

The Dilemma of Handling Asylum Seekers and Illegal Migrants: Expectation and Reality

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ABSTRACT

The number of refugees and illegal migrants fleeing to Indonesia keeps growing significantly since Indonesia poses as a strategic place for a temporary stop before their main destination. This surely brings about predicaments to Indonesia. Against that background, this research aims to answer the question of "How does the Indonesian government respond to the illegal migrant and refugees problem through the Immigration Detention Center (Rudenim) Semarang in Central Java?". This research is an explanatory research, where both primary and secondary data are used to support the findings. Through a qualitative approach, this research found that the government has responded to illegal migrant and refugees problems in a quite excellent manner such as the establishment of rumah detensi imigrasi (rudenim) or detention house and other forms of international cooperation. However, asylum seekers in Indonesia are not fully protected due to some factors such as the lack of regulation, the long-waiting period for the permanent placement and the lack of basic needs. Lastly, the situation only got worse because of the IOM and UNHCR support is still not optimal.

ABSTRAK

Jumlah pengungsi asing dan imigran ilegal di Indonesia terus meningkat, hal ini dikarenakan Indonesia menjadi tempat yang strategis untuk transit ke negara-negara tujuan utama dari para pengungsi asing dan imigran ilegal. Hal ini tentu menimbulkan banyak permasalahan, yang kemudian dalam penelitian ini memiliki rumusan masalah yaitu "Bagaimana Pemerintah Indonesia menangani para pengungsi asing dan imigran ilegal melalui Rumah Detensi Imigrasi (Rudenim) di Jawa Tengah?". Dengan menggunakan metode penelitian eksplanatif berdasarkan dari sumber primer wawancara dengan instansi terkait yang kemudian dianalisis dengan metode kualitatif. Temuan dalam penelitian ini yaitu Pemerintah Indonesia sudah menjalankan perlindungan terhadap pengungsi asing dan imigran ilegal melalui Rumah Detensi Imigrasi (Rudenim) dan berbagai kerjasama internasional, namun masih ditemui beberapa kekurangan masih lemahnya peraturan pengungsi, jangka waktu menunggu yang lama untuk ditempatkan ke negara ketiga, bantuan dasar yang belum terpenuhi dan juga dukungan IOM serta UNHCR yang masih belum maksimal.

Introduction

In the discipline of International Relations, the problem of refugees and illegal migrants remain to be a hard one to solve. Indonesia is situated in a strategic geographical situation since it is located in between 2 oceans and 2 continents, Asia and Australia, and Pacific and Indian Ocean. Indonesia's neighboring country, Australia, is a common destination for refugees. With the growth of refugees, both legal and illegal, not only does Australia strengthen its immigration process, but Malaysia too, is doing its best to prevent refugees from fleeing in. As a result, more refugees are coming to Indonesia, since it 'welcomed' them, or at least, not doing anything to force them to leave. As a majority-muslim-country, Malaysia is one famous destinations for asylum seekers coming from the Middle East. However, refugees from Myanmar are fleeing to Malaysia due to its geographical proximity. Refugees waiting for their legal status are transiting either in Indonesia or Malaysia as they are situated rather closely.

The cases of illegal migrants and refugees in Central Java are not as many as in various areas with Immigration Detention Centers such as Tanjung Pinang, Balikpapan, Denpasar, Jakarta, Kupang, Makassar, Manado, Medan, Pekanbaru, Pontianak, Surabaya, and Jayapura. According to the Assistant Protection Officer of UNHCR, the total number of refugees in Indonesia has reached 13,657 people. Most of them are settled in Jabodetabek approximately 7,147, Medan as the second largest after Jabodetabek and Makassar as the third-largest.¹ However,

¹ Detik News, ' UNHCR Ungkap 13 Ribu Pengungsi dari 45 Negara di RI, Mayoritas di Jabodetabek, 28 Januari 2020, <<https://news.detik.com/berita/d-4876218/unhcr-ungkap-13-ribu-pengungsi-dari-45-negara-di-ri-mayoritas-di-jabodetabek/2>>

the interesting fact about illegal migrants and refugees in Central Java that is worthy to be a case study is the increasing trend in the movement of refugees and illegal migrants from outside Central Java, which was not crowded as now. So that if the infrastructure is not well prepared for refugees in Central Java, such as shelters, funding, and programs, it is feared that it will become a serious problem and bring negative social impacts and vulnerability so it will become a burden for the Central Java Provincial Government and the Semarang Government.

