
TRANSIT COUNTRY PROTECTION TOWARDS REFUGEES DURING THE COVID 19 PANDEMIC : PRACTICE IN INDONESIA

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1. Introduction

This paper consists of several keywords: **Protection, Transit Country, Covid 19 Pandemic.** The issue of refugees for Indonesia is a solemn matter that requires a prompt handling. It's not only because Indonesia has become a transit country to the refugees, but also become the refugees' country of origin. The definition of refugee according to The Refugee Convention 1951 and Protocol 1967 is defined as a person or group of people who is outside his/her country of nationality, has a well-founded fear of persecution because of the difference in race, religion, class, nationality or social group, and certain political opinion. They are no longer receiving national protection from their country of nationality (*The Home Country*), so that they necessarily obtain the international protection. Therefore, the matter of refugees is a part of human rights issue and implicates nations as it involves *The Home Country* and *The Host Country*.

The global community is currently facing the Covid-19 Pandemic (the status of pandemic portrays the spreading of a disease among people from many countries at the same time. The confirmation of Corona Virus as a global pandemic was based on the increasement of cases outside China until 13 (thirteen) times and the large amount of infected countries.). Every country still need to concentrate on lowering the curve of the transmission of this deadly virus. According to the latest data issued by the WHO (*World Health Organization*), until this moment, the total case of Corona Virus infection in the whole world has reached 198.778.175 cases. From that amount, 4.235.559 died because of the disease (data obtained from the World Health Organization (WHO) accessed through <https://covid19.who.int/>, last updated on August 3, 2021. This data may rise as the Covid-19 Pandemic has not reach its end in the world).

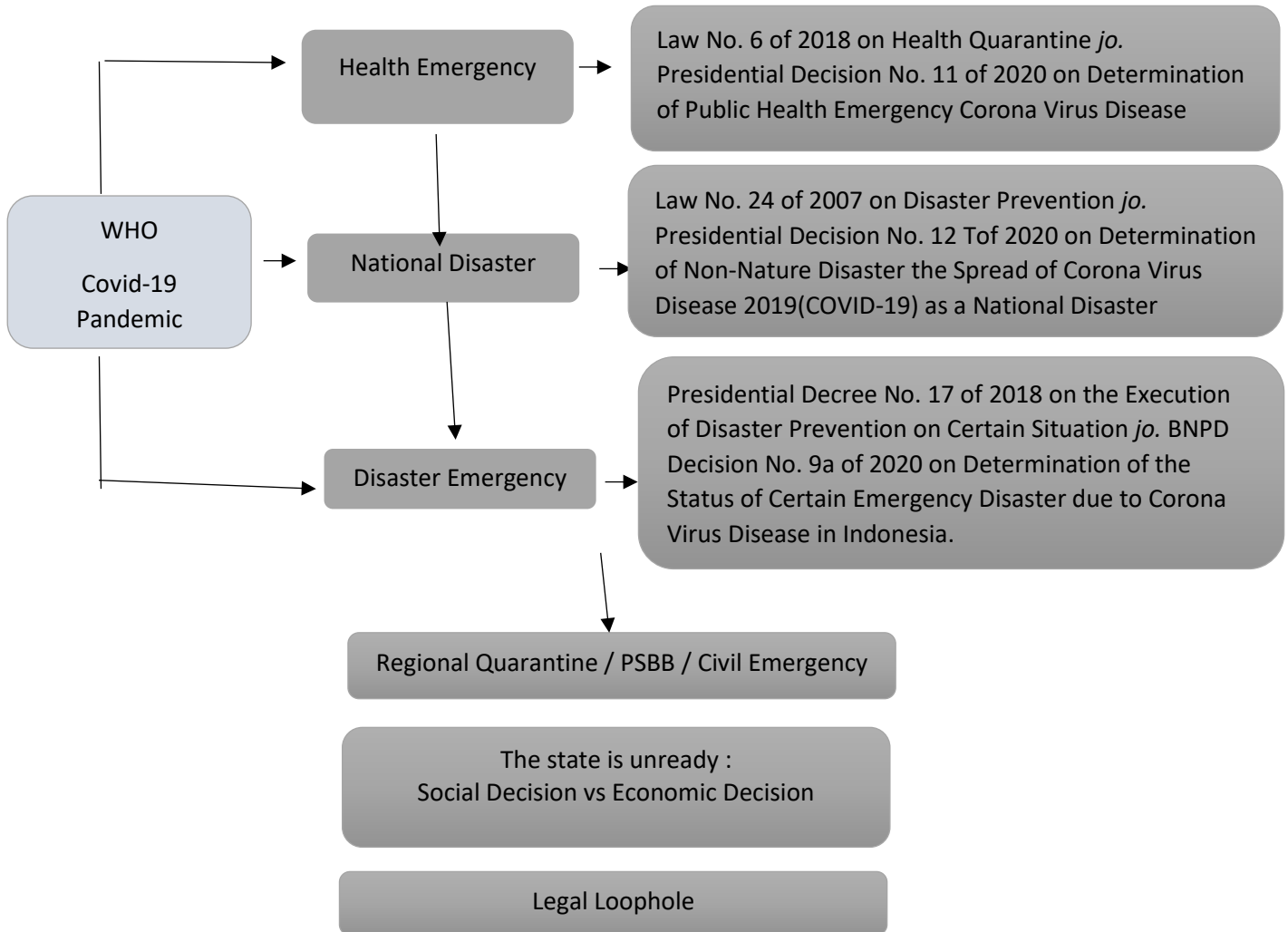
Specifically in Indonesia, there were 3.496.700 cases with the number of deaths reached 98.889 and 2.873.669 was declared cured. This pandemic cannot be regarded as just a threat towards health, but moreover it is a global humanitarian crisis with tremendous damaging impacts in every sectors of life ranging from the loss of the right to live to large and rapid amount, economic losses, disruption of social security and education, food availability, the loss of occupation, and the slackening of state's institutional functions (accessed through <https://covid19.co.id> on August 3 2021, this data may continue to rise as the handling of Covid 19 has not ended yet). The aftermath caused by this pandemic is also never been predicted before, thus several countries are struggling to overcome this pandemic. This could be seen from a lot of policies created and issued but have not been able to reach maximum results.

