

BAB 5

KESIMPULAN

Gelombang pengungsi dan pencari suaka yang terjadi pada tahun 2012 mengakibatkan peningkatan jumlah kedatangan perahu pengungsi yang signifikan di Australia. Dalam meresponi permasalahan pengungsi, Tony Abbott dalam kampanyenya menggaungkan jargon “*stop the boat*” untuk menghentikan perahu pengungsi dan melindungi perbatasan Australia. Terpilihnya Tony Abbott menjadi Perdana Menteri Australia menimbulkan anomali antara kewajiban internasional yang dimiliki oleh Australia untuk melindungi pengungsi dan sikap Australia yang enggan untuk patuh pada hukum internasional demi memenuhi kepentingan nasionalnya terkait keamanan di perbatasan. Abbott membentuk beberapa kebijakan yang ketat dalam menangani isu pengungsi di Australia, yakni merupakan *Operation Sovereign Borders* (OSB), Visa Perlindungan Sementara (TPV), pemrosesan laut lepas di Manus dan Nauru, *fast-track process* dan *Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014*.

Sejumlah kritik telah dilontarkan terkait kebijakan pengungsi Abbott yang kontroversial karena telah mengancam kehidupan pengungsi dan pencari suaka. Namun, pemerintah Australia menyangkal kritik tersebut dengan menyebutkan bahwa Australia memiliki kebijakan yang aman dan berkontribusi

pada kemanusiaan karena menghindari kasus kematian akibat perjalanan laut yang berbahaya. .

Liberalisme Institusional menjelaskan rezim internasional merupakan seperangkat peraturan yang mengatur tindakan negara di bidang tertentu. Peraturan yang dimaksud tidak hanya memuat larangan formal, namun juga norma, prinsip dan peraturan yang tidak formal. Pada isu pengungsi dan pencari suaka, terdapat beberapa hukum internasional yang telah diratifikasi oleh Australia, yaitu Konvensi Pengungsi 1951 dan Protokol 1967 yang khusus mengatur permasalahan pengungsi. Australia turut berkontribusi pada pembentukan Konvensi Pengungsi 1951 dengan berpartisipasi pada Konferensi Plenipotentiaries untuk menyusun draf Konvensi bersama 26 negara lainnya.

Australia memiliki beberapa kewajiban pada hukum internasional lainnya di bawa *complementary protection*, yakni Konvensi Internasional Hak Sipil dan Politik (ICCPR), Konvensi Anti Penyiksaan (CAT) dan Konvensi tentang Hak Anak (CRC). Hukum internasional tersebut telah diratifikasi oleh Australia dan merupakan *hard law*, sehingga Australia terikat dengan kewajiban tersebut. Australia juga memiliki aturan diluar hukum internasional yang menjadi pedoman bagi Australia dalam memenuhi hak pengungsi, seperti interpretasi hukum internasional, panduan *Refugee Status Determination (RSD)* dan *UNHCR Revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum-Seeker*. Australia memiliki sejumlah kewajiban internasional untuk melindungi dan memenuhi hak pengungsi, namun Australia telah

melakukan pelanggaran hukum internasional untuk menjalankan kepentingan nasionalnya.

Dalam menjawab pertanyaan penelitian: “Bagaimana Kebijakan Pengungsi Australia di bawah Pemerintahan Tony Abbott (2013-2015) Melanggar Hukum Internasional terkait Pengungsi?” Penulis menggunakan tiga dasar untuk melihat pelanggaran hukum internasional. Pertama, negara merupakan pelaku pelanggaran kewajiban internasional. Pasal 2 Responsibility of States for Internationally Wrongful Acts (ARSIWA) menjelaskan bahwa negara merupakan entitas yang memiliki otoritas untuk bertindak dibawah hukum internasional, sehingga tindakan dapat disebutkan sebagai pelanggaran hukum internasional jika dilakukan oleh negara. Australia merupakan pelaku pelanggaran hukum internasional melalui pembuatan kebijakan yang tidak berorientasi pada perlindungan pengungsi dan kebijakannya dijalankan oleh instansi pemerintah, seperti petugas militer yang melakukan pencegatan perahu pada kebijakan OSB.

Dasar kedua adalah kebijakan domestik dan hukum nasional tidak sesuai dengan kewajiban internasional yang telah ditetapkan dalam hukum internasional. Merujuk pada pasal 2 dan pasal 12 ARSIWA, negara bertindak tidak sesuai dengan kewajiban internasional. Guy S. Goodwin-Gill mengutarakan pendapat yang serupa, dimana pelanggaran hukum internasional terjadi ketika negara tidak patuh pada hukum internasional. Pasal 3 ARSIWA menjelaskan bahwa negara tidak bisa menggunakan hukum nasional untuk menjustifikasi pelanggaran hukum internasional karena alat penentu terjadinya pelanggaran

kewajiban internasional adalah hukum internasional itu sendiri bukan hukum nasional.