Against this background, this research aims to answer the question "how does the Indonesian government address the problems with illegal migrants and refugees through the Immigration Detention Center (Rudenim) in Central Java?". Relevant previous research in this article includes with the title "The Status of Asylum Seekers and Refugees in Indonesia" which examines the legal status of asylum seekers and refugees in Indonesia according to international and national law, focusing on basic rights for seeking international protection.² Furthermore, studied "Accommodating Asylum Seeker and Refugees in Indonesia: From Immigration Detention to Containment in "Alternative to Detention" which explores "alternative to detention" (ATD) in two regions in Indonesia: Makassar and Aceh.³ Furthermore, an article entitled "Indonesia as a Transit Country in Irregular Migration to Australia" examined the activities managed by the Australian Government through 'Operation Sovereign Borders'

² Tan, Nikolas Feith *International Journal of Refugee Law*, Volume 28, Issue 3, 1 October 2016, Pages 365–383, <<https://doi.org/10.1093/ijrl/ew045>>

³ Missbach, A. (2017). Accommodating Asylum Seekers and Refugees in Indonesia: From Immigration Detention to Containment in "Alternatives to Detention". *Refugee*, 33(2), 32–44 <<https://doi.org/10.7202/1043061ar>>

against illegal migrants and refugees who entered via Indonesia and planned to land on the northern coast of Australia.⁴ Article "Asylum Seeker and Refugees in Indonesia: Problems and Potentials" outline the main political and policy frameworks that affect the lives of refugees in Indonesia.⁵ Further, the research "Pancasila and Pragmatism: Protection or Pencitraan for Refugees in Indonesia?" argues that despite Indonesia is driven by humanitarian principle in helping refugees, it must endorse the 1951 Refugee Convention to support its commitment to Pancasila and the preamble of Indonesian constitution, otherwise, it risks this foundation use as a mere portrayal, or 'window dressing'.⁶

From the previous research above, there is a gap that there has not been discussion about what the Indonesian government has done through the Immigration Detention Center in Semarang in coping with refugees and illegal migrants in Central Java. The novelty of this research lies in how it specifically addresses the cases of illegal migrants and refugees in Central Java. Moreover, the objective of this research is to explore the obstacles and predicaments for the Indonesian government in dealing with illegal migrants and refugees, specifically in Central Java.

Last but not least, this research seeks to contribute to enrich academic research in the international relations discipline especially in better addressing the problems of illegal migrants and refugees.

⁴ Hugo, Graeme et al. 2017. Indonesia as a Transit Country in Irregular Migration to Australia. *The Australian National University*. <<https://doi.org/10.22459/LWG.12.2017.07>>

⁵ Ali, Muzafar et al. 2016. Asylum Seeker and Refugees in Indonesia: Problems and Potentials. *Cosmopolitan Civil Societies Journal* <<https://doi.org/10.5130/ccs.v8i2.4883>>

⁶ Gordyn, Carly. 2018. Pancasila and Pragmatism: Protection or Pencitraan for Refugees in Indonesia?. *Journal of Southeast Asian Human Rights*. <<https://doi.org/10.19184/jseahr.v2i2.8414>>

Research Method

This research is an explanatory research where it aims to explain Indonesia's efforts in addressing the problem of illegal migrants and refugees in Central Java. It uses both primary and secondary data, such as interviews with the Indonesian Ministry of Law and Human Rights, the Directorate of Immigration in Central Java, and the refugees residing in Rumah Detensi Imigrasi (Detention House) in Semarang, Central Java. As for the secondary resources, this research cited reliable sources like international journals, and news.

In order to obtain credible and accurate data, this research is divided into two stages. In the first stage, the authors traced back to how these illegal migrants ended up in Indonesia and efforts made by the government so far. Next, the authors explored the obstacles and struggles faced by the Indonesian government in addressing the problem of illegal migrants and refugees. In the second stages, data obtained right from the related stakeholders and decision-makers are deeply examined. These data are obtained from interviews with people dealing with the illegal migrants and refugees directly. These data are then analyzed and linked with one another with a qualitative approach. As a result, this research will come to a conclusion answering the research question.

Interviews were conducted by visiting the office of the Ministry of Law and Human Rights of Central Java Province and the Immigration Detention Center (Rudenim) Semarang to personally interview stakeholders who understand the regulations and policies regarding illegal migrants and refugees in Central Java, as well as interviewing illegal migrants and refugees in the Immigration Detention Center (Rudenim) in Semarang. The results of the interviews will be used to support evidence as a basis for analysis

regarding the problems and handling of illegal migrants and refugees in Central Java.

