



# APPLICATION OF THE APPLICABLE REGULATIONS ON THE HANDLING OF FOREIGN REFUGEES IN THE MEDAN IMMIGRATION DETENTION HOUSE (RELEVANCE OF PRESIDENTIAL REGULATION NUMBER 125 OF 2016)

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Article Info	Abstract
<b>Article History</b> Received : 2024-09-03 Revised: 2024-09-05 Published: 2024-10-01	This study discusses the implementation of Presidential Regulation (Perpres) Number 125 of 2016 on the handling of foreign refugees at the Medan Immigration Detention Center. Indonesia, as a transit country for international refugees, faces various challenges in handling the increasing number of refugees from Afghanistan, Myanmar, Sri Lanka, Somalia, and other countries. This study uses a normative legal method, by analyzing the legal framework, especially the relevance of Perpres No. 125 of 2016, which is the basis for government policy in providing protection and management of refugees.
<b>Keywords:</b> <i>Refugees, Presidential Decree No. 125 of 2016, Immigration Detention Center, Human Rights, Indonesia.</i>	The results of the study show that the policy of handling refugees in Indonesia still faces a number of obstacles, including the lack of facilities and infrastructure, limited human resources, and budget support. Although Presidential Regulation No. 125 of 2016 is an important legal guideline, its implementation at the Medan Immigration Detention Center is considered not yet fully effective. This Presidential Regulation has not been able to accommodate the needs of refugees comprehensively, especially in terms of human rights protection, social integration, and providing access to education and health.
	This study recommends strengthening international cooperation with UNHCR and IOM, improving coordination between agencies, and optimizing the role of local governments in providing adequate facilities and protection for refugees. With the implementation of more effective policies oriented to human rights principles, it is hoped that the handling of refugees at the Medan Immigration Detention Center can run better and more sustainably.

## I. INTRODUCTION

Indonesia has been a transit country for asylum seekers and refugees since the existence of Indochinese refugees by boat since decades ago. The location and geography of Indonesia as a vast archipelago country consisting of thousands of islands with a coastline of almost 55,000 kilometers, makes its borders difficult and almost impossible to control easily. Based on data from UNHCR in February 2013, most refugees and asylum seekers in Indonesia come from Afghanistan, Myanmar, Sri Lanka, and Somalia.

Indonesia has seen a dramatic increase in the number of people seeking asylum in the last five years. In 2008 there were 385 new arrivals, which increased to 3,230 in 2009. Large numbers of new arrivals continued to arrive, with 753 arrivals in July 2012. At the end of February 2013 there were 9,226 refugees and asylum seekers. According to UNHCR data, there are 1,938 people in Indonesia who are recognized as refugees.

There are many more refugees who choose not to register with UNHCR and are not included in the above statistics.

Some may not want to claim asylum and hope to move quickly to Australia. Other organisations, including the International Organization for Migration (IOM), assist people who are not registered with UNHCR. It is difficult to know the exact number of refugees or asylum seekers in need of assistance in Indonesia, and many are not receiving any assistance at all.

Refugees are one of the global issues that are widely discussed by the international community. The problem of refugees is a special concern of the international world considering the number continues to increase. Since 2018, the number of refugees has reached 25.9 million worldwide, while in 2019 it reached 79.5 million refugees then in 2021 there were more than 82.4 million refugees worldwide, more than 40 percent of whom were children and this has become an issue

that requires special attention from the international community.

Article 83 paragraph (1) letter b of Law Number 6 of 2011 states that immigration officials have the authority to place people from abroad in the Migration Detention Center (Rudenim) if the person from abroad is in Indonesian territory without having valid travel documents. Based on data from the Medan City Refugee Task Force, in Medan City there were 1,667 refugees and asylum seekers in North Sumatra in May 2022, who were accommodated in 19 locations in Medan City.

The existence and activities of refugees in Medan City as individuals or groups have positive and negative impacts, which affect the social conditions of the community. The increase in the number of refugees has affected the culture of the population living around the refugee and asylum seeker shelters. The negative impacts that occur include social conflict, the status of children from mixed marriages, the provision of education for refugee children, violations of regulations, and conflicts due to social jealousy of one group towards another group. Of course, this is a problem in Medan City in handling foreign refugees because every year it continues to increase.

