

Scapegoating juvenile ‘people smugglers’ from Indonesia: poverty, crime, and punishment

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Abstract: *This article introduces two case studies of underage transporters from Indonesia, who brought asylum seekers to Australia by boat and thus were convicted and jailed for the crime of people smuggling. In light of the hyper-politicised issue of people smuggling and the need to find punishable perpetrators, transporters have become the main target of anti-people-smuggling law enforcement. Both transporters came from poor families and started working early on in their lives, which also involved their deceptive recruitment into people-smuggling networks. But the outcome of their prosecutions differs substantially, not least, as one of them was convicted in an Australian court and the other in Indonesia. In this article, we problematise the culpability of underage smugglers and argue for more lenient treatment by law-enforcement authorities.*

Keywords: *People smuggling, criminalisation, recruitment into crime, punishment, poverty*

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Introduction

By taking firm action to secure borders (and thus prioritising the privileges of those living within those borders), governments seek to reassure voters that they are in control and that their policies are appropriate. Intensified border protection strategies are accepted by many voters who are swayed by their governments’ persistent fearmongering and exaggerated media accounts of irregular mass migration and potential ‘invasion’ by refugees and migrants (Peterie, 2017). While migration panic helps populist politicians win seats in parliaments and positions in governments, overexploiting such fear can backfire, as might be the case, for example, when a government is no longer considered to be in control. When linking irregular migration to transnational crime, it is convenient for them to blame a scapegoat – in recent times, the ‘people smuggler’. The frequent arrest and prosecution of smugglers – people considered responsible for taking migrants and refugees across borders – serve governments around the globe as a strategy for soothing concerned voters. The international fight against

people smugglers and irregular migration has not only been influenced by populist politicians on the hustings, but has also relied on very simplistic understandings of how the transport of refugees and migrants across borders is facilitated and who is responsible for its organisation. The global fight against people smuggling has filled prisons with these facilitators, who, as we show here, are easily caught and punished. While this might suggest to the wider public energetic state involvement and proper law enforcement, filling prisons with underprivileged juveniles, who carry the least responsibility for organising people-smuggling operations is at best window-dressing and at worst committing new injustices.

Further obfuscating the reality of smuggling operations is the use of state perspectives and language to describe processes and practices. Public debate tends to disregard the complexities of migratory decision-making (Crawley and Hagen-Zanker 2018; Kuschminder 2018). Especially ignored as victims are those facilitators who have joined the smuggling networks less than voluntarily

or have been recruited under false pretences, which is legally equivalent to trafficking in persons. To make matters worse, the accounts that prevail pay little attention to the wider economic and political context in which the recruitment into smuggling networks occurs, such as intergenerational poverty, hyper-precarity and environmental degradation, which drives people to accept risky and dangerous job offers they might otherwise reject (Missbach 2022). In order to counter the prevalent depictions, this essay pays attention to the structural violence and overall vulnerability of juvenile Indonesians who have been punished for people smuggling. With little formal education, limited job prospects where they grew up, and the destruction of their livelihoods by overfishing and maritime pollution, the two young men whose stories we relate here were attracted by apparently generous job offers that gave them some promise of respite from the daily hardship of their lives at home. We give their perspectives, which we have gained from interviews and trial observations in order to present their account of



Figure 1: The fishing village Pepela, Rote Island, saw many of its inhabitants become involved in the transport of asylum seekers to Australia.

the overall story; our portrayal of that story is complemented by publicly available documents from the courts and from human rights organisations. While there were hundreds of underage boys recruited to work as transporters in smuggling networks, we chose these two cases as they allow a cross-country comparison on how courts in Australia and Indonesia have dealt with the issue of underage smugglers. In Australia, there was substantial attention paid by the media to the cases of underage smugglers, which allowed us to collect reports, op eds and court statements rather easily. These findings were complemented by phone interviews with the smuggler. In Indonesia, however, this topic received little to no coverage by the media. For that reason, we conducted face-to-face interviews with the convicted smuggler, his mother and selected law enforcement personnel. A growing body of academic literature has explored the involvement of minors in people smuggling and the sentencing of minors for that involvement (Lelliott, 2017; Palmer and Missbach, 2017; Hirsch, 2013). This essay, however, is primarily interested in the pathway that led to their recruitment into people-smuggling networks. In order to paint a broader picture of how and why young men in Indonesia become involved in people-smuggling networks and are sentenced as smugglers, we scrutinise two case studies: the first is of Ali Jasmin, who was convicted as an adult by an Australian court; the second portrays Syamsir, who was prosecuted

