accepts the possibility of international cooperation and the role of international institution. One version of neo-realism by Grieco (1988) discusses absolute versus relative gains.

Basically, Grieco's (1988) argument revolves around state's cooperation, which he claims to be possible but happens to be limited and tends to be impeded. He criticizes neo-liberal institutionalists who can only analyze the reason why states cooperate, yet fails to explain why cooperation is unlikely to happen. Neo-liberal institutionalists accept the realist's assumption about the anarchical nature of the international system acting as a constraint in international cooperation (Grieco, 1988). But to neo-liberal institutionalists, cooperation is still preferable to states because it brings them absolute gains. Absolute gains are advantages that lead to capacity improvements, and eventually power, achieved by a state from cooperating with other(s).

Neo-liberal institutionalists argue that the maximization of absolute gains is the reason why states cooperate despite of how much gain is also achieved by other state in cooperation. Grieco (1988) disagrees with this assumption. Since states are power seekers, they do care about the gains that other may achieve from cooperation because they will never know the intention of others and whether they will become friends or foe in the future. These states are aware of the relative gains that others may achieve from cooperation and that others may gain more power than themselves. Considering the anarchical nature of the international system, cooperation can be harmful and therefore difficult to attain. The preference to consider relative gains rather than to focus on absolute gains is the feature of the neo-realist's perspective.

Although neo-liberal institutionalist and neo-realist disagree about the distribution of gains in cooperation, they share a common perspective regarding cheating (Grieco, 1988). The state's view on cheating or defection from cooperation is portrayed in the game theory. Game theory was initially popular in economics, but later on the logic of game theory was also adopted in political science and international relations where the game is called the Prisoner's Dilemma (Williams, 2013). The Prisoner's Dilemma demonstrates a rational choice taken by a state regarding the cooperation with others in the anarchical system.

Prisoner's Dilemma displays four possible conditions a state may prefer in cooperating with other:  $DC > CC > DD > CD$  (Grieco, 1988). DC (Defect, Cooperate) as the most preferable condition, is where a state can successfully defect/cheat from its counterpart in a cooperation. When a state defects while the other comply with the cooperation, the state will achieve more relative gains than the counterpart. CC (Cooperate, Cooperate), as the second preferable condition, is where both states agree to cooperate. In this condition, both states will achieve gains equally. According to Powell (1991), this condition is not sustainable because states will realize that they can achieve more gains than their counterparts if they defect/cheat from the cooperation. However, cooperation is better than no cooperation at all. DD or "Defect, Defect" is a condition where both states do not come to any agreement and therefore no concluded cooperation. Without cooperation, the states will not achieve any gains at all. The least preferable condition is where a state being defected/cheated by its counterpart (CD or "Cooperate, Defect"). This condition gives the counterpart larger relative gains than the state who complies with the cooperation.

Although states cheat in cooperation, it does not always lead to conflict with their counterparts. According to Donnelly (2013, p.39), this is because "they are mildly selfish but not particularly evil or vicious. Far from desiring conflict, both prefer cooperation. They are neither ignorant nor ill informed. Nonetheless, they are pushed by fear towards treating each other as adversaries." Yet cooperation is still possible to be repeated in the future even though there has been defection before "... since states that interact repeatedly in either a mutually beneficial or harmful manner are likely to find that mutual cooperation is their best long-term strategy." (Grieco, 1988, p.493). All of these assumptions offer an understanding of both hesitation and motivation in state cooperation.

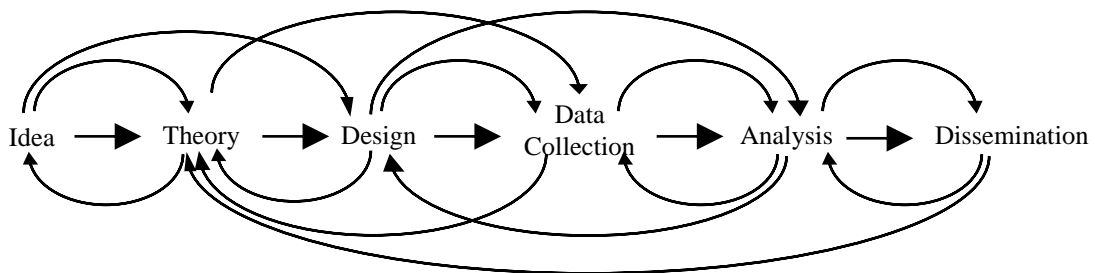
### 3.

## Methodology

### 3.1. Research approach

This study adapted Berg and Lune's (2012) research approach which suggest that a research process starts with an idea and continues in a spiraling model where researchers may go back-and-forth from one stage to another during the whole research process. With this spiraling approach, it allows researchers to select theories before designing their research, or to design the research before considering the theories that will be used. This study began with an idea to write about the Operation Sovereign Borders (OSB). Securitization theory was chosen to help designing the research, including data collection. After collecting the data, I needed to go back a couple stages during the research process to improve the theoretical framework. The fluidity of the spiraling research approach allows this to happen. Every stage of the research process is allowed to be reconsidered, changed or corrected before the research is disseminated to the public. This is considered to be advantageous because it can improve the research as a whole.

Figure 1. The Spiraling Research Approach (Berg & Lune, 2012)



### 3.2. Research questions

After the research idea of this study was established and the problem was identified, research questions started to be formulated. Initially, the formulated research questions were:

- (a) Why does Australia implement tough asylum seeker policies?
- (b) How do they implement these tough policies?
- (c) What are the consequences of the policies to the relationships between Australia and Indonesia?
- (d) What are the consequences of the policies to the relationships between Australia and the international organizations/ non-governmental organizations (IOs/INGOs)?

However, research questions needed to be reformulated after considering the findings. When findings have shown that Australia's refugee and asylum seeker policies are rooted from



immigration policies, a new research question needed to be formulated. The difficulty in collecting data from IOs/INGOs has also become a consideration to reformulate the research questions. The spiraling research approach allows for changes to be made in various stages of the research if necessary (Berg & Lune, 2012). Therefore, the new research questions became:

- A. How have the immigration policies evolved in Australia since the arrival of British settlers?
- B. What are the refugee and asylum seeker policies in Australia and why does Australia implement the Operation Sovereign Borders?
- C. What events contributed to the dynamics of Australia-Indonesia bilateral relations and how does the Operation Sovereign Borders influence the relationship between them?

### 3.3. Research strategies and methods

After defining research questions, the next step was to select which research strategy was going to be used for this study. Research in social studies can be conducted through two different strategies: quantitative or qualitative (Bryman, 2008). Epistemologically, quantitative methods favors positivist position where the aim of the research is to assess a theory through testing a hypothesis. Positivism also considers knowledge only if it is observable by human senses. Ontologically, quantitative methods treat social reality as an object, an external asset which is separated from the actors. This position is known as objectivism. Meanwhile, the epistemological orientation of qualitative methods favors interpretivist perspective where social reality is comprehended by a meaningful interpretation. Ontologically, qualitative research views the reality surrounding humans as constructed through their social interaction and therefore, their actions are meaningful.

The distinction between quantitative and qualitative research is also shown in the relationship between theory and research (Bryman, 2008). Quantitative research follows deductive process where research is conducted to test a hypothesis that is based on a theory. On the other hand, the thinking process in qualitative research is inductive where it starts from a general observation that generates a theory. However, in qualitative research, the theory that emerges after observation does not always have to be new. Creswell (2014) suggests that an existing theory can be used in qualitative research as a guide to data collection and analysis that will eventually modify or refine a model.

A recent development in research strategy is to combine the approaches of both quantitative and qualitative methods. This relatively new approach is called mixed methods.

According to Creswell (2014), the complexity of social problems has made social researchers adopt the approaches from both quantitative and qualitative methods. Mixed methods utilizes a combination of quantitative data collection and analysis (e.g. survey, numbers and statistics) and also qualitative data collection and analysis (e.g. interview, document analysis). However, mixed methods have a problematic issue in its epistemological orientation, whether positivist or interpretivist. The combination of quantitative and qualitative research, who vary completely in theory and method, has made the epistemology of mixed methods research impossible to be determined (Bryman, 2008). Although problematic, mixed methods research has become a separate and independent paradigm with its own procedures.

This study aimed to explore a phenomena that needed interpretation rather than to test a hypothesis. The phenomena that was being observed was Australia's turning back boat policy and also the relationship between Australia and Indonesia. Therefore, this study selected a qualitative strategy as the research method. The securitization theory, which was chosen in the beginning of this study, guided the data collection relating to OSB. It was also used to analyze the findings. The absolute and relative gains concepts of the neo-neo debate were used in analyzing the Australia-Indonesia relationship.

#### 3.4. Data collection: interview and document analysis

The selection of the qualitative strategy as the research method explains how data will be collected. Qualitative data collection types include observation, interview, document analysis, and audio-visual material (Creswell, 2014). In observation, researchers collect the data directly from the field by taking notes in the social settings they are studying.

Interviewing is a data collection technique that involves interaction between the researcher and the participant in order to gather the data. Beside collecting the data first-handedly from the field or from participants, researchers can also obtain data in the form of documents and audio-visual materials from various sources such as newspaper, public or private documents, journals, photographs, film, etc. These types of data are also called secondary-data.

This study used interview and document analysis as data collection methods. Interviews were done during fieldwork in Jakarta, Indonesia, from 23 March – 2 April 2015. Jakarta was purposely chosen as the fieldwork site after considering two advantages: travel permit and gatekeeper accessibility. As an Indonesian citizen, I can conduct the research freely in Indonesia without travel permits, while in Australia I was required to obtain a visa. The accessibility to gatekeepers also gave me a good start in opening paths to prospective

interviews. Gatekeepers are contact persons in the field who allow researchers to collect data from the research site (Creswell, 2014). Before my departure to Jakarta, I contacted gatekeepers to the Australian Embassy in Jakarta, Indonesian Department of Foreign Affairs, Indonesian Directorate General of Immigration, and UNHCR in Jakarta. I also sent interview request letters to IOM and to *Suaka*<sup>2</sup>, a local NGO in Jakarta. I contacted gatekeepers and made appointments before departure so that I could use time efficiently during the fieldwork.

The nature of qualitative research allows researchers to decide who they need to interview considering their research purposes (Creswell, 2014). It also implies they decide on the numbers of interviews. Therefore, the sampling method that is convenient for qualitative research is usually purposive sampling (Bryman, 2008). Purposive sampling allows researchers to select the sample which is appropriate to their research purposes. The samples that were relevant to this research were Australian and Indonesian governmental agencies and organizations that deal with asylum seekers and refugees. Therefore, among the Australian governmental agencies, I selected Department of Foreign Affairs and Trade (DFAT) and Customs and Border Protection Service (CBPS). From the Indonesian governmental agencies, I selected Department of Foreign Affairs (*Kemlu*) and Directorate General of Immigration (*Ditjen Imigrasi*).

Since this research aims to find out information about the Australia-Indonesia relations after the OSB commencement, DFAT and *Kemlu* became appropriate samples. As foreign affairs governmental agencies, both DFAT and *Kemlu* play their role in managing diplomatic relations with foreign governments. DFAT operates the Australian Embassy in Jakarta. The Indonesian counterpart to DFAT is *Kemlu*. Meanwhile, operationally, the OSB is managed by CBPS, together with Department of Immigration and Border Protection. The Indonesian counterpart to CBPS is *Ditjen Imigrasi*. Therefore, these governmental agencies were selected as research samples. In addition, I also selected IOM and UNHCR as research samples of IO/INGO. Both UNHCR and IOM are IO/INGOs who work closely with governments concerning asylum seekers and refugees.

One of the most common interview methods used by researchers is the semi-standardized interview. In semi-standardized interview, a list of questions is prepared. However, when asking questions, the interviewer is allowed to deviate from the prepared questions (Berg & Lune, 2012). Semi-standardized interviews do not seek to compare the answers of the interviewees. Instead, its flexibility in wording gives the interviewer a chance

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<sup>2</sup> *Suaka* is Indonesia-based NGO that works to provide legal assistance and human rights advocacy for asylum seekers and refugees in Indonesia.

to discover more of the interviewee's mind. Due to the advantages of using this interviewing method, the primary data collection of this research used semi-standardized interviewing. I prepared a list of questions separately to give each of the government agencies and IO/INGOs. With this interview method, I was able to reconfirm a statement that was being made and to follow up new information I was not aware of.

The other data collection method used in this study was document analysis. Documents were retrieved in various occasions during autumn 2014 until September 2015. Documents were extracted from books, scientific journals, reportage, official published documents, official statistics, organizational documents, mass media output, and news articles. The work of Jupp (2001) and Lawrence and Davies (2011) are used as main resources in bringing upon the historical context of Australia's settlement. Jupp (2001) explores in detail the history of the Australian people who are rich in cultural and ethical varieties, while the work of Lawrence and Davies (2011) presents the differences in the way of life of every Australian settlement. McMaster (2002) finds links between Australia's former immigration policy and Australia's refugee and asylum seekers policies. He also establishes the bridge between refugee and asylum seeker policies and Australia's identity. Meanwhile, news articles reported the development of OSB and other refugee and asylum seeker policies.

In retrieving online sources, especially for news articles, official published documents, organizational documents, and media output, I used Google search engine. However, for the Australian news articles, I only used articles published in digital media by the Australian Broadcasting Corporation ([abc.net.au](http://abc.net.au)) and Fairfax Media ([theage.com.au](http://theage.com.au), [smh.com.au](http://smh.com.au)). The Australian Broadcasting Corporation (ABC) is a state-owned company, while Fairfax Media is a public company. For the Indonesian news articles, I used Antara News, Kompas, and The Jakarta Post. Antara News is a state-owned enterprise, while Kompas and The Jakarta Post are public companies. State-owned media companies may serve the government's interest in controlling information to the public (Pires, 2010). On the other hand, media consumers tend to choose media that reflects their political view (Stone, 2011). In order to minimize media bias, I used digital news articles from media companies both state-owned and public.

Digital media has become a common data resource for research since the information age (Markauskaite, 2010). One of the advantages of digital media is accessibility to a wide range of data. However, it is important to select only what is relevant to the research purpose. Selecting news articles and reportage from digital media for this research was done by typing

keywords in the search section of the website page. The keywords “asylum seekers”, “refugee”, “immigration”, “operation sovereign borders”, “detention center”, “Manus or Nauru” were used in the Australian digital media, while keywords in Indonesian were “*pencari suaka*”<sup>3</sup>, “*pengungsi*”<sup>4</sup>, and “*pencari suaka Australia*”. Since the implementation of OSB was relatively new when this study started, the articles from the search result were not overwhelming in quantity. However, selection was still needed to reduce the number of articles so that the data would be more manageable.

Scientific journals, official published documents, official statistics, and organizational documents were also generated online. Scientific journals were retrieved from library’s database: *Bibsys* (Norwegian Library System), NLA (National Library of Australia), and PNRI (National Library of Republic of Indonesia). Official published documents and statistics were retrieved from official websites. For this research, I used government agencies’ links such as: [immi.gov.au](http://immi.gov.au) (Department of Immigration and Border Protection), [customs.gov.au](http://customs.gov.au) (Australian Customs and Border Protection Service), [aph.gov.au](http://aph.gov.au) (Parliament of Australia), [kemlu.go.id](http://kemlu.go.id) (Indonesian Department of Foreign Affairs) and [imigrasi.go.id](http://imigrasi.go.id) (Indonesian Directorate General of Immigration). In addition to government agencies, I also used organizational documents from International Organization for Migration (IOM) and the United Nations High Commissioner for Refugees (UNHCR). Their publications are available on their official websites.

### 3.5. Challenges in data collection

Some challenges were met in data collection both in interview and document analysis. OSB was just over twelve months old when this study started. Academic journals that discussed OSB were quite limited. In addition, access to Australian scientific journals became an issue. Most of the accessible e-journals in *Bibsys* were European and American based which cover more on immigration issues in Europe. To overcome this limitation, therefore, I also used Australian and Indonesian-based library system: NLA and PNRI.

During the fieldwork, I visited the UNHCR office in Jakarta in order to pursue my interview request. I was rejected to enter the UNHCR office building because a pre-scheduled appointment with UNHCR staff was required. I also tried to contact the gatekeeper, but I found it difficult to reach the gatekeeper. However, I left a message to the reception but I never received any reply. My request to interviews to IOM was also unanswered.