Discussion and Analysis

In international relations, issues related to humanity have become one of the most critical issues discussed, especially regarding the issue of refugees and asylum seekers from conflict countries which are currently flooding and spreading to various countries in the world. The definition of a refugee based on the United Nations Convention Relating to the Status of Refugees 1951 is that a Refugee is a person who cannot or will not return to his or her country of origin due to fear of situations that threaten the safety of life in issues such as race, religion, nationality, membership in social groups, or political issues.⁷

King (2012; 9) suggests that international refugees are part of the study of international migration in the study of international affairs. According to King, there are three core groups or three topics of discussion in the scope of international migration; temporary labor migrants, settler migrants, and refugees. In simple terms, according to King, there are two reasons for a person or group of people to migrate across national borders, such as economic and political reasons. Furthermore, migrant status is categorized as internal versus international, temporary versus permanent, and regular versus irregular migration.⁸

In another review, some experts assert that the reason for international migration is solely for socio-political reasons, as stated by Huysmans.

Huysmans' reason is linked to the concept of insecurity in international migration. According to Huysmans, the decision to migrate by a person or group of people does not necessarily pose a threat to other parties related to migration activities. Insecurity in this regard is a socially and politically constructed phenomenon. Therefore, in order to keep the establishment, it can be overcome with socio-political steps as well.⁹

Betts and Loescher's opinion that refugees' issues are part of the scope of the study of international relations.

The study of forced migration has enormous relevance for IR. It touches upon issues relating to international cooperation, globalization, human rights, international organizations, regime complexity, the role of non-state actors, regionalism, North-South relations, and security. Therefore, making the study of forced migration part of the mainstream study of IR has a potentially wide-ranging theoretical contribution to make to the discipline.¹⁰

Regarding international cooperation, international relations theory also studies how conflict arises along with how it can be solved through international cooperation. Cooperation emerges as a way to respond and anticipate what steps will be taken by the actors. Through a negotiation, a collaboration is possible because both parties are aware of their own goals and objectives.¹¹

⁷ UNHCR. 2010. Convention and Protocol relating to the Status of Refugees 1951. <<http://www.unhcr.org/3b66c2aa10.pdf>>

⁸ King, Russell, 2012, *Theories and Typologies of Migration; An Overview and A Primer*, Malmo; Sweden, Malmo University Press, p 8-9

⁹ Huysmans, Jef, 2006, *The Politics of Insecurity; Fear Migration and Asylum in the EU*, London, and NY; Routledge, p 2

¹⁰ Betts, Alexander dan Gil Loescher, 2011, "Refugees in International Relations", in Alexander Betts dan Gil Loescher (eds), *Refugees in International Relations*, NY; Oxford University Press.

¹¹ J.E. Dougherty dan R. L. Pfaltzgraff Jr., 'Contending Theories of International Relations: A Comprehensive Survey', New York: Addison-Wesley Longman, (1997).

In D.W. Bowett's words, international organization is institutions formed based on international treaties with specific objectives.¹² L.L. Leonard in his book, explained the characteristics of international organization:

"International organization has come to have special meaning and characteristics: its the method of conducting international relations by means of fairly permanent agencies to which the member states have assigned responsibilities and authority and through which each government may advocate policies and objectives in furtherance of its national interest."¹³

Aligned with those 2 scholars, international organization is usually formed as a result of international treaties. Consequently the subject of this research are international organizations working together with Indonesian government in addressing illegal migrants and refugees namely the UNHCR and IOM.

Various efforts have been made by the Government of Indonesia, asylum seekers in Indonesia are not fully protected due to some factors such as the lack of regulation, the long-waiting period for the permanent placement and the lack of basic needs. Lastly, the situation only got worse because of the IOM and UNHCR support is still not optimal.

Immigration Detention House

Rumah Detensi Imigrasi (Rudenim) or Immigration Detention House is used as a place to live and temporarily accommodate immigrants, asylum seekers, and stateless people while waiting for confirmation from UNHCR to be assigned to third countries.

Central Java Province developed the Semarang Immigration Detention Center

as the Technical Executive Unit (UPT) of the Regional Office of the Ministry of Law and Human Rights in Central Java. The Immigration Detention Center has the main task in the field of detention of foreigners, and serves the following functions:

- carry out the duty of enforcement
- carry out the duty of isolation
- carry out the duty of repatriation and expulsion/deportation.

Since 4 October 2010, the Semarang Immigration Detention Center has moved to a new building can be seen in Figure 1. However, the construction of the new building has not been completed entirely because there is no cellblock building for foreigners. Meanwhile, the working area of the Semarang Immigration Detention Center covers Central Java Province, DIY, and Central Kalimantan Province.