During tough moment like now, each person needs a protection, including the refugees that are currently staying in Indonesia. Refugees are not foreigners who own special rights in their home country. They left their country of nationality to seek for safety and protection from various reasons or persecutions that they were experiencing. According to *United Nations High Commissioner for Refugees* (UNHCR) there are more than 70 million people that are forced to flee caused by conflicts and violence around the world, facing unprecedented hardships due to the impacts of Covid-19 Pandemic. This was also affirmed by the United Nations (UN) through its Secretary General who stated that the refugees are facing 3 crises at once during the world affected by the Covid-19 Pandemic, which are **health crisis, finansial crisis, and protection crisis.** (Pengungsi dan Imigran hadapi tiga krisis saat pandemi <https://www.republika.co.id/berita/qben56382/pbb-pengungsi-dan-imigran-hadapi-tiga-krisis-saat-pandemi>, accessed on Augsut 4, 2021). Therefore, they must be our common concern especially during the era of the Covid-19 pandemic.

Refugees need relief in the form of the grant of nationality, assistance including foods, medicines, cloths, and residency. These are the meaning of protection toward refugees. During these times, the handling of refugees (*durable solutions*) in Indonesia is conducted by assimilation/naturalization, repatriation, resettlement (seeking for third country) with security model approach and setting aside the individual rights model approach which prioritize the honor towards human rights. (Atik Krustiyati, 2021 revision draft)

Geographically, Indonesia is located in a cross between the two continents, Asia and Australia, and two Ocean as well, The Pasific Ocean and The Indonesian Ocean. With this strategic position people may go to Indonesia with various purposes. In relation to refugees, Indonesia is not a destination country, but only a stopover or transit before they headed to the third country. Problems faced by Indonesia is the extend of the involment of Indonesia in providing protection and assistance to refugees who arrive in Indonesia, as until now, Indonesia has not participated in the 1951 Convention and the 1967 Protocol on the Status of Refugees.

