

## Legal Protection Aspect of Refugees in Indonesia (Case of Rohingya's Refugees)

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### Abstract

The problem of refugees is a classic problem that often arises in the history of civilization of mankind. Commonly, the reason of refugee is because of human rights violence in their state. According to data from the United Nations High Commissioner for Refugees (hereinafter abbreviated UNHCR) in January 2012 for example, there are 3275 asylum seekers and 1052 refugees, one of which is Rohingya refugees who fled to Indonesia. Since it has not ratified the 1951 Convention and the 1967 Protocol, the Government of Indonesia has no authority in addressing refugee issues. The authority to deal with refugees is given to international organizations such as UNHCR which is a UN organization, IOM, ICRC and various other humanitarian organizations or NGOs. However, the handling of this international organization has not been implemented optimally due to constraints. These constraints include limited funding, duration of placement to third countries, lack of adequate legal regulations, and immigration detention houses that exceed the capacity and treat refugees improperly.

**Keywords:** *International Law*, Refugee, Rohingya, 1951 Convention.

### Introduction

The problem of refugees is a classic problem that often arises in the history of civilization of mankind. There are various causes that make people evacuate. These things can be caused by fear that threatens their safety. In the beginning, the migration of the population was only a domestic problem of a country but along with the many countries concerned with this issue that it became a common problem. Refugees crossing national borders and entering into a sovereign territory deserve attention because it is a universal matter.

Refugees who leave their place of origin are caused by various factors that are usually due to things that could endanger the lives of refugees if they are still living in their original areas such as war or persecution. They do not get protection from their own country, and often their own governments threaten to persecute them. It is equivalent to giving death decisions for them to live miserably in the shadow of life without the means of life and without any right to them, if other countries do not accept them, and not help them after entering their country (UNHCR, 2007).

Protection against refugees International departs from an understanding of human rights in general that every human being has the same rights and obligations. Similarly, the law regulating the treatment of refugees departs from international law on human rights. So talking about refugees can not be separated from the discussion of human rights

The refugee situation has become a classic example of the interdependence of the international community. It has been very evident how the issue of refugees of one State can bring direct consequences to other States. It is also an example of interdependence between the problems. There is a clear link between the issue of refugees and human rights issues. Violations of human rights are not only among the major causes of the mass exodus, but also eliminate voluntary repatriation options as long as they occur. Violations of the rights of minority groups and inter-tribal dispute are increasingly becoming the source of mass exodus and displacement within the country. Refugees have the right to be respected before, during and after the asylum seeking process. Respect for human rights is a necessary condition to prevent and resolve current refugee issues.

According to data from the United Nations High Commissioner for Refugees (hereinafter abbreviated UNHCR) in January 2012 for example, there are 3275 asylum seekers and 1052 refugees. The presence of refugees and asylum seekers in Indonesia is not a new thing. Their existence has existed since tens of years ago. In the era of Suharto's leadership, Indonesia became the destination country for asylum seekers and refugees of Vietnam in 1979 after Saigon (capital of South Vietnam) fell into the hands of North Vietnam. Hundreds of thousands of people have fled the area to seek shelter in other countries either by way of rivers, air routes or sea lanes (Suprpto, 2004).

One of the refugees who is being preached today is Rohingya refugees. Rohingya is a Muslim community which is a minority group who settled in Arakan, west of Myanmar. The characteristics of the Rohingya people are evident from the physical, linguistic, and cultural look that shows the proximity of the Rohingya people to the South Asian community, especially the Chitagonians. In the course of time since Myanmar was controlled by the Military Junta, its Rohingya people were subjected to various forms of violence and other acts that violated their human rights. Many were forcibly employed to build roads and military camps, were abused

and women were victims of rape.

The Myanmar government that is supposed to be responsible for Rohingya people is taking an upside down attitude and letting the fate of the Rohingya people in a heartbreaking condition. As a result, until now there is still a wave of escape and refuge from Rohingya who spread to various countries, including Indonesia.