Figure 1. Semarang Immigration Detention Center Building (2015)

Source: Rudenim Semarang, 2017

The Semarang Immigration Detention Center fosters cooperation with relevant agencies, such as the Immigration Office, Directorate General of Immigration, Police, Embassy/Head of Representative, United Nation High for Commission Refugees (UNHCR), and International Organization for Migration (IOM).

In early 2013, the International Organization for Migration (IOM) provided assistance in the form of the construction of a 2-story Cell Block Building with a capacity of +60 people, and as of December 2014, it has accommodated 87 detainees. By the end of

¹² D.W. Bowett, 'The Law Of International Institutions', London: London Institute of World Affairs, (1970).

¹³ L. Leonard, 'International Organization', Toronto, (1951).

2015, the Semarang Immigration Detention Center has sheltered 115 detainees (112 detainees under IOM and 3 Immigratoir detainees) can be seen in Figure 2. The Detention Center (Rudenim) in Semarang itself operates on the same system, refugees get limited treatment, because they do not have proof of identity and legal documents, therefore, they are prohibited from leaving without the help of the officials.



Figure 2. Cell Block Building of Semarang Immigration Detention Center (Back view)
Source: Rudenim Semarang, 2017

In November 2016, as many as 101 (one hundred and one) detainees of illegal migrants and refugees have been placed in the Semarang Immigration Detention Center can be seen in Table 1. This shows that the detainee's capacity has exceeded its capacity, but it can still be overcome for many detainees who have families so that they can be settled in one block and there is good coordination between security officers and detainees. This is stated in the appendix to the Report of the Registration, Administration, and Reporting Section and the Security and Order Section.

Table 1. Immigrant at Semarang Immigration Detention Center

No.	Warga Negara	Jumlah (orang)
1.	Irak	12
2.	Afganistan	36
3.	Iran	7
4.	Somalia	20
5.	Ethiopia	3
6.	Nigeria	1
7.	Srilanka	4
8.	Pakistan	8
9.	Myanmar	1
10.	Palestina	3
11.	India	1
12.	Taiwan	2
13.	Kongo	1
14.	Jerman	1
15.	Kingdom of Lesotho	1
TOTAL		101 orang

Source: Rudenim Semarang, 2017

In October 2017, 156 (one hundred and fifty six) detainees were allocated in the Semarang Immigration Detention Center. This shows that the detainee's capacity has exceeded its capacity, but it can still be overcome for many detainees who have families so that they can be settled in one block and there is good coordination between security officers and detainees.

The Directorate General of Immigration sees that there are some refugees in Indonesia who bring problems, such as those who marry local people even though they do not have an identity card. When they have kids, the kids will be left in confusion since one of their parents does not possess legal status in this country.¹⁴

Refugees and Illegal Migrants in Central Java

The Central Java region, especially Semarang, serves as a strategic place for

¹⁴ M. Alvi Syahrin et al., 'Legal Impacts of the Existence of Refugees and Asylum Seekers in Indonesia', *International Journal of Civil Engineering and Technology*. (2018).

transit as it is a provincial capital. In addition, there is a Detention House for refugees coming from the Middle East.¹⁵

These migrants, more often than not, come with neither official documents nor proof of identity which troubles the government of Semarang. The high number of unidentified migrants causes an overcapacity in the Detention House. Moreover, based on the interview with the Chief of Immigrations of the Ministry of Law and Human Rights in Central Java, there are other problems when it comes to handling the incoming flow of refugees. One of them is how it takes too long for UNHCR to decide where these refugees are going to be placed. As a result, they are forced to stay in the Detention House much longer. One of the migrants has been waiting for 8 years. This puts Indonesia in between a rock and a hard place. On one hand, since Indonesia has not sign the 1951 Convention, it does not have an allocated budget to treat these refugees. On the other hand, it cannot just leave them untreated since it is against the principle of humanity. Indonesia can only hope that the UNHCR can respond to this problem quickly. One time, there was a commotion as a group of asylum seekers from Afghanistan was abandoned in front of a tenant in Sugriwo Street, Krapyak, Semarang.

They requested to be placed in the Detention house, however, they had to be sent back to Jakarta by the immigration official since the Detention House can no longer accommodate more asylum seekers. This event went viral and became a hot topic in social media. Reportedly Semarang Rudenim Officer, 140 refugees are staying in Rudenim (Detention House) where they come from Afghanistan,

¹⁵ M Syukur, 'Tuntut Kejelasan dari PBB, 120 Imigran Gelap di Riau Mogok Makan', *Liputan6*, 19 Oktober 2015, <<https://www.liputan6.com/news/read/2343966/tuntut-kejelasan-dari-pbb-120-imigran-gelap-di-riau-mogok-makan>>.