In fact, the existing problems are not only the lack of facilities and infrastructure, human resources, and budget are challenges for the immigration ranks and the Medan City Government in implementing a strategy for handling refugees in Indonesia including the City of Medan. If the UNHCR policy provides financial assistance and facilities for refugees from abroad, now the new policy in 2018, UNHCR limits or cuts the assistance provided by refugees. However, the IOM also reduces financial assistance to refugees. This is a big problem for the country of Indonesia both in the Medan City area and becomes an additional burden for a country.

Based on this, the researcher is interested in conducting research on "Implementation of Applicable Regulations on Handling Foreign Refugees at the Medan Immigration Detention Center (Relevance of Presidential Decree Number 125 of 2016)"

Regarding the funding restrictions that have been imposed by UNCHR and IOM on refugees since 2018, they have demanded that the central and regional governments disburse funds for refugees or asylum seekers. Furthermore, Presidential Regulation Number 125 of 2016 does not appear to represent detailed legal certainty for refugees or the Indonesian state. Presidential

Regulation Number 125 of 2016 is also considered unable to accommodate the handling of refugees themselves, especially at the Medan Immigration Detention Center.

Based on the background description, the formulation of the research problem is: How is the handling of foreign refugees in the Immigration Detention Center? and What is the role of Presidential Regulation No. 125 of 2016 in handling foreign refugees?

## **II. RESEARCH METHODS**

This research uses a normative legal research type. This type of research is "normative legal" in nature, namely obtaining data from library studies in the form of laws, documents, books, magazines, and other literature related to writing. This research is normative in the form of literature. Library materials are the basis that in (science) research is classified as secondary data. The secondary data referred to in the research used are in the form of personal letters, books, official documents, literature, scientific works and laws and regulations to complete this writing.

## **III. RESULTS AND DISCUSSION**

### **A. Handling of Foreign Refugees at the Medan Immigration Detention Center**

A total of 1525 refugees from various countries are still temporarily accommodated in a number of shelters in Medan City (community houses), one of which is the Medan Immigration Detention Center. The Ministry of Law and Human Rights of the Republic of Indonesia, North Sumatra Regional Office through the Medan Immigration Detention Center (Rudemin) has so far handled the refugees seriously. If we look at the Indonesian government's policy, before 2016, namely Law Number 6 of 2011 concerning Immigration which regulates the entry and exit and the existence of foreigners' activities in Indonesia only recognizes illegal migrants. Every foreigner who enters not through the immigration checkpoint at the Immigration Detention Center.

So previously, the refugees were placed in the Medan Immigration Detention Center. However, with the issuance of Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad as a policy that prioritizes Human Rights. Meanwhile, the Head of the Medan Immigration Detention Center Sarsaralos Sivakkar explained that the purpose of placing refugees in Medan City is so that they can

be placed in a third country with the assistance of UNHCR (United Nations High Commissioner for Migration). However, the process does not always run smoothly and there are refugees in Medan City for five and seven years without getting placement.

To handle foreign refugees at the Medan Detention Center, several suggestions and steps that can be taken include:

1. **International and Regional Cooperation:** It is important to cooperate with international organizations such as UNHCR (United Nations High Commissioner for Refugees) and relevant regional institutions to obtain technical assistance and support in handling refugees.
2. **Data Collection and Identification:** Conducting data collection and identification of refugees to determine their numbers, backgrounds, and needs. This information is important for planning appropriate assistance programs.
3. **Health Services:** Ensure refugees' access to adequate health services, including immunization, medical care, and reproductive health services.
4. **Education:** Providing access to education for refugee children, both formal and non-formal, so that they can continue to learn and develop their potential.
5. **Poverty Alleviation:** Providing social and economic assistance to refugees to reduce the risk of poverty and increase their economic independence.
6. **Protection and Security:** Ensure protection of the human rights of refugees, including protection against violence, exploitation and discrimination.
7. **Integration with Local Communities:** Encourage the social and economic integration of refugees with local communities through integration programs, job training, and promotion of intercultural dialogue.
8. **Monitoring and Evaluation:** Conduct continuous monitoring of refugee conditions and evaluate the effectiveness of implemented programs.
9. **Community Education:** Educating local communities about the situation and conditions of refugees to reduce stigma and increase social support for them.
10. **Inter-agency coordination:** Ensuring good coordination between various related

agencies such as local governments, non-governmental organizations, and international organizations in implementing assistance and guidance programs for refugees.