as a minor in Indonesia. After analysing their treatment in court, we take into account their upbringing in deprived environments, the economic situation of their families, and their job prospects amid widespread youth unemployment. Comparing these two case studies not only shows the discrepancies between the Indonesian and Australian legal systems in prosecuting underage people smugglers, but also raises a more important and inconvenient question for states seeking to punish people smuggling at all costs: Is people smuggling the most appropriate offence, given that so much of the juveniles' experience is redolent of other crimes, such as human trafficking, that recast them as victims rather than perpetrators?

As will be discussed in more detail in the two case studies, both Ali and Syamsir hail from Eastern Indonesia, which poverty statistics identify as the poorest area of Indonesia. Not only do young people there face very limited employment prospects and access to state resources, but they are also affected by greater political instability and environmental degradation. In spite of the effects of these structural disadvantages on these young people, their families still expect them to contribute to the family income, at least until they have families of their own. In some instances, young people, especially boys and young men, face enormous pressure to provide for families, particularly if their parents are divorced or unable to work. Constant economic pressure and enduring social

expectation impact their self-perception, risk-taking behaviour and life choices more generally. Many young people like Ali and Syamsir stand little chance of ever finding employment in the formal economy and rely primarily on short-term gigs in the informal economy, which offers no proper contracts, fixed salaries or workers' protection. Around 70 per cent of Indonesians work in the informal sector (Ford and Caraway, 2020). As hired hands in the transport of refugees and migrants, they are usually provided with very little information about a job, its conditions, length of employment or provisions. They are given a small preliminary down payment, or sometimes only some material incentives, and promised a fixed sum at the end. Lucrative offers by middlemen that suggest they will earn much more than what they usually make, for example, by working as a cook on a boat, are very enticing. Rather than suspecting involvement in a crime for such generous salary offers, youngsters hope they have finally struck it lucky (Henschke, 2011). Of course, not every young man ends up in people-smuggling networks, but in our cases it was economic hardship that drove the young men to do so. In this essay, we present four arguments to support our claims in contesting the culpability of underage smugglers vis-à-vis the official perspective of state authorities. First, we argue that minors recruited into people smuggling are often not given correct information about the real destination of their jour-

neys when they are recruited, which constitutes deception. Second, we show that minors are not in a position to make decisions about such matters as the assembly of the crew, the selection of passengers, and preparations for the journey; their exclusion from decision-making means that they cannot be held responsible for organising these irregular journeys. Third, once at sea, the minors have few opportunities to express any objections they might have to the organiser; even if they come to realise on the journey that they are committing, or are expected to commit, a crime, such as entering Australian territory illegally, they have few options but to follow the organiser's instructions. Fourth, minors are often deceived when it comes to their remuneration, as they frequently do not receive the full amount they were initially promised.

Ali Jasmin: lost youth, wrongful imprisonment and lack of compensation

Ali is one of about 180 Indonesians who worked as crew on asylum-seeker boats and arrived in Australia between late 2008 and late 2011, and who claimed to be underage at the time of offence (Australian Human Rights Commission, 2012). Ali and his family are from Bala Uring, a remote village on the island of Flores in Eastern Indonesia, one of the poorest parts of Indonesia. Many young men and women leave the village to work either in factories in Batam, in oil palm plantations in Kalimantan, or as housemaids in Makassar. Ali's family were small-scale vendors at a local fish market. Ali attended school for seven years before he started working as fisherman not far away from his home. Aged 13, Ali decided to leave his village after the fishing season for Maumere, the largest city on Flores, hoping to find a job there. On his first night, he went to pray in the mosque and met a preacher who offered Ali and two other boys a job on a cargo boat for Rp15 million (US\$1000). The religious appearance of the preacher made him appear trustworthy to Ali. Together they travelled to Kendari, where Ali and the other boys stayed in the house of Muhimin, whom Ali referred to as 'big boss' for one month. Ali described Muhimin as a very generous person who bought them new clothes and fed them well. No down payment was made, and Ali did not mind. He explained that at that time he would not have been able to send the money home to

his mother, because nobody in the village had a mobile phone or a bank account. While staying at Muhimin's house, an old boat that had been bought was being repaired for the trip. Eventually Ali and the preacher travelled to Surabaya, where, to Ali's surprise, they took foreigners on board. From there the boat travelled to Rote Island in the southernmost corner in Indonesia. When the boat was close enough to the shore, the preacher swam ashore, again to Ali's astonishment. Following instructions, Ali steered the boat on (Phone conversation with Ali Jasmin, 24 September 2019).