Berdasarkan hukum internasional yang telah diratifikasi, Australia memiliki sejumlah kewajiban untuk melindungi pengungsi, namun kebijakan Australia dibawah pemerintahan Tony Abbott bertentangan dengan hukum internasional sehingga Australia tidak memenuhi hak-hak pengungsi seperti yang telah ditetapkan dalam hukum internasional. Kebijakan OSB jelas telah melanggar prinsip *non-refoulement* yang menyebutkan bahwa negara tidak boleh mengembalikan pengungsi dalam situasi apapun. OSB melibatkan tindakan pencegahan, penolakan dan pengembalian perahu pengungsi ke negara asal atau negara ketiga, sehingga mengancam kehidupan pengungsi akibat persekusi, penganiayaan dan perlakuan yang merendahkan martabat manusia. Pemrosesan laut lepas di Manus dan Nauru tidak menyediakan proses klaim suaka yang memadai, sehingga dapat mengancam pencari suaka untuk dikembalikan jika proses status pengungsinya ditolak. UNHCR mengkritik kondisi rumah detensi Australia di Manus dan Nauru yang buruk sehingga penikmatan hak pengungsi tidak bisa dilakukan secara maksimal, termasuk hak pengungsi anak yang tertulis pada CRC. Australia tidak menyediakan solusi jangka panjang untuk pengungsi dan hanya menyediakan visa perlindungan yang bersifat sementara, yaitu *Temporary Protection Visa (TPV)* dan *Safe Haven Enterprises (SHEV)*. Australia bersikap diskriminatif dengan memberikan perlakuan yang berbeda terhadap pengungsi yang memiliki visa yang valid dan yang tidak. Pengungsi yang memiliki visa yang valid menerima *Permanent Protection Visa (Permanent PV)*

yang memuat hak yang serupa dengan warga negara Australia. sedangkan pengungsi yang tidak memiliki visa yang valid menerima TPV dan SHEV yang memuat hak yang terbatas, seperti tidak memiliki hak atas naturalisasi, reunifikasi keluarga, bepergian ke luar negeri dan tidak mendapatkan dokumen perjalanan. *Fast-track process* merupakan proses peninjauan klaim suaka yang tidak memadai karena prosesnya berorientasi pada kecepatan waktu finalisasi bukan pada proses yang adil sehingga proses tersebut menghilangkan hak pengungsi atas pengadilan dan tidak memiliki proses yang adil. *Resolving the Asylum Legacy Caseload Act 2014* merupakan hukum nasional Australia yang bertentangan dengan kewajiban internasional. Australia memperluas kekuasaan maritimnya yang memberikan kesempatan lebih besar bagi petugas untuk melakukan pencegatan perahu. Melalui hukum tersebut, Australia merekonstruksi definisi pengungsi berdasarkan interpretasi mandiri, bukan dari Konvensi Pengungsi 1951 dan menghilangkan hak naturalisasi pada pengungsi anak yang baru lahir

Dasar ketiga adalah pelanggaran negara dikategorikan sebagai pelanggaran luar biasa jika negara melanggar norma *jus cogens* dan tidak melakukan kewajibannya secara sistematis dan besar (*gross*). Prinsip *non-refoulement* merupakan *jus cogens* dan menurut Arenilla, terjadi jika negara secara langsung maupun tidak langsung menghalangi dan mengusir pengungsi dari teritori negaranya dan mengembalikan pengungsi ke negara asal atau negara ketiga. Merujuk pada *Draft Articles on Responsibility of State for Internationally Wrongful Acts with Commentaries* kalimat ‘pelanggaran sistematis’ dijelaskan sebagai pelanggaran yang terjadi secara sengaja dan terorganisir.

Pelanggaran dilakukan oleh Australia dilakukan secara sengaja dan terorganisir karena perencanaan pembentukan kebijakan sudah ada pada kampanye Tony Abbott. Dalam membuat kebijakan juga diperlukan serangkaian prosedur dan pembahasan dalam parlemen yang akhirnya disahkan. Australia juga melanggar prinsip *non-refoulement* sebagai *jus cogens* atau hukum kebiasaan internasional. Pengungsi ditolak di perairan Australia melalui kebijakan OSB. Pencegatan dan penolakan perahu didukung oleh ekspansi kekuasaan maritim yang tertulis dalam *Resolving the Asylum Legacy Caseload Act 2014*. Proses peninjauan status pengungsi dan klaim suaka yang dilakukan di pemrosesan laut lepas dan *fast-track process* tidak memadai sehingga finalisasi klaim pencari suaka dapat ditolak dan pencari suaka terancam dikembalikan, walaupun nantinya mereka terbukti membutuhkan perlindungan internasional dan mendapatkan status pengungsi dari UNHCR. Perlindungan yang diberikan oleh Australia melalui TPV dan SHEV bersifat sementara dan pengungsi membutuhkan pengajuan ulang ketika masa berlaku visa hampir selesai sehingga pengungsi terancam tidak mendapatkan visa dan dikembalikan ke negara asal.