Regulations that arranges about Covid-19 in Indonesia are:



Transit Country (Indonesia) is a place where the refugees reside or staying temporarily (*temporary shelter*) before the refugees are heading to another country. Indonesia became one of the choice of place for asylum or refugees. A problem will occur when the government is not being responsive while facing the refugees or asylum seekers, moreover that until this moment the Indonesian Government has not ratified the Geneva Convention 1951 and Protocol 1967 on refugees. Thus, being viewed from the **legal aspect**, the Government is not able to directly determine the status of the immigrants as refugees. Determination of refugee status (*durable solutions*) that is conducted by the UNHCR (United Nation High Commission on Refugees) often takes a long time. In normal situation, especially on this current pandemic, as a transit country the Government of Indonesia shall provide equal protection and treatments to its citizens, refugees, and other foreigners as a form of fundamental state responsibility. This is where the importance of interaction between the international law and the national law as stipulated in the UN Charter and the Good Neighbour Principles.

The purpose of this paper is to discover on how the protection from transit countries especially Indonesia during this pandemic time on providing protections towards refugees and other foreigners. Given the principles of international law on the refugee convention essentially are an affirmation of international customary law which is one of the sources of international law. (Sefriani, 2020). Therefore, the principles of universal international law that are embodied in the instrument of refugee law will bind any country including Indonesia without considering whether or not the country has become a party of the convention.

The method applied is Juridical Normative with *Statue Approach* and *Conceptual Approach*. Statue Approach used is Vienna Convention 1951 *juncto* Protocol 1967 as the international instruments and various national regulations (see table). *Conceptual Approach* used consist the definition of Refugee, Ratification, State Responsibility, Protection, Transit Country, and Pandemic. The main emphasis of this paper is to see how the practice of a transit country on protecting refugees during the pandemic time.

1.1 Table Statue Approach

No	Peraturan Nasional	Peraturan Internasional
1	The 1945 Constitution of the Republic of Indonesia	1951 Convention
2	Law. No. 37 of 1999 on Foreign Affairs	1967 Protocol
3	Law No. 6 of 2018 on Health Quaratine	1969 Vienna Convention
4	Law No. 24 of 2007 on Disaster Prevention	2001 DASR
5	Presidential Decision No. 11 of 2020 on Determination of Publich Health Emergency Due to Corona Virus Disease	
6	Presidential Decision No. 12 of 2020 on Determination of Non-nature Disaster of Corona Virus Disease 2019 (COVID-19) Spread as National Disaster	
7	Presidential Decree No. 17 of 2018 on the Execution of Disaster Prevention on Certain Situation <i>jo</i> . BNPD Decision No. 9a of 2020 on Determination of the Status of Certain Emergency Disaster due to Corona Virus Disease in Indonesia.	
8.	Presidential Decree No. 125 of 2016 on Handling of Refugees in Indonesia	

1.2 Table of Conceptual Approach

No	Conceptual Approach	Defintion
1	Refugee	Article 1 1951 Convention <i>jo</i> 1967 Protocol
2	Responsibility of State	Responsibility to protect exists in order to fulfil the Humanitarian Principle by consideration has failed in many aspect. However the existence of this principle stills less worry especially for developing country, over manipulation and politics and this implementation. (Sefriani, 2020)
3	Ratification	Theoretically, ratification is an approval given by the Head of State or the Government on the signing of an international treaty that is executed by a designated full power as it should. On todays practice, the mean of ratification is much more than just an act of confirmation. Ratification is considered as the delivery of formal statement by a state regarding its consent to be bound by an international treaty. (Jawahir, 2019)
4	Protection	Relief, Assistance, Durable solutions. Regulation, structure, and culture aspects. (Hikmahanto, 2017)
5	Transit Country	Temporary Shelter (E Narwaty, 2020)
6	Pandemic	Simultaneous transmission of disease against many people and states/places (an outbreak of disease that occurs over a wide geographic area (such as multiple countries or continents) and typically affects a significant propotion of the population. (Abstracted from various sources).