On 18 December 2009, Ali was apprehended northwest of Australia's Ashmore Reef, a day trip from the island of Rote. On board Ali's boat were 55 Afghan asylum seekers. In interviews conducted by the members of the Australian Human Rights Commission after his trial, Ali stated that a middleman approached him and offered him a job on a freighter transporting goods between islands. Together with other crew members they travelled to Rote Island, which was often used as departure point for irregular journeys. Some of the crew members left the boat there. Ali continued without any clear indication of where the journey would go. When out at sea again, however, foreign passengers arriving on smaller vessels boarded his boat. In addition to four other crew members on board, Ali worked as a cook for the asylum seekers. Because of bad weather and an unreliable engine, they ran out of food before reaching their desired destination. Not only was the boat generally in poor condition, but it carried no safety equipment or life jackets. The boat started to sink before it was intercepted by HMAS Launceston, an Australian Navy vessel, about eight nautical miles northwest of Ashmore Reef. Ali explained that he 'felt half-dead during the journey because he was so afraid', and that he had no understanding of what constituted people smuggling and why people were claiming asylum in Australia. Upon arrest Ali had Rp3,185,500 (US\$230) in his possession, but explained that he was never paid the amount he had been promised by the preacher.

Questions about Ali's age started to emerge early on. When he was arrested by the Australian Navy, Ali told the officials that he was 16 years old. Upon later interrogation in custody, he gave his age as 14. Because the officials did not believe Ali, they ordered a wrist x-ray assessment, to which he consented, but it remains unclear

that he understood the importance and possible implications of this procedure in his sentencing. The medical test results declared that Ali had a mature skeleton and determined him to be at least 19 years old. Ali disputed this result on several occasions, but often there was no Indonesian interpreter present in court. Even though the x-ray assessment was widely criticised by medical experts as unreliable, Australian authorities treated Ali as an adult. He was charged with migrant smuggling and tried in an adult court.

Meanwhile, the Indonesian Consulate received a birth certificate from Indonesia that indicated that Ali was 13 years old when he was arrested, supporting Ali's claims about his real age. However, this document was not placed into evidence by either the defence or the prosecution. Moreover, the Australian Federal Police (AFP) doubted the birth certificate's veracity, as it was produced much later and could not be verified by further documentary evidence. Instead of substantiating their claim or trying to find other means of verifying the submitted document, the AFP stated they did not have the operational resources to question Ali's family on Flores. Furthermore, the Indonesian Consulate also did nothing more to provide legal aid to Ali and other youths in similar situations, but supplied Ali and other minors with Indonesian food and religious reading materials in prison (Henschke, 2018). All in all, the destinies of the incarcerated minors were of little concern to the Indonesian representatives in Australia, and in light of the generally rocky bilateral relationship, the priorities lay elsewhere.

Almost a year after his arrest, Ali was sentenced as an adult people smuggler to the mandatory minimum sentence of five years imprisonment, with a non-parole period of three years (*R v Jasmin* [2010] WADC 189). His sentence was the outcome of an age determination hearing on 8 December 2010, again with no interpreter, in which the main source of evidence was the x-ray assessment test results. In June 2011, Ali lodged an appeal against his sentence, but his appeal was dismissed (*AJ v The Queen* [2011] WASCA 166).