Berdasarkan pasal 26 Konvensi Vienna, negara harus menjalankan hukum internasional dengan itikad baik. Merujuk pada penjabaran I Wayan Parthiana, negara melaksanakan itikad baik ketika negara mengimplementasi hukum internasional sesuai dengan esensinya dan negara menghormati hak dan kewajiban negara lainnya. Walaupun Australia telah meratifikasi sejumlah hukum internasional yang mengatur hak-hak pengungsi, Australia tidak menjalankan kewajibannya dengan itikad baik. Abbott tidak memiliki itikad untuk melindungi

pengungsi dengan kampanye *'stop the boat.'* Abbott mencabut Konvensi Pengungsi 1951 sebagai referensi utama dari hukum nasionalnya dan Abbott menyebutkan pengungsi sebagai ekonomi migran karena perpindahan mereka dari negara asal yang mengakibatkan pengungsi telah lolos dari ancaman persekusi. Abbott melanggar kedaulatan negara lain demi kelancaran kebijakan OSB dan melalui hukum nasionalnya, Abbott dapat memasuki teritori negara lain tanpa menerima konsensus dari negara yang bersangkutan.

Untuk memahami konteks kebijakan pengungsi Tony Abbott, penulis menggunakan konsep kepatuhan negara dari Karns, Mingst dan Stiles. Menurut Karns, Mingst dan Stiles, kepatuhan negara bergantung pada kepentingan nasional, keinginan negara untuk patuh dan kekuatan paksa dari hukum internasional tersebut. Australia tidak patuh karena tanggung jawab internasional tidak sesuai dengan kepentingan nasional Australia yang menolak perahu pengungsi atas alasan keamanan perbatasan. Walaupun konvensi dan protokol terkait pengungsi bersifat *hard law*, namun kekuatan paksaan hukum tersebut tidak ada karena Australia tidak merasa adanya kebutuhan koordinasi dari pihak ketiga terlihat pada komentar Abbott yang abai terhadap kritik PBB. Terbentuknya kebijakan pengungsi Abbott juga tidak terlepas dari pengaruh politik domestik. Isu pengungsi menjadi isu hangat pada pemilu Australia dan selalu digunakan oleh dua partai besar di Australia, yakni Australian Labor Party (ALP) dan Partai Liberal. Abbott mengambil tindakan tegas untuk pengungsi agar mendapatkan dukungan publik pada Partai Liberal dengan kampanyenya yaitu *"stop the boats"* dan Abbott berhasil menjadi Perdana Menteri Australia.

DAFTAR PUSTAKA

Sumber dari Buku

- Jackson, Robert, dan Georg Sorensen. *Introduction to International Relations*. Oxford: Oxford University Press, 2010.
- Karns, Margaret, Karen Mingst, Kendall W. Stiles. *International Organizations The Politics and Processes of Global Governance Third Edition*. Boulder, Colorado: Lynne Rienner Publisher, 2015.
- Missbach, Antje. *Troubled Transit: Politik Indonesia bagi Para Pencari Suaka*. Jakarta: Yayasan Pustaka Obor Indonesia, 2016.
- Romsan, Achmad, Usmawadi, Djamil Usamy. *Pengantar Hukum Pengungsi Internasional*. Jakarta: UNHCR Regional Representation Jakarta in Republic of Indonesia, 2003.
- UNHCR, *Human Rights and Refugee Protection Self-study Module 5 Vol I*. Geneva: Office of the United Nations High Commissioner for Refugees, 2006. <https://www.unhcr.org/publications/legal/45a7acb72/self-study-module-5-vol-human-rights-refugee-protection.html>.

Rujukan Artikel Jurnal dari Internet

- Arenilla, Shirley Llain. "Violation of the Principle of Non-Refoulement Under The Asylum Policy of The United States." *Anuario Mexicano de Derecho Internacional* 15, no.1 (2015): 288-290. doi: 10.1016/j.amdi.2014.09.005.
- Brennan, Frank. "Human Rights and the National Interest: The Case Study of Asylum, Migration, and National Border Protection." *Boston College International and Comparative Law Review* 57, no.1 (2016): 47-52. <https://lawdigitalcommons.bc.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1754&context=iclr>.
- Chia, Joyce dan Jane McAdam. "Asylum in Australia: 'Operation Sovereign Borders' and International Law." *University of Technology Sydney Law Research* (2015): 40-42. <http://www5.austlii.edu.au/au/journals/UTSLRS/2015/25.pdf>.

