

ASSESSING PRESIDENTIAL REGULATION NUMBER 125 OF 2016 CONCERNING HANDLING OF REFUGEES FROM ABROAD IN ACEH PROVINCE, INDONESIA

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ABSTRACT

The arrival of refugees in Aceh province, specifically the Rohingya from other countries, initially received assistance from the Acehnese people while they were in the middle of the sea. However, in the following years, various challenges have arisen. As a response to this situation, Presidential Regulation No. 125 of 2016 was established to address the handling of refugees from abroad. This regulation highlights the role of the Central Government. However, there is currently no operational regulation from the local government regarding budgets, adaptation to customary values and local wisdom, and coordination with relevant institutions such as UNHCR, IOM, volunteers, police, and other organizations. It is crucial to establish Standard Operating Procedures that can serve as a reference for all parties involved in the process of locating, searching, and assisting refugees from abroad. Additionally, there is a need for the establishment of immigration detention centers in Aceh, as the current temporary shelters are only available in the cities of Lhokseumawe and North Aceh.

Keyword: Presidential Regulation; Refugee; Humanity; Rohingnya; Aceh Province, Indonesia.

INTRODUCTION

This article is based on the results of research conducted in 2020, where unrest occurred due to the rampant arrival of foreign refugees in recent years. The Indonesian government in handling foreign refugees is based on Article 27 paragraph (1) and paragraph (2) of Law Number 37 of 1999 concerning Foreign Relations, which states that paragraph (1) that the President establishes a policy on the issue of refugees from abroad by taking into account the consideration of the Minister, and paragraph (2) states that the policy principles as referred to in paragraph (1) are regulated by Presidential Decree, so that the President can establish a Presidential Regulation (Perpres) to regulate the mechanism for handling refugees from abroad, then on December 31, 2016, the President established Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad. Until 2020, for example, based on data from UNHCR, the number of foreign refugees in Indonesia amounted to 13,745 people who came from various countries.

Refugees entering Indonesia are based on various issues, namely seeking refugee or asylum, political stability in their country, forced expulsions and economic factors. The handling of foreign refugees in Indonesia until now is considered to weak regulations, such as Presidential Regulation No. 125 of 2016, starting from the unregulated concrete manner related to the use of the Regional Budget in every handling of foreign refugees entering through one of the provinces or regencies/cities in Indonesia (Sitana, 2018). Technical Guidelines and Implementation Guidelines for handling foreign refugees do not yet exist so that every arrival of foreign refugees in Indonesian territory the handling mechanism still varies from one city/district to another. The limited resources of local government officials were evident at the arrival of Rohingya refugees in Aceh in 2020. There are still various other problems, namely the discovery of refugees not as mentioned in the Presidential Regulation, where sometimes people (sailors) find refugees then get punishment under the pretext of human trafficking, then when they are in shelter it is also a problem that local governments cannot spend budgets for operations and others become problems. In addition, the capacity of refugee

camps and other shelters such as rudenim in Indonesia is limited. Therefore, the presidential regulation in its implementation is still considered ineffective and there is a contrary view (Simbolon, 2018).

RESEARCH METHOD

This research is qualitative research with an empirical juridical approach that aims to look more deeply which will provide an overview of what really happened in the implementation of the handling of Rohingya refugees, especially in Aceh. This study used two data collection methods, primary data collection and secondary data (Muhdlor, 2012). The collection of primary data (primary sources) was carried out by observation, in-depth interview techniques (in-depth interviews) (Soekanto & Mamudji, 2003). In particular, this study explores the views of relevant actors to seek more in-depth information related to their perceptions and their acceptance related to the implementation of refugee treatment. This will be done through interviews with the relevant parties. The public was also interviewed in this study to examine the preferences of relevant institutions and communities for the handling of refugees. In addition to the interviews with the parties presented above, this study will also interview law enforcement officials—starting with the police, Indonesian Army, immigration, prosecutors and district courts that deal with refugees.

Observation of the conditions around the research area as well as the conditions of problems faced by the community and government apparatus felt by the parties will also be used as part of data collection techniques (Listiarani, 2020). Observation activities on refugee handling practices will also be part of field activities. This observation will later be juxtaposed with documentation studies of Court Decisions on criminal cases decided by the court (atwa F. D. Zein, 2017).

RESEARCH OUTCOME AND DISCUSSION

1) Human Rights Concept and Non-Refoulement Principle

Human rights are universal values that have been universally recognized and various international instruments require participating countries to provide

guarantees of protection and fulfillment of the rights of citizens (Firdaus et al., 2013). The concept of human rights protection is inseparable in realizing a state of law (Pangaribuan, 2017). The concept of human rights must be internalized in written legal forms, both at the level of international law and at the level of national law of each country. Speaking of human rights is in 2 (two) scopes of study of international law and constitutional law. Human rights norms at the international level are international treaties whose form can be in the form of conventions, covenants, protocols and so on or international customs that are accepted as sources of law, while within the scope of constitutional law, the regulation of human rights in positive law is generally poured into the constitution of each country (Effendi & Masyhur, 1980)

Protection of refugees is constantly undergoing changes and developments (Fawwaz & Mumtazinur, 2021). The definition of refugees that was originally intended only for groups of people who legally do not have a state, then shifted to groups of people who are factually deprived of their citizenship rights, even now extended to someone who is fleeing the injustice experienced in his home country. Refugees are people who are outside the country of nationality or their daily place of residence, for reasons of fear of persecution and/or threats to their lives due to race, religion, nationality, membership in certain social groups and/or political opinions (atwa F. D. Zein, 2017). This is then stated in Article 1 number 1 of Presidential Regulation No. 125 of 2016 which explains refugees from abroad, hereinafter referred to as refugees are foreigners who are in the territory of the Unitary State of the Republic of Indonesia caused by a well-founded fear of persecution on the grounds of race, ethnicity, religion, nationality, membership of certain social groups, and different political opinions and do not want protection from their home country and/or have obtained status asylum seekers or refugee status from the United Nations through the High Commissariat of Refugee Affairs in Indonesia (Riyanto, 2012).