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<sup>3</sup> Means ‘asylum seeker’

<sup>4</sup> Means ‘refugee’

Considering the difficulties in data collection necessary to examine Australia’s relation with IO/INGOs during fieldwork, I decided to eliminate one of the initial research questions from the research.

Time limitation was the main challenge during fieldwork. Even though I contacted gatekeepers beforehand, it took time until I received replies. In some cases (*Suaka*, UNHCR, IOM), replies never came. The challenge in pursuing interviews with governmental officials (*Kemlu*, *Ditjen Imigrasi*) was to deal with the time-consuming bureaucratic process. My interview requests were forwarded to officers of each governmental agencies by receptionists. The officers, thereon, sought approval from their heads of department in order to attend the interview requests. At the same time, requests to interview the head of departments were also difficult to be approved. Instead, the heads of departments would rather appoint their subordinates to attend the interview requests. Even so, this did not affect the data quality since interviewees were also officials from the intended institutions where they had the capacity to providing data. Eventually, I had interviewed three officials from three different institutions. The collected data was not entirely sufficient. In order to address this problem, I collected more data in document analysis such as official statements and official published documents.

Table 1. List of interviewees

<b>Name</b>	<b>Role</b>	<b>Location</b>	<b>Date of interview</b>
Interviewee X	Directorate General of Immigration official	Jakarta, Indonesia	30 March 2015
Interviewee Y	Head of Immigration Detention Center	Jakarta, Indonesia	1 April 2015
Interviewee Z	Department Foreign Affairs and Trade, Third secretary (political) at the Australian embassy	Jakarta, Indonesia	26 March 2015

### 3.6. Research ethics

Another important aspect in conducting research is the ethical consideration. Not only that researchers must hold the integrity of their work, they also bear responsibilities to the interviewees (Walliman, 2006). In order to maintain ethics in this research, interviewees were given clear information about the research and their verbal consents were obtained. They

understood that the interviews were intended for academic purpose. They were kept anonymous so that any consequences following this research would not jeopardize their careers. Two of three interviewees gave their consent to recording during interviews, while one refused to be recorded.

## 4.

### Australia's Immigration History

Australia may host one of the oldest cultures on earth, but the history of the nation is relatively new compared to other nations in Europe or Asia. For more than 40,000 years ago, the Aboriginal came to Australia from Africa and became the first settler of the continent (Rasmussen et al., 2011). The next settler came about 38,000 years later. In 1770, English explorer James Cook explored the land and met the indigenous people. The British, however, were not the first to explore Australia. The Dutch and the Spanish, who by that time had colonized Australia's closed neighbors, Indonesia and the Philippines, had been there too. Using Cook's expedition as reference, the British government decided to make Australia one of its colonies (Lawrence & Davies, 2011).

In 1787, the British government sent out the First Fleet, a convoy of eleven ships, in order to establish a colony in Australia. The First Fleet had sailed for about eight months bringing on board no less than 1,000 people majority of whom were convicts (Collins, 1802). They finally arrived in Botany Bay<sup>5</sup> in 1788. That was when the settlement in Australia started. Migration was an integral part in creating Australia's multicultural society as it is today. This chapter explores Australia's immigration history since the first settlement. By presenting the history, this chapter intends to capture the evolvement of immigration policies in Australia.

#### 4.1. The convicts and the free settlers

After the First Fleet, the British government sent out more convicts to Australia in different fleets in 1790 and 1791 consecutively (Davison, Macintyre, & Hirst, 2001). The practice of transporting convicts to Australia lasted for eight decades and it settled about 160,000 convicts in total (Jupp, 2001). Convict removal from Great Britain was part of its penal system. Besides Australia, Britain also sent out convicts to North America, Barbados, Belize and Ghana (Lawrence & Davies, 2011). The need to export convicts was due to rising criminality and unjust court system that ended up with overcrowding jails. Exporting the convicts, therefore, served the purpose of emptying jails and at the same time was used for establishing British colony. Historians have recorded that these convicts were not only British, but also Irish and Scottish and they were mostly committing burglary, thievery, and

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<sup>5</sup> Botany bay is located in the southern of Sydney today.



robbery (Jupp, 2001). In Australia, they were placed mainly in New South Wales and Tasmania and smaller number in Western Australia, Victoria and Queensland.

Figure 2. The Commonwealth of Australia (ARPANSA, 2015)



The convict settlers were the pioneers who literally started the modern civilization in Australia. Once in Australia, the convicts were required to do labor work to serve their sentences (Lawrence & Davies, 2011). Australia was then still thick vegetation. Their jobs were to clear pastures, make huts, grow crops, and breed stocks using the equipment and supplies that were brought along with them. For many years during the establishment of the first British settlers, they depended on supplies coming from Britain (Pike, 1966). In the latter, the type of work expanded to building cottages, infrastructure, and also as assigned servant.

The military officers were in charge of bringing convicts to Australia. Later on, they acted as the authorities in the new colony. Soon after arriving in Australia, Captain Arthur Phillip, who led the First Fleet, became the appointed governor. He announced his government would govern New South Wales territory. The civil and criminal courts were also established to uphold law and justice (Collins, 1802). The First Fleet, later on, was followed by the arrivals of more officials, convicts, and free immigrants. Wives and families came along to join their husbands on official duty. Convicts were allowed to set up family life. The free immigrants were attracted by the opportunity in the new world. The settlements expanded and they became the foundation of modern society in Australia.

The other component of historical Australian immigration is the free settlers. They were labeled as 'free' to distinguish them from the convict settlers. In the beginning, the number of free settlers' arrivals was insignificant (Jupp, 2001). However, their roles were indeed significant in laying the foundation of the new society. The first free settlers came to Australia just five years after the first convict settlers arrived in 1788. They were employed by the government and were granted land of 100 acres. Besides the officials, there were also handy people such as blacksmiths, gardeners, bakers, and farmers. They were expected to provide work for the convict settlers. Many immigrants also came under the 'assisted passage scheme' offered by the British government. This scheme aimed to attract free immigrants from Great Britain to settle in Australia. Under the scheme, the British government paid the immigrants' transportation cost, whether half- or full-paid (McMaster, 2002).

#### 4.2. The gold rush

Since the abolishment of transporting convicts to Australia in 1868, immigrants had come to Australia with different motivations. One of them was the attraction to gold. Gold was firstly discovered in Victoria in 1851. Then followed by gold discoveries in New South Wales, Queensland, and Western Australia. The gold rush brought miners and fortune seekers, not only from Europe, but also from America and Asia. The number of convicts was soon overpassed by the non-convict migrants after the discovery of gold. In twenty years, the population in Australia had jumped from 430,000 to 1.7 million (Wells, 2015). By the end of nineteenth century, the population doubled to over three million (DIMA, 2001).

The gold rush in the nineteenth century shaped Australia's economy, political and socio-cultural landscape (Lawrence & Davies, 2011). People came and lived where gold could be found. Towns grew fast and bigger. The economy thrived due to the supply and demand of various basic necessities like food, clothes, and housing, as well as industrial supplies such as machines and raw material. The miners learned their rights and stood up against the unfair regulation which were given by the colonial government. The Chinese miners also changed the cultural landscape that was previously dominated only by the white settlers. Many of these aspects lead to the creation of legislations and policies which are essential to Australia political history.

One of the prominent effects of the gold rush was the 'anti' sentiment against the non-white settlers, particularly the Chinese immigrants. Actually, the Chinese immigrants came to Australia for the first time in small numbers to work as contract labors (Lawrence & Davies, 2011). Some of them also came as free settlers and started small businesses. However, the

gold findings had brought a larger number of Chinese immigrants, and thereafter the anti-Chinese sentiment was culminated during the gold rush (Jupp, 2001). The majority of white settlers felt anxious about the Chinese immigrants and perceived them as threats. At the same time, the Chinese communities who have a distinctive language and culture, lived separately from the main society (Lawrence & Davies, 2011). These discrepancies triggered hostilities towards the Chinese. It was overtly shown in anti-Chinese demonstrations, racial discrediting in the newspaper, and physical assault.

The growing anxiety and unrest among the public had pushed the colonial government to limit the arrival of Chinese immigrants. Legislatively, the limitation was performed in Acts which regulate the entry of Chinese immigrants (Jupp, 2001). When the colonial states in Australia came together as a single federation in the Commonwealth of Australia in 1901, this Act was fully adapted into a new act, which was called The Immigration Restriction Act 1901, or widely known as the White Australia policy.

#### 4.3. Assisted passage scheme

Before the Commonwealth of Australia existed as it does today, Australia consisted of six British colonies: New South Wales, Victoria, Queensland, South Australia, the Northern Territory, and Tasmania (Bambrick, 1994). Since the colonies were self-governed, they were allowed to implement local policies. During this time, policies regarding immigration to Australia were aimed to increase the number of the free immigrants by land grants or assisted passage scheme (Jupp, 2001). Later on, the free immigrants who came through assisted passage scheme were selected based on requirements. The requirements were varied depends on what each colony needed. For example, the lack of women in New South Wales during 1830s had designated assisted passage scheme to young and single women who had experiences in house and farm work. In the 1850s when Victoria was short of laborers because of the gold rush, the priority of the scheme was given to rural workers, skilled labors and handymen, who were married or had families.

On 1 January 1901, the six colonies were established altogether as the Commonwealth of Australia. At this point, the population in Australia had passed four million people (DIMA, 2001). Yet, the assisted passage scheme continued to play a significant role in increasing the population number in the new established federation especially after the occurrence of World War I and World War II. The motivation behind assisted passage in the interwar period was not only to increase population in Australia but also to redistribute British population to Great Britain's Commonwealth realms (Coldrey,

1999). The motivation for Australia to increase its population was even greater after World War II. But this time it was due to the war and Australia being under attacked by Japan and nearly invaded (Jupp, 2001). In order to meet the goal, the Department of Immigration was established on 13 July 1945 with its first appointed Minister for Immigration, Arthur Calwell. The assisted passage scheme in Australia ended 36 years later when most immigrant resources came from refugee background.

#### 4.4. The White Australia policy

White Australia was a concept used to keep Australia only for white-skinned, British descent people (McMaster, 2002). The Commonwealth of Australia agreed to the concept and the parliament passed a policy to achieve White Australia in 1901. The White Australia policy was embodied in the Immigration Restriction Act 1901 that lasted no less than five decades. The Act was amended seven times in 1905, 1912, 1920, 1935, 1940, and 1949 before it was finally transformed to the Migration Act in 1958.

The initial Immigration Restriction Act 1901 defined itself as “An Act to place certain restrictions on Immigration and to provide for the removal from the Commonwealth of prohibited Immigrants” (Jupp, 2001, p.46). The Act did not mention any type of race that was prohibited in Australia. Instead it indicated the prohibition to “Any person who when asked to do so by an officers fails to write out a dictation and sign in the presence of the officer a passage of fifty words in length in an European language directed by the officer”. The language dictation test was meant to exclude immigrants who were non-European and non-educated European (McMaster, 2002).

The mechanism of the dictation was created to fail the ‘undesirable’ immigrants. The immigrants would be given a test of a language that they were unfamiliar with. Chinese immigrants, for instance, could be subjected to English dictation test, while Maltese immigrants, who understand English, could be subjected to Dutch dictation test. The dictation was not only conducted against the immigrants during their arrival but also anytime in their first year of residency (Thompson, 2007). In addition to dictation mechanism, the Commonwealth of Australia would also give penalty to the transport company who brought in the undesirable immigrants (Jupp, 1995).

The sentiment of anti-non-white immigrants in Australia had started long before the Parliament decided to propose a policy against them. According to Jupp (2001), there were at least two reasons that perpetuate the sentiment of anti-non-white immigrant: the notion of white supremacy and xenophobia. The first one was first developed after the British’s

successful effort to establish a new settlement in the new land while the Aboriginal were slowly disappearing. The feeling of winning-over the land from the indigenous people and reserving the land only to the glorious British-descent invested to the mind of the British people in Australia. The latter came during the gold rushes in the nineteenth century against the Chinese miners. The Chinese immigrants were considered threats to the white-settlers because they were different in race, language, and culture. This feeling of distinction encouraged xenophobia among the white settlers. In addition, the competition in getting jobs had made them feel threatened by the Chinese presence (Lawrence & Davies, 2011). The anti-Chinese demonstrations and riots pushed the colonies to create local policy that could limit the incoming of Chinese immigrants. Tax regulation and fees were also implemented to discriminate the Chinese immigrants.

The Immigration Restriction Act 1901 was not the only legislation that discriminated against non-white immigrants. Parallel to this Act, there were also legislations that exclude them from health and social welfare, voting rights, and naturalization. Obviously, these acts lead to many protests by non-white immigrants who demanded inclusion in the society (Jupp, 2001). Foreign states also criticized the White Australia policy. Facing many challenges, the Immigration Restriction Act therefore was amended several times adjusting to certain incidents (McMaster, 2002). One of them is the amendment of the language in dictation test after a protest by the Japanese government. Consequently, the dictation test was no longer a test of “European language” but “any prescribed language”. Even though the amendment intended to soften the segregation between European and non-European, it worsened the chance of non-white immigrants passing the test since they might be tested in any language preferred by the officer.

After World War II, Australia had to choose its future between ‘Populate or Perish’<sup>6</sup> (McMaster, 2002). The urgency to increase its population number had never been greater. Therefore, the Department of Immigration was created to support the government’s ambitious immigration program. The Immigration Restriction Act 1901 became irrelevant to the government’s goal. The immigration of white and preferably British was becoming harder to attain and depended merely to the assisted passage scheme. The scheme was later on extended to ex-soldiers from Europe, Scandinavia, and USA (DIMA, 2001). Australia also started accepting refugees from Eastern Europe, Asian businessmen and students. However,

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<sup>6</sup> Slogan to Australia’s immigration program in 1945.

Immigration Minister Calwell promised to keep Australia exclusive to the whites and that the British would continue to dominate the population (McMaster, 2002).

#### 4.5. Refugees in Australia

Australia has been a destination for refugees since the nineteenth century (McMaster, 2002). Before the existence of the refugee policy, refugees could just come to Australia like any other immigrants. Initially, the refugees were subjected to the Immigration Restriction Act 1901 (Price, 1981). Later on, Australia's involvement in the Vietnam War and the rising number of Indochinese refugees coming by boat in 1970s had pushed the government to set up the first refugee policy (McMaster, 2002). Since then, the refugee policy has been evolving and shaped by the incumbent government.

Australia showed its willingness in accepting refugees for the first time in Evian Conference 1938. Evian Conference 1938 was initially intended to resettle refugees from Germany and Austria who were escaping the German Nazis. Australia agreed to accept 15,000 refugees (Price, 1981). Refugees from other countries, especially from Asia, during World War II were also coming to Australia but they voluntarily returned to their homeland when the war ended. During the Labor government where White Australia was the pillar of Australia's immigration policy, the refugees who chose to stay in Australia were subjected to the Immigration Restriction Act 1901 and therefore many of them were deported from Australia. When the government shifted from Labor to Liberal in 1949, restriction to refugees was relaxed and they were permitted to stay in Australia (Price, 1981).

The need to increase the nation's population after World War II forced the Australian government to look for alternatives to bringing in more immigrants. Refugees were seen as feasible migrant resources. Four years before signing the UN Refugee Convention in 1951, Australia had started accepting refugees up to 20,000 per year (McMaster, 2002). However, the refugees' intake by the Australian government was not without selection. In order to be accepted, they had to fulfil certain criteria. The first criterion was based on race that was in line with the White Australia policy. The second criterion was based on the refugee's capacity to contribute to Australia's development program. In this case, the refugees had to be physically fit and willing to work (Price, 1981). These criteria had put refugees from the Baltic, Poland, Ukraine, Slovenia, Czechoslovakia, and Yugoslavia on the top of the list, especially to men who were healthy and single (McMaster, 2002). Despite Australia's real motivation, Australia continued to show its commitment to accept refugees. By signing the 1951 Convention, Australia agrees to the refugees' legal rights including access to

employment, welfare, and court (UNHCR, 2010). Australia also had obligations to not expel or return refugees and facilitate their assimilation in the new society and naturalization of their nationalities.