As one of the place options for asylum seeker or refugee or commonly known as a transit country, from the **legal aspect**, the government cannot directly determine the status of these immigrants as refugees. Determination of refugee status (*durable solutions*) that is conducted by the UNHCR (United Nation High Commission on Refugees) often takes a long time. As a consequence, when a group of foreigners enter the territory of Indonesia, they are categorized as illegal immigrants who commit violations of immigration administration as regulated on Law No. 6 of 2011 on Immigration. They are grouped together and placed in the Immigration Detention Center.

The following experience was related to the East Timor's independence from Indonesia, due to the referendum on August 30, 1999. Those who vote for integration were forced to leave and flee to the East. East Timorese refugee situation (after their independence under the name of East Timor) is a unique thing. Because East Timor was originally the 27th province of Republic of Indonesia (Republic of Indonesia), due to the Portuguese colony evacuated by Indonesia, as the East Timor freedom fighters continued to fight for their independence. These people who forced to leave East Timor is more accurately categorized as an externally displaced person (EDP's) as opposed to internally displaced person (IDP'S).

Apart from refugees from outside Indonesia (Vietnamese Refugees), or the Externally Displaced Person, there are many cases related to the internally displaced (IDP'S), such as the case of Aceh, Sambas, Maluku, and problems that comes from other parts of Indonesia. This problem is compounded by the influx of people from Afghanistan, Middle East, that have become illegal immigrants in other countries.

Indonesia's valuable experience is when handled refugees of Indochina in Galang Island. These people refugee as the proxy war erupted in their country, specifically when Fitcong ruled and afterwards. The flow of Vietnamese refugees started since the fall of Saigon (South Vietnam) to the hand of North Vietnam on 10 May 1975. A year later the Republic of Socialist Vietnam was established with 2 July 1976 as its official independence. These Vietnamese refugees left their countries as they experienced inhuman treatments from their origin country. They left Vietnam by boat and thus they have been known as the boat people. The flow came in several phase, and some of them stranded in other countries such as Thailand, Singapore, Malaysia, Philippines, Hongkong and of course Indonesia.

2. Method

Methodology conducted is Juridical Normative with Statue Approach and Conceptual Approach. The Statue Approach used is that in Indonesia, the issue of asylum seeker is also regulated on the Constitution, Law No. 39 of 1999 on Human Rights, Law No. 37 of 1999 on Foreign Affairs, TAP MPR No. XVII/MPR/1998 on Human Rights, and Law No. 1 of 1979 of Extradition. As a state of law that based on the notion of respect towards human rights, Indonesia should immediately ratify the Convention of 1951 and Protocol of 1967. This is due to the Convetion give recognition of equal rights that cannot be deprived from all members of society that give respect to human dignity or commonly known as Ius Cogen that is an unchangeable principle or *peremptory norms*.

Several rights obtained by the refugees according to the Convention of 1951 and Protocol of 1967:

- a. Freedom to practice religion and religious education for the children of refugees (Article 4)
- b. Right to own moving objects and immovable objects (Article 13)
- c. Right of union (Article 15)
- d. Right to self-employment (Article 18)
- e. Right to perform liberal profession (Article 19)
- f. Right to education (Article 22)
- g. Right to decent working condition and social security (Article 24)
- h. Freedom to move (Article 26)

Looking at some of the rights mentioned above, the provision that cannot be reserved is the Article 4. Other articles are also not allowed to be reserved as seen on Article 42 of the 1951 Convention, which are:

- a. Definition of refugee (Article 1)
- b. Non discrimination (Article 3)
- c. Religious freedom (Article 4)
- d. Access to the court (Article 6.1)
- e. Non Refousement (Article 33)
- f. Final Clause (Article 36-46)

On this context, the Indonesian Government may conduct reservations to the provisions of Article 13, 14, 15 which oblige states to give equal treatment toward refugees and its own citizens as well as other people who stays on its territory. As an example, concerning property rights to movable, immovable, housing, employment, and others. Consideration to reserve those articles for developing countries such as Indonesia is the ability to provide facilities to their own citizens is still difficult to fulfill, moreover how it will be able to provide that implementation to the refugees. The behavior of

becoming the party of the convention also indicates the seriousness of Indonesia in the international efforts to fight for the respect for human dignity including the issue of refugees