Changes are not only happening to the understanding and scope of refugees, but also to the rights guaranteed to refugees are also getting wider and more developed in accordance with international agreements that continue to be formed

by countries (Zulkarnain, 2017). The position of the principle of non-refoulement is one of the important concerns in the history of the development of refugee protection and is a basic aspect of refugee law and has been developed into a custom of international law (Effendi & Masyhur, 1980). This principle forms the basis for countries that have not ratified the 1951 Convention on the Status of Refugees to become bound to provide protection to refugees who have been on the territory of their country (Bangun, 2018). The principle of non-refoulement is already a *jus cogen* for all the nations around the world (Riyanto, 2012).

The case of Rohingya Muslims who were forced to leave their country Myanmar is one of the most concerning refugee cases. Rohingya refugees must receive forced repatriation by the Thai Government as they seek refuge (Irmansyah, 2013). The Thai government has forcibly sent home about 1,300 Rohingya refugees to Myanmar. This is different from the treatment obtained from the Indonesian government (Simbolon, 2018). Although Thailand and Indonesia are both not member states of the Convention, the Government of Indonesia accepts and temporarily replaces the refugees, on humanitarian grounds (Bakri, 2023).

Indonesia is one of the countries that has not ratified the 1951 Convention and the 1967 Protocol to date. In contrast to what the State of Thailand has done, Indonesia, which has not yet ratified the 1951 Convention and the 1967 Protocol, handles its Rohingya refugees from Myanmar in accordance with one of the contents of the article stipulated in the Convention, namely Article 33 on the Principle of Non-refoulement (Hidayatullah, 2022). Although Indonesia is not yet a party to the Convention, in practice Indonesia has consistently applied this principle when facing the Vietnamese refugee exodus (Riyanto, 2012).

Relating to the protection of refugees and the application of the principle of non-refoulement in Indonesia, it is carried out based on the Letter of the Director General of Immigration (hereinafter referred to as the Letter of the Director General) Number F-IL.01.10-1297, addressed to the Head of the Regional Office of the Ministry of Law and Human Rights (hereinafter referred to as the Head of the Ministry of Human Rights of the Republic of Indonesia) and the Head of

Immigration Offices throughout Indonesia, to provide instructions regarding the handling of foreigners who declare themselves as asylum seekers or refugees. In general, in dealing with refugees, the Government of Indonesia refers to Law Number 9 of 1992 on Immigration and Government Regulation Number 30 of 1994 concerning Procedures for the Implementation of Prevention and Deterrence (Effendi & Masyhur, 1980). However, since December 31, 2016, the President of the Republic of Indonesia signed Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad, as a mandate of Law Number 37 of 1999 concerning Foreign Relations. The issuance of the Presidential Regulation clarifies the government's obligations to handle refugees from abroad (Syahrin & Pangestu, 2019). Although this Presidential Regulation does not expressly regulate the prohibition of repatriation or the principle of non-refoulement of refugees entering or heading to the territory of the Republic of Indonesia. (Listiarani, 2020)

The Government's handling of asylum seekers and refugees is carried out through four stages, including the discovery, shelter, security, and immigration supervision. This Presidential Regulation also regulates the rights of asylum seekers and refugees (Zulkarnain & Kusumawardhana, 2020). These rights are included in the freedom of religion in Article 26 paragraph (2). The right to prosperity in Article 26 paragraph (12), namely obtaining clean water, fulfilling food and beverages, health and hygiene services. In addition, Article 27 paragraph (1) explains that asylum seekers and refugees with special needs can be placed outside shelters facilitated by relevant international organizations (Purwoko et al., 2023).

However, there are arrangements related to the handling of refugees in search and rescue operations, it can be concluded that Indonesia will seek and provide assistance to refugees or suspected refugees if found in Indonesian territorial waters. Search and rescue procedures that are then followed up with shelter, providing security for asylum seekers or refugees indicate that Indonesia will accept people who enter its territory and are treated as provided for by international law (Novianti, n.d.).

Malahayati mentioned the lives of refugees who came from various countries, generally Middle Eastern and African countries. The Australian Government's policy at the time as a member state of the 1951 Convention was considered unfavorable (Rahman, 2021a). There are still discriminatory treatments of refugees and the process of granting refugee status is complicated and relatively long, so refugees have to live in refugee barracks whose conditions are more similar to that of detention centers (Untoro et al., 2016). Carl Grundy-Warr and Elaine Wong further explained about the geographical situation of Myanmar, the ethnic population and religious believers in Myanmar including the history of the entry of ethnic Rohingya in some areas of Dhaka and Bangladesh (Lin & Grundy-Warr, 2012).