The changing of Australian politics from the Liberal government to the Labor government in 1973 has brought the White Australia policy to an end (McMaster, 2002). Later on, the abolition of the racist policy was strengthened by the adoption of Racial Discrimination Act 1975, where in section 9 article (1) mentions:

“It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, color, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economic, social, cultural or any other field of public life.” (COMLAW, 2015c)

Since then, the racial criteria was eliminated when accepting immigrants, including refugees.

The urgency to regulate refugees struck the Australian government not long after the first boat people came ashore to Australia from Indochina in 1976. Considering its commitment to the UNHCR and the growing number of boat people, the Australian government responded to the situation by establishing a refugee policy in 1977 (McMaster, 2002). The aim of the refugee policy is to control refugee intake, establish procedures and mechanism in handling refugees both offshore and onshore, and to be actively involved in the international scene to resolve refugee problems. The Australian government introduced the Humanitarian Program, the mechanism used for refugee’s resettlement in Australia. In the beginning, the Australian government did not put a cap on the number of refugees accepted through the Humanitarian Program. Since 1995, the Australian government has started to control the number of refugee’s intake (Phillips, 2015). Since post-World War II, Australia has settled more than 850,000 immigrants with a refugee background (UNHCR, 2014a).

#### 4.6. Visa as policy

To accommodate the immigration program from the legislative perspective, the Immigration Restriction Act 1901 was ceased and replaced by Migration Act 1958. It basically ends the language dictation test, introduces visa, and regulates deportation, irregular entry, penalty and detention (COMLAW, 1973). The Migration Act 1958 has laid the groundwork to today’s Australia’s visa policy and remains central to the immigration legislation in Australia. Like its previous predecessor, the Migration Act 1958 was also meant to select immigrants, especially the ones who were prohibited in Australia. However, unlike

the Immigration Restriction Act 1901, the new Act no longer prohibited those who failed the language dictation test but they did prohibit those who did not have an entry permit to Australia. If the immigrants did not obtain entry permits before or during their entrance to Australia, they were subjected to deportation. The Department of Immigration was the official government agency who had the right to grant entry permit and the Minister of Immigration held the highest authority to approve, reject, or make exemption of the permit.

According to Migration Act 1958, visa is a permission given to a non-citizen by the Minister to either or both travel to and enter Australia or remain in Australia (COMLAW, 2015a). The visa has become an instrument to control people entering or staying in Australia in a prescribed period. In general, the Australian visas are categorized into two kinds: temporary visa and permanent visa. Temporary visas only allows a non-citizen to remain in Australia for a certain period, while permanent visas give permission to a non-citizen to remain indefinitely in Australia. With a temporary visa, a person is allowed to visit and stay temporarily in Australia for many purposes such as holiday, business, work, study, and so on. In order to stay permanently in Australia, an immigrant must comply with either the government's Migration Program or Humanitarian Program (Phillips, 2015).

When the Australian government finally abolished the White Australia policy, the government changed its focus from favoring British immigrants to skilled immigrants (McMaster, 2002). The government wanted to close the gap in the labor market demand and boost the economy by increasing the number of skilled immigrants. Skilled immigrants are welcomed to become permanent residents under the Australia's Migration Program. Beside the skilled migration, Migration Program also allows the family members (partner, child, parents, or other) of Australian citizens and permanent residents to migrate permanently to Australia. Considering the political and economic situation, the running government will determine the number of immigrant's it will take from the Migration Program each year.

The Humanitarian Program, on the other hand, is dedicated only to refugees and others who are experiencing refugee-like situations (UNHCR, 2014a). It is Australia's refugee resettlement program that coincides with one of the UNHCR's durable solutions. The refugees who are accepted through the Humanitarian Program, however, are not always granted permanent residencies. If the refugees arrive illegally in Australia, they will be only be eligible for a temporary visa (DIBP, 2015a). When the visa has expired, they need to return home. Like the Migration Program, the Australian government also decides the annual resettlement quota.



Today, Australia is among the countries with an extensive and comprehensive visa system (Watson, 2009). In general, the Australian visa system is divided into four main classifications: Permanent visa, Temporary visa, Bridging visa, and Protection, Refugee and Humanitarian visas (COMLAW, 2015b). These main classifications break down into 76 visa classes which further distinguish more than a hundred visa subclasses. Each of the visa subclasses has different features and requirements that have to be met by the applicants.

#### 4.7. Government's immigration agency

If the government makes decision over a certain issue in the form of a policy, it means that the issue is politicized (Buzan et al., 1998). In Australia, immigration has been politicized since the beginning of its existence as a political entity. This is evident from Immigration Restriction Act, the first immigration policy, which was passed by the Parliament after the establishment of the Commonwealth of Australia at the same year. The Australian government, therefore, holds the power and the role to decide upon the matter of immigration to Australia.

The Australian government established the Department of Immigration for the first time in 1945 in the light of World War II. According to Mence, Gangell, and Tebb (2015, p.26), this governmental institution was established to "... plan, manage and implement an ambitious programme of immigration, and in the decades that followed the end of the war, the Department was at the forefront of what became a defining nation-building enterprise." The role of this government agency has also evolved over time following the government's agenda and has led to changes of the department's name. For example, during the 70s the department changed its name to the Department of Immigration and Ethnic Affairs where the institution not only focus on immigration program but also improving service to immigrants with various ethnic background. The recent name changes happened in 2013 simultaneously with the implementation of OSB. As entrenched in the name, Department of Immigration and Border Protection focuses on both immigration and border protection (DIBP, 2015g).

Table 2. The Australian government's agency dealing with immigration (DIBP, 2015f)

<b>Year</b>	<b>Name</b>	<b>Acronyms</b>
1945 – 1974	Department of Immigration	DI
1974 – 1975	Department of Labor and Immigration	DLI
1976 – 1987	Department of Immigration and Ethnic Affairs	DIEA
1987 – 1993	Department of Immigration, Local Government and Ethnic Affairs	DILGEA
1993 – 1996	Department of Immigration and Ethnic Affairs	DIEA
1996 – 2001	Department of Immigration and Multicultural Affairs	DIMA
2001 – 2006	Department of Immigration and Multicultural and Indigenous Affairs	DIMIA
2006 – 2007	Department of Immigration and Multicultural Affairs	DIMA
2007 – 2013	Department of Immigration and Citizenship	DIAC
2013 – current	Department of Immigration and Border Protection	DIBP

#### 4.8. Conclusion

Australia's immigration history started when the First Fleet harbored in Botany Bay in 1788. It was an effort to expand the British empire by establishing new colonies in Australia. In order to do so, convicts were sent from jails in Great Britain to Australia to serve their sentences. For about 80 years, around 160,000 convicts were sent to Australia to work as laborers and established the first settlement in Australia. Beside convicts, the free settlers also played an important part in Australia's immigration history. The free settlers, who were not convicts, immigrated to Australia with different backgrounds and motivation. However, at the beginning, the free settlers were mainly recruited by the British government to kick off Australia's economic wheel.

The gold rush increased Australia's population quite significantly. Many immigrants came from all over the world, including the Chinese, changing the Australia's socio-cultural setting that was dominantly British. The majority of the British society felt threatened by the existence of Chinese immigrants, who were considered to be taking away jobs and had distinctively different culture. The anti-Chinese sentiment had urged the colonial government to control Chinese immigration. This regulation continued to prevail even after the establishment of The Commonwealth of Australia and it was labeled as the White Australia Policy.

The White Australia policy basically aimed to restrict non-white immigrants from immigrating to Australia. Even though this policy had prevailed for many decades, it was too difficult to maintain, especially post-World War II where Australia needed to increase its population. The incoming of British free-settlers through the Assisted Passage Scheme had reduced significantly. Therefore, Australia began to receive refugees, facilitated by UNHCR, through its Humanitarian Program. In order to have a controlled migration, Australia adopted visas as policy. Australia's visa system today is among the most vast and comprehensive in the world.

Although the Australian government has been controlling immigration ever since the colonial time, it has only been officially institutionalized since 1945 by the establishment of Department of Immigration and the appointment of the first Immigration Minister. This agency carries out the government's agenda relating to immigration and nation-building. However, depending who holds the government's power, the government's agenda can vary. This is reflected in the agency's name which is often adjusted accordingly. Today, the Australian government immigration agency is called the Department of Immigration and Border Protection, where it focuses on both immigration and the protection of the Australian borders.

## 5.

### **Refugee and Asylum Seeker Policies in Australia**

The journeys of people attempting to seek safety and security has been recorded for many centuries (Whittaker, 2006). War is considered to be the biggest cause to this particular movement and the movement has become an international problem. Countries who have signed the 1951 Convention relating to the ‘Status of Refugees’ and ratified the 1967 Protocol have been accepting numbers of refugees. It is part of their contribution in tackling this global problem. Australia is among the first pioneers that has been actively taking part in the international movement relating to refugees’ protection (DIAC, 2009). However, Australia’s initial motivation to help refugees is doubted to be purely humanitarian (McAdam, 2013). It was rather a consideration of national security and most likely economically motivated.

Basically, all immigration-related affairs in Australia are regulated in the ‘Migration Act 1958’ and also further detailed in ‘Migration Regulations 1994’ (Crock et al., 2006). This also applies to refugees and asylum seekers. However, in the beginning, Australia did not have a refugee policy although it had already been accepting refugees (McMaster, 2002). Australia’s commitment in the international arena and especially after the arrival of boat people from Vietnam in the 1970s triggered the government to regulate refugee’s immigration. In 1977, the Liberal government finally established Australia’s first refugee policy with principles (McMaster, 2002, p.51):

- “ Australia fully recognizes its humanitarian commitment and responsibility to play its part with the rest of the world in the resettlement of refugees.
- The decision to admit refugees must always remain with the government of Australia.
- Special assistance will often need to be provided for the movement of refugees in designated situations or for their resettlement in Australia.
- It may not be in the interests of some refugees to settle in Australia. Their interests may be better served by resettlement in countries elsewhere.”

Since the establishment of refugee policy in Australia, refugee and asylum seeker have always had a place in the political agenda of the governing bodies. The various policies were created as a response to an ever growing situation relating to refugees and asylum seekers or a response to change of governing bodies. The policies have brought about implications to refugees and asylum seekers in Australia, some of which, many claim to be

controversial (Watson, 2009). This chapter explores four of the main policies which are in force in Australia.

### 5.1. Humanitarian Program

The first policy that was announced by Minister MacKellar in 1977 was the Humanitarian Program, a special program designed for refugees (DIAC, 2009). At this point, the Humanitarian program was part of Australia's Migration Program. Department of Immigration and Ethnic Affairs (DIEA) was held responsible for running this program and the Minister had sole charge of decision making (McMaster, 2002). Originally the program was simply an administrative procedure of identifying and separating the boat people into whom were refugees and who were economic immigrants. The Determination of Refugee Status Committee gave refugee status to the boat people and gave recommendations to the Minister. Then, the Minister gave decision on granting permanent residency to the refugees. Today, this procedure is included within the Refugee visa application procedure. In order to be granted Refugee visa, the applicants should have been recognized as a refugee and referred by UNHCR.

In the beginning, the refugee policy was refugee friendly. In 1981, the Australian government introduced 'The Global Special Humanitarian Program (SHP)' within the 'Humanitarian Program' (McMaster, 2002). This program was intended for people who were not refugees but experiencing a refugee-like situation. It means that the applicants of SHP were living outside their home country and unable to return because of fear that they would be substantially discriminated. They may not be recognized as a refugee by UNHCR. However, to be eligible for this visa, the applicants must have a connection in Australia or a sponsor, whether immediate family or Australian-based organization (Karlsen, 2015).

In 1983, the Labor government came into power after the Liberal and lasted for over a decade. Although the new government made some changes in immigration policy, it continued the previous Humanitarian Program of the Liberal government. Moreover, the Humanitarian Program was expanded further with the introduction of the Woman at Risk visa and Emergency Rescue visa in 1989 (DIAC, 2009). Like the Refugee visa, the applicants of the Woman at Risk visa and Emergency Rescue visa need to be referred by UNHCR. Three years later, as a response to the Yugoslavia crisis, the Australian government introduced Special Assistance Category (SAC). SAC was intended for special humanitarian cases who were not covered by UN definition of refugees. The government claimed that SAC was another way for Australia to be flexible in helping people who needed resettlement

(McMaster, 2002). Following the final review of the program, SAC was finally shut down in 2001 (DIAC, 2009).

Another visa that was introduced in 1989 was Onshore Protection visa (DIAC, 2009). It was designed for people who were already in Australia and unable to return to their home country because of fear that they would be harmed or prosecuted, and therefore sought asylum from the government. The Onshore Protection visa was a governmental response to Chinese students' request to remain in Australia after the Tiananmen Square massacre (McMaster, 2002). The applicants of this visa must either meet the UN definition of refugee (but not necessarily referred by UNHCR) or meet the government's criteria (DIBP, 2014c).

Refugee policy has continued to expand and it has moved further away from its humanitarian ideals. At first, the boat people were eligible for applying for the Onshore Protection visa. If they have fulfilled requirements or are recognized as refugees, they would be granted permanent residency (Crock et al., 2006). However, the requirement for Onshore Protection was changed in 1999 as a result of a significant increase in the numbers of boat people arriving. Since then, Onshore Protection is only eligible for people who enter the Australia lawfully. The boat people were therefore automatically ousted from the chance of applying for Onshore Protection that grants them with a permanent residency status because their arrival in Australia was unauthorized. For boat people, the government introduced a Temporary Protection Visa (TPV). Unlike Onshore Protection, TPV provides only temporary residency for three years. Before the TPV validity runs out, the refugees may return to their home country if it is safe to do so or apply for permanent residency (DIMA, 2003).

Like many countries, Australia took stricter immigration measures after the 9/11 attack. This also affected the fate of the asylum seekers who came to Australia (Crock et al., 2006). Permanent residency would no longer be an option for TPV holders who had been in another country (outside their home country) for seven days where they could have sought protection before reaching Australia, nor if they lodge their application after 27 September 2001 (DIMA, 2003). So when the TPV validity runs out, the TPV holders were allowed to renew their TPV for another three years if their conditions were still the same. However, if they were no longer to be considered as a refugee, they would have to leave Australia (Crock et al., 2006).

Another change to TPV was again made in 2004. The TPV holders could apply for other non-humanitarian visa, e.g. student and business visa, if they were still interested staying in the country (Crock et al., 2006). TPV continued to prevail until the Labor government came into power in 2007. The Labor party had long opposed the TPV since its

commencement and considered it as more a “punitive treatment of refugees” than prevention to unauthorized arrival (Dowding, 2008). The Labor government abolished the TPV in 2008 and granted permanent residency to TPV holders. Five years later, the TPV made a comeback along with the Liberal government. The Minister for Immigration and Border Protection, Scott Morrison, claimed that it was a necessary measure to address the boat arrival problem (Whyte, 2014).