- Cuthbert, Neil dan Jiyoung Song. "Removal of failed asylum seekers in Australia: A comparative perspective." *Lowy Institute* (2017): 4-10.
<https://www.lowyinstitute.org/sites/default/files/documents/Removal%20of%20failed%20asylum%20seekers%20in%20Australia.pdf>.
- Dicker, Nicole. "Filling the protection gap: current trends in complementary protection in Canada, Mexico dan Australia." *UNHCR* (2012): 1-16.
<https://www.unhcr.org/research/working/4fc872719/filling-protection-gap-current-trends-complementary-protection-canada-mexico.html>.
- Elkatawneh, Hassan. "Comparing Qualitative and Quantitative Approaches." *Research Gate* (2016): 2-4.
https://www.researchgate.net/publication/315029674_Comparing_Qualitative_and_Quantitative_Approaches.
- Farmer, A. "Non-refoulement and jus cogens limiting anti-terror measures that threaten refugee protection." *Georgetown Immigration Law Journal* 23, no.1 (2009): 3.
https://www.hrw.org/sites/default/files/related_material/Non-Refoulement%20and%20Jus%20Cogens%20Limiting%20Anti-Terror%20Measures%20That%20Threaten%20Refugee%20Protection_0.pdf.
- Guzman, Andrew dan Timothy L. Meyer. "International Soft Law." *UCLA Law School* 2, no.1 (2010): 173.
https://digitalcommons.law.uga.edu/fac_artchop/814/.
- Jufri, Modhy. "Violations of International Law by the Government of Australia in Practice of Turn Back the Boat Management Policy for Asylum Seekers." *Indonesian Journal of International Law* 14 (2017): 221-225. <http://doi:10.17304/ijil.vol14.2.688>.
- Kennedy, David. "The Sources of International Law." *Harvard University Dash* 2, no 1 (1987): 18-20.
<https://dash.harvard.edu/bitstream/handle/1/13548459/The%20Sources%20of%20International%20Law.pdf?sequence=1&isAllowed=y>.
- Klein, Natalie. "Assessing's Push Back the Boat Policy under International Law: Legality and Accountability for Maritime Interception of Irregular Migrants." *Macquarie Law School* (2014).
https://law.unimelb.edu.au/__data/assets/pdf_file/0012/1586874/Klein1.pdf.
- McAdam, Jane. "Australia and Asylum Seekers." *International Journal of Refugee Law* 25, no. 3 (2013): 434-435.
<https://academic.oup.com/ijrl/article/25/3/435/1634232>.

- Merdekawati, Agustina dan Andi Santi. "Analysis on Indonesia's Fullfillment of Obligations Rising from International Treaties." *Jurnal UGM* 28, no. 3 (2016): 501. <https://jurnal.ugm.ac.id/jmh/article/view/16394/12157>.
- Nassaji, Hosseni. "Qualitative and descriptive research: Data type versus data analysis." *Research Gate* 19, no.2 (2015): 129-132. https://www.researchgate.net/publication/276397426_Qualitative_and_descriptive_research_Data_type_versus_data_analysis.
- Opeskin, Brian dan Daniel Ghezelbash. "Australia Refugee Policy and its Impacts on Pacific Island Countries." *Research Gate* (2016): 80. https://www.researchgate.net/publication/303811571_Australian_Refugee_Policy_and_its_Impacts_on_Pacific_Island_Countries.
- Watson, Sally. "Australia's Continued Struggle with Asylum Seekers Who Arrive by Boat-How Consistent is the Current Policy Approach with Australia's International Human Rights and Humanitarian Obligation?" *American Research Institute for Policy Development* 2, no. 2 (2014): 16. <http://doi:10.15640/10.15640/jswahr.v2n2a2>.

Sumber Artikel dari Internet

- ABC News. "Tony Abbott defends asylum seeker policies amid European crisis, New York Times criticism." *ABC News*. 4 September 2015. <https://www.abc.net.au/news/2015-09-04/abbott-defends-asylum-seeker-policy-amid-migrant-crisis/6749344?nw=0>.
- _____. "Timeline: The highs and lows of the Abbott Government." *ABC News*. <https://www.abc.net.au/news/2015-02-06/tony-abbott:-a-timeline-of-leadership/6067224>.
- _____. "Q&A: The Abbott Government's boat turn-back policy." *ABC News*. 27 September 2013. <https://www.abc.net.au/news/2013-09-27/q-and-a-abbott-turn-back-boats-policy/4982928>.
- Allard, Tom dan Sarah Whyte. "Refugee policies give Australia's global reputation a beating". *The Sydney Morning Herald*. 19 Juni 2015. <https://www.smh.com.au/national/refugee-policies-give-australias-global-reputation-a-beating-20150619-ghs7xt.html>.
- Amnesty International. "Australia: This is Breaking People: Human Rights Violation at Australia's Asylum Seeker Processing Centre on Manus Island, Papua New Guinea." *Amnesty International*. 11 Desember 2013. <https://www.amnesty.org/en/documents/ASA12/002/2013/en/>.