Sigit Riyanto stated that the principle of non-refoulement is a jus Cogen norm in the international legal system, which is based on the consideration that factually, currently this principle is a norm that has been recognized and affirmed by the international community (Riyanto, 2010). The existence of this principle that later became the basis of the attachment of the state to remain in providing protection to international refugees (Putri, 2021). The same has also been concluded by Juniati Ismaniar who emphasized that the principle of non-refoulement has been developed into a custom of international law, so this principle must still be applied in a country where refugees seek refuge, even if the country is not a state participating in the 1951 Convention (Ismaniar & Atmaja, 2013). The results of Malahayati's research in 2020 further stated that so far, the acceptance of Rohingya refugees in Aceh has been more about religious values and local wisdom, so that the legal basis needed is not a priority for the people in Aceh. Malahayati's research shows that many people accept the Rohingya presence in Aceh (87.6%), only 10.9% reject it, while 1.5% do not give their opinion. The reason for their acceptance is based on the principles and teachings of the religion they adhere to (Islam) reaching 44%, for humanitarian reasons (35%), morality reasons (14%), reasons for legal obligations (3%) and other reasons as much as 4%, out of a total of 267 people who gave their response (Rahman et al., 2023)

2) Presidential Regulation No. 125 of 2016 concerning the Handling of Refugees from Abroad

a. Legal Basis of Refugee Regulation in Indonesia

The policy regarding refugees can be seen in Article 28A, 28D and Article 28G of the 1945 Constitution of the Republic of Indonesia. Article 28A states "Everyone has the right to live and the right to maintain his life and life". Then Article 28 D paragraph (1) states "Everyone has the right to recognition, guarantees, protection and fair legal certainty and equal treatment before the law". Subsection (4) states "Everyone is entitled to citizenship status". Article 28G paragraph (2) further states "Everyone has the right to be free from torture or degrading treatment and has the right to obtain political asylum from another country" (Tendean et al., 2023).

In addition to the 1945 Constitution, Law No. 37 of 1999 concerning Foreign Relations has also been regulated regarding the government's foreign policy towards refugees from abroad, this can be seen in Chapter VI and Chapter VII, namely Article 25 to Article 28 of Law No. 37 of 1999. In addition, Article 28 paragraphs (1) and (2) of Law Number 39 of 1999 concerning Human Rights which states: (1) Everyone has the right to seek asylum to obtain political protection from other countries. (2) The rights referred to in subsection (1) do not apply to those who commit nonpolitical crimes or acts contrary to the purposes and principles of the United Nations. Furthermore, it is also regulated in the Regulation of the Director General of Immigration Number IMI-1487. UM.08.05 of 2010 concerning the Implementation of Handling Illegal Immigrants, which was signed on September 17, 2010; Regulation of the Director General of Immigration Number IMI-0352. GR.02.07 on Handling Illegal Immigrants Who Declare Themselves as Asylum Seekers or Refugees, signed on April 19, 2016; furthermore, specifically for refugee handlers, Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad was issued (Zulkarnain & Kusumawardhana, 2020).

The consideration of the birth of Presidential Regulation No. 125 of 2016, is an Order of Article 27 paragraph (2) of Law Number 37 of 1999 concerning Foreign Relations, so it is not a new thing, but its implementation can only be implemented in 2016. Law Number 37 of 1999 is one regime with Law Number 39 of 1999 concerning Human Rights, where almost adjacent to the determination process, in Article 27 paragraph (2) of Law Number 37 of 1999 it turns out that the sentence used is a Presidential Decree. Article 27 states:

- 1) The President sets the policy on the issue of refugees from abroad with due regard to the consideration of the Minister.
- 2) The policy principles as referred to in paragraph (1) are regulated by Presidential Decree (Fawwaz & mumtazinur, 2021).

Based on the provisions of Article 27 paragraph (2) the policy on the issue of refugees from abroad by taking into account the consideration of the Minister regulated by Presidential Decree, the Presidential Decree herein is interpreted to be a Presidential Regulation. The order of the Article on December 31, 2016 stipulated Presidential Regulation No. 125 of 2016 concerning the Handling of Refugees from Abroad, which was signed by President Joko Widodo. The ratification of Presidential Regulation No. 125 of 2016 has been passed for approximately 8 (eight) years, but in its implementation it is still felt that there are still those who still do not accommodate aspirations or special circumstances, so there is a desire to revise or change a legal product so that a strong evaluation and argument is needed in terms of its philosophical, sociological and juridical foundations (Rahman, 2021b). Presidential Regulation No. 125 of 2016 related to the handling of refugees from abroad, also aims to overcome and find solutions for foreign refugees transiting in Indonesia without harming or sidelining other domestic problems. This presidential regulation is also expected to solve the problem of asylum seekers and foreign refugees in Indonesia from various countries (Ali, 2002).

