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LAW ENFORCEMENT AGAINST REFUGEES WHO VIOLATE THE RULES IN PEKANBARU CITY BASED ON PRESIDENTIAL REGULATION NUMBER 125 OF 2016 CONCERNING HANDLING OF REFUGEES FROM ABROAD

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ABSTRACT

This study aims to analyze law enforcement against refugees who violate the rules in Pekanbaru City based on Presidential Regulation Number 125 of 2016. The research method used is sociological legal research, legislative and case approaches; population and samples from relevant sources; data sources are primary, secondary and tertiary; data collection techniques are observation, structured interviews and document/literature studies. The results of the study indicate that law enforcement against refugees who violate the rules in Pekanbaru City has not been implemented properly, especially from 2020 to 2024, as evidenced by the fact that special placement sanctions have not been applied to refugees who violate. Second, the inhibiting factors are legislative factors; law enforcement officers/government, community, facilities, and culture.

Keywords: Law Enforcement, Foreign Refugees, Pekanbaru City

ABSTRAK

Penelitian ini ditujukan untuk menganalisis penegakan hukum terhadap pengungsi yang melanggar aturan di Kota Pekanbaru berdasarkan Peraturan Presiden Nomor 125 Tahun 2016. Metode penelitian yang digunakan adalah penelitian hukum sosiologis, pendekatan perundang-undangan dan kasus; populasi dan sampel dari narasumber relevan; sumber data ialah primer, sekunder dan tersier; teknik pengumpulan data ialah observasi, wawancara terstruktur dan studi dokumen/kepustakaan. Hasil penelitian menunjukkan bahwa penegakan hukum terhadap pengungsi yang melanggar aturan di Kota Pekanbaru belum dilaksanakan dengan baik terutama tahun 2020 sampai 2024 dibuktikan terhadap para pengungsi yang melanggar, sanksi berupa penempatan secara khusus belum diterapkan. Kedua, Faktor yang menghambat ialah Faktor perundang-undangan; aparat penegak hukum/pemerintah, masyarakat, sarana, fasilitas dan kebudayaan.

Kata Kunci: Penegakan Hukum, Pengungsi Luar Negeri, Kota Pekanbaru

INTRODUCTION

The openness and willingness of a country to accept refugees from other countries into its country according to international regulations is based on the 1951 Convention and the 1967 Protocol. Indonesia has not ratified the 1951 Convention and the 1967 Protocol, which are conventions of UN member states that contain a number of rights and obligations of refugees towards host countries based on the Principle of Non-Refoulement.

"The existence of the principle of non-refoulement in the international refugee law system has been legally established through international legal instruments"¹. "The principle of Non-Refoulement is the principle that refugees should not be returned to a country where they are facing serious threats to their freedom and life. "The 1969 Vienna Convention on Diplomatic Relations is the rule of the game for countries that must be obeyed in establishing international relations."²

The basic rights of refugees as regulated in the body of the 1951 Convention, namely: the right not to be expelled, except under certain conditions strictly defined as contained in Article 33; the right to work as contained in Articles 17, 16 and 18; the right to housing as contained in Article 21; the right to education as contained in Article 22; the right to public assistance and assistance as contained in Article 23; the right to freedom of religion as contained in Article 4; non-discrimination as contained in Article 3; the right to access the courts as contained in Article 16; the right to freedom of movement within the territory; the right to obtain identity and travel documents as contained in Articles 27 and 28. Considering the state of Indonesia as a developing country, the rights of these refugees cannot be fully accommodated by the Indonesian government, which is why the Indonesian government has not ratified the 1951 Convention and the 1967 Protocol, because it will create a new problem that will have a widespread impact on the life of the nation and state in Indonesia.

However, with the consideration of maintaining good foreign relations through bilateral and multilateral cooperation and consideration of Human Rights, according to Article 27 paragraph (2) of Law Number 37 of 1999 concerning Foreign Relations, that "The President determines the policy on the issue of refugees from abroad by taking into account the considerations of the Minister." "The establishment of good friendly relations between countries is due to the prior existence of diplomatic relations and friendly relations

¹ Sigit Riyanto, "Prinsip Non-Refoulement dan Relevansinya Dalam Sistem Hukum Internasional," *Jurnal Mimbar Hukum*, Vol. 22 No. 3 Tahun 2020, hlm. 436.