Somalia, Sudan, Iran, Pakistan, Sri Lanka, Vietnam and Iraq. Interviewed separately, the owner of the food stall, admitted that his stall had been inhabited by the family for about 9 days. He also said that he did not recall to have met any of them before.¹⁶ Prior to leaving to Semarang, this family had stayed in Bogor for 4 months while waiting for the UNHCR decision.¹⁷

This phenomenon is viewed by the Chief of Immigration of Central Java, as an act of self-abandonment where they purposely fly away from the protection of UNHCR. This might have happened because they have been persuaded to go to the Rudenim (Detention House) in Semarang. If this type of case is accepted in the Detention House, there is no doubt that more and more refugees will seek to be placed in the Rudenim, said the Chief of Immigration of Central Java. Sending the family back to Bogor was a wise decision to prevent refugees from fleeing away while waiting for the approval of the UNHCR.¹⁸

Hundreds of illegal immigrants still live in the Immigration Detention Center (Rudenim) Semarang, Central Java, because they are caught up in various problems. This might lead to other problems, especially for the government of Semarang. The Head of Information and Communication Facilities for Class I Immigration in Semarang, revealed that as many as 108 illegal migrants have problems related to immigration, which make them have to stay in the Rudenim. It is feared that the number of illegal

¹⁶ Jawapos, 'Rumah Detensi Imigrasi Ini Pulangkan Imigran yang Menggelandang', *Jawapos.com*, 8 November 2017, <<https://www.jawapos.com/jpg-today/08/11/2017/rumah-detensi-imigrasi-ini-pulangkan-imigran-yang-menggelandang/>>.

¹⁷ Nazar Nurdin, 'Kisah Imigran Afganistan Cari Suaka, Ditolak Imigrasi Hingga Tidur di Tenda Mi Ayam', *Kompas.com*, 7 November 2017, <<https://regional.kompas.com/read/2017/11/07/14433671/kisah-imigran-afganistan-cari-suaka-ditolak-imigrasi-hingga-tidur-di-tenda?page=all>>.

¹⁸ Ibid

foreigners who live in the detention center is not in accordance with the building capacity. The illegal foreigners mostly come from the Middle East, such as Iran, Afghanistan, Palestine and Pakistan. Almost every week, the number of illegal foreigners in the detention center is increasing. These migrants stay in the Detention House not just for a few days, but there are some of them who stay for months, even years. As experienced by asylum seekers from Afghanistan A (39 years) who has lived in the Rudenim Semarang for 8 years, M (45 years) from Myanmar for 2 years, and D (16 years) from Iran for 2 years.¹⁹

Furthermore, The Head of Information and Communication Facilities for Class I Immigration in Semarang added that migrants who have stayed for too long will be reported to the Embassy in Jakarta. In her opinion, most of these illegal migrants are asylum seekers and ended up in Indonesia out of their intent. These migrants view Indonesia not as a final destination, but rather as a transit place. Most of them are unwilling to go back to their home country.²⁰ The rudenim is planning to send back 51 migrants to Jakarta as it is currently overloaded. Most of them came from Afghanistan. According to A (39 years) asylum seeker from Afghanistan, the number of Afghans in the Semarang Rudenim is 29 people.

A (39 years), an Afghan asylum seeker of Hazara ethnicity, admitted that he did not want to return to his country because he felt insecure and there were social and political turmoil, such as wars between ethnic and religious groups that had killed his son and he feared that he

would be killed if he returned to his home country. Likewise, M (45 years), an asylum seeker from Myanmar, has left the country due to the chaos of the political crisis in 1998. J (48 years), an asylum seeker from Sri Lanka who came from Batticaloa district also left the country because of the civil war of the Liberation Tigers of Tamil Eelam (LTTE) rebellion, while MA (42 years), an asylum seeker from Somalia, left the country because of discrimination against minority.²¹

There are two reasons for a person or group of people to migrate across national borders, which are economic and political reasons. The reason for the asylum seekers aforementioned is because of the political turmoil in their countries that is impossible for them to survive and work to make ends meet.²²

On average, migrants occupied the Rudenim in 3 years. The Head of Information and Communication Facilities for Class I Immigration in Semarang stated that previously, they stayed in Bogor. She said that the 51 illegal immigrants previously lived in the Bogor area. But unexpectedly in the last few months, there have been people who have mobilized the displacement of these refugees to Semarang, "we have sent a letter to the Director of Enforcement and Supervision of the Ministry of Law and Human Rights to return them to Jakarta again," said the Ministry of Law and Human Rights, Directorate General of Immigration, Central Java Province.