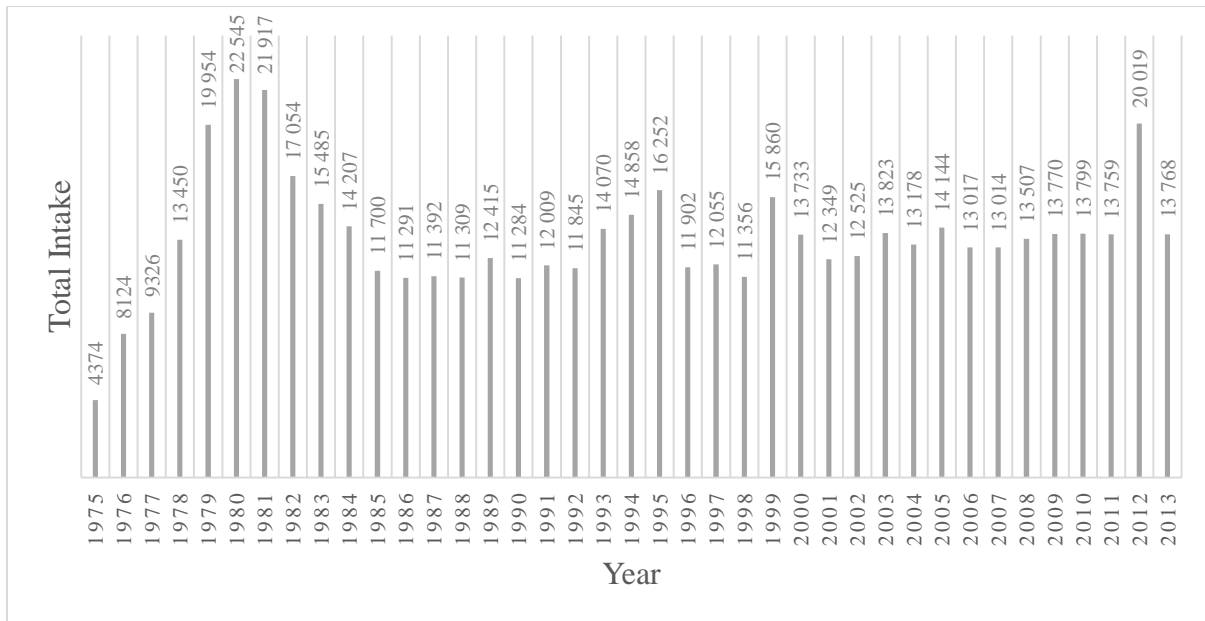
Table 3. Australia’s Humanitarian Program 2015 (DIBP, 2015b, 2015e)

Offshore component (resettlement)	Refugee Visa
	In-country Special Humanitarian Program Visa
	Global Special Humanitarian Program Visa (SHP)
	Emergency Rescue Visa
	Woman at Risk Visa
Onshore component (protection)	Protection Visa
	Temporary Protection Visa (TPV)
	Safe Haven Enterprise Visa (not yet implemented)

In the yearly budget announcement, the Australian government usually decides how many migrants are to be accepted in the upcoming financial year (Crock et al., 2006). Migrants include both those from the Migration Program and the Humanitarian Program. Depending on which aspect the government will focus on, the migrant intake will therefore vary each year. For the Humanitarian Program, the government will take into consideration advice from UNHCR, its capacity in providing resettlement services, and the global refugee situation during the time (UNHCR, 2014a).

For most of the time, Australia has been among the countries who resettle refugees the most through humanitarian program. In 2014, Australia allocated around 6,000 places for resettlement (UNHCR, 2014b). However, Australia has not always been the top destination country for asylum seekers, especially since the incumbent government implemented this restrictive refugee policy. Australia’s rank in asylum application sank from the eighth largest recipient to the 19<sup>th</sup> (UNHCR, 2014c). In 2014, the asylum application to Australia dropped by 24%, from 11,740 to 8,960 applications. The government has also reduced the Humanitarian Program from 20,000 places to 13,750 places.

Figure 3. Australia's Humanitarian Program intake (Phillips, 2015)



## 5.2. Detention policy

The Migration Act 1958 section 189 article (1) stated:

“If an officer knows or reasonably suspects that a person in the migration zone (other than an excised offshore place) is an unlawful non-citizen, the officer must detain the person.”

(COMLAW, 2015a)

Unlawful non-citizen means a non-citizen who is in the Australian territory without a valid visa. The boat people who enter Australia without authorization or visa are considered unlawful non-citizens and are therefore subjected to detention. Since the enforcement of the Act, however, not every boat person has been detained. Australia started to detain the boat people in 1992, and have ever since, detention have become mandatory until the boat people were granted a visa (McMaster, 2002).

The first boat people arrived in the Australian northern shore in 1976 (McMaster, 2002). It was a single boat carrying five asylum seekers from Vietnam. During that period, the arrival of boat people came to a peak in 1977-1978 where more than a thousand boat people arrived on many different occasions. The Australian government saw an urgency to control the refugee influx and therefore created a refugee policy. In the beginning of the policy's implementation, the boat people were administratively processed without being detained. The process was basically to establish their refugee status and to eventually establish their permanent residency in Australia. The arrival of boat people finally came to a



halt in 1982. The total number of boat people who had arrived so far was 2,065 people (Phillips & Spinks, 2013a). Thereafter, no boat people had arrived for the next seven years.

When boats with asylum seekers, this time from Cambodia, started to arrive again in 1989, it created agitation within the Australian public as well the government. The government's reaction towards the comeback of boat people was to detain them until their refugee status were decided (McMaster, 2002). The first two boats which carried about 145 asylum seekers were rejected as refugees. The government's hostile response towards the boat people was not only shown from the detention policy but also how the government called the boat people "economic migrants" and "queue jumpers" (Crock et al., 2006). In 1992, the government announced mandatory detention for all types of unlawful non-citizens, including the boat people (Phillips & Spinks, 2013a). Mandatory detention was considered as a more effective and efficient strategy in the process of refugee status determination and at the same time could act as a deterrence.

The Liberal government took power in 1996 and strengthened the detention policy even more (Crock et al., 2006). The government expanded the detention centers not only inside Australia, but also built new ones outside Australia. Detention centers on mainland Australia (often called onshore facilities) are found in almost every Australian state. Detention centers outside mainland Australia (offshore) are also found in Christmas Island, Manus Island, and Nauru. In addition, Australia also funded the expansion and renovation of detention centers in Indonesia (Nethery et al., 2012).

Although not completely removed, the detention policy was relaxed when the Labor gained power in 2007 (Stewart, 2008). The Labor government, under the leadership of Prime Minister Kevin Rudd, announced that detention would no longer be mandatory to all boat people, unless they showed real threat to the community. The government also closed down the offshore detention centers in Nauru and Manus Island (Phillips & Spinks, 2013b). When the Liberal government was re-elected in September 2013, the government has once again toughened the detention policy and determined to send all of the incoming boat people without exception to Nauru and Manus island for processing and detention (Phillips, 2014).

Table 4. The arrival of boat people in Australia (Phillips & Spinks, 2013a)

Financial Year	Number of boat people	Financial Year	Number of boat people
1975-76	5	1994-95	1 071
1976-77	204	1995-96	589
1977-78	1 423	1996-97	365
1978-79	351	1997-98	157
1979-80	56	1998-99	921
1980-81	30	1999-2000	4 175
1981-82	0	2000-01	4 137
1982-83	0	2001-02	3 039
1983-84	0	2002-03	0
1984-85	0	2003-04	82
1985-86	0	2004-05	0
1986-87	0	2005-06	61
1987-88	0	2006-07	133
1988-89	0	2007-08	25
1989-90	224	2008-09	985
1990-91	158	2009-10	5 327
1991-92	78	2010-11	4 730
1992-93	194	2011-12	7 983
1993-94	194	2012-13	25 173

Liberal government

Labor government

### 5.3. The Pacific Solution (offshore processing and resettlement)

The Pacific Solution was established during the Liberal government, under Prime Minister Howard's leadership, as a governmental reaction to the *Tampa* incident that occurred in August 2001 (Crock et al., 2006). On 26 August 2001, a Norwegian commercial freight ship *Tampa* was enroute to Singapore from Australia before it suddenly received a distress alert from the Australian authority (Svabø, 2002). The message requested any ship in the area to assist a spotted Indonesian boat that seemed to be needing help. *Tampa* accepted the request and went to the boat's location. When *Tampa* reached the distressed boat, it started evacuating people from the boat to the ship. In total, there were 438 people evacuated. They were asylum seekers (predominantly from Afghanistan) who tried to reach Christmas Island in Australia.

*Tampa* was just outside Christmas Island when it received a message from Department of Immigration and Multicultural Affairs (DIMA) that *Tampa* was rejected to enter the Australian territory and should set its course to Indonesia instead (Svabø, 2002). If *Tampa* neglected the message and insisted to disembark in Christmas Island, the *Tampa* crew could be prosecuted for people smuggling. After *Tampa* held its position in the water for a

week, eventually the Australian authority agreed to receive the asylum seekers. Prime Minister Howard announced that the asylum seekers from *Tampa* would not be processed in Australia but in New Zealand and Nauru. A month after the announcement, the Howard government also made a deal with Papua New Guinea (PNG) to accept asylum seekers for processing in PNG's Manus Island. This was the beginning of the Australia's offshore processing of the asylum seekers policy which today is called the Pacific Solution (Crock et al., 2006).

The practicality of Pacific Solution is basically processing refugee claims outside Australian territory (offshore). It applies to the boat people who arrived in Australian territory, yet are still outside Australia's migration zone, for example Christmas Island. Since they arrive outside the migration zone, the normal migration system did not apply to them (Crock et al., 2006). Once intercepted by the Australian authority, they will be transferred straight away whether to Nauru or Manus Island. Outside Australia, asylum seekers have limited rights in regards to their eligibility for Australia's Humanitarian Program, legal assistance, and access to the court (Phillips & Spinks, 2013b). Heavily criticized by public and the international community, the Pacific Solution was brought down by the Labor government six years later under the Prime Minister Kevin Rudd. However, it was reactivated again in 2012.

Today, the incumbent Liberal government continues to adopt the Pacific Solution as part of Australia's refugee and asylum seeker policy. Previously, asylum seekers who were processed offshore and found as genuine refugees had possibilities to be resettled in Australia. However since the Liberal government came into power in September 2013, the government has changed the condition of resettlement. As announced by the Immigration and Border Protection Minister Scott Morrison, Asylum seekers who entered Australia illegally by boat, if not being turned back during maritime operation, will be sent to the offshore processing centers either in Nauru or PNG to be processed (Morrison, 2014c). They will remain in there until they choose to return voluntarily to their home country. If they are found to be genuine refugees, they will be resettled somewhere else other than Australia, such as PNG and Cambodia (ABC, 2014d, 2015).

#### 5.4. Operation Sovereign Borders (turning back boats)

In Australia's election campaign 2013, the Liberal party (in coalition with the National party) proposed a strategy to 'stop the boats'<sup>7</sup> in order to strengthen the Australian border called the Operation Sovereign Borders (OSB). One of OSB key strategies is to prevent illegal maritime arrival by turning back boats who try to reach Australia once intercepted at sea (Coalitions, 2013a). According to the Liberal party, the arrival of asylum seeker boats which was described as "border protection crisis" has reached an emergency status and needed to be responded to urgently by military means. OSB is therefore a military-led operation, led by a senior military commander who report directly to the Immigration and Border Protection Minister. Working together with various government's agencies, the Department of Immigration and Border Protection (DIBP) holds the responsibility for the whole operation (ACBPS, 2013). The proposal was turned into a policy right after Liberal party won the election in September 2013.

Operationally, OSB is run by the Australian Defence Force (ADF) together with Australian Customs and Border Protection Service (ACBPS) (ABC, 2014c). The ADF's services to OSB includes the Royal Australian Navy, Australian Army, and Royal Australian Air Force. Their operation in OSB is called Operation Resolute that aims to protect Australia's sovereign borders from security threats, including the irregular maritime arrivals (ADF, 2015). OSB is using military resources and assets in running its maritime operation.

The Australian government does not provide the public with the detailed information of OSB's maritime operation, including on when or how the boats will be turned back, neither official statements on boats that have been turned back. The government claimed that the maritime operation needed to be kept secret to ensure the success of the operation. By not providing information on the operational matters, the people smugglers will have no clue about the government's tactics on stopping the boat (ACBPS, 2013). However, the government gave a weekly (later on changed to monthly) update that was accessible to the public about the achievement of the operation.

Due to the operation's secrecy, the media could only get details about the strategy from the passengers whose boats were returned by the Australian authority. The ABC (2014c) uncovered at least two strategies used in a turn-back boat operation. Whether the boat was intercepted at sea or had reached shore, the Australian authorities would force them to return if the boat was fit enough to continue on a sea journey. The authorities would escort

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<sup>7</sup> "Stop the boats" is the slogan used by Liberal party during the federal election campaign and also during Abbott's government.

the boat until it reaches the border and leaves the Australian territory. If the boat was unsafe for a sea journey, the authorities would collect the passengers and force them to board an orange lifeboat. The authorities would then tow the lifeboat to the border as it leaves the Australian territory. The media has also discovered that the Australian government has exclusively designed and purchased a traditional fishing boat as a replacement for the orange lifeboat (B. Doherty & Davidson, 2015). These new type of boats were suspected to be used on the recent turned-back incidents which involve bribery of the boat crews by the Australian authorities in late May 2015 (Roberts, 2015a).

The Australian government stated that the tactics used in OSB might evolve overtime. Yet, the tactics have been kept secret. At least one strategy that has been confirmed by the government is the use of orange lifeboats in returning the boat people (Morrison, 2014a). The most recent tactic used in OSB is paying the boat crews to return to Indonesia using Australian fishing boats. One of the passengers witnessed the transaction (BBC, 2015). However, the Australian government did not confirm the claims nor deny them (Abbott, 2015b; B. Doherty & Davidson, 2015). The OSB has certainly sparked negative reaction from Indonesia, which will be discussed further in the following chapter.

The practice of preventing boat arrival and turning back boats actually has occurred previously during the Howard government in 2001 after the *Tampa* incident (Crock et al., 2006). The operation was called Operation Relex. Official documents mentioned that Operation Relex successfully returned only four boats (APH, 2015). There were also three boats that failed to return because they sank during the process. Operation Relex was less successful than OSB because by that time it was a new practice and the ADF personnel were less experienced. Today, the Liberal government claimed that its effort in stopping the boats had been a success (ACBPS, 2015). During 2014, there was only one successful boat arrival carrying 157 boat people and none so far in 2015 (DIBP, 2015c).

According to Interviewee Z, the Third Secretary in political section at the Australian Embassy Jakarta, the OSB is a policy designed to address the occurring problem fast and comprehensively. The problem which Interviewee Z referred to was the unregulated “influx of thousands of people” that has burdened the government in regards to budget. On the contrary, the Liberal Party stated that their border was threatened and depicted that their border security was in emergency. Interviewee Z denied that the OSB has anything to do with security discourse. Interviewee Z argued that the OSB could have been led by anyone (from military or non-military). Since the nature of the OSB was to handle boats on the water, it therefore needed expertise from an agency that has more experience on that matter. In this

case, the ADF. Interviewee Z also claimed that the OSB had been running well and if there was a change of domestic politics in Australia, it would be a big decision to end the OSB.

### 5.5. The policies' controversial sides

Australia's refugee and asylum seeker policies have met critics both domestically and internationally. Domestically, the issue has always been a political debate and public discussion. International communities also condemn Australia's harsh policy on asylum seekers, implying that it violates human rights and breaks international law. The current policies have also on several occasions upset Australia's relationship with Indonesia. Nevertheless, the Australian government prefers not to listen to the criticism and is determined to protect its national border from people smugglers (Abbott, 2015b; Kozaki, 2015).

In 2012, the Labor government increased the intake of Humanitarian Program to almost 45% of the previous year's intake (Phillips, 2015). Using budget as a reason, the number was reduced right after the Liberal government came into power the year after (Karlsen, 2015). Not only reducing the intake in general, the government also announced that the Humanitarian Program was no longer available for refugees who registered through UNHCR Indonesia as per 1 July 2014 (ACBPS, 2014). The government has also reduced the allotment for resettlement of refugees registered from UNHCR Indonesia. Both UNHCR Indonesia and the Indonesian government were opposing this policy, however the Australian government insisted that this could reduce the number of asylum seekers coming to Indonesia in the first place and reduce the fatalities of dangerous boat journeys (ABC, 2014b; Fitriyani, 2014). Interviewee Z also expressed a similar explanation that the policy would encourage asylum seekers to register at the closest UNHCR from their country of origin and therefore would ease Indonesia from the overwhelming number of asylum seekers.

The current government has also brought back the TPV. The TPV is granted to refugees who have come to Australia illegally, usually the boat people. Since the TPV only permits three years of residency, the refugees must either return to their home country if it is safe to do so after the visa expires or apply for a renewal (DIBP, 2015a). This situation gives refugees uncertainty and insecurity about their future and especially may have detrimental impact on those who are suffering from trauma (Crock et al., 2006). Another problematic issue that arises with the TVP is access to family reunification. TPV holders are not allowed to sponsor their family members to come to Australia. This condition can provide psychological impacts, such as stress and depression, to the refugees longing for their loved

ones or who worry for the safety of their families (Crock et al., 2006). The TPV is also accused as the reason behind the increasing number of women and children risking their life traveling by boats so that they can be reunited with their families who have already arrived in Australia (Phillips & Spinks, 2013a).