By declaring ratification on the convention, the Indonesian Government will be bound to the international obligations occurs from the convention, which is to receive the investigation procedures by the commission established under the convention, so that the binding to the convention is not just on reporting obligation but accepting it completely, including the investigation procedure conducted by the commission as stipulated in the Article 35 of the convention. Dengan menyatakan pengesahan pada konvensi, maka Pemerintah Indonesia terikat dengan kewajiban internasional yang timbul dari konvensi ini, yaitu menerima prosedur penyidikan oleh Komisi yang dibentuk berdasarkan konvensi, sehingga keterikatan pada konvensi tidak hanya sekedar *reporting obligation* tetapi secara utuh dapat menerimanya, termasuk menerima prosedur penyidikan oleh komisi sebagaimana dalam Pasal 35 Konvensi.

As already mention above that:

Refugee is a person who :

- a. *Is outside his/her country of nationality*
- b. *Has a well founded fear of persecution*
- c. *For reason of race, religion, nationality, membership, of a particular social group, political opinion*
- d. *Is unable or owing to such fear, is unwilling to avail him self of the protection of his country.*

From the definition of refugee described above, it can be concluded that essentially, states or governments has the responsibility to protect its citizens and foreigners who lives in the country, but in the reality it is often that the state or government is unable to perform that responsibility for various reasons. When the government is unable and unwilling to provide protection to its citizens, then often happens that someone has to leave their origin place especially during this pandemic.

The 1951 Convention as an international law instrument that regulates the matter of refugee has already provide the definition of refugees as a person who is outside his/her country of origin or original domicile because of legitimate fear of wrongful interference with the safety of themselves and their families as a result of ethnicity, religion, nationality, and membership in particular social group or political opinions adhered, and the person is unable or unwilling to obtain protection for himself/herself from his/her country of origin, or to returns there worrying for his or her own safety. (Article 1 A Paragraph (2) The 1951 Refugee Convention: *“As a result of events occurring before 1 January 1951 and owing to well founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is).*

The definition given by the 1951 Convention still considered to have geographical boundaries and the location of occurrence that is limited to people who leave their country due to events that happened prior to January 1, 1951 and were in the European territory as well as those that have been recognized as refugee by the international refugee convention that existed before the 1951 Convention. Therefore, the Protocol 1967 then expanded the limitations and terms of refugees by eliminating geographical boundaries and made it universal in scope and applicable to any person who meets or fulfil the material definition of refugee that has been determined. (UNHCR, *Konvensi dan Protokol Mengenai Status Pengungsi*, UNHCR Media Relations and Public Information Service, Geneva, 2010. Hal. 6.)

Although the Geneva Convention 1951 and Protocol 1967 had clearly described the definition of refugee, but in some cases this convention does not apply to those who are strongly alleged of having committed war crimes or crimes against humanity, serious non political criems or guilty of acts that is in contrary to the purposes and principles of the United Nations, it does not apply to the refugees who already receive protection or assistance from UN agencies aside from UNHCR, also to the refugees who have an equal status to the citizen in the country of asylum.

Currently, based on existing international law instruments, the definition of refugees has been developing. If previously it's only to the extent caused by fear and persecution in accordance with the definition given by the 1951 Convention and 1967 Protocol, is now has expanded including caused by civil unrest, widespread violence, wars, internal conflicts, massive violation against human rights or other circumstances which have seriously disrupted public order.

Presidential Decree No. 125 of 2016 as the only national instrument that regulates the handling of refugee defined the refugees as foreigners residing in the territory of the Republic of Indonesia caused by the well founded fear of persecution for reasons of race, ethnicity, religion, nationality, membership of particular social group, different political opinions and unwilling to obtain protection from their country of origin and/or have received asylum or refugee status form the UNHCR (Article 1 of Presidential Decree No. 125 on Handling of Refugees from Overseas).

