

**CHALLENGES AND OPPORTUNITIES IN RESPONDING TO
REFUGEE AND ASYLUM SEEKER ENTERING INDONESIAN
TERRITORY IN THE CONTEXT OF IMPLEMENTING LAW NUMBER
37 YEAR 1999 CONCERNING FOREIGN RELATIONS**

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ABSTRACT

In January 31st 2017 Indonesia finally break its silence in responding to the refugee protection through the new Presidential Regulation Number 125 Year 2016 on Handling of Refugee. Every states including Indonesia has the responsibility of protecting refugees and asylum seekers within its territory under the principle of non-refoulement. Many questions raised in the international law questioning about non-refoulement and its jus cogens characteristic and the impact toward state sovereignty. Based on the jus cogens characteristic that non-refoulement convey, more than 140 states in the world have adopted the international instrument of refugee protection. Indonesia has manifested the right to seek for asylum both in the Constitution and Human Rights Act. The new Presidential Regulation Number 125 Year 2016 concerning the handling of refugee strengthens Indonesia commitment in responding to non-refoulement principle, whilst the country is non – signatory of the refugee conventions.

This paper is a socio - legal research that aims to see Indonesia effort in fulfilling state international obligation. This research is done through on - site visit of the related stakeholders such as Indonesia Ministry of Law and Human Rights, Human Rights Working Group supported by interview with refugees that currently resides in Indonesia.

The conclusion is drawn upon the completion of descriptive analysis and qualitative research. This paper concluded that many obstacles in responding to the refugee and asylum seeker still existed after the issuance of the new Presidential Regulation Number 125 Year 2016 on Handling of Refugee and the country has actually enshrined the non – refoulement principle.

Keywords: asylum seeker, human rights, international law, human rights, refugee, refugee law, state sovereignty,

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INTISARI

Pada 31 Januari 2017 Indonesia akhirnya menanggapi masalah perlindungan pengungsi melalui Peraturan Presiden Nomor 125 Tahun 2016 tentang Penanganan Pengungsi. Setiap negara termasuk Indonesia memiliki tanggung jawab untuk melindungi pengungsi dan pencari suaka atas dasar asas non-refoulement. Banyak pertanyaan diajukan dalam hukum internasional mengenai asas non-refoulement dan karakteristik jus cogens yang dimilikinya Serta dampaknya terhadap kedaulatan negara. Berdasarkan karakteristik jus cogens yang dimiliki oleh asas non-refoulement, lebih dari 140 negara bagian di dunia telah mengadopsi instrumen perlindungan pengungsi internasional. Indonesia telah mewujudkan hak untuk mencari suaka baik dalam Undang-Undang Dasar dan HAM. Peraturan Presiden Nomor 125 Tahun 2016 tentang penanganan pengungsi memperkuat komitmen Indonesia dalam menanggapi asas non-refoulement, walaupun Indonesia bukan negara penandatangan konvensi pengungsi dan protokolnya

Skripsi ini merupakan penelitian karya tulis hukum yang menganut prinsip sosio-legal hal ini bertujuan untuk melihat upaya Indonesia dalam memenuhi kewajiban internasional. Penelitian ini didukung oleh riset lapangan di Kementerian Hukum dan Hak Asasi Manusia, Human Rights Working Group yang didukung oleh wawancara dengan para pengungsi yang saat ini berada di Indonesia.

Kesimpulan diambil dengan melalui analisis deskriptif dan penelitian kualitatif. Penulisan hukum ini menyimpulkan bahwa Indonesia melalui Peraturan Presiden Nomor 125 Tahun 2016 tentang Penanganan Pengungsi sebenarnya telah mengabadikan prinsip non-refoulement.

Kata kunci: pencari suaka, hak asasi manusia, hukum internasional, hak asasi manusia, pengungsi, hukum pengungsi, kedaulatan negara,