Together with the TPV, the current government has also revived the offshore processing and detention (the Pacific Solution). Even long before the Pacific Solution was introduced, the detention of asylum seekers had drawn public attention and protests by various humanitarian groups when the policy was applied for first time to the Cambodian boat people during the 90s (McMaster, 2002). Australia's detention policy allows people to be detained as long as it takes until their cases are solved (whether they are getting a visa or to be removed from Australia). This means that refugees and asylum seekers can be detained for years without knowing when they will be released. Concerns have been raised about the damaging effects of the lengthy detention periods to the detainees (Phillips & Spinks, 2013b). This is shown from frequent incidents reported from the detention centers such as hunger strikes, protests, riots, and self-harm cases.

Not only the uncertain processing period, the physical and mental situation of the asylum seekers have also worsened by the condition of the offshore detention centers (Crock et al., 2006). Even though there has been improvement in both facilities, they are still below the international standard (UNHCR, 2013a). In 2012, asylum seekers had already been transferred to Nauru even though the facilities were not yet ready. Consequently, the asylum seekers needed to stay in cramped tents while waiting for permanent buildings (ABC, 2012). The condition in the Manus Island facility is as disturbing. It assimilates a prison-like environment with high iron fences and security guards (AIA, 2013). The asylum seekers in Manus Island are living in a cramped facility with low hygiene conditions and a hot temperature climate. The poor conditions experienced by the asylum seekers has triggered many damaging, even deadly, incidents as protests to the government (B. Doherty, 2015).

Australia's detention policy has also worsened by the outsourcing of the detention center's management to private contractors (Crock et al., 2006). Without the government's direct control, the asylum seekers are prone to being mistreated or even physically and sexually abused by the security staffs (Cochrane, 2015; Conifer, 2015). In running the facilities, the private contractors are allowed to refuse exposing their conduct to the public and keep it confidential (Crock et al., 2006). The pictures in media reports about the offshore facilities' conditions are mostly taken secretly by hidden cameras because visitors are

prohibited from bringing electronic devices. It is also very difficult for public to get access to the facilities except getting invitation from the detainees.

The most criticized issue in Australia's detention policy is the detention of children. Australia is accused of breaching international law because detaining children means taking away their freedom which is against the international convention (Crock et al., 2006). The environment of detention centers is also not suitable for children and as in many cases it leads to mental health problems, sexual abuse issues and self-harm incidents (AHRC, 2014). Despite of the international criticism towards children detention, the government is convinced that its policy has effectively stopped the boats and is not showing any intention of making any changes to its detention policy (Kozaki, 2015).

The practice of turning back boats has also been widely criticized. The governmental assumption around boat people is that they are generally not asylum seekers but rather people attempting to jump the queues and systems in place for immigration (Coalitions, 2013b). The government also argues that the policy has saved lives because no boats means no accidents at sea (DIBP, 2015d). The government conceals the operation information from the public and often refuses to comment or confirm incidents regarding the operation. This is to avoid leaking information to the people smugglers and jeopardizing the operation's success (ABC, 2014c). For instance, the government confirmed the purchase of several life- boats, but refused to confirm that they would be used for the operation. There were also allegations that the Australian authority treated the boat people badly during the operation, including physical abuse, which the government officially rejected (Roberts, 2014a). The secrecy over the OSB has made it difficult for the public to find out the truth of what happened to the boat people who were being turned back and therefore difficult to prove if Australia has broken the refugee convention.

## 5.6. Conclusion

This chapter explains the historical background of Australia's refugee policies, the current policies and how they are implemented today. In brief, Australia has had a refugee policy since 1977 as a response to the arrival of boat people from Vietnam. It was also believed that accepting refugees could benefit Australia who was at the time aiming for a population increase. The refugee and asylum seeker policy in Australia has changed over time, both as responses to specific incidents and also to serve the government's political agenda. Some of the prevailing policies today include the Humanitarian Program, mandatory detention, offshore processing and resettlement, and OSB.



The Humanitarian Program is the legal platform for asylum seekers to be accepted as refugees in Australia. The government decides each year how many refugees will be accepted through the program. Asylum seekers who are waiting for their visa to be determined are detained under detention policy. They may be detained in the onshore detention center or offshore detention center. However, under the current Liberal government, boat people are sent off directly to the offshore detention facility. The offshore detention center is also part of the Pacific Solution. The Pacific Solution is the governmental effort to deter boat people from making sea journey by sending them to Nauru or Manus Island for processing. The Australian government has also made a deal with PNG and Cambodia to resettle the boat people who are found to be genuine refugees there. The government has also toughened Australia's border control by intercepting boats and turning them back.

These policies are not implicating Australia alone but also its neighboring country. The Pacific Solution is involves PNG and Nauru. Cambodia is also resettling Australia's refugees. Indonesia has been affected by the OSB implementation. The consequences of the policies are also contentious. Although Australia has been criticized for neglecting the humanitarian spirit, its restrictive policies and tough stance in dealing with asylum seekers and refugees continue.

## 6.

### **Australia-Indonesia Bilateral Relations**

The relationship between Australia and Indonesia has been through both peaceful and strained periods. Sulistiyanto (2010, p.119) describes it as prone to “misunderstandings”. It often changes from good to bad or the other way around, and depends on how both governments are interacting during certain periods. According to Sulistiyanto (2010), the relationship between Australia and Indonesia can be based on four premises: the historical and geographical factors, political and strategic considerations, identity and fear towards one another, and the domestic and foreign policy of the two countries.

Archeological findings have shown that contact between Australia and Indonesia originated as early as during the 16<sup>th</sup> and 17<sup>th</sup> centuries between the Indonesian fishermen and the locals in northern Australia (Lawrence & Davies, 2011). The diplomatic relations, however, only started after Indonesia gained independency and also when Australia abandoned its White Australia policy. One of the early bilateral agreements that comprises of geographical issues is the maritime borders treaty. It was signed in Canberra on May 1971 (APH, 1997). Other treaties and the Memorandum of Understanding (MoU) have also followed afterwards to avoid any future disputes and strengthen bilateral relations. Based on a long historical relationship and close geographical proximity, interaction between Australia and Indonesia is therefore inevitable, either in the past or in the future.

Both Australia and Indonesia have important roles in building a strong and stable relationship. As the largest state in Southeast Asia, Indonesia is a key player in the region's balance of power. Geo-strategically, Indonesia is Australia's gateway to the Southeast Asian region. Meanwhile Indonesia's rising economy is becoming an important market for Australia. On the other hand, Australia has been a strong economic power in the region and even the world for decades. This opportunity has made Australia a strategic partner for Indonesia, as a developing country, in terms of aid and foreign investment. With the emergence of democracy in Indonesia during the last decade, Australia has also become a useful resource for Indonesia's democracy-learning (APH, 2004).

Although geographically close to each other, Australia and Indonesia are very distinct in their individual identities and cultures. As discussed in Chapter 4, the Australian modern civilization was established from British convicts and immigrants. In the 2011 census, about a quarter of Australia's population were immigrants born overseas, and the rest of the population were born in Australia from immigrant-parents or ancestors (ABS, 2012).

Australia's 200-year-old settlement is rooted from Western culture. The identity that Australia chose to hold as a nation until the 1970s was clear: a white, European, British identity. Although Australia has decided not to be caught up in the difference of being classified as Western or part of Asia. The difference in identity and culture with Indonesia has made it difficult for the two neighbors to get to know each other, especially relating to each other's intentions (Sulistiyanto, 2010). Fear towards each other's intentions, therefore, was anticipated by bilateral agreements. The Security Agreement signed in 1995, for instance, demonstrates the willingness of the two countries to trust each other (Brown, Frost, & Sherlock, 1996).

The domestic and foreign policies of Australia and Indonesia can also influence their bilateral relations. Before the White Australia policy was fully abolished in 1970s, Australia started to adjust its foreign policy and be more engaged with Asia through the Colombo Plan (Lowe, 2013). Colombo Plan offers an aid agreement between developed countries, including Australia, and to developing countries in South Asia and Southeast Asia. Beside foreign aid, the Colombo Plan also offers scholarships and training in Australia. Today, Indonesia is the largest recipient of Australia's foreign aid that runs programs in many sectors including economic and democratic governance, education, health, infrastructure, social development, rural development, and disaster risk reduction (DFAT, 2013).

The growing democracy in Indonesia has also strengthened the bilateral relationship with Australia (Sulistiyanto, 2010). When being ruled by an authoritarian leader for 31 years, Indonesia had a rigid relationship with Australia. Once democracy started to enter the Indonesian domestic politics, the Indonesian domestic and foreign policies began to change as a result. Especially in foreign policy, Indonesia has been intensifying its active role in global affairs by initiating, participating and hosting international fora. In respect to bilateral relations, in 2005, Australia and Indonesia have declared their commitments to a stronger bilateral cooperation in economy, security, and people-to-people interaction in a comprehensive partnership (DFAT, 2005).

### 6.1. The dynamics of bilateral relations

In August 2015, the Australia-Indonesia relationship was commemorated with a series of events held in Indonesia by the Australian embassy in Jakarta. This was held simultaneously with the 70<sup>th</sup> year anniversary of Indonesia's independence day on 17 August. The Australian ambassador to Indonesia Paul Grigson stated that the celebration was a way of marking the long-standing friendship of the two countries (Grigson, 2015). On the same

occasion, the Australian Minister for Foreign Affairs Julie Bishop also expressed Australia's continuing interest of maintaining a good relationship with Indonesia (Bishop, 2015b). However, the 70-year long relationship between Australia and Indonesia has not always been smooth and peaceful. There have been many incidents that have created tension between them. The relationship, however, usually recovers and survives after such tensions arise. Several events have played a role in the dynamics of Australia-Indonesia relationship.

a. Australia's intervention in East Timor

After the fall of the authoritarian regime in Indonesia in 1998, the Indonesian President Habibie indicated a chance for East Timor to remain part of Indonesia with greater autonomy or become independent. When eventually East Timor declared its willingness to be separated from the Indonesian sovereignty through a ballot (mediated by UN Mission in East Timor), civil unrest immediately began to unfold in East Timor between the pro-autonomy and pro-independence groups. The unrest was responded to by the international community by placing a UN peacekeeping force to restore security and stability. East Timor finally gained international recognition as a sovereign and independent state in 2002.

Before the East Timor crisis, Australia had been a supporter to Indonesia's sovereignty over the territory (Chalk, 2001). However, Australia's political interest ended the support and pressed Indonesia to allow the East Timorese self-determination. While waiting for the arrival of the UN peacekeeping force during the civil unrest after self-determination, Australia initiated and led a humanitarian intervention in East Timor. No less than 4500 of the ADF personnel were deployed for the mission. Australian intervention in September 1999 brought the Australia-Indonesia relationship to its lowest point.

As a response to Australia's support in East Timor, the Indonesian government revoked the security agreement between Australia and Indonesia. For both countries, the agreement, which was signed in 1995, was a very important cooperation that healed the long term rigid relations (Brown et al., 1996). The agreement confirmed willingness of both countries to ensure stability in the region. Lasting shortly for four years old, Indonesia revoked the agreement less than one month after the Australian troops landed in East Timor. Bilateral relations suffered a significant deterioration. However, both Australia and Indonesia tried to repair the poor relationship immediately in the upcoming years by diplomatic visits. In 2000-2001, both of the countries' leaders and foreign ministers held talks to improve the relationship after the East Timor incident. Although not completely forgotten, the East Timor debate was soon diverted to another upcoming incident: the *Tampa* affair.

b. The *Tampa* affair

The *Tampa* affair happened just less than two weeks after Prime Minister Howard visited Jakarta to meet President Megawati to improve the bilateral relationship post East Timor. On 26 August 2015, a boat carrying asylum seekers was detected near Australian territory. The Australian authorities requested a nearby ship, a Norwegian freight vessel called the *Tampa*, to evacuate the people onboard. When the *Tampa* reported that they had evacuated 438 asylum seekers from the boat, the Australian authorities denied permission for the *Tampa* to enter Christmas Island and ordered the ship's master to return to Indonesia instead. Indonesia, with a similar response, refused to receive the asylum seekers. Consequently, the *Tampa* and the asylum seekers were held stagnant at sea for a week before they were eventually allowed to harbor in Christmas Island.

The flow of asylum seekers coming from Middle East to Australia started in 1999. Taking the advantage of Indonesia's proximity to Australia, the asylum seekers often come to Indonesia as a transit point before embarking on sea journeys to Australia. Australia had taken several measures in order to discourage boat people, from passing laws and policies to engaging in cooperation with Indonesia (Crock et al., 2006). However, in the midst of the crisis in East Timor, the relationship between Australia and Indonesia was intense. Cooperation on other matters including asylum seekers and people smuggling, therefore, was out of focus and put aside.

As the tension over the East Timor crisis was started to ease in 2001 and in the light of *Tampa* affair, Australia made diplomatic moves to discuss with the Indonesian government concerning people smuggling. Several days before the 9/11 attacks, the Australian Foreign Minister Downer, Defence Minister Reith, and the Immigration Minister Ruddock made a diplomatic visit to Jakarta on 6<sup>th</sup> September 2001 to secure future cooperation with Indonesia. However, their efforts to consolidate cooperation in people smuggling was again distracted by the 9/11 terrorist attacks and the Bali Bombing in the following year.

c. The Bali Bombing and terrorist attacks

In the wake of 'the war on terrorism' post 9/11, the concern towards the growing terrorist activities in regional Southeast Asia was increased, especially in Indonesia where most of the Muslim population live. Australia, being geographically close, needed to ensure that the peril would not reach its soil nor harm its people. Four months after 9/11, Australia and Indonesia signed MoU on combating international terrorism through cooperation that would include intelligence sharing and building capacity between governmental agencies

(Kemlu, 2015). Unfortunately, the peril of terrorism was inevitable. In 2002, two bombs exploded in crowded spots in Bali.

Bali is Indonesia's most popular destination for both domestic and international tourists. On 12 October 2002, two bombs were detonated in a popular pub in Bali and on a crowded street nearby, claiming 202 lives, 88 of whom were Australians, 38 Indonesians, and 76 from various other nationalities. The most prominent cooperation during this horrid event was between the Indonesian National Police and Australian Federal Police. The cooperation of the two agencies had continued to function in several other terrorist attacks in Indonesia including JW Marriott hotel bombing in 2003, the Australian embassy bombing in 2004, the second Bali bombing in 2005, JW Marriott and Ritz Carlton hotels bombing in 2009 (Connery, McKenzie, & Sambhi, 2014).

The Bali bombing has become the impetus of a closer and greater cooperation between Australia and Indonesia, particularly in counter-terrorism. However, after a series of security-related incidents and global challenges faced by both countries, Australia and Indonesia had come to an agreement to broaden and strengthen their cooperation in security. Eventually, after being stalled for years due to post-East Timor experience, the cooperation between the two countries in the security domain finally resumed in 2006, formalized in the Lombok Treaty. The scope of cooperation includes defence, law-enforcement, counterterrorism, intelligence, maritime, aviation, non-proliferation of weapons of mass destruction, emergency cooperation, IOs cooperation, people-to-people cooperation and community understanding (Kemlu, 2006). The signing of Lombok Treaty is a strong gesture by Australia and Indonesia that they were ready to put behind the past and restore the relationship trust post-East Timor.

#### d. The spying scandal

On November 2013, the Australian media, the ABC and The Guardian, presented to the public a classified government document that reveals Australia's attempt at spying on the Indonesian president, his wife, and eight ministers and government officials (MacAskill & Taylor, 2013). The document, leaked by whistleblower Edward Snowden, reveals that the phone tapping of the Indonesian President Susilo Bambang Yudhoyono was attempted at least once in 2009. The revelation worsened the relationship which had already become tense from the Australian embassy spying allegation. Earlier in November 2013, just before the phone tapping scandal was revealed, the Indonesian government summoned the Australian

ambassador in Jakarta to respond to allegations of intelligence gathering for the Australian embassy (Henderson & Roberts, 2013).

Australia and Indonesia responded differently in the spying scandal. Although many had suggested otherwise, the Australian Prime Minister Abbott refused to apologize to Indonesia for information gathering as it was a common practice of every government (Griffiths, 2013). Reacting to the statement given by Prime Minister Abbott, Indonesia recalled its ambassador from Canberra and soon after the Indonesian President Yudhoyono also declared to suspend cooperation with Australia in their intelligence exchange and information gathering, military, and people smuggling (BBC, 2013). The spying scandal had consequently created tension and interrupted Australia-Indonesia bilateral relations.