In April 2012, an Australian journalist travelled to Indonesia to meet Ali's family and village chiefs in Flores and obtained copies of documents corroborating Ali's claim that he was a child. The media report of Ali's case received considerable attention and his case was the catalyst



Figure 2: Since 2013, hardly any refugees left for Australia by boat. Thousands have become stuck in Indonesia and those who have run out of money often end up homeless in the streets of Jakarta.

for an inquiry by the Australian Human Rights Commission into the treatment of children suspected of people-smuggling offences. Ali Jasmin was one of many children the Commission determined to have been wrongfully sentenced as adults on the basis of a widely discredited wrist x-ray test. In total, the cases of 23 people charged with people smuggling were reviewed by the Commission. Following revelations of their true age, at least three were released and sent home at the Attorney-General's instruction. Ali was released from prison in May 2012, along with two other Indonesians convicted of people smuggling, and returned to Indonesia. But by that time Ali had already spent 781 days in a maximum-security adult prison.

Ali's case and the subsequent inquiry by the Australian Human Rights Commission resulted in significant legal and political changes in Australia. From 2012 onwards, Australian law enforcement agencies paid more attention to the vulnerability of juvenile transporters employed in people-smuggling operations. Instead of being punished and detained for smuggling offences, juveniles began to be deported to Indonesia (Australian Embassy, 2012).

Ali returned to his family after his release from Australia. He is now married and has one child. Although happy to be reunited with his family, Ali is aware that he lost a substantial part of his childhood through wrongful imprisonment. In another appeal in June 2017, the Western Australian Court of Appeal found that Ali Jasmin was in fact only 13 years old when he was arrested for people smuggling and sentenced as an adult (Jasmin

v The Queen [2017] WASCA 122). Despite his successful appeal, Ali is yet to be compensated for his wrongful imprisonment by the Australian government (Missbach and Palmer, 2020). The chances of any wrongfully imprisoned minors receiving any financial compensation are small (Missbach and Palmer, 2018). While awaiting the outcome of yet another legal action to gain compensation, Ali works as labourer during the day and goes fishing at night in order to make ends meet (Phone conversation with Ali Jasmin, 17 September 2019).

Syamsir: intergenerational poverty, debt trap and hyper-precarity

Our second case concerns Syamsir, an Indonesian minor from Sulawesi, also in Eastern Indonesia. Unlike Ali, Syamsir was involved in transporting asylum seekers to Australia multiple times, but instead of being prosecuted and convicted in Australia, Syamsir was returned to Indonesia with stern warnings. Although he had learned from his encounters with Australian border forces that people smuggling is a crime in Australia, he seemed to have been unaware that people smuggling had also been criminalised in Indonesia. It was on his fourth attempt to bring asylum seekers to Australia, when Syamsir was still 17 years old, that he was arrested and convicted for people smuggling under Indonesian law. What makes Syamsir's case more complex is that he is known to have been involved in several people-smuggling operations. In these circumstances, he should have at the very

least been informed and made aware of his actions and their consequences after his first arrest.

On 22 September 2015, together with two other Indonesian crew members, Syamsir departed from Java's southern coast in the direction of Australia's Christmas Island. Despite his young age, Syamsir was the captain of the boat. On board were 18 Bangladeshi, Pakistani and Indian asylum seekers. They did not reach Australia as their boat started taking on water after the engine broke down. When the weather deteriorated, Syamsir, as the boat's captain, had to convince everyone that they needed to return to Indonesia. Against the pleas of his passengers, who were eager to reach Australia, not least because they had paid middlemen high fares for their journeys, Syamsir deemed the risk for his life and the lives of the other people too high and insisted on turning back. Syamsir and the other crew members were arrested upon their return to Java and later sentenced for people smuggling. Under the Indonesian Law on Immigration, failed attempts at people smuggling attract the same punishment as successful ventures – five years imprisonment. Yet, in Syamsir's case the court noted that he was still a minor and sentenced him to one and a half years in prison, a little less than one-third of the minimum sentence for adult perpetrators. The possibility, however, that Syamsir might also have been a victim of re-trafficking, which the prosecution drew to the court's attention, was ignored by the police and the court.

The first time we met Syamsir in August

2016, he was in jail. He had just turned 18, but looked younger. While he was very surprised by our visit at first, he became quite eager to tell his version of his involvement. Syamsir finished his formal education after six years of primary schooling and started working so that he could contribute to the family income. His parents had migrated to their village before Syamsir was born, but had never owned land or even the family's house. His father worked in construction but his poor health forced him to stay at home for extended periods of time, so the family had gone into debt. Syamsir told us of his sadness when the debt collectors came knocking on the family's door asking for money. He felt ashamed because people would keep asking them to pay their debts, which led to his decision to go out and make money.