In the context of Acehnese who once felt like refugees during the Aceh conflict, Acehnese people went abroad, currently foreign people stranded in Aceh,

which became a new spirit to help others (Ayu Putri & Zulhair Achsin, 2023). Presidential Regulation No. 125 of 2016 contains 45 Articles and 8 Chapters, in this Presidential Regulation it is stated that the authority to handle refugees is only the authority of the central government, where only the central government has the authority to deal with refugee problems ranging from the discovery, shelter, security and supervision of immigration. This is as can be read in Article 4 of Presidential Regulation No. 125 of 2016. Activists/NGOs said that the Presidential Regulation could not play a role in handling refugees, this was conveyed by Faisal from the Indonesian Madani Humanitarian Foundation saying:

The Presidential Regulation has no availability of functions or roles of non-governmental institutions including from NGO or humanitarian institutions, where Article 2 of the Presidential Regulation only states:

- 1) The handling of refugees is carried out based on cooperation between the central government and the United Nations through the High Commissariat for Refugee Affairs in Indonesia and/or international organizations.
- 2) International organizations as referred to in paragraph (1) are international organizations in the field of migration affairs or in the humanitarian field that have agreements with the central government.

Under the Article is only the Central Government, the United Nations through the High Commissariat for Refugee Affairs in Indonesia and/or international organizations authorized to handle refugees. As for other institutions, there is only an opportunity as referred to in paragraph (2). In this context, it is also necessary to include that the refugee problem can also be involved by non-governmental institutions in Indonesia. In addition, it can also be seen the issue of funding, whether it is allowed for the local government to negotiate in its APBD / APBK, and another problem is not mentioning the involvement of indigenous peoples in it as a unit of community and local wisdom in Aceh, namely Panglima Laot.

Following up on the provisions of Article 2 of the Presidential Regulation, the Government cooperates with 2 (two) international organizations that play an

important role, namely IOM (International Organization for Migration) and UNHCR (United Nation Human Right Council) (Rossdiana, 2022). IOM is authorized to assist in handling migration (which is problematic) in an orderly and humane manner, advancing international cooperation in the field of immigration and focusing on providing daily facilities while in Indonesia and funding related to immigrant needs such as shelter, food, and medical needs. The UNHCR (United Nations High Commissioner for Refugees) is a United Nations High Commissioner for Refugees worldwide that focuses on providing international protection in the form of refugee status (Klinken & Van, 2007).

The mechanism for handling refugees in the Lhokseumawe City that shelter has not been running optimally. Although a Task Force for Handling Rohingya Refugees has been established in Lhokseumawe City in 2020, coordination between agencies involved in handling refugees has not been carried out properly. One of the root causes is the lack of technical guidelines or standard operating procedures related to the handling of Rohingya refugees in Lhokseumawe City, as a derivative of the implementation of Presidential Regulation No. 125 of 2016. In the handling of refugees in Aceh at first, it was still a problem where communication was not good in handling refugees such as the escape of refugees, UNHCR officers not being in refugee camps, lack of funds from local governments (Rahman et al., 2022).

In terms of the discovery of refugees at sea, Rusli said the fishermen will carry out and help anyone who needs help, please help we will give to anyone who needs help at sea, still we help no one except people even infidels. However, Nasrudin (Geutanyoe Foundation) explained that in terms of discovery, Article 5 states: "The discovery of refugees in an emergency in the territorial waters of Indonesia is coordinated and implemented by the agency that organizes affairs in the field of Search and Rescue". The problem is the discovery of refugees in emergencies in Indonesian waters, how the fishermen and commanders of the laot are. On the one hand, we have to provide information on the whereabouts of refugees to agencies that are looking for meaning that if in the fishing structure, of course they will coordinate with the commander of the laotnya, the commander of

the laot will contact the navy, only to that extent, well the problem is today if for example they say that just please or ask to be sent coordinates just to that extent, well the problem today is for example what has happened since 2009 the arrival of refugees until 2020, the existence of the laot commander in the handling of refugees seemed to be separated, it has been brought ashore to be completed, whatever the policy taken by including the NGO was never coordinated with the laot commander's institution as if it were that this sea commander's institution was only as a person who said it was finished he called it finished. After we help, we fishermen cause legal problems, we have children, there are wives and poor again, this is the problem.

It should not happen if all fishermen understand that they will handle the discovery of refugees at sea, which is in accordance with local wisdom in Aceh, where fishermen when they find refugees at sea contact the commander of the laot. However, when finding refugees in an emergency, fishermen have problems with the condition of communication equipment and so on, they can be given assistance and when they get ashore report to the authorities as intended in Article 6 of the Presidential Regulation, namely to the relevant agencies of the Indonesian Army, Indonesian Police, or the commander of the sea, who then coordinates with related parties. Boyhaqi said that there is a need for standard operating procedures in handling refugees from abroad that make it easier for all of us.

It is necessary and must also pay attention to state sovereignty which is regulated by various laws and regulations. There are many other problems that occur, the availability of budgets, viruses / other diseases, and others, so that if in the future there are boat people who will enter, how do we prevent them from entering and disturbing the security of our area. Furthermore, Irwansyah (Police) explained:

The duties of the police are regulated in Law Number 2 of 2002, maintaining public security and order, enforcing the law, providing protection, protection, and services to the community. Regarding the handling of Rohingya refugees, the police handle rohingya refugees after landing on the coast, the task of the police is only to

carry out security so that the refugees do not get lost one by one from the first landing site in Indonesia, then the police coordinate with related parties in this case it is feared that it is a syndicate of people smuggling and it is proven that it is doing people smuggling, paid in large exchange and directly transferred to his account. These refugees are very threatening to the security of the country, if there are refugees, help them just provide food for them to continue their journey to their destination country and also the refugees themselves have committed criminal acts, in this case also carry out people smuggling to Malaysia, and the Lhokseumawe Police Department handles 9 (nine) cases, and Aceh is only as a transit for them, not the main destination, When these refugees enter our area, it becomes a problem for our own country.