The Australia-Indonesia relationship has sunk backwards since then. Although the issue had been cleared up by correspondences between the two heads of state, the cooperation did not restore immediately. During this difficult time, Australia proceeded with OSB. The operation resulted to several incidents of border breaching by the Australian Navy (Bourke, 2014). These two issues, spying and the border breaching, has hampered the Australia-Indonesia relationship from returning to its normal state. The rift in bilateral relations was finally mended in August 2014 when the foreign ministers of Australia and Indonesia signed a deal in code of conduct on intelligence. The two states have agreed not to use intelligence to harm each other's national interests and agreed to promote cooperation in intelligence (Kemlu, 2014). With the signing of the code of conduct, the suspended cooperation in intelligence, military, and people smuggling was restored.

e. The execution of two Australian nationals

Another incident that had again soured Australia-Indonesia relations was the execution of two Australian citizens in the Indonesian prison on late April 2015. It began ten years ago when the Australian Federal Police (AFP) informed the Indonesian authorities about a group of drug traffickers on the move in Bali. The information lead to the arrest of nine Australians who tried to smuggle 10kg of heroin from Indonesia to Australia. As Indonesia enforces death penalty to drug traffickers, the two ringleaders, Andrew Chan and Myuran Sukumaran, were sentenced to death in the Indonesian court in 2006. After losing all judicial appeals and rejection for clemency, Chan and Sukumaran finally faced the Indonesian firing squad on 29 April 2015.

Besides legal judicial appeals and a plea for clemency, a high level of advocacy by the Australian government officials had also been carried out to revoke the death sentence. The

Australian Prime Minister Tony Abbott and Foreign Minister Julie Bishop have also warned that the death penalty of Chan and Sukumaran would have consequences for Indonesia (Donovan, 2015). The Indonesian government was very adamant on the death penalty decision despite of the responses given by Prime Minister Abbott and Foreign Minister Bishop.

The tension between the two countries was demonstrated clearly on in the media, not only between governments but also between the public. On the occasion when Abbott mentioned the aid Australia provided to Indonesia when tsunami hit Aceh and requested a reciprocate gesture of kindness, the Indonesian Vice President Jusuf Kalla replied that Indonesia would pay the money back (RMS, 2015). Both the Australian and Indonesian public also ran campaigns against each other. The Australian public ran “Boycott Bali” campaign, persuading Australians not to go to Bali for holiday, while the Indonesian public gathered “Coin for Abbott” as a protest to Abbott’s comment on tsunami aid.

Australia officially uttered their disappointment and regret to Indonesia after the execution took place. In a press conference, Prime Minister Abbott stated that the Australian/Indonesian relationship “has suffered” and that relations with Indonesia would not be “business as usual” (Abbott, 2015a). The Australian ambassador was also withdrawn from Jakarta for a period of time. A month after the execution of Chan and Sukumaran, the Australian government announced budget cuts on foreign aid in the 2015/2016 federal budget. Australia committed \$366.4 million, which was 40% less than the previous allocation, to Indonesia (Nicholson, 2015). Due to the timing of the foreign aid cut being so close after the execution, it is disputed that this is possibly one of the consequences given to Indonesia for executing Australian citizens. Foreign aid is Australia’s foreign policy tool that serves its national interest (DFAT, 2015). When foreign aid is also designated for diplomatic purposes, the aid cut can be clearly translated as a reaction to the execution.

## 6.2. Illegal immigrants, asylum seekers and refugees: the Indonesian perspective

Indonesia has no obligations to receive refugees since it is not a signatory in the 1951 Refugee Convention. The lack of legal framework in asylum seeker and refugee handling in Indonesia, therefore, has been problematic especially since the increasing number of asylum seekers have been making their way to Australia in the past fifteen years. According to the Indonesian law, asylum seekers and refugees are classified as illegal immigrants (Imigrasi, 2010). Illegal immigrants, with the exception of victims to human trafficking and people smuggling, can be subjected to sanction imposed by the Indonesian immigration officer



outside the judicial process (Imigrasi, 2011). Asylum seekers and refugees are often victims of people smuggling, therefore they are not subjected to sanction although principally their presence in Indonesia is illegal.

According to Interviewee X, an official of Directorate General of Immigration, even though Indonesia does not take part in the 1951 Refugee Convention and the Indonesian law does not recognize asylum seekers and refugees, Indonesia has a moral obligation to protect them by not deporting them to their home country (non-refoulement) and the initiative came from goodwill. This ‘moral obligation’ is highlighted in the Regulation of the Directorate General of Immigration concerning illegal immigrant, article 2, clause 1, which mentions illegal immigrants in Indonesia who declare their intentions to seek asylum cannot be subjected to deportation and shall be coordinated by UNHCR for their determination of refugee status (Imigrasi, 2010). If the illegal immigrants have obtained their refugee status from UNHCR, they are allowed to stay in Indonesia yet under certain conditions: they should stay within a specific area designated by Directorate General of Immigration, they are not allowed to be at an airport or seaport unless accompanied by the immigration officials, they are not allowed to work, and they must report their presence every second week to the immigration office.

Interviewee X explained that there were at least those two of these factors that have made Indonesia a reasonable country for transit of the asylum seekers. The geographical location has made Indonesia an ideal transit point for asylum seekers and refugees who intend to go to Australia. Besides the geographical reason, the processing time in UNCHR Indonesia was relatively shorter than in UNHCR Malaysia. The asylum seekers and refugees who preferred to transit in Indonesia rather than in Malaysia could also be motivated by the issues of Malaysian authorities’ ill-treatment (Barker, 2013). While in Indonesia, the assumption that the Indonesian officials are corrupt makes it easier for the asylum seekers and refugees to move forward to their destination country, Australia. According to UNHCR (2015d), there were 5,277 refugees and 7,911 asylum seekers registered in UNHCR Indonesia per June 2015. In total, 13,188 ‘illegal immigrants’ were staying in Indonesia waiting for their status determination or resettlement in other countries.

The article 6 of the Regulation of the Directorate General of Immigration concerning illegal immigrant unambiguously mentions that the Indonesian government is not responsible for financing the asylum seekers and refugees during their stay in Indonesia, meanwhile working is prohibited (Imigrasi, 2010). UNHCR does not provide them with financial allowances either (UNHCR, 2015b). However, asylum seekers and refugees in Indonesia are

facilitated by IOs, including UNHCR, IOM, and Church World Service. These IOs provide various assistance such as shelter, food, health care, education, and psycho-social support.

As for shelter, the asylum seekers and refugees in Indonesia are placed in community houses or the immigration detention centers. IOM organized 42 community houses in Indonesia, sheltering at least 2500 residents in total (IOM, 2014). Meanwhile, Directorate General of Immigration coordinates 13 detention centers across Indonesia. According to Interviewee Y, the Head of Immigration Detention Center in Jakarta, detention centers are only a temporary shelter for asylum seekers waiting for their refugee status determination or waiting for placement at the community houses. When asylum seekers receive their refugee status or if they have received a place in community houses, they will be transferred to the community house arranged by IOM.

Interviewee Y pointed out that each detention center has different capacities and regulations. In some detention centers, the asylum seekers/refugees are let free. At the detention center under the authority of Interviewee Y, the asylum seekers/refugees are free (not locked in cells) inside the detention center vicinity. They are only allowed to go outside the vicinity (e.g. malls, recreational place, etc.) if accompanied by officer. They are also allowed to use cellphones to communicate with their families and friends. In addition, the detention center arranges several activities for the residents, such as sports, hobbies, religious services, language courses, computer courses, etc., to distract them from stress. Interviewee Y also emphasized that the asylum seekers and refugees in the detention center are not detainees, therefore they receive 'special treatment'.

In my observation, the detention center which I visited had prison-like characteristics. Wired-iron gates stood tall in front of the facility. Inside the building, double layers iron bars separated the detention area and the office area. Some detainees were standing behind the bars and some were sitting on the floor. Interviewee Y did not allow me to enter the detention area for further observation due to security reasons. The detention center has the capacity to shelter 98 detainees. At the time of the interview (1 April 2015), the detention center was overloaded with 142 residents (detainees, asylum seekers, and refugees). According to Interviewee Y, in average, a resident would stay for 4-7 months in the detention center. The slow circulation in the detention center was due to long waiting periods, either for status determination or waiting for a place in the community house. There were also some cases where asylum seekers, whose applications were rejected by UNHCR, insisted to stay in the detention center because they were afraid of persecution in their home country. Thus, overcapacity in the detention center was unavoidable.

Figure 4. Detention center from outside



Figure 5. Double walls inside of detention center



Figure 6. The detention area was locked



The presence of asylum seekers and refugee in Indonesia is not only problematic from a legal perspective. According to Interviewee X, the Indonesian public perception has also become an obstacle for the Indonesian government to move the issue of asylum seeker into political agenda. The differences in social values and the cultural gap between the local people and asylum seekers/refugees may cause social in-cohesion in the area where they live. The Indonesian authorities have been taking measures to minimize conflict between them (Imigrasi, 2014). However, the main public perception is the fact that there are still many poverty stricken people in Indonesia who need governmental help. Based on statistical data in September 2014, the percentage of poverty stricken people in Indonesia was close to 11% of the total Indonesian population (BPS, 2014). At least 27 million Indonesian people live with the average of a \$30 monthly income. Interviewee X stated that the public would demand the government to take care of the poor first rather than helping the asylum seekers/refugees. Interviewee X also confirmed that there had been several protests in the community that reject foreign immigrants.

The people smuggling venture is also taking advantage of the situation. More than 13000 registered asylum seekers and refugees and a potential number of the unregistered ones have become prey to people smugglers in Indonesia. People smuggling is an organized crime which operates beyond national borders. Interviewee X explained that there are three main roles in the people smuggling venture: the recruiter (who recruits asylum

seekers/refugees), the transporter/facilitator (who transport asylum seekers/refugee to cross borders), and the receiver (who receives asylum seekers/refugees at the transit point and takes them to UNHCR). Those roles, however, do not necessarily operate in the same network and are not always limited to only three. There are other roles such as the messenger, the service provider, and even corrupt officials (Barker, 2013). Interviewee X mentioned that fishermen are prone to being lured into being transporters by the people smugglers. Their impoverished conditions and lack of legal knowledge has made it easier for the people smugglers to persuade fishermen in Indonesia to transport the asylum seekers/refugees in exchange for money.

Research conducted by Hugo, Tan, and Napitupulu (2014), states that in most of the cases the asylum seekers and refugees in Indonesia paid people smugglers to take them further to Australia. Beside the long waiting period for status determination and resettlement, the poor living conditions in Indonesia also became the reason of why they intend to travel onwards to Australia. Most of the asylum seekers and refugees who were surveyed by Hugo et al. (2014) claimed that their living conditions were bad or very bad. During my visit to one of the detention centers, the Head of the detention center did not allow me to observe inside the detention area (behind the bars) due to security matters. However, the official website of Directorate General of Immigration provided these pictures below, showing a fragment of the living conditions inside of the detention center.

Figure 7. The condition inside the detention area (Yatno, 2014)





Figure 8. Immigration officials were inspecting the detention center and checking the residents' documents (Yatno, 2014)



### 6.3. Australian-Indonesian cooperation in combating people smuggling and handling asylum seekers and refugees

People smuggling is a transnational organized crime, therefore it needs a multinational effort to combat the crime. Australia, together with Indonesia and 43 countries, are sitting together in the Bali Process, a forum that provides framework to tackle people smuggling, trafficking and other transnational crimes in a regional approach. In a bilateral approach, the cooperation framework between Australia and Indonesia in combating people smuggling relies upon the Lombok Treaty, a security cooperation agreement signed in 2006. In an interview with one of the Australian embassy officials in Jakarta, Interviewee Z mentioned that the Australian-Indonesian cooperation included intelligence sharing, immigration cooperation, custom joint patrol and exercises, and search and rescue operation. These cooperations occur between mutual governmental agencies. A similar response was also given by Interviewee X, an Indonesian immigration officer, that the two governments have been working together at the agency level. Australia's DIBP, for instance, is a counterpart to the Indonesian Directorate General of Immigration, and the AFP (Australian Federal Police) liaises with POLRI (Indonesian National Police).

In handling asylum seekers and refugees, Australia and Indonesia cooperate formally within two frameworks: the Regional Cooperation Arrangement (RCA) and Management and

Care of Irregular Immigrants Project (MCIIP) (Nethery et al., 2012). In the RCA, Australia carries out its role by funding the IOM Indonesia. The IOM assists asylum seekers and refugees in registering their cases to UNHCR, provides them with food and shelters (in community houses), and assists voluntary repatriation. According to Interviewee Z, Australia has chosen the IOM as a partner because the IOM is an experienced organization in handling immigrants. For carrying out activities, Interviewee Z stated that Australia has committed about \$50 million in 2015 for the IOM funding. MCIIP is also an IOM's project funded by Australia. Some of MCIIP's activities include renovation and refurbishment of detention center facilities (IOM, 2010). The first project by MCIIP was completed in 2009 at Tanjungpinang detention center. The second, and ongoing project, is the renovation of detention centers in Batam, Balikpapan, and Semarang (IOM, 2015).

#### 6.4. Indonesia's reaction to Operation Sovereign Borders

Before the OSB commenced, the Indonesian Foreign Minister Marty Natalegawa stated that the Indonesian government would not support any "unilateral measures" in dealing with the asylum seeker's boat and suggested that Australia stick to "regional framework" (Natalegawa, 2013). He also warned Australia that the OSB could harm the bilateral relationship between Indonesia and Australia (Roberts, 2013). The Liberal party committed to its political campaign and ignored warnings from the Indonesian government. The OSB have been running since 18 September 2013 until and during the time that this thesis has been written. Boats have been turned back, and some of them ended up on the Indonesian shores.

Indonesia has officially expressed objection to the boat-turning policy through the Australian Embassy in Jakarta (Rosarians, 2014). However, apart from statements and opinions sounding its protest, no diplomatic action was taken by the Indonesian government to oppose Australia's OSB. On January 2014, the Australian government admitted that they had breached the Indonesian territorial waters in six different occasions while conducting OSB and apologized for the violation to the Indonesian government. The Australian Immigration Minister Morris stated that the territorial-breach occasions were all unintentional (DIBP, 2014b). Like the returned boats issue, the Indonesian government did not taken any diplomatic move apart from expressing its displeasure of the incident and requested that Australia not repeat the same mistake again (Taylor, 2014). Minister Natalegawa later confirmed that the bilateral relationship remained in a very good state despite the incidents that had occurred (Natalegawa, 2014).

The OSB policy has affected Indonesia not just from its maritime operation. Australia also made changes in their refugee resettlement policy. Previously, asylum seekers who registered through UNHCR Indonesia could be resettled in Australia if they were found to be genuine refugees and Australia approved their application for resettlement. On November 2014, the Australian government announced that they were no longer taking refugees who are registered from UNHCR Indonesia on or after 1 July 2014 and they would simultaneously reduce the number of refugee intake from UNHCR Indonesia (Morrison, 2014b). With the new resettlement policies, Australia intended to reduce the number of asylum seekers and refugees travelling to Indonesia. Interviewee Z clarified that the policy would encourage asylum seekers to register through UNHCR close to their home country instead of travelling to Indonesia and consequently could reduce the number of asylum seekers and refugees in Indonesia. The Indonesian government was reluctant to agree to Australia's new resettlement policy and claimed that it would be a burden for Indonesia and could potentially disrupt the good relationship between the two countries (Roberts, 2014b). However, until this thesis is written, there have been no measures undertaken by the Indonesian government as a response to Australia's resettlement policy.

The latest incident which related to OSB happened in late May 2015 where the Australian authority intercepted a boat carrying 65 asylum seekers and paid the boat crews to return to Indonesia. The boat ended up in Rote Island, Indonesia. The boat crew claimed that the Australian authorities offered US\$6,000 to the captain and US\$5,000 each to the five crew members. Through a combination of eye witness testimony including testimonies from crew members and evidence, the allegations seem legitimate (see BBC, 2015; and Roberts, 2015a). Furthermore, the Australian government did not deny the allegations nor accept it and emphasized that stopping the boat people was the most important thing (Abbott, 2015b). The new Indonesian Foreign Minister Retno Marsudi has requested an explanation from Canberra, yet it remains unanswered. However, in a meeting two months after the incident and with no mention of this incident, both Australian and Indonesian Foreign Ministers agreed that the relationship of the two countries is in a good shape and the two countries agreed to cooperate further to strengthen it (Bishop, 2015a; Roberts, 2015b).