In efforts to reduce the number of migrants occupants in Semarang, the Ministry of Law and Human Rights, Directorate General of Immigration, Central Java Province continues to relocate the refugees, because the number of immigrants is more than 130 people even

¹⁹ Interview with asylum seekers at the Rudenim Semarang.

²⁰ Rieke Caroline, 'Jumlah WNA di Rudenim Semarang Capai Angka Tertinggi', *Metrotvnews.com*, 16 Maret 2016, <<https://www.metrotvnews.com/play/NglU5ooG-jumlah-wna-di-rudenim-semarang-capai-angka-tertinggi>>.

²¹ Interview with asylum seekers at Rudenim Semarang

²² King, Russell, 2012, *Theories and Typologies of Migration: An Overview and A Primer*, Malmo; Sweden, Malmo University Press, p 8-9

though only 60 rooms are available. The Ministry of Law and Human Rights, Directorate General of Immigration, Central Java Province continues to emphasize that the detention center is actually a waiting place for immigrants who are waiting for the process of returning to their country of origin, not a place for illegal immigrants to find a place to live.²³

The Lack of Refugee Regulations in Indonesia

Under the lack of refugee regulations, refugees, asylum seekers, and stateless people fall under the category of illegal migrants, therefore, they are under the possibility of being deported. The refugees also feared of being deported to their country of origin, since most of the refugees left their country because of the conflict that occurred, so if they were to be returned, their life is at risk. Like A (39 years old) from Afghanistan asylum seeker where his son has been killed so he is also afraid to return to his country.²⁴

Although the status of illegal migrants or so-called *immigratoir* with asylum seekers is different, *immigratoirs* are usually related to foreigners who face regulatory problems such as overstay and crime, while asylum seekers are foreigners who are looking for a new place to live because their original place does not allow them to. According to the Semarang Immigration Detention Center employee, refugees are grouped into 2 (two), *force migrants* due to conflicts in their home country and *unforced migrants* due to their own will to change their fate, such as looking for a work opportunity or a better life.²⁵ As expressed by D (16 years), an asylum seeker woman from Iran who set foot in Indonesia with her mother because

she wanted to follow her older sister who had lived and worked in Australia for a long time and that she could work there.²⁶ Meanwhile, Immigration Detention Center was originally used for immigrants, not refugees. In Semarang during 2017, there were only 5 immigrants and the remaining 151 were asylum seekers.

Therefore, the assessment of asylum seekers must be conducted accurately and transparently, which is not only acknowledged by UNHCR but also the Indonesian government so that refugee status can be accounted for. As affirmed by Dougherty and Pfaltzgraff (1997), international cooperation must come to win-win solutions, not leave Indonesia with all matters yet still overcomes the refugee problem. Determination of status to be a refugee (Refugee Status) is decided in two stages: 1. Discovery or determination which ascertains that one is a refugee based on existed facts; 2. Facts are paired with the conditions in the 1951 Convention and the 1967 Protocol. Then, it will be decided whether the person is considered a refugee or not.²⁷

Indonesia had not yet ratified the 1951 Refugee Convention, so in dealing with refugees and asylum seekers, the Indonesian Government collaborated and allowed two international organizations, namely UNHCR and IOM. UNHCR (United Nations High Commissioner for Refugees) itself is an institution that deals with the status of asylum seekers and who later assigns them to third countries. Meanwhile, IOM (International Organization for Migration) is responsible for basic assistance such as clothing, food and shelter assistance until they are assigned to a third country or return to

²³ Interview with asylum seekers at Rudenim Semarang

²⁴ Interview with asylum seekers at Rudenim Semarang

²⁵ Interview with Semarang Rudenim employees

²⁶ Interview with asylum seekers at Rudenim Semarang

²⁷ Elsam, *Perlindungan Pengungsi (Refugee) Menurut Hukum Internasional*, 27 Oktober 2014 <<https://referensi.elsam.or.id/wp-content/uploads/2014/10/Perlindungan-Pengungsi-Refugee-Menurut-Hukum-Internasional.pdf>>

their country of origin. The Indonesian government itself allows UNHCR to operate in Indonesia through the Director General of Indonesian Immigration issued an Instruction in 2010 (No: IMI-1489.UM.08.05) which states that all forms of determining the status of refugees must be referred to UNHCR “the status and presence of foreigners who are holding Attestation Letters or ID cards issued by UNHCR as Asylum Seekers, Refugees or persons served by UNHCR, must be respected”. For immigrants whose documents are incomplete that have been issued by UNHCR, that person will be threatened with entering the detention center, subject to fines, and / or deportation.

