

THE UNHCR ROLES FOR INCREASING REFUGEES TENACITY ON THE PANDEMIC COVID-19 ERA

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Abstract:

In the principle, Indonesia has not been ratifying the United Nations conventions and protocols regarding the refugee status. Meanwhile, Indonesia becomes the transit state for the international refugees. Considering the human rights and non refoulment principles, Indonesia government protects the refugees, particularly in this pandemic era that is occurring globally. The refugees become vulnerable to the Covid-19 and suffering obstacles to obtain the rights fulfillment in the Pandemic era. The more complex problems occur among the refugees since they live in the crowded community with limited facilities. Moreover, some of the refugees have to struggle by themselves in order to maintain and protect them from Covid-19 while they do not get any support. A higher risk is experienced by women and children who become the victim of gender and sexual violence. As international organization, UNHCR and IOM, along with the Indonesia government should create a synergy and give serious attention for the international refugees to solve the problem. Through the normative law studies with qualitative data and previous studies, this article explains how UNHCR, IOM and Government respond and solve the refugee's problematique so that the refugee's in this pandemic era so that the refugees get appropriate protection.

Keywords: UNHCR Actions, Refugee, Pandemic Covid-19

A. Introduction

The impact of Covid-19 that spread into Indonesia, it does not only felt by Indonesian. However, it also the refugees in overseas was left their country and transit in Indonesia. According to the UNHCR data, globally refugees quantity attaining to 70.0 million, involve; 41.3 million internally displaced people (IDPs), 25.9 million refugees among state, 3.5 million asylum seekers and 3.9 million refugees without citizen. (<http://www.politik.lipi.go.id/kolom-1/politik-internasional/1384-kerentanan-pengungsi-pada-masa-pandemi-covid-19-di-indonesia>).

The temporary quantity of the refugees in Indonesia is around 14 thousand, as much as 9 thousand in shelter house that managed by international organization for migration (IOM), by contrast with 5 thousand another refugees does not in a shelter and also it does not get facilities. The high number of the independent refugees was caused quit the aid that giving IOM to the refugees and asylum that don't get in shelter official.

The refugees from overseas, in a manner life majority by self-help is hang up their life within helped a support from relatives, friends, and social organization. Pandemic consequences, it aids

that stopping quickly, whereas it helped from social organization limited and it cannot cover whole independent refugees. Whilst the refugees did not get access to find livelihood so it could not make them independently.

Some policy was applied by government such as to close school, tourism, house of worship, event thought lockdown by means of closing the territory for Indonesian as well as foreigner that will come to Indonesia surely implicated towards public society including foreign refugees. Refugees life on the shelter camps are crowded susceptible infected all disease belonging corona virus.

By formal, the refugees admittedly cannot works in Indonesia. However as long as between the refugees was being some informal activity, such as become a teacher for the refugee's children or be a translator for the same nationality did not fluent in the mother tongue. However, when the prohibition of policy to got to outside meantime studying at home, some school had became their informal working place was closed so that make the refugees jobless. The condition still be better than within refugees nomadic on street. They surrender don't have the aid such as an ID card.

The refugee problems assuredly will show a new problem in social order, economic, Indonesia politics moreover in the middle pandemic situation lately. When the state is fighting with all the complexity cause of pandemic, meanwhile the state precisely accomodated another problem. Recently, the heavy problem of the government is minimize in order to the problem that showed by the regufees does not spread a lot and aggravate national domestic in this pandemic.

B. Literature Review

1. The Refugee Definition

Based on the 1951 Refugees Convention, the refugee status intended is a person who does not have a fear because race, religion, natioanality, member of social group or politic point of view are on out the country origin or come back to the state because afraid of the persecution. Based on the provision, the UNHCR determined someone categorized as a refugees. (Achmad Romsan, dkk. 2003: 22).

The International Law instruments did not give a different criteria the refugees definition in general, so that be found the different interpretation regardingcategory parties as the refugees. Simultaneously according to the provision, if asked the protection it means a person threatened of psyche salvation, find the protectorship in other state, and further stand in the cope and surveillance of the UNHCR.

According to International Law, there are some requirement for people to get refugee status, namely:

- a) The person stands in the external state orgin, if the status is stateless
- b) Being apprehensiveness of factor emersion that justified for suffering persecution, because race, religion, nationality, social group affiliation, and politics point of view.
- c) The refugees does not be able to or not be anxious to stand in the state orgin protections, regular state, or if he statuses don't suitable with the regular state. (Ahmad Aboul El Wafa: 2011: 13)

The refugee's definition by International law is adulness in Article 1 of The president rules (Perpres) No. 125/2016 about the Refugees Tackling From Overseas, that mentioned the definition foreign refugees is a foreginer in the Republic of Indonesia caused of the anxiety with reason that will about race, a quarter, religion, nationality, a member of social group, politics point

of vies, and also does not need protecting from the state origin and/or he has gotten an asylum states or refugee statuses from United Nations by the high commissioner refugee affairs in Indonesia.