While Indonesia is not a member of the 1951 Convention on Refugees and protocols of 1967, there is no national legal regulation that specifically regulates asylum seekers and refugees in Indonesia. As a transit country, Indonesia has made efforts to better refugees, for example ratifying Various human rights instruments (hereinafter referred to as Human Rights) International and also produce national human rights instruments. These efforts are none other than Indonesia's commitment to uphold human rights. This is done by Indonesia as a member of the United Nations which is morally responsible to implement Universal Declaration of Human Rights (UDHR) or the General Declaration of Human Rights (hereinafter referred to as the Universal Declaration of Human Rights). It is also in line with the purpose of the state as stated in the preamble of the 1945 Constitution of the Republic of Indonesia (UUD RI) mentioned that one of the aims of the state is to participate in implementing a world order based on freedom, eternal peace, and social justice.

In this case UNHCR is a high commission in the United Nations for refugee affairs with the authority to deal with refugees in Indonesia.<sup>9</sup> Refugees residing in Indonesia need protection. Protection of refugees is not only about granting asylum, but in other forms of legal protection of their rights as well as protection against violence and threats of repatriation to their home countries. Learning from Rohingya case, there are many problems that can be taken advantage of, given until now Indonesia has not become party to the 1951 Geneva Convention on Refugees and Protocol 1967. Whereas from day to day the number of refugees who enter Indonesia more and more will inevitably will become Burden from the Government of Indonesia.

Based on the above facts and opinions, the authors are interested in discussing and conducting research related to this issue under the title "Legal Protection Aspect of Refugees (Case of Rohingyas Refugees)"

## **Literature Review**

### ***Refugees***

The term refugees in everyday use has a broader meaning that someone who is on the run who is trying to escape from deep conditions can not be tolerated. The purpose of this escape is to gain freedom and security. The reason someone did this escape could be due to oppression, the threat of his soul's safety, prosecution, poverty, war or natural disaster (Goodwin-Grill, 1996).

It is important to define refugees as a standard terminology in international law. It is aimed so that there is no distortion in analyzing which and how then people can be categorized as refugee status. It must necessarily refer to a terminology or a literal term commonly used or a term used jurisdictionally. In the grammar of the law, it is clear that all the terms in the legal language must have a clear definition. There can not be then a term or terminology in legal language that has no clear boundaries so that the consequences there will be multiple interpretations in the definition. The defined terms of law are then codified in a legal dictionary and used in conventions or other rules concerning refugee issues. This definition is then described in the Black "s Law Dictionary refers to" A person who arrives in a country to settle there permanently; A person who immigrates ".

The limits of refugees under Article 1A paragraph (2), 1951 Convention concerning Determination of Refugee Status are: "... as one who owing to will founded fear of being persecuted for reason of frase, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and unable or owing to such fear, is unwilling to avail himself of the protection of that country or who, not having nationality and being outside the country of his former habitual residence as result of such events, is unable or owing to such fear, is unwilling to return to it".

The limits clarified in that article are those outside the country of origin or of the original residence. This is based on the occurrence of legitimate fears that will be disturbed his safety as a result of tribalism, religion, citizenship, membership in a particular social group or political opinion it embraces. As well as a person or group of people who are unable or unwilling to obtain protection for themselves from the country of origin or return, or return there, because of concerns about his safety.

Meanwhile, in the UNHCR Statute particularly in Article 6B, refugees are defined as persons residing abroad or their original residence. Thus the limits of refugees relate to cross-border boundaries. The reason for being referred to as a refugee is more or less the same substance as the 1951 Convention that a person or group may be referred to as a refugee when legitimate fears will be disturbed by his safety as a result of tribalism, religion, citizenship, membership in a particular social group, or political opinion he embraces. In addition, it must be proven later that they do not get protection for themselves from their home country.

Carefully observing such a definition or limitation, in its explanation, the International Refugee Law in its true translation describes three important points contained in the definition of refugees. First, the person must be outside his country. Second, in a condition of well-founded fear, is a condition in which the possibility of occurrence (or potentially) of persecution occurs. Third, a condition which can be proven in a state of "unable" or "unwilling" to entrust the protection of the country of origin

The definition of refugees also aims to identify refugee status and distinguish it from asylum seekers. Refugee status is the stage of the asylum seeking process outside the country of origin. A refugee is at once an asylum seeker. This is true because before the status as a refugee, the person is an asylum seeker. On the other hand, asylum seekers are not necessarily refugees. He can only be categorized as a refugee after being recognized by status through international legal instruments.