On a later occasion we visited Syamsir's house and family. The village the family was living in was right on the seashore and many houses still lacked basic sanitation. Most village men worked as fishermen and sailors. Like most of his peers, Syamsir became interested in working at sea. Spending long stretches at sea, sometimes up to six months at a time, helped Syamsir acquire considerable nautical skills. His earnings as a fisherman varied. Sometimes he would make 'Rp500,000 [US\$35] in two weeks, sometimes Rp5 million [US\$350] in a month', but out of this he would have to pay a cut to his agent and to the owner of the boat, leaving him with at least a third less than what he made. Given the low income from fishing, Syamsir became interested in higher-paying jobs.

Syamsir told us that he never met any of the organisers and middlemen who had offered him the jobs to bring asylum seekers to Australia. All transactions and communications were done by phone. For his first trip to take asylum seekers to Ashmore Reef, Syamsir was a deckhand and earned Rp25 million (US\$1770). For his second trip, when he was made captain of the boat, he earned the same amount. For the third trip, which was to Christmas Island and much further away from Indonesia, he was promised Rp40 million (US\$2800), but in the end he was paid nothing. He had no way of contacting the middlemen after he failed to get paid, because they cancelled their phone accounts. After the first trip taking asylum seekers to Australia, Syamsir was detained in Darwin for three months, but eventu-

ally released without being charged and tried. The second and third time he was detained there for about two weeks. Although Syamsir knew quite well by then that people smuggling was a crime and could land him in jail in Australia, he accepted a fourth job, for which he was also promised Rp40 million (US\$2800). The main reason for taking on the job even though he was not paid for the last one was to give his parents Rp30 million (US\$2100) to pay off the debt for the house they were living in. But it became clear during the investigations and his subsequent trial in the Indonesian court that Syamsir had been tricked by the organisers once again. This time he did not even get the first instalment promised by the middlemen.

Having to go to jail in Indonesia came as an unpleasant surprise for Syamsir. Even though the judge gave consideration to the fact that Syamsir was a minor at the time, he did not accept the prosecutor's plea that Syamsir was a victim of trafficking. The main reason for the judge's decision was that this smuggling operation was not the first time Syamsir had been involved in transporting asylum seekers to Australia. In order to limit any future risk of being re-trafficked, the judge insisted Syamsir undertake a full year of vocational training as part of his sentence and for rehabilitation purposes. While in juvenile prison, Syamsir took auto repair, typing and carwash classes. During our interview, Syamsir told us that he planned to go back to day-labouring at sea, because he did not feel that the training in jail would prepare him for better-paid work.

Syamsir was released from prison in early 2017. Back in his village, Syamsir tried to find work, but failed. Although he had learned a few new skills in prison, nobody wanted to offer him a job, partly because he could not provide any official certificates attesting to his skills and because he now had a criminal record. He tried selling meatball soup (bakso), but business did not pick up. By the time we arrived in his village near Takalar in May 2017, he had taken off again. His mother told us that he had been offered a job on a fishing boat 'somewhere in Papua', Indonesia's eastern-most territory. Before he left, he received a down payment of Rp3.5 million (US\$250) from the middleman who recruited him, which he passed on to his family. His mother told us that she was very happy that he had found work, not least because Syamsir's father

had become very ill and could no longer work. From widely available reports and testimonies about working conditions on fishing vessels in Indonesian waters, it is known that workers are frequently exploited and badly treated (Palmer 2018). All subsequent attempts to establish direct contact with Syamsir and check on his whereabouts failed.

Juvenile smugglers

There is evidence that children are involved in facilitating irregular journeys globally, fulfilling a number of roles in the smuggling process, such as guiding migrants and serving as crew members of smuggling vessels. Some children and youth may participate willingly in such activities; others may be intentionally misled or otherwise coerced into certain roles (Lelliott, 2018). Despite growing attention to people smuggling and trafficking in persons, the inability of law enforcement agencies to properly identify victims of human trafficking remains a perplexing obstacle to its prevention, retribution and restitution (Jones, 2012). Legally speaking, the distinction between trafficking in persons and people smuggling is set out clear in law. For good reasons, people smuggling and trafficking in persons are generally treated as separate issues, legally, sociopolitically and morally (Munro, 2012). Nevertheless, the reality is often murkier, as smuggling and trafficking can occur concurrently along the same routes and even within the same operations. More importantly, the main focus has largely been paid to the people being moved: the victims of trafficking or the clients of smugglers (e.g. Kneebone, 2010). Much less attention has been paid to the recruitment of the transporters themselves, which as our two case studies clearly illustrate, can amount to trafficking into people-smuggling operations (Palmer and Missbach, 2017).