Public perception considers that assistance carried out by fishermen in Aceh creates legal problems, where refugee helpers are considered to be carrying out human traffic and/or people smuggling, which is then carried out investigations, investigations, prosecutions and until court decisions. Based on the results of the study, it can be explained that, this case was carried out jointly which was charged with "human smuggling" carried out by Faisal Afrizal Bin M. Zaini Bakri, Abdul Aziz Bin M. Yusuf, Afrizal alias Raja Bin M.Husen and Shahad Deen Bin Alm. Ashrof Miya, however, prosecution is carried out separately/each defendant. The intellectual actors have not been found or are still in the search for the Aceh Regional Police (DPO) namely Adi Jawa, Anwar. The decision of the Lhokseukon District Court has decided the case in 4 (four) judgments namely: 1). Lhoksukon District Court Judgment No. 84/Pid.Sus/2021/PN Lsk against defendant Faisal Afrizal Bin M. Zaini Bakri; 2). Lhoksukon District Court Judgment No. 85/Pid.Sus/2021/PN Lsk against defendant Shahad Deen Bin Alm. Ashrof Miya; 3). Lhoksukon District Court Decision No. 86/Pid.Sus/2021/PN Lsk against Abdul Aziz Bin M. Yusuf; and 4). Lhoksukon District Court Decision No. 87/Pid.Sus/2021/PN Lsk against defendant Afrizal alias Raja Bin M.Husen.

These cases that the prosecution charged with were that the smuggling of human beings was carried out by Faisal Afrizal Bin M. Zaini Bakri both singly and jointly with witness Abdul Aziz Bin M. Yusuf, witness Afrizal alias Raja Bin

M.Husen and witness Shahad Deen Bin Alm. Ashrof Miya (each of whom was prosecuted separately) on Thursday, June 25, 2020 at approximately 08.00 WIB, or at least in June 2020 located on the beach of Lancok Village, Syamtalira Bayu Regency, North Aceh Regency or at least in other places that are still included in the jurisdiction of the North Aceh District Court which is authorized to examine, prosecuting and deciding this case, proved lawfully and conclusively guilty of committing a criminal offence as a person who committed, who ordered to do, and "participated in committing an act aimed at profit, whether directly or indirectly, for oneself or for another person by bringing in a person or group of persons, whether organized or unorganized, or ordering a person to bring a person or group of persons, whether in a the organizational or unorganized manner, who does not have the right to legally enter Indonesian Territory or exit the Territory of Indonesia and/or enter the territory of another country, for which the person does not have the right to enter the territory legally, either by using valid documents or forged documents, or without using travel documents, whether through immigration checks or not" in accordance with Article 120 paragraph (1) of R.I. Law No. 6 of 2011 concerning Immigration Jo article 55 paragraph (1) 1 of the Criminal Code. Sentenced to imprisonment for 6 (six) years in prison, reduced while the defendant is in custody and a fine of Rp. 500,000,000- (five hundred million rupiah) Subsidiaries 2 (two) months imprisonment. By order the defendant remains in custody. Based on this, the court ruled that the defendants were punished with imprisonment of 5 (five) years each and a fine of Rp. 500,000,000- (five hundred million rupiah) provided that if the fine is not paid, it is replaced by imprisonment for 1 (one) month imprisonment.

Based on court decisions, that in these cases were mentioned and found guilty of trafficking in persons with the threat of punishment of 5 (five) years imprisonment each and a fine of Rp. 500,000,000- (five hundred million rupiah) subsidiary 2 (two). The case of law enforcement officials did not see/pay attention and did not consider the existence of Presidential Regulation No. 125 of 2016.

T.Kemal Pasha (Unimal) explained that for the case of Rohingya refugees in Aceh, it is considered solidarity with fellow religions, when they were first

welcomed to refugee camps, many people opened donations, after that the refugees were in refugee camps, there were many conflicts between refugees and suburban communities, there was sexual harassment (fellow refugees). In addition, fellow refugees themselves have conflicts, because the shelters themselves are not good enough, then the emergence of social jealousy between the periphery community and the refugees, other crimes, human values, the unity of Indonesia become important.

Furthermore, Rozy Noval (Indonesia red cross of Lhokseumawe city) explained that in terms of institutional work, in principle, Indonesia red cross is only a humanitarian actor who is not too fixated on regulations, how to help, the working principle of Indonesia red cross anyone or every human being who needs help us help humanity.

b. Authority and Readiness of State Apparatus in Handling Refugees

The authority and readiness of the apparatus in handling refugees is regulated in Article 4 of Presidential Regulation No. 125 of 2016, namely: Handling refugees is coordinated by the Minister. Such coordination is carried out in the framework of policy formulation, including a. discoveries; b. shelters; c. security; and d. immigration supervision. Meanwhile, the formulation of policies is carried out by ministers who manage government affairs in the field of foreign relations and foreign policy by conveying consideration to ministers.