Inventory of some terminology or term is also done by Achmad Romsan (2002). At least Romsan has identified six related terms. Or grow with refugees. First, economic migrants (economic migrants). Romsan defines the term as "person who, in the pursuit of employment or a better over all standard of living (that is motivated by economic considerations) leave their country to take residence else where". Economic migrants are individuals or groups of people seeking employment, leaving their country with economic considerations. Second, refugees sur place. Romsan describes it as " *A person who was not a refugee when she left her country but who became a refugee at a later date. A person became a refugee sur place due to circumstances arising in her country of origin during her absence*". Refugee sur place is a person or a group of non refugees while in his country but then becomes a refugee because in his home country when the person or group of persons is not in his country.

Third, Statutory refugees. Romsan defines it as "persons who meet the definitions of international instruments concerning refugees prior to the 1951 Convention are usually referred to as" statutory refugees ". Statutory refugees constitute a person or group of persons who meet refugee criteria according to international refugee law instruments prior to 1951.

Fourth, war refugees defined by Romsan as " *persons compelled to leave their country of origin as a result of international or national armed conflict are not normally considered refugees under the 1951 Convention of 1967 Protocol. They do however have the protection provided for in other international instruments , i.e. the Geneva Conventions of 1949 , et.al. in the caswof forces invansion and subsequent occupation, occupying forces may begin to persecute segments of the populations. In such cases, asylum seekers may meet the conditions of the Convention definition.*"

Fifth, mandate refugees and sixth, statute refugees. Malcom Proudfoot provides refugees with a sense of refugees from World War II. Although it is not clear in terms of understanding about refugees, the notion is: " *These forced movements, ...were the result of the persecution, forcible deportation, or flight of Jews and political opponents of the authoritarians governments; the transference of ethnic population back to their homeland or to newly created provinces acquired by war or treaty; the arbitary rearrangement of prewar boundaries of sovereign states; the mass flight of the air and the terror of bombardment from the air and under the threat or pressure of advance or retreat of armies over immense areas of Europe; the forced removal of populations from coastal or defence areas under military dictation; and the deportation for forced labour to bloster the German war effort*'.

Thus it can be concluded that refugees are people who are forced to move elsewhere by persecution, forced deportation, or expulsion of Jews and political resistance of the ruling government, certain ethnic return to their home country or new province arising from war Or agreement, the unilateral frontier setting before the war. Massive civilian displacement resulting from air strikes and pressure or threat from the military in some parts of Europe, forcible transfer of population from coastal areas or defense areas to military orders, and the return of forced labor to the German war.

Pietro Verri provides a definition of refugees by quoting the article 1 of the UN Convention on the Status of Refugees of 1951 as ' applies to many people who have fled the country of his nationality to avoid the persecution or the threat of persecution'. Pietro Verri refugees are the people People leaving their country because of the fear of torture or the threat of torture. According to the 1951 Convention to those displaced still within the scope of its territory can not be referred to as refugees.

S. Prakash Sinha provides the refugee understanding as follows: " *The international political refugee may defined as a person who is forced leave or stay out his state of nationality or habitual residence for political reasons arising from events occurring between that state and its citizens which make his stay there imposible or intolerable, and who has taken refugee in another state without having acquired a new nationality.*" From this point of view, it can be emphasized that in general, a refugee must meet the following criteria:

- a) The reason must be based on political factors
- b) The political issues arise between the state and its citizens;
- c) There are circumstances which require the person to leave his country or place of residence, either voluntarily or necessarily;
- d) Returning to his country or his place of residence is not possible, because it is very dangerous to him;
- e) The person must request the status of a refugee in another country;
- f) The person does not get new citizenship

### **Refugee typology**

In international refugee law the term refugee is known to vary with terms related to refugees. The term then

leads to the types of refugees. There is a distinguishing factor between each refugee, various motives, background so that people can be known as refugee status. If the variant of the motive varies then the refugees can be known with various terms such as; Economic migrants, Refugees sur place, Statutory refugees, War refugees. Meanwhile, if the background variables of the refugees can be grouped into two types, namely:

- a) Displacement due to natural disaster (Natural Disaster). This refuge is in principle still protected by the country out to save his life, and these people can still ask the country where it came from.
- b) Disaster caused by human made disaster (Man Made Disaster). Refugees are out of their country for avoiding the demands (persecution) of the country. Usually these refugees because political reasons are forced to leave the country, these people no longer get protection from the government where he came from.