When smuggling and trafficking offenders are prosecuted in court, precise age determination remains a challenge for law enforcers, because offenders frequently lack legal documents. Courts have often commissioned medical experts to determine their ages using x-rays of bones or teeth, but these methods are generally very questionable as they do not take into account variables such as malnutrition, long-term deprivation, or untreated health issues that predate their involvement in migratory journeys. Declaring young smugglers to be older than they are has had serious negative conse-

quences for them, including longer prison terms, no compensation as victims of trafficking, and no rehabilitation services.

When it comes to determining the degree to which people voluntarily participate in migratory services, the main focus is usually on the customers – that is, the migrants who wish to take up the services of an organiser, facilitator, guide or driver. Those able to pay the full fee in advance tend to be at lower risk of financial dependency on their facilitators at the end of the smuggling operation, whereas those who do not have the money pay at the time they need the services and must pay the facilitator later on or work off their debts by other means are more vulnerable to exploitation and potential trafficking.

While facilitators, including underage boat crew members, such as the two in our case studies, might transport refugees and migrants who are voluntary customers across borders in a one-way interaction, they themselves may become victims of trafficking because of their involuntary or deceptive recruitment into the smuggling operation. It is not uncommon for the most dangerous and risky aspects of smuggling operations, such as the actual crossing of land or sea borders, to be outsourced to third parties, particularly to actors considered disposable by more powerful figures in the smuggling networks (Missbach, 2016). Compared with adult transporters, underage deckhands and crew members are cheaper and generally considered more compliant in carrying out orders. In many jurisdictions, young offenders, particularly those under 18, receive more lenient sentences when found guilty of people smuggling – a fact that some recruiters exploit. In the best scenario, underage transporters who are arrested and prosecuted might count on leniency in the courts, but there are exceptions, as the case of Ali has shown.

The findings of previous research have generally been inconclusive in determining either the extent to which juveniles participate voluntarily in smuggling operations or the extent of their awareness of the legal implications of their involvement. Some youths participate willingly in people smuggling and may be aware of potential legal consequences, while others are deceived or forced into complying (Sanchez, 2018; Lelliott, 2017). Questions about whether children and young people participate voluntarily or involuntarily in committing the crime

need to be examined in greater depth, not least because of their relevance in consequent litigation. Determining that their participation is voluntary is only of any real significance in legal proceedings if viable alternatives to opt out of participating were available at the time of their recruitment. Thus, scrutinising the circumstances and conditions under which underage and young males are recruited into people-smuggling networks is of fundamental importance.

Rethinking choices, voluntariness and blame

The urge to punish as many perpetrators of people smuggling as possible, both to deter potential smugglers from committing the crime in the future and to demonstrate a firm commitment to halt people smuggling to the voting public, is politically driven. Consequently, Australian courts have not paid sufficient attention to the plight of minors who have been deliberately recruited into smuggling networks. While Australian officials have ignored the fact that many people smugglers, including Ali, were minors and have sentenced them as adults under the full force of the law, the case study from Indonesia showed that the judiciary held greater respect for the rights of children and took Syamsir's status as a juvenile offender into consideration when determining his sentence. But neither the Australian nor the Indonesian judge had much understanding of how organisers recruited minors into people-smuggling operations. In the cases of both Ali and Syamsir, the courts failed to see any evidence of human trafficking in their recruitment as minors into people smuggling, even though the organisers had clearly exploited the young transporters' status as children.