- _____. "By Hook or By Crook." *Amnesty International*. 28 Oktober 2015. <https://www.amnesty.org/en/documents/ASA12/2576/2015/en/>.
- Asylum Seeker Resource Centre. "Temporary Protection Visas." *ASRC*. <https://www.asrc.org.au/resources/fact-sheet/temporary-protection-visas/>
- _____. "Fair Process: Policy Statement." *Asylum Seeker Resource Centre*. <https://www.asrc.org.au/policies/fair-process/>.
- Australia Treaty Series. "Convention on the Rights of the Child." *Australia Treaty Series*. <http://www.austlii.edu.au/au/other/dfat/treaties/1991/4.html>.
- _____. "International Covenant on Economic, Social, and Cultural Rights." *Australia Treaty Series*. <http://www.austlii.edu.au/au/other/dfat/treaties/1976/5.html>.
- Australian Human Right Commision. "Asylum seekers and refugee guide." *Australian Human Right Commision*. <https://humanrights.gov.au/our-work/asylum-seekers-and-refugees/asylum-seekers-and-refugees-guide>.
- _____. "A snapshot of children in detention." *Australian Human Rights Commision*. 12 Febuari 2015. <https://humanrights.gov.au/our-work/1-introduction-5>.
- _____. "The Forgotten Children: National Inquiry into Children in Immigration Detention." *Australian Human Rights Commision*. November 2014. <https://humanrights.gov.au/our-work/asylum-seekers-and-refugees/publications/forgotten-children-national-inquiry-children>.
- Bachelard, Michael dan Sarah Whyte. "UN representatives criticise Abbott government's boat tow-back policy." *The Sydney Morning Herald*. 23 April 2014. <https://www.smh.com.au/politics/federal/un-representatives-criticise-abbott-governments-boat-towback-policy-20140423-zqxz1.html>.
- Bachelard, Michael. "Vomitous and terrifying: the lifeboats used to turn back asylum seekers." *The Sydney Morning Herald*. 2 Maret 2014. <https://www.smh.com.au/national/vomitous-and-terrifying-the-lifeboats-used-to-turn-back-asylum-seekers-20140301-33t6s.html>.
- Brissenden, Michael. "Tony Abbott appoints Angus Campbell to lead Operation Sovereign Border policy." *ABC News*. 17 September 2013. <https://www.abc.net.au/news/2013-09-17/angus-campbell-to-oversee-abbotts-border-protection-plan/4963732>.
- Commonwealth Consolidated Acts. "Migration Act 1958-Sect 198." *Commonwealth Consolidated Acts*. http://classic.austlii.edu.au/au/legis/cth/consol_act/ma1958118/s198.html.

- Crowe, David. Most Manus Island detainees are economic migrant: Abbott." *The Australian*. 22 Maret 2014. <https://www.theaustralian.com.au/national-affairs/immigration/most-manus-island-detainees-are-economic-migrants-abbott/news-story/e8be739411f02cf24d44fc8f29963374>.
- Davidson, Helen dan Oliver Laughland. "The Nauru files: cache of 2.000 leaked reports reveal scale of abuse of children in Australian offshore detention." *The Guardian*. 10 Agustus 2016. <https://www.theguardian.com/australia-news/2016/aug/10/the-nauru-files-2000-leaked-reports-reveal-scale-of-abuse-of-children-in-australian-offshore-detention>.
- _____. "Man Island: One dead, 77 injuries and person shot in buttock at Australian asylum centre." *The Guardian*. 20 Juni 2015. <https://www.smh.com.au/politics/federal/nauru-guards-paid-for-sex-with-asylum-seekers-and-filmed-it-social-worker-claims-20150620-ght36i.html>.
- Dearden, Lizzie. "Tony Abbott tells Europe to 'stop the boats' like Australia as migrant crisis continue." *Independent*. 21 April 2015. <https://www.independent.co.uk/news/world/europe/tony-abbott-tells-europe-to-stop-the-boats-like-australia-as-migrant-crisis-continues-10191566.html>.
- Dehm, Sara dan Max Walden. "Refugee Policy: A Cruel Bipartisanship." *Australian National University*. 2018. <http://press-files.anu.edu.au/downloads/press/n4149/pdf/ch26.pdf>, hlm 598-599.
- Department of Foreign Affairs and Trade of Australia. "Regional resettlement arrangement between Australia and Papua New Guinea." *Department of Foreign Affairs and Trade of Australia*. 22 Juli 2013. <https://www.dfat.gov.au/geo/papua-new-guinea/Pages/regional-resettlement-arrangement-between-australia-and-papua-new-guinea>.
- Donnison, Jon. "Australia's asylum approach: Tough, proud and popular." *BBC*. 18 Juni 2015. <https://www.bbc.com/news/world-australia-33179049>.
- Duff, Eamonn dan Adam Gartrell. "Nauru guards paid for sex with asylum seekers and filmed it, social worker claims." *The Sydney Morning Herald*. 20 Juni 2015. <https://www.smh.com.au/politics/federal/nauru-guards-paid-for-sex-with-asylum-seekers-and-filmed-it-social-worker-claims-20150620-ght36i.html>.
- European Database of Asylum Law. "UN CRC rules against returns of unaccompanied minors in Melilla." *European Database of Asylum Law*. 26 Februari 2015. <https://www.asylumlawdatabase.eu/en/content/un-crc-rules-against-returns-unaccompanied-minors-melilla>.