Of the two types of refugees mentioned above that are governed by International Law as Refugee Law is the second type, while refugees due to natural disasters are not regulated and protected by international law. Returning to the discussion of the refugee term from the variant of its motive, known in the International Refugee Law called the Statutory Refugees are refugees from a particular country that does not receive diplomatic protection. What can be categorized as Statutory Refugees are those that meet the requirements as mentioned in international agreements prior to 1951.

In fact, before 1951 there was already an international legal instrument of consent but regional or local in the United States and Europe, for example, that made the regulations of refugees but only local. International agreements are regional in nature usually involves three things:

- a) Asylum Seeker
- b) Travel Document
- c) Travel Facilities

Giving asylum mainly in Latin American countries by making many regional agreements, there is also much in Africa about the specific aspects of the refugee problem signed in 1969, later in Asia in the form of a declaration of a statement by the Asian-African Legal Consultative Committee In Bangkok, its members are Law Scholars from Asia and Africa, held in 1966 stating that the principles of treatment of refugees are universal and regional as well. Giving status as an Asylum Seeker to distinguish the status of refugees is also very important. Because the difference is substantive, that all refugees can be categorized Asylum Seeker, but not all Asylum Seeker can be categorized as refugees. Explanation of terms for refugees such as Statutory Refugee:

- a) Statutory Refugee is the status of a refugee in accordance with the agreement of International before 1951.
- b) Convention Refugee is a refugee status under the 1951 Convention and 1967 Protocol. Here refugees reside in a Contracting State or a party to the Convention. Determining the status of refugees is a refugee country (the country in which the refugees are located) with the co-operation of the country with UNHCR, a form of cooperation such as: by including UNHCR in the commission establishing refugee status, other forms of cooperation the country concerned shall submit mandate entirely to UNHCR to determine whether a person is a refugee or not a refugee.
- c) The Mandate Refugee is to determine the status of refugees not from the 1951 Convention and 1967 Protocol but under the mandate of UNHCR. Here refugees reside in a country which is not a party to a convention or non-State party. The author of setting refugee status is UNHCR not a refugee country. Why is the Mandate Refugee not defined by the refugee country? This is because the country is not a party state in the convention, consequently he can not take legal action as in the convention earlier.
- d) Other refugees (human causes): Some are not protected by UNHCR, for example: Palestine Liberation Organization (PLO), because the PLO has been administered and protected by other UN agencies then excluding the UNHCR power environment.

Furthermore, Haryomataram divides two kinds of Refugees, namely Human Rights Refugees and Humanitarian Refugees.

- a) Human Rights Refugees are those who are forced to leave their country or home because of "fear of being persecuted," due to race, religion, nationality or political beliefs.
- b) Humanitarian Refugees are those who (are forced) to leave their country or home because they feel insecure because of the conflict (armed) that rages within their country. They in general, in countries where they are displaced are considered as "aliens". According to the 1949 Geneva Convention, these "aliens" are treated as "protected persons". Thus they are protected as prescribed, both in the Geneva Conventions of 1949 (especially Part IV), as well as in Additional Protocol II of 1977.

Thus it can be said that both the International Humanitarian Law and the International Refugees Law both deal with the issue of refuges. International Humanitarian Law provides protection to humanitarian refuges, while International Refugees Law regulates human rights refugees. This distinction must be clear so that there is no bias interpretation of how to distinguish the scope and in terms of regulating authority. The humanitarian review can not be separated from the goal of the establishment of UNHCR as an international organization that

advocates how to respect humanitarian values, protection, and the fulfillment of rights. Relevance is so strong that between humanitarian law review can not be separated from the handling of refugees which is the goal of the establishment of UNHCR. For example in the case of civilians who have been designated as refugees or who are still classified as potential refugees. Prospective refugees in the sense that civilians residing in conflict areas have great potential to seek asylum and will leave conflict areas, and at certain stages their status will be designated as refugees

### **Research Method**

#### ***Approach and Type of research***

This research uses normative juridical approach. The normative juridical approach is an approach that conducts legal analysis of the legislation and judicial decisions in this writing. This normative juridical approach is undertaken to identify applicable legal norms that govern the protection of refugees as contained in the national legal instruments as well as the instruments of international law .