Treatments shall be given to the refugees are:

- 1) National Treatment, on this matter is related to the provisions of freedom of religion, access to the court, legal assistance, and etc.
- 2) Treatment given by the country where they used to live, including industrial owned protection, inventions, trademarks, rights to scientific literatures and etc.
- 3) *Most favored treatment*. Treatment in respect to the right to join non-political organization, to establish organizations, non profit organization, or trade organization (trade union).
- 4) To receive equal treatment with other foreigners in the country, e.g. treatment to own the right of ownership of movable or immovable goods, right to gain profit, right to housing, etc.

The next important point on the protection by the Transit Country to the refugees is the matter of refugee convention ratification. Theoretically, **ratification** is an approval by the Head of State or Government upon the signing of an international treaty which executed by its designated full power. On nowadays practice, ratification is much more than **just an act of confirmation**. Ratification shall be considered as the delivery of formal statement of a state regarding its approval to be bound by an international treaty. The importance of ratification these days increases in connection with the development of the government's constitutional system which give the power to establish international treaties to other organs aside of the Head of State. On each state, the procedure of ratification may be embraced diversely. On the national level, the regulation of ratification procedure is found under the provision of the national law of each state. If a state has already ratify an international law instrument to its national law, in fact it is an effort to draw the international interests closer to the national interests of a state. Thus, if the efforts of this approach occurs, then there will be a symbiotic between the international law and national law, or in other words a harmonization is created. Subjective welfare is influenced by cultural factors.

The existence of refugees in Indonesia cannot be underestimated, their population is not in small numbers, but it's around 13.497 people coming from 48 countries and spread in several areas such as Pekanbaru, Aceh, Jabodetabek, Medan, Manado, Tanjung Pinang dan di beberapa wilayah lainnya (UNHCR Indonesia Monthly Statistic Report March 2021" diakses melalui: <https://www.unhcr.org/id/wp-content/uploads/sites/42/2021/04/Laporan-Statistik-Bulanan-Indonesia-March-2021.pdf>, August 6, 2021). As a transit country, Indonesia has a moral obligation to provide protection towards the refugees in its terriotry, including in this era of Covid-19 pandemic. Moreover, the refugees do not have the right to work and have limited access to the health and hygiene facilities. The outcome of this pandemic also significantly affects the resilience of the refugees and the vulnerability of their communities.

Most of foreign refugees in Indonesia sensed that their fate is getting more undetermined especially in the midst of Covid-19 pandemic. Some of them doubt the guarantee of health protection in the middle of this plague, including the vaccination. It is because the risk of their exposure is just the same with other residents, and it's potentially dangerous if being neglected. Indonesia's Covid-19 Respond System also does not specifically mentioned refugees on their service system. Moreover, the government of Indonesia through the Ministry of Health admitted that they were still not able to prioritize vaccination towards the refugees for it still focuses on fulfilling the necessity of Indonesian citizens. (Foreign Refugees in Indonesia during Pandemic: "They Rejected Me and Said that Vaccine is only for Indonesian Citizens" accessed on August 6, 2021, through: <https://www.bbc.com/indonesia/indonesia-58068808>). Due to this reason, the refugees are in the most vulnerable position rather than the local residents.

Strategic geographical location caused Indonesia as one of the most important transit country for asylum seekers and refugees to arrived at the destination countries which are Australia and New Zealand. Commonly, the refugees make use of Indonesia and Malaysia as a transit country to arrive at Australia and New Zealand, using the method of refugee status determination by the UNHCR or using irregular ways illegally (by boats) or immigrant smuggling service. (Thomas Brown, "After the Boats Stopped: Refugees Managing a Life of Protracted Limbo in Indonesia", *Antropologi Indonesia* 38, No. 1, 2017, hal. 35.).