- Evershed, Nick dan Ri Liu. "The lives of asylum seekers in detention detailed in a unique database." *The Guardian*. <https://www.theguardian.com/australia-news/ng-interactive/2016/aug/10/the-nauru-files-the-lives-of-asylum-seekers-in-detention-detailed-in-a-unique-database-interactive>.
- Farmer, Alice. "Non-refoulement and *Jus Congens*: Limiting Anti-Terror Measure That Threaten Refugee Protection." *Human Right Watch*. https://www.hrw.org/sites/default/files/related_material/Non-Refoulement%20and%20Jus%20Cogens%20Limiting%20Anti-Terror%20Measures%20That%20Threaten%20Refugee%20Protection_0.pdf.
- Farrell, Paul. "'I want death': Nauru files chronicle despair of asylum seeker children." *The Guardian*. 10 Agustus 2016. <https://www.theguardian.com/news/2016/aug/10/i-want-death-nauru-files-chronicle-despair-of-asylum-seeker-children>.
- Federal Register of Legislation Australia. "Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014." *Federal Register of Legislation Australia*. <https://www.legislation.gov.au/Details/C2014A00135>.
- _____. "Maritime Powers Act 2013." *Federal Register of Legislation*. <https://www.legislation.gov.au/Details/C2015C00015>.
- Geneva Academy. "What amount to 'a serious violation of international human rights law'?" *Geneva Academy*. Agustus 2014. https://www.geneva-academy.ch/joomlatools-files/docman-files/Publications/Academy%20Briefings/Briefing%206%20What%20is%20a%20serious%20violation%20of%20human%20rights%20law_Academy%20Briefing%20No%206.pdf.
- Goodwin-Gill, Guy S. 2001. "Article 31 of the 1951 Conention relating to the Status of Refugees: Non-penalization, Detention and Protection." *UNHCR*. Oktober 2001. <https://www.unhcr.org/3bcfdf164.pdf>.
- High Court of Australia. "Plaintiff M70/2011 v Minister for Immigration and Citizenship; Plaintiff M106 of 2011 v Minister for Immigration and Citizenship [2011] HCA 32." *High Court of Australia*. 1 September 2011. <http://www8.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/HCA/2011/32.html>.
- Home Affairs. "Australia's borders are closed to illegal maritime migration." *Home Affairs*. <https://osb.homeaffairs.gov.au/In-Australia>.

- Human Right Australia. "Inquiry into the incident at the Manus Island Detention Centre from 16 February to 18." *Human Rights Australia*. Mei 16 2014. <https://humanrights.gov.au/our-work/legal/submission/inquiry-incident-manus-island-detention-centre-16-february-18-february>.
- Human Right Commision. "Minister for Immigration and Citizenship v SZQRB (2013) FCAFC 33." *Human Rights Commision*. <https://humanrights.gov.au/our-work/legal/publications/minister-immigration-and-citizenship-v-szqrb-2013-fcafc-33>.
- Innis, Michelle. "Australia's Policy on Migrants Questioned After Smuggler Says He Was Bribed to Turn Back." *The New York Times*. 21 Juni 2015. <https://www.nytimes.com/2015/06/22/world/asia/australias-policy-on-migrants-questioned-after-smuggler-says-he-was-bribed-to-turn-back.html>.
- Jesuit Social Services. "The Living Conditions of People Seeking Asylum in Australia." *Jesuit Social Services*. Desember 2015. http://jss.org.au/wp-content/uploads/2015/12/Asylum_Seeker_Position_Paper_-_December_2015.pdf.
- Kaldor Centre for International Refugee Law. "Factsheet Maritime interception and screening of asylum seekers at sea." *Kaldor Centre for International Refugee Law*. https://www.kaldorcentre.unsw.edu.au/sites/default/files/Factsheet_Maritime_interception_and_screening_at_sea.pdf.
- _____. "Turning back boats." *Kaldor Centre for International Refugee Law*. <https://www.kaldorcentre.unsw.edu.au/publication/turning-back-boats>.
- _____. "The legacy Caseload." *Kaldor Centre*. 10 April 2019. <https://www.kaldorcentre.unsw.edu.au/publication/legacy-caseload>.
- Karlsen, Elbritt dan Janet Philips. "Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Bill 2014. 23 Oktober 2014." https://parlinfo.aph.gov.au/parlInfo/download/legislation/billsdgs/3464004/upload_binary/3464004.pdf;fileType=application%2Fpdf#search=%22legislation/billsdgs/3464004%22.
- _____. "Developments in Australian refugee law and policy: the Abbott and Turnbull Colaition governments (2013-2016). *Parliament of Australia*. 18 September 2017. https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1718/Australian_refugee_law_and_policy.