The foreign refugees has been run off with from the state origin caused of humanity dissaster such as a war, serious crime in humanity violation on the government dictator system and war crime. (Jawahir Thontowi: 2002: 136). The protection about the refugees always proposed by respecting and Human Rights protection, because refugees is a susceptible group in Huma Rights violation. The protecion of Human Rights about refugee based on the principle has arranged in Islam based on brotherhood, equality, and, tolerance. Islam taughted to give aid for all, safety guarentee and protection for other people needs to help.

Someone comes in the state region because persecution that suffed from the state origin was opiniated as asylum seekers and had not been stasured as asylum seekers. Asylum seeker diartikan: someone who as applied for refugees status, but who has not yet received a decision on whether he/she been recognized as a refugee. (http://unhcr.or.id/images/pdf/information/general_information-for_pocs.pdf).

The states has ratiefied the Refugees Convention and the protection mechanism,thenhave the right to determine if the status as the refugees can give or not. Whilts to the state who has ratiefied the refugees convention, nonetheless has not been created self-protection mechanism or the states has not been ratiefied so determined the status enforceabled by UNHCR representation office in the state. (Fitria: 2015)

2. The UNHCR acts in Refugee Handledly

United Nations of High Comission for Refugees (UNHCR) is an association non-politics of humanity that created on December 14, 1950 by General Assembly of the United Nations. The UNHCR gave a mandate as international organization that officiated to protect the refugees protection rights and completing the refugee's problematique in the world. To take the mission, UNHCR synergies and coordinated withing government.

Some protection efforts that passed by UNHCR, among others:

- a) Promoting the accession and implementation of the refugees convention and laws.
- b) Ensuring in order to the refugees be treated according with International law standard applicable
- c) Ensuring in order to the refugee gives an asylum and be returned come home by favorable oportunity into the state has leaved by them.
- d) Promoting the appropriated procedure to determine if someone is a refugee or not according with the Convention 1951 definition and some definition in the regional convention.
- e) Assisting the refugees to find solution on their problems, such as: repatriation by voluntary, local integration, and placement to the third country.
- f) Assisting to back unify that returened and giving protection and also assistance if they asked to the international refugees.(UNHCR & LSM: 2003: 2).

The International Protection about refugees does not appart from human rights aspect, however the refugees also an individu or group that have the human rights. First reason, because the refugees is an individual or group that really susceptible with human rights violation in persecution form, exploitation and discrimination. Law instruments that human rights principle matters to increase the protection for refugees, namely:

- a) To increase facilities for the refugees and asylum seekers according human rights in asylum states.
- b) Monitoring the human rights law execution in use by and on the name individual refugee woman, man, and children on international mechanism
- c) In human rights law matters was influenced by the UNHCR policy, for example in decisiving standard procedures, circucumstance, containment places, gender equality and childrend rights. (Iin Karita Sakharina, dkk: 2017: 146-147)

C. Methode

This article is normative law studies deal with about refugee protection from international law reviews and national law. The data was used by secondary data from books, journals be equipped with media online source to get any data about refugee quantity and current condition of them in pandeminc covid-19.

D. Result and Discussion

The asylum seekers existance and Refugees has attended in Indonesia since ten years ago. When Precident Soehatro's era, Indonesia has become asylum seekers and Vietnam's refugee aims in 1979, it has exactly after Saigon capital city (South Vietnam) was falled into North Vietnam' hold. (Atik Krustiyati: 2010: 18). Although, nowadays Indonesia has not ratified the United Nation protocols and the International Convention about Refugees, however as state that hight prized of humanity, Indonesia has an undselfishness about foreign refugees protection is transtting, according to humanity principles and *non refoulment*.

The commitment implemented by the President Rules (Perpres) No. 125/2016 about the Refugees Tackling From Overseas, as negotiation form of Indonesia politics in the refugee tackled. By international, Indonesia has gotten appreciation when Indonesia handled Andaman Sea's occasion crisis with giving assistance for the force migrant from Bangladesh and Rohingya.(Tri Nuke Pudjiastuti: LIPI: 2020).

Furthermore, Indonesia is also as supporting state for New York Declaration about Refugee and Migrant. It means, Indonesia was given by supporting for WHO provisions about Promoting the Health of Refugee and Migrants in 2019 that encourage international organizationin and Non-Governmental Organization to do monitoring on Refugee health.