Based on the article, the authority to deal with refugees is the central government in this coordination with the Minister, in particular the minister who coordinates government affairs in the political, legal and security fields. Further related to the discovery it is stated that the Discovery of Refugees in emergencies in the territorial waters of Indonesia is coordinated and implemented by the agency that organizes affairs in the field of Search and Rescue. The search for help was conducted by a. the Indonesian National Army; b. National Police of the Republic of Indonesia; c. ministries that organize government affairs in the field of transportation. d. institutions that carry out government affairs in the field of maritime security and safety or what is called the Maritime Security Agency; or e.

other relevant non-ministerial government ministries/agencies carrying out duties in Indonesian territorial waters.

Judging from these provisions, the discovery of refugees is clearly only carried out by the TNI, Polri, Ministry of Transportation, agencies (maritime security agencies) and other relevant non-ministerial government ministries/agencies. Especially for Aceh, considering the presence of refugees, especially from the Rohingya, it has become a concern in various media and communities. Based on the results of research that people basically when they see refugees in the middle of the sea, they must help. This is in accordance with the customary law at sea in Aceh, that everyone needs help at sea we will still help, if they really need help, without seeing who they are, regardless of origin, religion, and so on.

Presidential Regulation No. 125 of 2016 has regulated the procedures and authorities to search and assist refugees in emergencies in the seas of Indonesian territory. The discovery of refugees in emergencies in Indonesian territorial waters is coordinated and implemented by agencies that conduct affairs in the field of Search and Rescue. However, in practice, refugees who land on the coast of Aceh are generally found and helped by fishermen. Relief procedures, which were supposed to be coordinated directly with the SAR, often turned to the Laot Commander in the region because the position of the laot commander was the easiest to contact by local fishermen. The role of the laot commander in the process of helping refugees is quite large has not been accommodated in Presidential Regulation No.125. The Presidential Regulation has not provided space for the existence of customary institutions and local wisdom values in the process of handling refugees in Aceh. There is no Standard Operating Procedure at the Provincial or Regency/City level that is a reference for each party in the process of finding, searching, and helping refugees from abroad.

The potential for transnational crimes involving and/or making refugees victims, becoming one of the other groups It is undeniable that trafficking or smuggling is a serious problem in Indonesia's sea areas. The threat of persecution

in the country of origin as well as the unfit life that refugees must experience in third countries makes them often cut corners by paying a high price to be able to reach the destination country unlawfully. This condition is often used by certain parties to seek personal and group benefits. Rohingya who have been the object of persecution in their country should be victims of trafficking or human smuggling. Fishermen's lack of understanding of the potential for trafficking and human trafficking is one of the root causes so that smuggling and trafficking continue by utilizing the humanitarian side of fishermen in Aceh (Syahrin & Pangestu, 2019).

At the beginning of the presence of refugees, the Lhokseumawe City Government, formed a refugee task force in Mayor's Decree Number 310 of 2020 concerning the Establishment of a Special Task Force for Handling Rohingya Refugees in the city of Lhokseumawe in 2020, which was later amended by Mayor's Decree Number 491 of 2021 concerning Amendments to Mayor's Decree Number 310 of 2020 concerning the Establishment of a Special Task Force for Handling Rohingya Refugees in the city of Lhokseumawe The year is 2020.

The Lhokseumawe City Government, in the context of implementing Presidential Regulation No. 125 of 2016, has accommodated temporary housing for refugees. Article 26 of the Presidential Regulation explains as follows: Article 26 (1) The local government of the district/city determines the shelter for refugees. (2) The shelter for Refugees referred to in subsection (1) must meet the following criteria: a. close to health care and worship facilities. b. located in one regency/city area with an Immigration Detention Center. c. favorable security conditions. (3) The shelter referred to in paragraph (1) may be facilitated by an international organization in the field of migration affairs through the ministry that administers government affairs in the field of law and human rights after coordinating with the Minister. (4) Facilitation by international organizations as referred to in paragraph (3) in the form of basic needs facilities for refugees in shelters. (5) The basic needs facilities referred to in paragraph (4) shall at least include: a. the provision of clean water. b. fulfillment of the needs of eating, drinking, and clothing. c. health and hygiene services. d. worship facilities. (6) In the event that health facilities and worship facilities as referred to in paragraph (5) point c and letter d are not available,

the district/city government may make efforts outside the shelter with due regard to ease of access. This became the basis for the Local Government of Lhokseumawe city to provide shelter for refugees. this can be realized well, namely giving land in Blang me Gampong Kandang Kota Lhokseumawe.

In terms of providing proper facilities and shelters, local governments can cooperate with international organizations in the field of migration affairs through ministries that administer government affairs in the field of law and human rights after coordinating with the Minister. Presidential Regulation No. 125 of 2016, stipulates that immigration authority includes: a. when found b. in shelters, namely in RUDENIM and outside shelters c. dispatched to the destination country d. voluntary repatriation, and e. deportation. However, in 2018, a Letter from the Director General of Immigration Number IMI-UM.01.01-2827 was issued concerning the Return of Rudenim Functions in which there are provisions regarding the return of RUDENIM functions in accordance with Article 1 number 33 of Law No. 6 of 2011 concerning Immigration which returns immigration duties to: a. re-collect data related to the number of asylum seekers and refugees currently in Rudenim b. Coordinating with the International Organization of Migration (IOM) and district/city governments in their work areas to ensure the availability of temporary shelters for asylum seekers and refugees to be transferred from Rudenim.