This research is a descriptive type of research that is the research method that describes all data then analyzed and compared based on the ongoing reality and then try to give problem solving

#### ***Data source***

The data used in this research is:

- a) Primary legal materials, namely binding legal materials which are the main basis used in this study. Primary legal materials used in this study are the 1951 Convention and the 1967 Protocol on the Determination of the Status of Refugees in international Conventions and Indonesian laws and regulations relating to refugee issues
- b) Secondary legal materials, namely legal materials that support and member explanation of primary legal materials such as books, scientific journals and opinions of international legal experts associated with the problem of refugees
- c) Tertiary legal material, which is a legal material that provides explanation of the material of primary law and secondary legal materials, in the form of dictionary law and Big Indonesian Dictionary

#### ***Data Collection Techniques***

Data collection techniques conducted by the author through (Research Library (Library Research) .. This data collection is done by studying and analyzing various kinds of reading materials related to the object of study in this thesis, among others in the form of books, journals, documents, articles and Written works in the form of print media and internet media. This is done to get the basis in analyzing the data obtained from various sources that can be trusted or indirect (internet) . Hence will be obtained a more directed conclusion from the subject

#### ***Data Analysis***

The data in this study were analyzed qualitatively. Qualitative data analysis is an activity process that includes, records, organizes, grouping and synthesizes data further meaning each category of data, searching and finding patterns, relationships, and exposing the findings in the form of narrative descriptions, charts, flow, chart, matrix, Images that can be understood and understood by others

### **Result and Discussion**

The problems that can be elaborated from fact-finding data about the actual condition of Rohingya Refugees in Indonesia are among others emerging from within and from outside. The problems that arise from within, among others, that Indonesia up to now is not including the Member States of the ratification of the Vienna Convention of 1951 on the Status of Refugees so that Indonesia has no obligation and authority to take international action against Rohingya Immigrants who enter Indonesia. The implication is that Indonesia can only accommodate the immigrants for a maximum period of 10 (ten) years without being able to and have no right to take further action related to the status of Rohingya immigrants who enter the territory of Indonesia.

It is understandable why Indonesia up to now has not yet ratified the Convention. The principle adopted by Indonesian immigration is that foreigners entering the territory of Indonesia must provide benefits for Indonesia, not vice versa "troubles Indonesia". Indonesia is worried that ratifying the convention will have an impact on Indonesia's security stability and responsibility to take care of other citizens who come to seek asylum seekers. Immigrants will "flock" to Indonesia to seek asylum if Indonesia has ratified the Vienna Convention

However, even though Indonesia is not a party to the ratification of the Vienna Convention of 1951, it can not arbitrarily refuse immigrants who come to seek asylum, especially if security conditions in their home country do not allow the immigrants to return to their home countries. This then becomes Indonesia's dilemma in dealing with immigrants entering Indonesia. Therefore, immigrants resettled and detained in Rudenim can stay for many years in Rudenim due to the length of the UNHCR assetment process on Rohingya immigrants to gain international refugee status.

In addition, the arrival of the Rohingyas to Indonesia is not necessarily qualified as Refugees, since a person categorized as an international refugee must meet the requirements set forth in the Vienna Convention of 1951. The Rohingyas in Indonesia are categorized as Seekers of Asylum Seekers. His status as immigrant asylum seeker is certainly different from the status of an international refugee both by rights and obligations. The

unclear status of Rohingya immigrants entering Indonesia contributes to the lengthy process of assessment against Rohingyas to earn the status of International Refugees.

In practice, while not ratifying the Vienna Convention 1951, Indonesia implements in some of its administrative regulations concerning the handling of refugees substantially, among others, the Prime Minister's Circular Letter no. 11 / RI / 1956 dated 7 September 1956 on the Protection of Political Escape, Presidential Decree no. 38 of 1979 on Coordination of the Settlement of Problems of Refugees of Vietnam, Presidential Decree no. 3 of 2001 on Coordinating Agency for Disaster Management and Refugee Management, and Decree of the Minister of Justice and Human Rights of the Republic of Indonesia Number: M.05.H.02.01 Year 2006 regarding Immigration Detention House.