As international organization, UNHCR and IOM has gotten mandate from the United Nations according *New York Declaration for Refugees and Migrants*that then attained the provision and poured into *A Global Compact for Safe, Orderly and Regular Migration*to take responsibility without differentiate tied to health protection for the Refugee is existing in Indoesia.

In the principle, UNHCR has policies that the refugee in shelter must got the protection by collaboration authority parties in local levels and UNHCR miters, such as Church World Service (CWS), Catholic Relief Services (CRS), Dompot Dhuafa, IOM, Jesuit Refugee Service (JRS), Pos Keadilan Peduli Ummat-Human Initiative (PKPU-HI), and Selasih (Suryono, 2020). However, the refugee does not exist in the shelter, the would not get the assistance.

According to Secretary General the United Nations António Guterres, the refugee and migrant and they evicted force in their house to face three crises in a time for pandemic covid-19. It diseases affecting by new kinds of corona virus (SARS-CoV-2), namely health crisis, economy

crisis, and protection crisis. First, they faced health crisis, their condition that living in crowded situation and limited health services, clean water, sanitation, and nutrition. A quarter of millions refugee, migrant, and they evicted force in their house, today, they are spreading in ten states that really dangerous impact of Covid-19. Second, the Refugee is suffering money crisis because the majority of them are working in informal sector and does not have social guarantee. Third, to face the protection crisis. Gutierrez's opinion, more than 150 states limited the border access to push spreading of virus. Around 99 states does not making an exception for the asylum seekers that under life threatened. (Antara News.com).

In the middle of the source global health competition, the refugee possibly will be defeated and ignored. Even though with many assistance and medical distribution that contributed into some state, did not clear how much the contributions will be flow to the refugee. Oxfam Inggris Non-profit organization described the situation in one of the other camps in several Rakhine state that difficult to get health treatment, moreover in this situation right now. If there people is sick and need to treatment from specialist, they must be asked official permit. It needs much times and afterwards, they must be paid safeguarding protection to go into hospital. IOM said, if there is available virus corona cases between the refugees, it common matter, however not detected and it will show a risk for migrant was living with them and community in a place.

Government policy in protected citizen on pandemic covid is enough to appreciate, such as in supplying health media tools and contribution for the UMKM. However, the aid almost never touching foreign refugee. In spite of the foreign refugee does not become responsibility of Indonesia government directly. Despite as a state that act in a humanitarian way, government should still to apply humanity policies, especially about refugee stand alone that don't exist in the shelter. All the refugee ought to get equal health protection rights. It should become government attention, because if the refugees exposed of Covid-19, it will occur the high spreading with the quantity of them that much enough in a surveillance.

Cooperation between state and UNHCR are really important to protect foreign refugee. Government cooperates with UNHCR in many way, for example with giving asylum according with international obligation and supplied fund to operate UNHCR in whole world. UNHCR determines that states highly prized their commitment to protected refugee. Example, monitoring national practices, intervention on the name of individual refugee whenever the government needs and assist to increase their capacity to give asylum. UNHCR also cooperating with some organization between regional government, such as Uni-Africa, Uni-Europe, and America states organization for relating and increasing supplying international protection in their area.

State by government region should get synergy with UNHCR as institution has mandates to protecting, monitoring, and controlling refugee based on humanity. Refugee from overseas is also have rights to get aid for daily life including fullfil about health access. So the refugees susceptible of corona virus and want to get treatment in order to protect the rights under UNHCR controls in receiving state, instead of the transit state that join to ratify the Refugee 1951 Convention according humanity without differentiate group, status, and religion. (In Karita Sakharina: 2020)

E. Conclusion

Refugee from overseas is also include in susceptible group that experienced of covid-19 impact because many factor that influenced. They experienced fund crisis, health crisis, and protection crisis. Eventually, UNHCR as international organization that gave mandates by the United Nations according *New York Declaration for Refugees and Migrants* yang dituangkan dalam *A Global Compact for Safe, Orderly and Regular Migration* should the gathered for the refugees is being to give protection and attention especially for them without

differentiated if the refugee stand alone or the refugee in under IOM. It important to Indonesia to have policy be better than refugee protection, firstly because refugees is at the most susceptible group that living in Indonesia. The reason is because they don't have special law framework that can protect their rights in Indonesia. The present rules (Perpres) No. 125/2016 about the Refugees Tackling From Overseas is still the only one law framework that arrange more specific about refugee. However, it is more from administrative aspect, still less in protection aspect of their rights can be synergy within the local government.

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