- _____. Australia's offshore processing of asylum seekers in Nauru dan PNG: a quick guide to statistics and resources." *Parliamentary of Australia*. 19 Desember 2016. https://parlinfo.aph.gov.au/parlInfo/download/library/prspub/4129606/upload_binary/4129606.pdf;fileType=application/pdf.
- Karlsen, Elibritt. "Temporary Protection by hook or by crook." *Parliament of Australia*. 5 Maret 2014. https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/FlagPost/2014/March/Temporary_Protection_Visas.
- Loughan, Clara. "Australia's Harsh Immigration Policy." *The Diplomat*. 1 September 2019. <https://thediplomat.com/2019/08/australias-harsh-immigration-policy/>.
- Medhora, Shalaihlah. "Tony Abbott sticks to 'stop the boats' in face of claims people smugglers paid." *The Guardian*. 14 Juni 2015. <https://www.theguardian.com/australia-news/2015/jun/14/tony-abbott-sticks-to-stop-the-boats-in-face-of-claims-people-smugglers-paid>.
- Mendez, Juan E. "Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment." *Human Rights Council*. 5 Maret 2019. <https://static.guim.co.uk/ni/1425873116713/Mendez-report.pdf>.
- Millbank, Adrienne. "The Problem with the 1951 Refugee Convention." *Department of the Parliament Library*. 23 Februari 2019. <https://www.aph.gov.au/binaries/library/pubs/rp/2000-01/01rp05.pdf>.
- Monash University. "Australian Border Deaths Database." *Monash University*. <https://www.monash.edu/arts/border-crossing-observatory/research-agenda/australian-border-deaths-database>.
- OHCHR. "Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment." *OHCHR*. <https://www.ohchr.org/Documents/ProfessionalInterest/cat.pdf>.
- _____. "International Covenant on Civil and Political Right." *OHCHR*. <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.
- Parliamentary of Australia. "Submission by the Office of the United Nations High Commissioner for Refugees to the Senate Select Committee on the Recent Allegations Relating to Conditions and Circumstances at the Regional Processing Centre in Nauru." *Parliamentary of Australia*. 1 Juni 2020. https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Regional_processing_Nauru/Regional_processing_Nauru/Submissions.

Pearlman, Jonathan. "How Australia's migrant policy works-and is it transferable to the Mediteranean?" *The Telegraph*. 22 April 2015. <https://www.telegraph.co.uk/news/worldnews/australiaandthepacific/australia/11554161/How-Australias-migrant-policy-works-and-is-it-transferable-to-the-Mediterranean.html>.

Phillips, Janet. "Boat arrivals and boat 'turnbacks' in Australia since 1976: a quick guide to the statistics." *Parliamentary of Australia*. 17 Januari 2017. https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/Quick_Guides/BoatTurnbacks#_Table_4:_Boat.

_____. "Asylum seekers and refugees: what are the facts?" *Parliamentary Library*. 2 Maret 2015. <https://www.aph.gov.au/binaries/library/pubs/bn/sp/asylumfacts.pdf>.

Ramzy, Austin. "Tony Abbott, Ousted Australian Leaders, Urges Europe to Take Hard Line on Migrants." *New York Times*. 28 Oktober 2015. <https://www.nytimes.com/2015/10/29/world/australia/tony-abbott-australia-europe-migrant-crisis.html?auth=login-google>.

Rasper, Anke. "Refugee Convention of 1951 still crucial cornerstone of human rights." *DW*. 28 Juli 2016. <https://www.dw.com/en/refugee-convention-of-1951-still-crucial-cornerstone-of-human-rights/a-19429093>.

Refugee Advice and Casework Service. "Temporary Protection Visas." *Refugee Advice and Casework Service*. 29 Juni 2020. <https://www.rch.org.au/uploadedFiles/Main/Content/immigranthealth/RACS%20FACT%20SHEET%20-%20Temporary%20Protection%20Visas%2025%20Oct%202013.pdf>.

Refugee Council for Australia. "Migration and Maritime Powers Legislation Amendment (Resolving the Asylum Legacy Caseload) Act 2014: What it Means for Asylum Seekers." *Refugee Council of Australia*. Desember 2018. <https://www.refugeecouncil.org.au/wp-content/uploads/2018/12/1502-Legacy-Caseload.pdf>.

_____. "Australia's asylum policies." *Refugee Council*. 18 Mei 2020. <https://www.refugeecouncil.org.au/asylum-policies/4/#https://www.refugeecouncil.org.au/timeline/#>.

_____. "State of the Nation 2017: Refugees and people seeking asylum in Australia." *Refugee Council*. 15 Maret 2019. <https://www.refugeecouncil.org.au/state-nation-2017/>.