Immigration supervision is the obligation of the immigration authorities to supervise every refugee who will enter Indonesia by conducting an identity check, ascertaining whether the refugee is included in UNHCR data or has a special refugee identity card and placing them in a rudenim or community house (temporary shelter). Once refugees are in temporary shelters, immigration authorities must further increase immigration supervision of refugees to avoid actions that are not in accordance with applicable laws in Indonesia. Immigration supervision of refugees in shelters is inseparable from the activities of monitoring and supervising the actions of refugees during temporary shelters and paying attention to their daily needs whether they have been met or not. One of the obstacles in the process of collecting data and supervising immigration is that the number of human resources owned by the Lhokseumawe Immigration Office is still

very limited, compared to the number of refugees entering the Lhokseumawe City area (Fawwaz & Mumtazinur, 2021).

The mechanism for handling refugees in the Lhokseumawe City shelter has not been running optimally. Although a Task Force for Handling Rohingya Refugees has been established in Lhokseumawe City in 2020, coordination between agencies involved in handling refugees has not been carried out properly. One of the root causes is the lack of Technical Guidelines or Standard Operating Procedures related to the handling of Rohingya refugees in Lhokseumawe City, as a derivative of the implementation of Presidential Regulation 125 of 2016.

The need for Immigration Detention Centers in Aceh for efficiency and law enforcement purposes. The existence of immigration detention centers in Aceh is very much needed, considering the existence of Aceh in a very dense area of sea lanes or the Malacca Strait through which various countries pass. Currently, the cities of Lhokseumawe and North Aceh only have shelter houses built by UNHCR on land owned by the city of Lhokseumawe. However, when the shelter house becomes a problem in terms of maintenance, electricity and so on.

Regulations and policies have not accommodated the values of local wisdom. Related to Presidential Regulation No. 125 of 2016, in the discovery of refugees, it still does not accommodate and pay attention to the values of local wisdom, namely the existence of the laot commander as part involved in the discovery of refugees in Aceh.

The issue of sexual harassment and violence in shelters should also be of particular concern in the handling of refugees. Facilities, infrastructure in shelters that do not yet have a perspective on the protection of minorities and genders, provide opportunities for sexual violence and harassment, and facilitate access to shuttles of potential trafficking. This potential can be prevented by implementing safe and viable shelter site planning programs for refugees.

The lessons that can be taken at the refugee shelter in Lhokseumawe City, especially those in Mns. me Kandang Village, have applied concepts with a gender and minority protection perspective, as well as mainstreaming child protection.

UNHCR through partner YKMI has built 30 shelter units, 1 study room, 28 toilet units, 5 washing stations, as well as 1 soup kitchen, and 200 meters of drainage. Volleyball court and takraw, 33 room partitions to maintain the privacy of shelter residents and the provision of clean water and sanitation. This concept aims to minimize the potential for sexual violence and harassment in shelters. Another problem that arises is the status of the physical building of the shelter, both in terms of its legal status as an asset and its management authority.

UNHCR together with the central and/or local governments, as well as partners have built temporary shelters for refugees located at the Mns. me Kandang site. The continuity of the management of the building built on the land of the Lhokseumawe City government certainly requires a lot of money, while the City Government does not have a special budget allocation for the management of the building. It is feared that this condition will cause the shelter to be abandoned when refugees are no longer in the shelter. In addition, the issue of social inequality and cultural differences between refugees and the communities surrounding the shelter is a challenge in the process of sheltering and integrating refugees with residents.

To prevent greater potential conflicts, UNHCR together with the Lhokseumawe City government and YKMI have carried out various programs that support the process of integrating refugees with local communities. In addition to assistance programs to refugees, UNHCR and YKMI also help both materially and in the form of community capacity empowerment programs around shelter locations, such as educational support programs, environmental hygiene support, clean water, and others. This is done as an effort to minimize the occurrence of social jealousy and increase the awareness of local communities for the presence of refugees around them, as well as to accelerate the process of peaceful integration of refugees with local communities.

Based on this, it is necessary to handle refugees who prioritize a humanitarian values approach, standardized, effective and efficient coordination. Clear regulation of the status of simple shelters, control and management, and their utilization. In addition, socialization about the existence of refugees and involving local

communities to accelerate the process of refugee integration needs to be carried out continuously. In view of this, a comprehensive package of policies and regulations related to the handling of refugees from abroad, from the stage of standardized immigration discovery, shelter, security, and supervision, which has the perspective of gender and minority protection, inclusive based on local wisdom values needs to be carried out.