With these steps, it is hoped that the handling of foreign refugees at the Medan Immigration Detention Center can be carried out effectively and sustainably, as well as providing proper protection and assistance for them in this difficult situation.

## **B. The Role of Presidential Decree No. 125 of 2016 in Handling Overseas Refugees**

Indonesia is not yet a party to the 1951 Convention and the 1967 Protocol. Asylum will be granted by the President based on a Presidential Decree provided that the asylum seeker has an Attestation Letter as an asylum seeker, has the status of someone under the protection of UNHCR, or has the status of a refugee from UNHCR.

Thus, the government does not have the authority to determine a person or group of people as refugees because the authority lies with the UNHCR, so asylum seekers whose status has not been identified by the UNHCR will be placed in detention, while those who are not included in the category of asylum seekers or refugees by the UNHCR will be immediately deported. The handling of refugees and the determination of refugee status are determined by the UNHCR (United Nations High Commission for Refugees) in accordance with the mandate it received based on the UNHCR statute of 1950.

Some steps that have been taken by the local government related to refugee shelters include: providing shelters and clean water facilities in temporary shelters. The North Sumatra Provincial Government, based on statistical data from the Medan Immigration Detention Center until March 2018, there were 2,228 refugees placed in several community houses and the shelters for these refugees were as far as possible localized from the community, the aim of which was to facilitate supervision because the refugees came without documents. The problem is, the refugee problem is not only the responsibility of immigration. Moreover, immigration has limitations in handling thousands of refugees. Immigration adheres to the Immigration Law. The Presidential Decree on Refugees from Abroad adds authority to handle refugees to the Directorate General of Immigration

In the Immigration Law, it is limitedly regulated that immigration is related to the traffic

of people entering or leaving the Territory of Indonesia and its supervision in order to maintain the sovereignty of the state. Its services also only include law enforcement, state security, and facilitators of community welfare development. Clearly this is different in character from the humanitarian services that must be provided to refugees. In addition, Immigration is not trained to become social workers with expertise in handling humanitarian issues. From the beginning, Immigration officers have played a role as part of immigration law enforcement.

Presidential Regulation No. 125 of 2016 on Handling of Overseas Refugees is an important legal basis in the Indonesian government's policy regarding refugees. Here are some of the main points in this presidential regulation:

1. **Definition and Recognition of Refugees:** This Presidential Decree recognizes the definition of refugees in accordance with international standards adopted in the UN Convention on the Status of Refugees 1951 and its Protocol of 1967. Refugees are recognized as people who are outside their country of origin and are unable or unwilling to return due to fear of persecution because of their race, religion, nationality, particular social group, or political opinion.
2. **Protection and Assistance:** Provide protection guarantees to refugees, including access to basic rights such as education, health, and employment. The government is responsible for providing necessary assistance to refugees in emergency situations.
3. **Refugee Management:** Establish coordinated handling procedures and mechanisms between the central government, local governments, and related institutions to manage and facilitate refugee conditions, including identification, registration, and supervision.
4. **Social and Economic Integration:** Promote social and economic integration of refugees with host communities through integration programs, skills training, and capacity building to enable them to become economically independent.
5. **International Cooperation:** Affirming the importance of international cooperation in handling refugees, including working with UN agencies such as UNHCR and

other international organizations in providing assistance and protection.

6. **Monitoring and Evaluation:** Conduct regular monitoring and evaluation of the implementation of this policy to ensure effectiveness and compliance with human rights standards and international law.
7. **Mentoring and Education:** Providing education and mentoring to refugees, especially children, to ensure they continue to have access to adequate education and support their development.

With the Presidential Regulation No. 125 of 2016, it is hoped that the handling of foreign refugees in Indonesia can be carried out systematically and in accordance with human rights principles, as well as providing adequate protection for those who experience difficult situations and lose protection in their home countries.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

The issuance of Presidential Regulation Number 125 of 2016, the handling of refugees prioritizes human rights. To overcome this situation, several steps that can be taken include increasing international cooperation with UNHCR and regional institutions, conducting data collection and identification of refugees, ensuring access to health and education services, and providing protection for their human rights. Social and economic integration with local communities, as well as good coordination between agencies are also needed to ensure that the handling of refugees is effective and sustainable.

With the Presidential Decree No. 125 of 2016, it is hoped that the handling of foreign refugees in Indonesia can be carried out systematically and in accordance with human rights principles, providing adequate protection for those experiencing difficult situations in their home countries.

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