In addition to internal problems, problems also arise from outside, among others:

- a) The difficulty of repatriation or repatriation of Rohingya immigrants to Myanmar due to worsening security conditions;
- b) The Myanmar embassy in Indonesia is completely indifferent to the Rohingyas because they do not recognize Rohingya as a citizen of Myanmar;
- c) Rohingya does not have a passport to be an obstacle in the process of assessment to become an international refugee;
- d) Rohingya will not be repatriated due to security conditions in Myanmar;
- e) No third country is willing to accommodate Rohingya refugees;
- f) Rohingya is not an IOM priority immigrant thus slowing down the process of assessing the status of a refugee;
- g) The duration of Rohingya accommodated in Indonesia shall be the burden of the State;
- h) Many Rohingyas are married to Indonesian women and have children and hope to become Indonesian citizens;
- i) Many Rohingyas have fake UNHCR refugee cards;
- j) In Rudenim, Rohingya Immigrants include lazy and spill-pronounced Deteni in case they do not like it;
- k) Rohingya refugees living outside Rudenim often create problems;
- l) Rohingya immigrants can not speak Malay or English, making it difficult to perform immigration actions

Problems that exist is certainly a problem throughout the nation of Indonesia which must be followed up and resolved. Do not let the issue of Rohingya in Indonesia is protracted. Follow-up and resolution can be done internally and externally. Internally, of course, the improvement of Rohingya immigrant handling in Indonesia both from regulation and policy aspect. Externally it certainly helps and contribute to resolving the root of the conflict in Myanmar so that Rohingnya can return to Myanmar and be recognized as part of the nation of Myanmar. However, the question now is whether it is urgent enough for Indonesia to ratify the Vienna Convention of 1951, and what are the advantages and disadvantages when ratifying the convention. This will then be followed up by PIARA Information and Advocacy Center Rohingya Arakan an Indonesian legal aid organization for Rohingya refugees through in-depth study that will involve refugee lawyers, activists and academics, government agencies responsible for immigration and human rights, and With the Commission of the House of Representatives in charge of legal affairs, human rights, security, and foreign affairs so as to find effective solutions in addressing the issue of asylum seekers and Rohingya refugees in Indonesia in particular and immigrants of other countries in general.

Based on the above conditions, the Rohingya refugee handlers in Indonesia are conducted by 2 institutions, namely the immigration body and UNHCR. From UNHCR, based on UNHCR's key function of 'providing international protection' and 'seeking a permanent solution to facilitate the repatriation of such refugees, or their assimilation within the new national communities'

The above mandate demonstrates two interrelated and inseparable aspects of UNHCR's work:

- a) Providing international protection and
- b) Seeking permanent solution to the problem of refugees.

To carry out the mandate, the criteria to be measured for a refugee should be set forth in article 1 of the 1951 Convention on the Status of Refugees: '... is a person who, because of fear of persecution arising from his race, creed or political philosophy, is living outside his Former home country and is unable or unwilling to avail himself of that country's protection. '

The concept of protection afforded by UNHCR emphasizes the development of international instruments for the benefit of refugees and ensures that they are accorded treatment in accordance with the provisions of international legal instruments for the benefit of refugees, in particular with respect to the right to work, social security and the right to obtain or utilize facilities travel. The function of UNHCR in taking international measures is through coordination, establishing links with governments, UN specialized agencies, NGOs, and intergovernmental organizations. UNHCR seeks permanent solutions to refugees through voluntary repatriation. UNHCR, which carries out the function of international protection, is trying to ensure respect for the basic rights

of refugees, including the responsibility for seeking asylum, and ensuring that no one is forcibly returned to a country where he fears fear of torture. Other forms of assistance provided by UNHCR are:

- a) *help during major emergencies involving the movement of large numbers of refugees;*
- b) *regular programs in such fields as education ,health and shelter;*
- c) *assisting to promote the self sufficiency of refugees and their integration in host countries;*
- d) *voluntary repatriation;*
- e) *resettlement in third countries for refugees who cannot return to their homes and whose face protection problems in the country when they first sought asylum’.*

To perform its functions well in accordance with UN General Assembly Resolution No. 428 (V), requested to the countries of the world to cooperate with UNHCR, The cooperation has been mentioned in several important points, as follows:

- a) Become a participant of any International Convention to protect refugees and implement the Convention;
- b) Making specific arrangements with UNHCR to implement measures that can improve the situation of refugees and reduce the number of refugees in need of protection;
- c) Does not exclude refugees who are in the poorest category (poor);
- d) Assisting UNHCR in an effort to promote voluntary repatriation;
- e) Promoting reforms, especially by providing naturalization facilities;
- f) Provide travel documents and other documents that enable the resettlement of refugees;
- g) Allowing refugees to transfer their assets primarily for resettlement purposes; and
- h) Inform the UNHCR of the number and conditions of refugees and the laws and regulations relating to refugees

For that purpose, the various protection activities provided both in the field and at UNHCR headquarters, as mentioned in UNHCR 's Protection Mandate are: ensuring granting asylum, assessing needs and monitoring the treatment of refugees and asylum seekers together with the host country ensuring the physical safety of refugees , Identifying vulnerable groups of refugees by ensuring their needs for specific safeguards and prioritizing assistance by ensuring their well-being, supporting a number of countries to establish a system of registration and documentation, promoting the reduction of non-nationals, actively seeking to revitalize the protection regime By collaborating with NGOs and international organizations to ensure broad support for the regime, promoting refugee law including advocacy for acceptance of conventions and protocols And develop their national and legislative institutions, protect displaced persons (IDPs), develop UNHCR's own protection capacity, promote and implement the need for settlement and compliance processing to carry out obligations to resettle to a third country.

While handling refugees by Indonesian immigration agencies, Rohingya refugees are housed in Rudenim. In Indonesia, for Rohingyas who have been granted International Refugee status from UNHCR can stay outside Rudenim. Every month they get an "allowance" from IOM that is about 1.2 million. Per person per month. Those who live outside of Rudenim can do activities like other ordinary citizens while waiting for placement certainty to third countries. As for those within the Rudenim, they are waiting for the assessment of UNHCR and IOM. During their stay in Rudenim they got food, health, consultation from IOM and UNHCR. However, in practice the process of assessment and placement into third countries is not easy.

## **Conclusion and Suggestion**

### **Conclusions**

There are several arrangements regarding refugees in Indonesia, but no one has specifically discussed the handling of refugees in Indonesia. Refugee problems in Indonesia are still positioned from an immigration point of view so that the issue of refugees is solely seen from the perspective of immigration. Immigration positive laws in Indonesia do not contain specific terms of application (*lex specialis*) for asylum seekers and refugees.

Since it has not ratified the 1951 Convention and the 1967 Protocol, the Government of Indonesia has no authority in addressing refugee issues. The authority to deal with refugees is given to international organizations such as UNHCR which is a UN organization, IOM, ICRC and various other humanitarian organizations or NGOs. However, the handling of this international organization has not been implemented optimally due to constraints. These constraints include limited funding, duration of placement to the third country, lack of adequate legal regulations, and immigration detention houses that exceed the capacity and treat refugees with improper.

Indonesia also has its own considerations which are why Indonesia has not ratified the 1951 Convention and the 1967 Protocol. The reason is that if the government decides to ratify the 1951 Convention and the 1967 Protocol, then the government should increase the power of law in Indonesia. One of them is by increasing border controls as well as maritime defense and security. The defense and maritime security of course require the provision of equipments and weapons that are complete and in good condition, for officers in patrolling the sea

and border areas of Indonesia.

Meanwhile, increased border controls and maritime defense and security, not only seen through the military side or the procurement of equipment and weapons are complete. The ratification of the 1951 Convention and the 1967 Protocol must also have an impact on the Indonesian economy. This is related to refugee handling and asylum seekers will be fully borne by the Government. There are also concerns about the increasing number of refugees and transnational crime. Organizational involvement such as UNHCR will decrease if Indonesia ratifies the 1951 Convention and 1967 Protocol. The socio-cultural conditions of Indonesian society also become one of considerations because there will be social jealousy from the people in Indonesia .

### **Suggestions**

Although Indonesia is not a party to the 1951 Convention and the 1967 Protocol, if Indonesia plays a more active role in addressing the problem of refugees in Indonesia. This can be done by issuing relevant legislation regarding the handling of refugees if it is felt too heavy to meet all the requirements contained in the 1951 Convention and 1967 Protocol. In addition, the need to reform the Immigration Law that still sees refugees equated with illegal immigrants and Human rights as part of its consideration. Given the adequate regulation on refugees, it is expected that there will be significant developments in the handling of refugee problems in Indonesia.

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