Given the political atmosphere, it is not perhaps surprising that punishment is sought for people smugglers, with little regard for collateral damage and unintended consequences of that punishment. People smuggling has become a highly politicised issue in several election campaigns over the last twenty years; however, more so in Australia than in Indonesia. Because of media frenzy surrounding the issue, the voting public have wanted evidence of quick solutions for a sensationalised problem. Achieving convictions for a large number of perpetrators has become a presentable deliverable that, in turn, justifies high levels of government expenditure on border protection and



Figure 3: During our interview, Syamsir's mother showed us a photo of her son, who had been jailed for people smuggling.

reinforces policies that essentially restrict immigration.

These political developments and punitive policies are, however, thwarting established mechanisms to protect people from trafficking, especially those for the protection of male victims of trafficking. Most attention has in the past been directed towards female victims of trafficking, with sexually-exploited women and children receiving the lion's share of services from state and non-state organisations which have sought to 'rescue', 'rehabilitate' and 'reintegrate' victims of trafficking back into society (Schloenhardt, Astill-Torchia and Jolly, 2012). In contrast, the coerced or deceptive recruitment of men and boys for forced labour and for smuggling has generally been ignored (Jones, 2010). As the stories of Ali and Syamsir have shown, people are not only being recruited to work in very poor conditions; they are also recruited to commit crimes, such as people smuggling. These victim/perpetrators are often overlooked in academic analysis, because they do not fit comfortably into the category of the piteous victim. They continue to hold an uneasy position in the spectrum of deservability, not least because the media likes to portray smugglers as reckless, irresponsible, hyper-masculine, greedy and dangerous (Achilli, 2018), which hinders outpours of sympathy or compassion for them. The details of their recruitment into smuggling networks are often of little interest to the wider public, or even the courts, as they are often prejudged long before the actual judgement in court is

rendered. The widespread demonisation of people smuggling as the main enabling force or even trigger of irregular migration is particularly relevant in the two case studies presented here, as it discourages a full understanding of who the young crew members from Indonesia were and why they did what they did.

In the Australian context, people smugglers have been vilified to the extent that little attention is given to the necessities of why asylum seekers look for the services of smugglers. Yet, even less attention is directed at the context within which people smuggling has evolved. Not only are the complex and fluid structures of people-smuggling networks ignored, but, in the search for punishable perpetrators, drivers and boat crew have become the main target of anti-people-smuggling law enforcement. Their involvement in smuggling operations tends to be more visible, thus attracting media attention and the bulk of anti-smuggling law enforcement measures. The fact, however, that most of the people prosecuted for smuggling offences in Australia and Indonesia are poor and powerless individuals, rather than the greedy racketeers that policy-makers would have their voters believe them to be, should make us question the humanity of the laws under which they are prosecuted. Throwing underage smugglers into prison is one example of collateral damage that is too easily accepted in the struggle against people smuggling and irregular migration. Smuggling networks have clearly benefited from exploiting the vulnerability of Indonesian youth in meeting high demand from refugees and migrants wanting to get to Australia. Poor boys from Indonesia are easily recruited and pay a high price for their transgressions.

In this essay we have tried to contest the culpability of underage smugglers vis-à-vis the official perspective of state authorities, arguing for more lenient treatment by law-enforcement authorities. Our intervention arises from four causes: First that minors recruited into people smuggling often were not in the possession of full and true information about the real destination of their journeys, which constitutes deception. Second, minors who were sentenced

for people smuggling operations never made any substantial decisions about what crew to assemble, where to find passengers and how to prepare for the journey, which means that they should not be held responsible for organising such journeys. Third, minors have little chance to opt out from those operations once they have accepted an initial down-payment or are at sea and come to realise that something might not quite be right. Fourth, we have shown that minors from Indonesia were not only recruited to commit crimes, but they were also cheated in regard to the earnings they were promised by their recruiters, which could be seen as double exploitation.

At the time of writing (December 2021), asylum seekers on their way to Australia no longer seek the services provided by people such as Ali and Syamsir. The number of asylum seekers arriving by air has overtaken those coming by boat to Australia. Consequently, for the time being, Australia's public enemy No. 1 are asylum seekers rather than smugglers (Peterie 2017). It is, however, safe to assume that the organisers of irregular travel through Indonesia are not yet out of business, but remain dormant until demands for boat journeys to Australia grow stronger again. The risk that young men and minors, such as Ali and Syamsir, will be recruited into smuggling networks is very low at the moment, but that does not necessarily mean that they will not end up in other 'dirty', unsafe or un(der) regulated sectors.

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