## 6.5. Conclusion

The relationship between Australia and Indonesia is rich with history. The early contact of the two neighboring lands between fishermen and local people can be traced back as far as five hundred years ago. In the context of nation state, Australia's relationship with



Indonesia was initiated by giving support for the Indonesian independency (Sulistiyanto, 2010). The relationship of the two countries has been flourishing ever since and especially strengthening as a result of Indonesia's growing democracy. However, the historical, political, cultural and identity, and economic gap between Australia and Indonesia sometimes creates turbulence in their relationship. Political decisions from each government have also contributed to the relationship's highs and lows.

There are several incidents that contributed to the dynamics of Australia-Indonesia relationship since the fall of authoritarian regime in Indonesia in 1998: Australia's intervention in East Timor, *Tampa* affair, the Bali bombing and terrorist attacks, the spying scandal, and the execution of Australian convicts. These incidents have either encourage cooperation or become a hindrance to cooperation. Meanwhile, the movement of asylum seekers to Australia has inflicted cooperation between Indonesia and Australia. This includes security cooperation and the management of asylum seekers in Indonesia through IOM. Indonesia had expressed its objection to Australia's OSB policy. Since the commencement of the policy, OSB had indeed sparked a negative reaction from Indonesia. Indonesia has been upset over the policy's practices, including the turning-back of boats, territorial breaches, cutting refugee intake from UNHCR Indonesia, and the bribing of boat crews. Despite these incidents that have deteriorated the Australia-Indonesia relationship, Indonesia has not taken any measures to reject the policy. Other issues in the meantime have caught the attention of both governments and distracted them from the asylum seeker/refugee debacle.

## 7.

### **Analysis and Discussion**

This chapter contains analysis and discussion of the findings using theoretical framework. Before examining Operation Sovereign Borders (OSB) as a successful securitization, the first part of this chapter discusses the process of securitization starting from the early Australia's refugee and asylum seeker policy where the asylum seeker's issue was not yet securitized. This will be followed by the securitization and desecuritization process pre-OSB. The second part of this chapter examines the Australia-Indonesia relationship through their cooperation. Using the concept of absolute and relative gains of the neo-neo debate and also the game theory (Prisoner's Dilemma), this part aims to explain why cooperation between Australia and Indonesia is sometimes successful and on other occasions somewhat restrained.

#### 7.1. Securitization, desecuritization, and re-securitization of asylum seekers

The refugee policy started to be a part of Australia's immigration policy after the first boat arrival in 1976. At this time, the arrival of refugees by boat was a new experience to Australia and the number of boat people was insignificant. Thus they were welcomed and not perceived as threats. Initially, detention did not apply to boat people although the detention policy itself has existed from the beginning of the Australia's immigration policy. However, the increasing number of boat arrivals later on has enforced Australia to activate the mandatory detention of boat people.

After seven years without any boat arrival, the influx of boat people in 1989 pushed the government's panic buttons. Since then, mandatory detention has been used to deter boat people regardless of their status as refugees or asylum seekers. At this point, there was a growing fear towards boat people, particularly the Cambodian asylum seekers. It evoked in Australian's an attitude of rejection and skepticism against non-white migrants, similar to what happened to the Chinese immigrants during the gold rush. Although there was a growing fear of threats towards Australia's identity by the influx of boat people which became a wide public discussion, the government did not dub the boat people as a security threat to Australia. Instead, the government labelled the boat people as "queue jumpers" for the first time (Phillips & Spinks, 2013b). The detention policy as a measure does not contradict the common rule either, in this case the 1951 Convention, although UNHCR is not

pleased about Australia's policy. The government had not yet securitized the issue of boat people.

The third wave of boat people, dominated by Middle Eastern people, came during 1999-2001 (Phillips & Spinks, 2013b). Much like before, the government took measures for the influx by introducing a new policy. In addition to mandatory detention, boat people were only allowed to apply for the TPV. The TPV circumscribed the rights of the boat people to become permanent residents although they were found to be genuine refugees. Mandatory detention has also been extended to offshore processing which was renowned as the Pacific Solution. The Pacific Solution was a measure to the *Tampa* incident which happened just before Australia's federal election. According to Svabø (2002), the Pacific Solution was a political move made by Prime Minister Howard to secure the Liberal government's position for the upcoming election. The 9/11 tragedy which occurred in the same year also contributed to government's measures against boat people considering the urgency to boost national security after the terrorist attack (Goel, 2010).

Watson (2009) argues that during Howard's leadership, the issue of boat arrivals post the *Tampa* incident was securitized and it was a successful securitization. It was done by framing asylum seekers as threat to the Australian border by giving the asylum seekers a new identity by calling them "queue jumpers" and "unauthorized boat arrival". The *Tampa* incident was followed by 9/11 and was depicted as an emergency where immediate measures must be taken in protecting the Australian border. (TPV, Pacific Solution, and Operation Relex) were therefore extraordinary, beyond the common rules, and even perceived as breaking the norm (in this case, the international law of non-refoulement<sup>8</sup>). The public acceptance of Howard's securitizing moves was shown from the public polls and the re-election of Howard's government for another period.

The Liberal government however was defeated by the Labor government in the federal election 2007. The new government, under Prime Minister Kevin Rudd, desecuritized the issue of asylum seekers (McDonald, 2011). Opposite with securitization, desecuritization shifts an issue from the realm of emergency to a normal political issue (Buzan et al., 1998). Asylum seekers were no longer depicted as a threat to Australia's sovereignty nor a threat to national security. This implied the removal of some of the harsher asylum seeker policies,

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<sup>8</sup> Article 33 of the 1951 Convention states that "No Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." (UNHCR, 2007)

such as ending Operation Relex and the Pacific Solution, giving permanent residency instead of TPV. The removal of asylum seekers from the realm of security, however, only last a couple years. The significant influx of boat arrival in 2009 had urged the government to take new measures (see Table 4). This became the backdrop of the asylum seekers comeback as a security concern. Three years later, the Australian government has successfully securitized asylum seeker issue that is embodied in the OSB.

Re-securitizing of asylum seeker issue had started since the 2009 where the influx of boat coming to Australia sharply rose. Although the Labor government under Prime Minister Rudd took measures on the significant increase of boat arrivals, they did not frame the boat people as a threat. Instead, Prime Minister Rudd blamed people smugglers as the culprit and called them “the vilest form of human life”, “the absolute scum on earth” who should “rot in hell” rather than jail (Rudd, 2009). After Prime Minister Rudd was ousted by Julia Gillard in 2010, ‘people smuggling as a threat to border security’ continued to be one of the government’s primary discourses in the arrival of asylum seekers’ boats. Although the Labor government under Prime Minister Gillard did not explicitly depict boat people as a threat to border security, the policies were obviously targeting the asylum seekers and refugees who were aboard the boats.

The re-securitizing of asylum seekers was also an outcome of the government-opposition’s debate in order to gain political support (McDonald, 2011). The opposition initiated the re-securitizing of asylum seekers and their speeches were blatantly attacking the government for failing to respond to the threat: “You cannot trust Labor to deal with this problem because Labor created this problem and my message to voters from now until polling day will be that if you want to stop the boats you've got to change the government.” (Grattan & Schubert, 2010), “Labor has failed on our borders like no other government in Australia’s history” (Coalitions, 2013b, p.3). Whilst the government defended its stance claiming that their policies aimed “to ensure that people smugglers have no product to sell” and that the people smugglers’ clients “cannot buy their way into Australia” (Gillard, 2010). The speeches by the government and the opposition helped to shape the public debate on the issue of asylum seekers.

The public poll in 2011 showed that 72% of the Australian people were concerned about boat people and that they believed that boat people posed a potential security risk to Australia (Hanson, 2011). Further research also suggests that the public perceived asylum seekers as threats to the national identity and security (McKay, Thomas, & Kneebone, 2011). Meanwhile, the number of boat people in 2012 increased almost four times from the previous

year, pushing detention centers to reach their capacity limit. Under increasing pressure, the government resumed the Pacific Solution practice by reopening offshore facilities in Nauru and PNG. However, the government announced to re-impose such policy in order to reduce the number of boat people without the iteration of ‘unauthorized arrivals’, ‘security’ or ‘border security’. Instead, the government addressed the boat people as ‘asylum seekers’, and Australia as a ‘humanitarian (re)-settlement nation’, and there were “better, safer ways available to pursue a better life in Australia, to flee persecution without taking the risky journey to Australia by boat” (Gillard & Bowen, 2012). This clearly sent a signal that the government did not securitize the issue of asylum seekers and refused to articulate asylum seekers as threat, and the policy was necessarily taken without the impression of emergency.

## 7.2. Operation Sovereign Borders: a successful securitization

As previously mentioned, the re-securitization of asylum seekers was initiated by the government’s opposition when the Labor government was still in power. The public poll also showed that the majority of the public was convinced that asylum seekers posed a threat to Australia (Hanson, 2011). Although the public was convinced, the government’s opposition, as securitizing actor, was not in the position of authority, therefore their re-securitizing move was not (yet) successful. The securitization of asylum seekers only happened when the opposition successfully took over the authority and became the government after the federal election in September 2013. The OSB commenced in the eleventh day after the new government was elected.

In the securitization of asylum seeker, three units can be analyzed: the Liberal government as the securitizing actor, Australia’s border as the referent object, and people smugglers as the functional actor. Before holding the government power, the Liberal party as the government’s opposition came as the securitizing actor. After winning the federal election, the new elected government has the legitimacy to take emergency measures in order to protect Australia’s border, the referent object, from threat. It was obviously stated in the Liberal’s policy proposal: “An incoming Coalition government will treat the border protection crisis as a *national emergency* [emphasis added] and tackle it with the focus and energy that an emergency demands” and that they would involve military means because the situation “...requires the discipline and focus of a targeted military operation” (Coalitions, 2013a, p.2). The policy is labelled “Operation Sovereign Borders”. It gives an impression that a threat to Australia’s border is a threat to Australia’s sovereignty, an entity that must survive

and thus must be protected. Therefore, in this securitization scheme, Australia's border becomes the referent object.

The last unit that plays an important role in affecting the Liberal government's decision to securitize boat arrival is the people smuggler. People smugglers provide the 'service' to transport asylum seekers to Australia. The Labor government's construction of people smugglers is criminals who posed threat to Australia's border. On the contrary, the subsequent Liberal government constructed the 'boat' as *the* threat to Australia's border. OSB itself aims to 'stop the boats' instead of stopping people smugglers. It means that the OSB is not directly addressing the people smugglers, yet they are the ones who perpetrate the process from recruiting asylum seekers until transporting them with boats. The role of people smugglers in this securitization is therefore a functional one. Their presence and activities affect the dynamics in the securitizing process, which in this case influences the government to securitize the issue of boat people.

During the Labor government, the opposition blamed the government for the influx of boat arrival as a result to the weak border protection policy. The government versus the opposition's debate on the boat arrival was presented constantly in the media. The use of phrase "illegal maritime arrivals" and "illegal boats" by the opposition has also reconstructed the identity of the asylum seekers<sup>9</sup>. The transformation of the asylum seeker's identity from people who are in genuine need to illegal immigrants had shaped the public opinion towards asylum seekers. The perception of the link between Islam and terrorism has also convinced the public that asylum seekers can pose a threat to Australia's national security (Hanson, 2011; McKay et al., 2011). Tony Abbott, during his election campaign, mentioned that Australia's border was facing a "crisis" and which had become "a national emergency" (Abbott, 2013). Although without uttering the word 'security', the speech was explicitly raising the status of Australia's security from a normal condition to a crisis situation where emergency measures needed to be taken.

During the election period, the securitization of the asylum seeker almost succeeded. Asylum seekers were the second biggest issue during the political campaign (Holmes, 2014). A national poll showed that the majority of the public were convinced that the Liberal party could solve this issue better than the Labor (Oliver, 2013). At this point, the security speech had been delivered and the audience seemed to be convinced. The next step in securitization

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<sup>9</sup> Illegal maritime arrivals and illegal arrivals are the government's official terms since October 2013 (see Alberici, 2013; DIBP, 2014a)

was implementing emergency measures. After winning the federal election, the new Liberal government implemented OSB as the emergency measures straight away.

### 7.3. Australia's security agenda: From societal sector to military sector

The securitization of asylum seekers represents Australia's military security agenda and OSB served as one of the emergency measures. However, in contrary with traditional realist tenets, Australia is not threatened by the military power of another state. Instead, the projected threat is non-military: boat arrivals filled with illegal immigrants. Successful boat arrivals in Australia's territory has weakened the state's border. The opposition (The Liberal party) blamed the ruling government (The Labor government) for not taking enough measures to topple the threats. The opposition announced clearly that Australia's border was vulnerable and that it endangered the state, therefore they would treat it as an emergency situation. Eventually, the emergency measures that were established by the government (after the Liberal party won) involved the military in order to re-strengthen the border.

I would argue, however, that the securitization of asylum seekers in Australia only became successful when the government shifted it from the societal security agenda to the military security agenda. In order to identify Australia's security agenda in the societal sector, it is important to look back on Australia's immigration history. The background of Australia's construction of a national identity is filled with racism and exclusion of the non-white migrants. However, it changed gradually after the government realized that immigration was a crucial part of Australia's survival. In order to serve such political purpose, the government used migration and scrapped the White Australia policy. The government decided to accept pluralism (of ethnic and cultural diversity) and institutionalized the new ideology in the form of the acts (Racial Discrimination Act 1975) and governmental institution (Department of Immigration and Ethnic Affairs). The construction of Australia's identity therefore has been influenced greatly by the government through policies. The government holds the power to make changes in immigration policies to suit their goals, particularly in constructing, steering, controlling, and maintaining Australia's identity which is narrated as a 'multicultural Australia'.

The societal security agenda was vividly shown during the 1980s. John Howard, the leader of the opposition, disfavored the multiculturalism framework and immigration (especially Asian migrants). In 1996, Howard came into power as Australia's Prime Minister and about three years later asylum seekers started coming to Australia by boats. By linking asylum seekers and terrorism, he had successfully shifted the societal security agenda of

immigration to military security agenda of asylum seekers who came by boats. By doing so, the threat (immigration of asylum seekers) can be addressed by policies (e.g. mandatory detention and TPV) and military operation (e.g. OSB). The traces of the societal security agenda can be found in many of Howard's speeches, such as "We will decide who comes to this country and the circumstances in which they come", "...It is the right of this country to decide who comes here", "We will decide who comes to this country" (see Clarke, 2001). Tony Abbott, who was then the opposition leader before he became prime minister, also used a similar speech: "This is our country and we determine who comes here" (Iggulden, 2013). "We" is repeatedly used to refer to the Australian society that has a distinct identity than the others (asylum seekers, terrorist and immigrants). The political rhetoric about asylum seekers, which is transferred by the media, also plays a role in influencing the Australian public opinion. A study by McKay et al. (2011) on public perception and attitude has shown that people perceived asylum seekers as posing a threat to Australian identity and values because of their distinctive culture. Eventually, the government's response to the influx of asylum seekers and refugees indicates the nation's fear of reassertion of new ethnic and culture in the existing identity.

#### 7.4. The influence of Operation Sovereign Borders on the Australia-Indonesia relationship

Based on collected data, the OSB had sparked negative reactions from Indonesia. Indonesia had expressed rejection and regret over the policy's practices, including the turning-back of boats, territorial breaches, cuts in refugee intake from UNHCR Indonesia, and the bribing of boat crews. However, Indonesia did not take any measure to reject the policy entirely. Meanwhile, there were other unrelated asylum seeker/refugee issues that had occurred and grabbed the attentions of the two governments.

Since the OSB implementation, there were two major incidents that disrupted the Australia-Indonesia relationship: the spying scandal and the execution of two Australian convicts. Unlike OSB, both governments responded to the issue by taking real measures. First of all, both issues had made the two states withdraw their ambassadors from their posts. The spying scandal had put a halt on the bilateral security cooperation for some time, including cooperation in handling the boat people. The execution had also angered Australia enough that the government promised that there would be consequences. It was assumed that the aid cut to Indonesia was *the* consequence even though the Australian government never admitted it. Nevertheless, the Australian government never gave an explanation for the aid cut.