As a country that has not ratify the Refugee Convention 1951 and Protocol 1967, Indonesia has No. obligation to accomodate the refugees who enter its territory. However, although Indonesia did not ratify those two agreements, itself choses to give shelter for the refugees entering its terriotry on humanitarian basis, where Indonesia upholds the principle of *non-refoulement* (*Non Refoulement* is a principle of a prohibition towards a state to reject or to expel refugees back to their country of origin or to a place where the refugees will face issues that will threatened and endager their life or freedom with reasons of racial, religion, ethnicity, membership of particular social group, or political opinion) which does not repatriate refugees that came to Indonesia. Moreover, Indonesia also insists on the principle of respect to the right to life

Based on the fulfillment of human rights, each country is bound to practice protection for the refugees that came to their region. Under the international customary law, there are four principles that shall be implemented by the states toward refugees, including: 1) Prohibition of returning to their country of origin (*prohibition against expulsion or return*); 2) Destination country or transit country must be able to provide special protection and security (*security of refugees*); 3) Destination country or transit country is not allowed to arrest refugees (*prohibition against detention of refugees*); and 4) Recognition and status awarding. (*gainful employment of refugees*). Status awarding to the refugees is just the preliminary step for the refugees to obtain their rights.

Based on this background, it is proposed a model approach in managing refugees which is through interfaith and intercultural dialogue, as refugees bring along their refuge and cultural beliefs to their destination countries. Interfaith dialogue and intercultural issues are two areas of great importance to the Indonesians. As culturally diverse country with big diasporas, Indonesia is highly interested in advancing international cooperation in these domains, especially Indonesia's strategic geographic location as being in the position of a cross between the two continents, Asia and Australia and two Ocean, which are Indonesia and the Pacific Ocean. The issue of refugee cannot be separated from the role of UNHCR as UN-specialized-agency dealing with the refugee issues. In its operation, UNHCR is based on the 1950 Statute of UNHCR, which in principle, the main function of the UNHCR is to provide international protection to refugees, to find durable solutions to refugee problems, as well as to promote international refugee law. Directly, the issues of IDP's and EDP's are not under the authority of UNHCR, however, UNHCR can help them if there is a formal request from the local government so that UNHCR can help the IDP's and EDP's issues faced by a country.

In Indonesia, UNCHR has been handling the asylum seekers and refugees in the form of durable solutions, which may include repatriation, resettlement (finding third countries), and assimilation with the locals. Those asylum seekers in Indonesia are mostly from Iraq, Afghanistan, and Somalia. In establishing the statues of whether a person can be called a refugee (refugee status determination), is fully the authorization of UNHCR due to the mandate they have, as Indonesia is not a party to the 1951 Refugee Convention. Before a country (including Indonesia) took the decision to become a party to an international treaty (ratified) to consider the urgency, relevance, and constraints related to the ratification process. It also needs the technical aspect related to the preparation, administration and legal aspects. In this regard, if a country would ratify the Refugee Convention (consent to be bound by a treaty), then it should also pay attention to what the articles of the Convention which may be reserved. The articles of the 1951 Convention that can be reserved are chapter 13, 14, and 17. The core of these chapters is that a country must give equal treatment to refugees and its own citizens as well as foreigner living in the country. These same treatments are related to property rights on movable as well as immovable goods, housing, and other jobs.

For developing countries as Indonesia, consideration to reserve this article is due to the difficulties in providing facilities for its own citizens, let alone for the refugees. Provisions of Justice cannot be reserved; while the litigant to the International Court of Justice is voluntary. There are two refugee status, which are The Refugee Convention and Refugee Mandate. Refugee convention is obtained when the refugee status determined by the UNCHR, in cooperation with the host country because this country has become a party to the Convention of 1951 in conjunction with the 1967 Protocol. While the Mandate Refugee is obtained because the determination of refugee status is decided only by the UNHCR in accordance with its mandate based of the Statute of the UNHCR in 1950.

Therefore, it is concluded that the handling of refugees needs several steps, apart from the aspect of **legal regulation, structural** and **cultural** approach is also needed. This is important in order to establish subjective welfare for refugees which later in turn will create harmonized relations between states.

Subjective welfare is an individual perspective and evaluation againts its personal or private life including life satisfaction and positive moods and emotional reaction. The way of an individual perceiving his or her life could be performed cognitively in the form of life satisfaction or in an effective way in the form of moods and emotional reaction that is pleasant or unpleasant. Subjective welfare is influenced by cultural factor. The meaning of culture is how a person thinks about himself/herself, others, and every sequence of reality. If a person leave his or her country of origin and beliefs, and heading to another country then interfaith and culutral dialouge are also the harmonized way to handle refugees.