The authority and readiness of the state apparatus in handling refugees in Presidential Regulation No. 125 of 2016 has regulated the procedures and authorities to conduct searches and assistance for refugees in emergencies in the seas of Indonesian territory, where the discovery of refugees in emergencies in Indonesian territorial waters is coordinated and implemented by the institution that organizes affairs in the field of Search and Rescue, namely the Indonesian National Army; National Police of the Republic of Indonesia; ministries that administer government affairs in the field of transportation; institutions that carry out government affairs in the field of maritime security and safety or what is called the Maritime Security Agency; or other relevant non-ministerial government ministries/agencies that carry out duties in Indonesian territorial waters. But in practice, refugees who land on the coast of Aceh are generally found and helped by fishermen. Relief procedures, which were supposed to be coordinated directly with the SAR, often turned to the Laot Commander in the region because the position of the laot commander was the easiest to contact by local fishermen. The role of the laot commander in the process of helping refugees is quite large has not been accommodated in Presidential Regulation No.125 of 2016, and there is no Standard Operating Procedure that is a reference for each party in the process of finding, searching, and helping refugees from abroad.

c. Relations and Positions of Other Government Institutions/Institutions

Regulations in the management of refugees, especially Presidential Regulation No. 125 of 2016, still do not give authority to regions, especially districts/cities, and coordination between institutions that handle refugees starting from discovery, shelter, supervision has not been effective. 1) Temporary handling

of refugees with related agencies such as with UNHCR, IOM, volunteers, police, and other agencies still found problems related to the of each party in handling refugees from abroad. 2) The absence of clear provisions in terms of the provision and use of regional budgets in the handling of refugees makes it difficult for regions to help refugees. Fear and concern in the use of budgets for which there are no clear norms or rules are feared to be problematic with the law, or the existence of provisions governing special budgets that are entrusted by the center to the regions or can be budgeted in the regional budget. 3) The need for Immigration Detention Centers in Aceh for efficiency and law enforcement purposes. The existence of immigration detention centers in Aceh is very much needed, considering the existence of Aceh in a very dense area of sea lanes or the Malacca Strait through which various countries pass. Currently, the cities of Lhokseumawe and North Aceh only have shelter houses built by UNHCR on land owned by the city of Lhokseumawe by transferring temporary shelter assets to the government, under the management of the Immigration Office Kls II TPI Lhokseumawe City. 4) Has not accommodated the values of local wisdom, where in the discovery of refugees still does not accommodate and pay attention to the values of local wisdom, namely the existence of the laot commander as part involved in the discovery of refugees in Aceh, so it needs to be considered for inclusion in the revision of the Presidential Regulation (Novianti, n.d.).

The Absolute Sovereignty approach in the procedure for handling refugees from abroad greatly limits the process of searching and helping refugees (Rahman et al., 2022). For this reason, an approach that prioritizes human values is needed, both at the national and regional levels. 1. Aceh as an area that has privileges and specialties in the field of customs has a customary institution (Panglima Laot) that needs to be involved in the process of handling refugees, especially during discovery, search, and rescue. It is necessary to develop standard operating procedures (POS/SOP), Regional Regulations (Qanun) that accommodate the existence of customary institutions and local wisdom values as a guide for all parties involved in handling refugees. The government may cooperate with international institutions and/or partners to increase the capacity of government officials

involved in handling refugees (Rahman et al., 2022). 2. The potential for trafficking and human smuggling can be minimized by continuing to provide understanding and engaging communities, particularly fishermen and laot commanders, about the dangers and importance of preventing such crimes. In addition, Indonesia needs to continue to make efforts at the regional and international levels to resolve the root cause of refugees in the country of origin (Myanmar) and limit the movement of trafficking and human smuggling syndicates (Marzuki Humas SATGAS Pengungsi Luar Negeri Lhokseumawe, 2023). 3. The government, through the coordination of the Ministry of Political Affairs, needs to establish a Task Force for Handling Refugees at the Provincial level, to facilitate coordination in handling refugees from abroad entering Indonesian territory. 4. Improvement of capacity building programs for the apparatus of related institutions is one that needs to be considered (Fawwaz & Mumtazinur, 2021).

CONCLUSION

The handling of refugees from abroad, as outlined in Presidential Regulation No. 125 of 2016, is currently solely carried out by the Central Government. However, this approach raises concerns regarding the involvement of fishermen in the search and rescue efforts for refugees. Additionally, the local government budgets have not yet accommodated the values of local wisdom. There is a need for coordination among various institutions, including government agencies, in order to effectively address the temporary handling of refugees. This coordination should involve agencies such as UNHCR, IOM, volunteers, police, and other relevant organizations. Challenges still persist in terms of the roles and responsibilities of each party involved in the handling of refugees from abroad.

It is necessary to give authority to the regions, especially districts/cities in coordination between institutions that handle refugees starting from the discovery, shelter, supervision and providing space for the existence of customary institutions and local wisdom values in the process of handling refugees in Aceh. The establishment of Standard Operating Procedures at the Provincial and Regency/City

levels which become a reference for each party in the process of finding, searching, and assisting refugees from abroad is very necessary, so that temporary handling of refugees with related institutions such as with UNHCR, volunteers, police, and other agencies so that the topeks of each party in handling refugees from abroad can be resolved. Clear provisions in terms of the provision and use of regional budgets in the handling of refugees that make it difficult for regions to help refugees and fears and concerns in the use of budgets and problems with the law, or the existence of provisions that regulate special budgets that are entrusted by the center to the regions or can be budgeted in the regional budget. The need for Immigration Detention Centers in Aceh for efficiency and law enforcement purposes. The existence of immigration detention centers in Aceh is very much needed, considering the existence of Aceh in a very dense area of sea lanes or the Malacca Strait that is traversed by various countries, until now in the cities of Lhokseumawe and North Aceh only have shelter houses built by UNHCR on land owned by the city of Lhokseumawe by transferring temporary shelter assets to the government, under the management of the Immigration Office Kls II TPI Lhokseumawe City.

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