On the other hand, the OSB has had a far less significant effect on the bilateral relations in comparison to other events. The Indonesian reaction to OSB was only in the form of criticism and negative comments without any diplomatic sanction. A similar remark uttered from Interviewee Z stated that although the Indonesian government disliked the policy, cooperation regarding to asylum seekers/refugees, boat people, and people smuggling still continued and even strengthened. However, the cooperation had been difficult after the spying scandal and according to Interviewee X and Z, the cooperation had not entirely resumed (interviews were conducted on April 2015). Hence, the OSB has no real implication on Australia's and Indonesia's bilateral relationship.

#### 7.5. Australian-Indonesian cooperation: a motive to achieve absolute and relative gains

Apparently, the OSB did not bring about any diplomatic sanctions. Findings have shown that cooperation between Australia and Indonesia was only halted briefly because of other matters (the spying scandal) and resumed afterward. Their unstable relationship, which has highs and lows, is often influenced by each government's decision or policy (e.g. The East Timor intervention, OSB) and unprecedented events (e.g. terrorism, natural disaster). As a result, cooperation between the two states may either be encouraged or impeded. From a neo-neo perspective, cooperation between Indonesia and Australia is motivated either by absolute or relative gains. I argue that in cooperation with each other, Indonesia seek absolute gains, while Australia seek relative gains.

Absolute gains are the main interest of the neo-liberal institutionalist (Grieco, 1988). Neo-liberal institutionalist states are also optimistic about the prospect of cooperation and believes that absolute gains can be maximized through it. Since the birth of the democratic era, Indonesia has been more active in the international arena including involvement in many types of cooperation, both bilateral (e.g. Australia), regional (e.g. APEC, ASEAN, Bali Process), and international cooperation (e.g. G20). From an international cooperation perspective, Indonesia aims to enhance itself in many sectors including economy through international trade and investment and also position itself in the international arena especially in the Asia Pacific region (Kemlu, 2009, 2010). Domestically, Indonesia is still facing a lot of domestic challenges, such as poverty, education and health, etc. Cooperation with Australia gives Indonesia gains which could help the country to tackle these challenges. Australia's aid program, for instance, has supported Indonesia's development for many years.

The state's preference in the Prisoner's Dilemma from the most preferable to the less preferable circumstances is following this sequence:  $DC > CC > DD > CD$  (Grieco, 1988).

The spying scandal has put Indonesia in the less preferable situation (CD, Cooperate-Defect). Indonesia gave diplomatic sanction by suspending the Lombok Treaty and other cooperation. This decision moves Indonesia from the less preferable condition (CD, Cooperate-Defect) to a more preferable condition (DD, Defect-Defect) where no cooperation is achieved. However, Indonesia realizes that cooperation can only bring absolute gains and cooperation is better than no cooperation at all ( $CC > DD$ ). Therefore, Indonesia has resumed the Lombok Treaty and other cooperation with Australia soon after.

Australia's motivation in achieving relative gains is shown in its cooperation in the Bali Process. Since people smuggling is a transnational crime, it is difficult for Australia to combat people smugglers alone. Therefore, Australia is willing to cooperate with other states in the Bali Process. The cooperation brings relative gains to Australia: eradication of the crime (gains for all state participants) means there will no longer be asylum seeker boats arriving on Australian shores (relative gains for Australia). However, Australia tries to maximize its relative gains by carrying out its own effort, the OSB, even though it means defecting from the Bali Process. The Prisoner's Dilemma diagram shows that the state prefers a successful defection while its counterpart complies with the cooperation (DC, Defected-Cooperate), therefore the defecting state can maximize its relative gains. Indonesia or other Bali Process members could have given sanction to Australia for acting outside the regional framework, but they did not. In this circumstance, Australia's defection is successful and it maximizes Australia's relative gains.

## 7.6. Conclusion

The OSB is a result of the securitizing effort of the Liberal party while serving as the government's opposition. As a securitizing enforcer, the opposition tried to convince the public that the asylum seeker's boat arrival was a threat to the Australian border. After winning the federal election, the Liberal government has successfully securitized the boat issue and set it into a military security agenda where it had to be addressed by military means. Therefore, in its operation, OSB is led by Australia's military. Although the projected threat seems to be a military issue, the insecurity is actually rooted from the societal sector which can be traced by looking back to the immigration history. The flow of asylum seekers' boats is not solely a threat to the Australian national border but more likely a threat to its existing identity.

The Indonesian government reacted negatively to the OSB implementation. This was expressed in official statements from Indonesian government about the policy. However, the reaction was without any consequence. The OSB did not disrupt any ongoing cooperation and therefore had no real impact on the Australian-Indonesia relationship. Despite of many incidents that had influenced the Australia-Indonesia relationship, both countries are still eager to cooperate. Their cooperation is motivated by gains, either absolute or relative gains. Indonesia is satisfied with the absolute gains it achieves from cooperation with Australia. On the other hand, Australia's defection from cooperation shows its motivation to maximize relative gains.

## 8.

### Conclusion

Australia's immigration history first began with the arrival of the British people in the 18<sup>th</sup> century. The Immigration Restriction Act 1901 was the first immigration policy which was meant to prohibit non-white immigrants. This racist policy was born from fear and anxiety among the majority of the white British society who perceived non-white immigrants as threats to the 'whiteness' of Australia. In the wake of World War II, this policy was replaced by the Migration Act 1958. Unlike its predecessor, the Migration Act 1958 used visas instead of the dictation test as a control system. Through the visa system, the Australian government selected desired immigrants based on various qualifications. According to McMaster (2002), the visa system has dampened the racial discrimination against the non-white immigrants which previously was quite straightforward.

World War II had also pressured the Australian government to make a political decision as to whether to "populate or perish". Immigration was thought to be crucial for Australia's survival in the anarchic world. The immigration program called the Assisted Passage Scheme was no longer resourceful, therefore the government expanded the immigration program by receiving refugees under the auspices of UNHCR. The Australian government adapted the refugee policy by introducing the Humanitarian Program in order to provide a proper channel in accepting refugees to migrate to Australia. However, the growing number of boat people who came to Australia without visas has led to the introduction of the detention policy, offshore processing (Pacific Solution), and the turning back of boats policy (Operation Sovereign Borders).

OSB was implemented out of the fear of reassertion of new ethnic and culture in the existing identity. The flow of asylum seekers means the flow of foreign culture that may distract the balance of 'multicultural Australia' which has been constructed by the Australian government in the past forty years after neglecting the White Australia policy. OSB is basically a product of a successful securitization where boat people were identified and depicted as threats to Australia. In order to succeed, the security agenda of asylum seekers was moved from the societal sector to military security agenda. By doing so, the referent object has shifted from national identity to national border and therefore military measures are allowed to be used.

The securitization theory allows the identification of the Liberal party (the government's opposition) as the securitizing actor and the national border as the referent

object. The securitizing process started when the government's opposition brought back the asylum seeker issue into security agenda using political rhetoric and speeches. They constructed a new identity for refugees and asylum seekers by coining new terms for them such as 'illegal maritime arrivals', 'queue jumpers', and 'boat people'. These speeches were conveyed to the public by the media. The media helped to shape the public perception regarding asylum seekers, including the perception of Islam and terrorism. The public was convinced that asylum seekers posed security threats to Australia and wanted the problem to be addressed. The Liberal party, who proposed the OSB, won the federal election and had the legitimacy to execute the policy when it became the government.

In comparison with other events, the OSB has had no real consequence on the dynamics of bilateral relations between Australia and Indonesia. During seven decades of their relationship, there were several events that led to either tension or cooperation between Australia and Indonesia. Australia's intervention in East Timor and the Indonesian president being spied on were followed by the revocation and suspension of security cooperation. On the other hand, the *Tampa* affair and the Bali bombings have led to cooperation. Diplomatic action, such as withdrawing ambassadors from their post, had also been done by the two countries in the events of the spying scandal and also the execution of Australian convicts in the Indonesian prison. However, in regards to the OSB where Australia had breached Indonesian water in several occasions, Indonesia commented negatively but never gave Australia any diplomatic sanction.

Both Australia and Indonesia's cooperation and break-ups are motivated by absolute and relative gains. Indonesia realizes that the only way to maximize absolute gains is through cooperation. Indonesia, who is still struggling with domestic challenges, has benefitted from cooperation with Australia. Hence, there is no consequence given to Australia regarding the OSB. Suspended cooperation on other occasions have also resumed and bilateral relations were restored. On the other, Australia is motivated by relative gains from cooperation. Considering the relative gains it can achieve, Australia is cooperating at the Bali Process. However, in order to maximize relative gains, Australia implemented the OSB even though it means defecting from the cooperation agreement.

Initially, this study intended to discuss the relationship between Australia and NGO/INGO regarding OSB. However, permission to access and to collect data from *Suaka*, UNHCR and IOM, were not given by these organizations. This limitation has implied the readjustment of research questions. Future research can therefore be conducted surrounding this topic. While this research was being completed, the OSB was still an on-going policy.

The analysis and discussion of the OSB and the Australia-Indonesia bilateral relations are limited to the data which was collected up until September 2015. There have been numerous events that have occurred after this point of time which may influence the policy and the relationships, such as the fall of Abbott government, the small number of boat arrivals, human rights breaches in the offshore detention centers, the wave of Syrian asylum seekers and refugees, and many more. These issues are possible topics for further studies. Future research surrounding the OSB, including its development and aftermath, are important to assess the effectiveness of the policy and its real implication in the refugee regime.

## 9.

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## Appendix A

### Interview questions to official from Directorate General of Immigration

1. *Kendala apa saja yang dihadapi Direktorat Jendral Imigrasi dalam menangani para imigran yang berstatus pencari suaka dan pengungsi?*  
(What are the challenges faced by Directorate General of Immigration in handling asylum seekers and refugees in Indonesia?)
2. *Kebijakan atau undang-undang apakah yang digunakan Direktorat Jendral Imigrasi dalam menangani pencari suaka dan pengungsi di Indonesia?*  
(Which law Directorate General of Immigration is using in handling asylum seekers and refugees?)
3. *Jika seorang imigran memiliki status pengungsi dari UNHCR, berapa lamakah mereka boleh tinggal di Indonesia? Kewajiban apa saja yang mereka harus lakukan? Adakah hak yg mereka punya?*  
(If an immigrant has refugee status from UNHCR, how long can they stay in Indonesia? What are their rights and obligations in Indonesia?)
4. *Dikabarkan bahwa keberadaan imigran di tengah masyarakat, khususnya di Cisarua, telah meresahkan masyarakat. Keresahan apa saja yang timbul? Dan konflik apa saja yang terjadi?*  
(Presence of immigrants in the society is reported to bring anxiety among the locals, especially in Cisarua. What are these anxieties? What kind of conflict that happened?)
5. *Apakah peran pemerintah, khususnya Direktorat Jendral Imigrasi, guna menanggulangi masalah tersebut?*  
(What is the government's role, particularly Directorate General of Immigration, in tackling these problems?)
6. *Indonesia sebenarnya merupakan negara transit bagi para imigran yang hendak menuju Aus untuk mencari suaka. Adakah kerja sama antara Indonesia dan Australia dalam menangani para imigran ini di Indonesia?*  
(Indonesia is a transit point for people who are trying to reach Australia to get asylum. Is there any cooperation between Indonesia and Australia to handle these immigrants?)
7. *Australia belum lama menerapkan peraturan ketat terhadap pencari suaka yang datang ke Australia. Bagaimanakah hal ini mempengaruhi Indonesia?*  
(Australia has recently implemented tough policies to asylum seekers. How does this affect Indonesia?)

8. *Banyak perahu nelayan Indonesia yang berangkat ke Australia secara ilegal. Apa sajakah yang dilakukan pemerintah Indonesia dalam menangani kasus tersebut?*  
(There were many fishermen's boats used to travel to Australia illegally. What has the Indonesian government done to tackle this issue?)
9. *Pada saat ini banyak imigran yang berstatus pencari suaka yang ditahan di Rumah Detensi Imigrasi. Bagaimana mereka bisa ditahan disana?*  
(Right now there are many asylum seekers who are being held in Immigration Detention Centers. How can they end up there?)
10. *Apakah yang selanjutnya akan terjadi kepada mereka yang ditahan di Rudenim?*  
(What will happen next to they who are being detent?)

## **Appendix B**

### **Interview questions to Head of Immigration Detention Center**

1. *Bagaimana imigran sampai ditempatkan di Rumah Detensi Imigrasi?*  
(How can immigrants end up in Immigration Detention Center?)
2. *Berapa lama imigran dapat ditempatkan di Rumah Detensi Imigrasi?*  
(How long they can be detained?)
3. *Bagaimana tingkat kebebasan imigran di dalam Rumah Detensi?*  
(How free are detainees inside the detention center?)
4. *Apakah seluruh imigran di tempat ini bermaksud pergi ke Australia?*  
(Were all of them intended to reach Australia?)
5. *Ada berapa banyak penghuni di Rumah Detensi ini?*  
(How many detainees are there in this detention center?)
6. *Apa yang terjadi selanjutnya apabila pencari suaka ditolak aplikasinya oleh UNHCR?*  
(What happen if UNHCR reject the detainees' applications for refugee status?)
7. *Kerjasama apa saja yang dilakukan Rumah Detensi dengan pihak lain?*  
(What kind of cooperation are there between detention center and other parties?)
8. *Kegiatan apa saja yang diselenggarakan Rumah Detensi bagi para penghuni?*  
(What kind of activities this detention center has for detainees?)
9. *Fasilitas apa saja yang diberikan Rumah Detensi kepada penghuni?*  
(What kind of facilities that detainees can get from the detention center?)
10. *Apakah peran Australia dalam penyelenggaraan Rumah Detensi di Indonesia?*  
(What is the role of Australia in the operation of immigration detention centers in Indonesia?)

## **Appendix C**

### **Interview questions to official at the Australian Embassy**

#### Bilateral relations

1. How would you describe Australia-Indonesia bilateral relations today?
2. Which issue dominates in the relation of the two countries?
3. What are the challenges in Australia-Indonesia bilateral relations?
4. Regarding the Islamic State, the growing jihadist, and radicalization both in Indonesia and Australia. Has there been a concern of having a Muslim populated country as a neighbor?

#### People smuggling

5. In what ways do Australia and Indonesia cooperate in countering people smuggling?
6. What are the challenges and how can the cooperation be improved?
7. What does the Australian Government expect the Indonesian government to do regarding the boats that embark from Indonesian shore trying to reach Australia?
8. What is Australia's main concern of being a destination country of asylum seekers?
9. Indonesia is a transit country for many who wants to get to Australia. How has this circumstances influenced Australia-Indonesia cooperation?
10. Australia has decided to no longer accept asylum seekers' applications who register from UNHCR Indonesia. Relating to this, Australia has been accused of leaving the burden to Indonesia. What does Australia have to say about this?

#### Operation Sovereign Borders

11. What is the real threat that the government tries to combat with Operation Sovereign Borders?
12. The military is being used in the implementation of the Operation. Why?
13. It seems like the Operation is intended to the people smugglers. But the people who aboard the ship are obviously not the smugglers. How can the Australian government justify this policy towards the victims of the smugglers?
14. How long the Operation will last?
15. What are the challenges of the Operation?
16. How has the Operation affected the relationship between Australia and Indonesia so far?

Would you say that this policy has an effect (whether direct or indirect) in preventing radicalization in Australia?



## Appendix D

### Communication material of the Operation Sovereign Borders

Australian Government

**NO WAY**

**YOU WILL NOT MAKE AUSTRALIA HOME**

**The Australian Government has introduced the toughest border protection measures ever.**

- If you get on a boat without a visa, you will not end up in Australia.
- Any vessel seeking to illegally enter Australia will be intercepted and safely removed beyond Australian waters.
- The rules apply to everyone: families, children, unaccompanied children, educated and skilled.
- No matter who you are or where you are from, you will not make Australia home.

**THINK AGAIN BEFORE YOU WASTE YOUR MONEY. PEOPLE SMUGGLERS ARE LYING.**

[www.australia.gov.au/novisa](http://www.australia.gov.au/novisa)  
Authorized by the Australian Government, Capital Hill, Canberra

Source: DIBP. (2015). Counter People Smuggling Communication. Retrieved 6 March, 2015, from <https://www.border.gov.au/about/operation-sovereign-borders/counter-people-smuggling-communication>





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