One definition of culture is a series of attitude, values, belief, and behavior owned by a group of individuals which communicated form generation to generation through languages or other meaning of communication. Happiness also defined as the most common emotional statement and satisfy positive feelings. Individuals from every culture have the opinion that happiness is a positive emotional statement and personal growth.

Observed from the **psychology** aspect which means of self acceptance, positive relation, autonomy, environmental control, life purpose and personal growth. The question that arise is whether those components are found in every culture, is there any other component and how is the relative weight of each component. The indikator of subjective welfare is distinct between cultures.

From the perspective of **sociology**, it perceive the reality of refugee is a main opportunity of development and challanges for the government and social cohesion. Firstly and mainly, the refugees are humans, the owner of human rights that is universal. Besides, the refugees also have rights, dignity, and security that often require special and spesific protection and regulation in the social arrangement. The standard of behavior required for refugees during the pandemic shall be sufficiently concrete and coherent enough to become a guidance in the society.

The international society is truly concerned with humanitarian issues, because in fact the issues of refugees is often becoming an international or inter-state problems. To deal with the refugees, the government of Indonesia already issued a Presidential Decree No. 125 of 2016 on Handling of Overseas Refugees and also established a Task Force for Handling Overseas Refugees under the Coordinating Ministry of Political, Legal, and Security Affairs. The presence of such regulation is a step forward and could provide legal legitimation for ministries and other agencies to be involved in handling refugees. Besides of that, it shows the shift of approach used by the goverment of Indonesia on handling the issue of refugees, which was previously dominated by security approach but then replaced with humanitarian approach as the standard in international refugee laws. (Dio Herdiawan Tobing, "*Kebijakan Soal Pencari Suaka Tak Ideal Tapi Satu Langkah Perbaikan*", accessed through: <https://theconversation.com/kebijakan-soal-pencari-suaka-tak-ideal-tapi-satu-langkah-perbaikan-80696>, on August 8, 2021).

3. Conclusion

- Based on this background, propose a model approach ini managing refugees through interfaith and intercultural dialogue, as refugees bring along their refuge and cultural beliefs to their destination countries. Interfaith dialogue and intercultural issues are two areas of great importance to the Indonesians. As as culturally diverse country with big diasporas, Indonesia cannot but be keenly interested in advancing international cooperation in these domains, especially Indonesia's strategic geographic location as being in the position of a cross between the two continents, Asia and Australia and two Ocean, namely Indonesia and the Pacific Ocean.
- From the description above, it appears that the refugee definition as set out in the 1951 Refugee Convention is different with the common sense. In everyday life the refugees are forced to leave their homelands to seek shelter or rescue other regions, due to several factors such a natural disaster or man-made disaster (war). They are still within the area of one's national protection; however, refugees according to the Convention of 1951 are those who are no longer want to receive national protection of their country.
- Refugee problem cannot be separated from the role of UNHCR as UN-specialized-agency dealing with the refugee problem. In its operation UNHCR is based on the 1950 Statute of UNHCR, which in principle, the main function of the UNHCR is to provide international protection to refugees, to find durable solutions to refugee problems, as well to promote international refugee law. Directly, the issues of IDP's dan EDP's are not under authority of UNHCR, however, UNHCR can help them is there is a formal request from local government so that UNHCR can help the IDP's and EDP's issues faced by a country.
- During the Covid-19 Pandemic era, Indonesia as a transity country also shall provide protection towards the refugees as a form of human rights protection in accordance with the regulations and laws that apply.

4. Recommendation:

1. The handling of refugees requires several steps, apart from the legal aspect, it also needs the structural and cultural approach. It's needed in order to establish subjective welfare for the refugees that later in turn will create substantive justice and form a harmonized relation between states.
2. It is needed to change values in the handling of refugees which no longer using the model of security approach that regards the refugees as a harmful or dangerous group against the country, but considering individual approach that emphasizes psychological issued and pays attention to the rights of refugees.

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