- Refworld. "Examining the particular relevance of the Convention on the Elimination of All Forms of Discrimination Against Women to the protection of women of concern to UNHCR." *Refworld*. 17 Juli 2009. <https://www.refworld.org/pdfid/4bac8e872.pdf>.
- Roberts, George. "Asylum seekers: UNHCR urges Australia and other countries to stop detaining children." *ABC News*. 27 November 2014. <https://www.abc.net.au/news/2014-11-28/unhcr-wants-australia-to-stop-detaining-children/5924108>.
- _____. "Indonesia says Australian Navy 'pushed back' asylum seeker boat that ran aground." *ABC News*. 4 Februari 2014. <https://www.abc.net.au/news/2014-01-07/indonesia-says-australian-navy-towed-back-asylum-seeker-boat/5187232?nw=0>.
- Rothwell, Donald. "Operation Sovereign Borders: Charting the Legal Issues." *ANU College of Law*. 13 Februari 2015. https://law.anu.edu.au/sites/all/files/events/rothwell_operation_sovereign_borders_remarks.pdf.
- Spinky, Harriet. "Boat 'turnbacks' in Australia: a quick guide to the statistics since 2001." *Parliamentary of Australia*. 20 Juli 2018. https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1819/Quick_Guides/BoatTurnbacksSince2001.
- Taylor, Lenore. "Revealed: Coalition to use 'national interest test' to deny permanent protection visas." *The Guardian*. 3 Juli 2014. <https://www.theguardian.com/world/2014/jul/03/revealed-coalition-to-use-national-interest-test-to-deny-permanent-protection-visas>.
- _____. "Indonesia demands suspension of Australia's asylum operations." *The Guardian*. 17 Januari 2014. <https://www.theguardian.com/world/2014/jan/17/australia-apologises-patrol-boats-indonesian-waters>.
- The Guardian. "Scott Morrison defends decision to call asylum seekers 'illegals.'" *The Guardian*. 21 Oktober 2013. <https://www.theguardian.com/world/2013/oct/21/news-asylumseekers-immigration-government>.
- The New York Times. "Australia's Brutal Treatment of Migrants." *The New York Times*. 3 September 2015. <https://www.nytimes.com/2015/09/03/opinion/australias-brutal-treatment-of-migrants.html>.

- Tom Nightingale. "Coalition vows to stop funding legal advice for asylum seekers." *ABC News*. 31 August 2013. <https://www.abc.net.au/news/2013-08-31/coalition-would-stop-funding-immigration-advice-for-asylum-seek/4926666?nw=0>.
- UNHCR. "An Introduction to International Protection on Protecting Person of concern to UNHCR." *UNHCR*. 1 August 2015. <https://www.unhcr.org/publications/legal/3ae6bd5a0/self-study-module-1-introduction-international-protection-protecting-persons.html>.
- _____. "Convention and Protocol Relating to The Status of Refugees." *UNHCR*. <https://www.unhcr.org/3b66c2aa10>.
- _____. "February 2014 The Senate Legal and Constitutional Affairs References Committee." *UNHCR*. 2014. <https://www.unhcr.org/en-my/581192bb7.pdf>.
- _____. "Handbook on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees." *UNHCR*. 1979. <https://www.unhcr.org/4d93528a9.pdf>.
- _____. "State Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol." *UNHCR*. <https://www.unhcr.org/protection/basic/3b73b0d63/states-parties-1951-convention-its-1967-protocol.html>.
- _____. "States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol." *UNHCR*. <https://www.unhcr.org/protect/PROTECTION/3b73b0d63.pdf>.
- _____. "Submission by the Office of the United Nations High Commissioner for Refugees Inquiry into the incident at the Manus Island Detention Centre from 16 February to 18 February 2014 The Senate Legal and Constitutional Affairs References Committee." *UNHCR*. 7 Mei 2014. <https://www.refworld.org/docid/5915f33e4.html>.
- _____. "UNHCR monitoring visit to Manus Island, Papua New Guinea 23 to 25 October 2013." *UNHCR*. 26 November 2013. <https://www.refworld.org/docid/5294aa8b0.html>.
- _____. "UNHCR monitoring visit to the Republic of Nauru 7 to 9 October 2013." *UNHCR*. 26 November 2013. <https://www.unhcr.org/enu/publications/legal/58117b931/unhcr-monitoring-visit-to-the-republic-of-nauru-7-to-9-october-2013.html>.

_____. “UNHCR warns of dangerous new era in worldwide displacement as report shows almost 60 million people forced to flee.” *UNHCR*. 18 Juni 2015. <https://www.unhcr.org/55813f0e6.html>.

Women with Disabilities Australia. “Core International Human Rights Instrument (Treaties) and The Treaty Bodies.” *Women with Disabilities Australia*. <http://wwda.org.au/issues/unhrt/hrcore1/>.