Although the Government of Indonesia allows UNHCR to operate in Indonesia, its staff capacity is still limited, because UNHCR approximately has 60 staff in Indonesia, while asylum seekers continue to grow from year to year. As of the end of July 2020, a total of 3,375 asylum seekers and 10,278 refugees were registered with UNHCR Jakarta.²⁸

Asylum seekers seeking both protection and place in a third country must register with UNHCR. These asylum seekers must apply for refugee status through various Refugee Status Determination (RSD) procedures. These procedures include going through the interview stage accompanied by a translator due to language barriers to get protection. If the procedure has gone through and the application is rejected, RSD can still file an appeal once.

According to research by Australian scholars, there are still legal aspects of protection for asylum seekers in Indonesia that still need attention. Independent legal assistance is one solution to this problem, “most of the Asylum Seekers and

Refugees interviewed seemed to have little understanding of the legal substance of their cases or of UNHCR's Determination of Status as Refugee procedures in Indonesia”.²⁹

Based on previous cases and interviews with researchers at the Semarang Immigration Detention Center, it is easy for UNHCR to issue refugee certificates but it is doing its job rather slowly. Thus, the Indonesian Government itself is left in confusion, on the one hand, Indonesia does not yet have a budget for handling refugees because Indonesia has not signed and ratified the Refugee Convention. On the other hand, Indonesia has inevitably become a transit country, because refugees are still waiting for certainty from third (recipient) countries.

UNHCR is coordinating with the International Organization for Migration (IOM) and the Indonesian government is also looking for alternative shelters. Like housing rented out to refugees is mostly funded by IOM. In addition, UNHCR is also persuading the government to allow the foreign refugees to be able to earn their own living so that they do not solely rely on aid funds provided by UNHCR or IOM.³⁰ Although this will certainly burden the Indonesian government because Indonesia is struggling with the unemployment rate of its people.

Even though Indonesia has not signed the 1951 Refugee Convention, Indonesia is acting on the basis of human rights. However, in the absence of a clear legal framework, causing refugees to live in adrift, they certainly do not have

²⁸ UNHCR Indonesia, Penentuan Status Pengungsi, <<https://www.unhcr.org/id/penentuan-status-pengungsi>>

²⁹ S. Taylor & B. Rafferty-Brown, ‘Difficult Journeys: Accessing Refugee Protection in Indonesia’, *Monash University Law Review*, 36.3 (2010), <<https://ssrn.com/abstract=1717242>>.

³⁰ CNN Indonesia, UNHCR: Rudenim Bukan Tempat Tampung Pengungsi Asing, 5 April 2018, <<https://www.cnnindonesia.com/internasional/20180405142110-106-288510/unhcr-rudenim-bukan-tempat-tampung-pengungsi-asing>>

refugee protection in Indonesia, besides that waiting to be placed in a third country takes a long time, and while not being guaranteed that they will be accepted by the recipient countries.³¹

Placement in the Third Countries

The UNHCR offered three solutions to asylum seekers acquired the status of refugee:

Placement to third countries

Return to the country of origin when the conflict has subsided

Unification with the local community

For the third offer, it all depends on Indonesian government as it has not ratified the 1951 Refugee Convention and therefore is not obligated to accept refugees from the UNHCR.

In Central Java Province, particularly Semarang, it has planned to build a refugee shelter in the form of a community house which has been discussed by various institutions such as the Ministry of Law and Human Rights of Central Java Province, Semarang Government, Social Service, National Unity and Politics, and other relevant institutions. This is because the community house as per Presidential Regulation no. 125 of 2016 on Handling of Foreign Refugees Article 24 paragraph 3 states that the temporary shelter shall be determined by the head of regency/mayor. According to an employee of the Ministry of Law and Human Rights of Central Java Province, a refugee shelter in the form of a community house or temporary shelter will be supported by IOM so it is not sporadic. It is accommodated in one place, but from an immigration perspective, it is necessary to consider security because gathering refugees in one place will surely gradually integrate and interact with the environment. This should not disturb the environment and brings negative social impact, as many

³¹ Nikolas Feith Tan. 'The Status of Asylum Seeker and Refugees in Indonesia'. *International Journal of Refugee Law*. (2016).

cases of male refugees in productive age committing illegal marriages.³²

Lack of IOM & UNHCR Support

Long waiting times for asylum seekers and refugees occur due to various reasons, the increasing number of refugees, the lack of shelter, and the limitations of UNHCR in handling refugees. Various social problems also arise among refugees, the most common of which are frustration and depression due to the lack of clarity for refugees. One of the most common problems is health problems, this is due to the lack of access to health, education and employment. The long waiting process caused many problems to arise, on the one hand the refugees could not do anything like work, but on the other hand the Indonesian government could not do anything because it was not part of Indonesia's responsibility.

As admitted by M (45 years), an asylum seeker from Myanmar, experiences exhaustion of waiting for his status as a refugee at the Semarang Detention Center, besides he does not participate in many activities, eats and sleeps but occasionally helps wash the cars of the Semarang Immigration Detention Center employees. He is vegetarian and does not eat meat due to the frustration that he was frequently admitted to the hospital as a result of anemia 5 times.³³

To prevent this from happening to other asylum seekers, the Semarang Immigration Detention Center employee created several programs for immigrants and refugees, such as Spiritual Activity, Handy Craft and Creativity Class Activity, Fitness and Gymnastics Activity, Tourism Activity, Cooking Class, International Migrants Day and Deportation.³⁴ As

³² Interview with employees of the Ministry of Law and Human Rights in Central Java Province

³³ Interview with asylum seekers at Rudenim Semarang

³⁴ Semarang Immigration Detention Center

expressed by D (16 years), a refugee from Iran, now can make clothes after training in the Semarang Immigration Detention Center can be seen in Figure 3.



Figure 3. Training on making handicrafts for asylum seekers at Rudenim Semarang
Source: Rudenim Semarang, 2017

According to an employee of the Semarang Immigration Detention Center, if refugees are sick, they will provide an ambulance, while IOM will cover the costs for recreational activities or shopping, Immigration Detention Center will provide car, whereas the operational and cost will be the responsibility of IOM. Apart from that, there are medical check-up by doctors, education from the Indonesian Planned Parenthood Association (PKBI), as well as training in Indonesian and English classes so that the refugees will not face difficulty communicating in Semarang.

Seeing how Indonesia is not a signatory of the 1951 Refugee Convention, it is also not obliged to accept refugees, let alone allow refugees to mingle with local communities. Thus, the refugees are centered in one specific location, namely the shelter for refugees, besides that they are also not allowed to have Identity Cards (KTP) or national identity cards, because they are not Indonesian citizens, so due to these limitations, the refugees and asylum seekers are unable to work in Indonesia.

The community house itself contains refugees who volunteer to provide

educational assistance and skills to one another. The refugees who have more skills, both in language and other skills, they teach their fellow refugees, this can be a form of assistance to others. Even though there is a community house, the refugees are still very dependent on structural factors in the local area. This is due to differences in background, language, ethnicity and culture. It is not uncommon for discrimination to arise. In addition, the refugees do not possess legal documents, so there is not much they can do. Although there is no community house in Semarang, as asserted by the Semarang Immigration Detention Center employee, several refugees who have skills and creativity are invited to do social service activities to one of the street children's communities in Ungaran to teach knitting.³⁵

Conclusion and Suggestion

In conclusion, this article found that the Indonesian government has put its best effort in protecting refugees, especially in protecting their fundamental rights. One of them is by providing Rudenim (Immigration Detention Center) in Semarang.

Inside the Detention Center, the government of Indonesia has also provided training for the asylum seekers therein. For example, English and Indonesian training, sewing, and knitting. These trainings are aimed to equip these refugees with skills that will be useful for them in the future. On top of that, the government is committed to fulfilling their basic needs such as daily meals, three times a day.

However, the Detention Center still has lots on their plate. For instance, the refugees outweighed the capacity of the building they keep on coming. In addition, there is a cultural block such as language barriers, which makes it hard to communicate. This sometimes can lead to

³⁵ Interview with Semarang Rudenim employees

quarrels among refugees. As for the health aspect, the Rudenim has yet to provide health services and a 24 hours emergency center due to the lack of human resources and shelter buildings.

Finally, based on the findings of the research, the authors would like to make a few suggestions for Indonesian government, especially the government of Semarang. It would be best for the Rudenim to hire more people as the number of refugees continues to rise. In the future, it is also best that the Semarang Government can further unify coordination in addressing problems pertaining to refugees to prevent misperception among institutions. Although Indonesia has not yet ratified the 1951 Refugee Convention, it is hoped that the Indonesian Government can issue policy to maintain the stability of the country and cooperate with external institutions such as the IOM (International Organization for Migration) and UNHCR (United Nations High Commissioner for Refugees).

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