² Syafrinaldi, *Hukum Internasional*, Edisi Pertama, (Pekanbaru: UIR Press, 2005), hlm. 54.

between the countries.”³ In the concept of Human Rights, the state has an obligation to respect, protect, and uphold Human Rights which are not only directed solely at Indonesian citizens, but in a broad sense also includes citizens from other countries who are in the territory of Indonesia. No matter whether their presence in Indonesia is legal or illegal.⁴

Relations between countries are within the scope of international law. Before the birth of international organizations, relations between countries had already occurred even though there was no written law regulating it.⁵ In international relations, what is most often emphasized is the right to independence and equality of nations, territorial jurisdiction and the right to self-defense or defend oneself.⁶ The relationship is implemented based on international agreements. "International agreements are agreements between members of the community of nations and are intended to result in certain legal consequences."⁷

The international provisions in Indonesia must be implemented based on legal provisions. The Republic of Indonesia is a country of law. The legal evidence is contained in the Indonesian Constitution, specifically in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that: "The Republic of Indonesia is a country of law." This legal evidence is supported by the opinion put forward by Padmo Wahjono, that: "It has been stated in the constitution as the highest law that Indonesia is a country of law. The spirit of placing law as the spearhead of legal reform aims for law to be able to take on its role as the commander of democratic reform."⁸ Therefore, in its implementation, regulations need to be made, so Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad was made.

According to Article 1 number 1 of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, "Refugees from Abroad are foreigners who are in the territory of the Unitary State of the Republic of Indonesia due to a well-founded fear of persecution on the grounds of race, ethnicity, religion, nationality, membership of a particular social group, and different political opinions and do not want protection from

³ Edy Suryono dan Moenir Arisoenda, *Hukum Diplomatik*, (Bandung: Angkasa Bandung, 1986), hlm. 1.

⁴ Balitbang HAM, *Buku Pedoman HAM bagi Petugas Rumah Detensi Imigrasi*, (Balitbang HAM Kemenkumham RI, 2011), hlm. 2.

⁵ Syafrinaldi, *Hukum Internasional, Op. Cit.*, hlm. 50.

⁶ J. G Starke, *Pengantar Hukum Internasional*, Edisi Kesepuluh, (Jakarta: Sinar Grafika, 2016), hlm. 131.

⁷ M. Kusumaatmaja dan E.R. Agoes, *Pengantar Hukum Internasional*, (Bandung: Alumnus, 2003), hlm. 14.

⁸ Padmo Wahjono, *Membudayakan UUD 1945*, (Jakarta: IND HILL-Co, 1991), hlm. 34.

their country of origin and/or have obtained asylum seeker status or refugee status from the United Nations through the High Commissioner for Refugees in Indonesia.” Refugees are also defined as: “People who cross national borders due to experiencing human rights violations and conflict. Refugees are the main evidence of human rights violations and vulnerability. People who experience persecution, loss of residence and community or livelihood are those who are often forced to leave their country of origin and seek protection in another country.”⁹

Based on the reasons above, based on observations made by the author in the initial research, it is known that since 11 years ago thousands of refugees from abroad from Afghanistan, Iran, Iraq, Palestine, Somalia, Sudan and Myanmar (Rohingnya) have been in temporary shelters called refugee accommodation. They are placed spread across several regions in Indonesia, one of which is in Pekanbaru City. Where based on the author's observations in the initial research, it is known that the total number of refugees from abroad in Pekanbaru City is currently 959 people who are placed in 8 (eight) refugee accommodation places in Pekanbaru City.

In order to strengthen the handling of refugees from abroad in Indonesia, the Indonesian government also held a National Coordination Meeting entitled "National Coordination Meeting for Evaluation and Strengthening the Implementation of Presidential Regulation No. 125 of 2016 concerning Handling of Refugees from Abroad" which was held on September 6, 2019 in Bali, with one of the results being the establishment of a draft of rules and regulations that had been formulated from the results of the national coordination meeting for handling refugees from abroad to be enforced as rules and regulations in all temporary shelters in their respective regions and the establishment of the National Unity and Regency/City Politics agencies as the leading sector for handling refugees from abroad.

In addition, based on observations made by the author in the initial research, it is also known that in all regions of Indonesia where there are refugee accommodations, a Task Force for Handling Refugees from Abroad has also been formed, as well as in Pekanbaru City. The Task Force for Handling Refugees from Abroad in Pekanbaru City consists of several agencies within the scope of the Pekanbaru City government, one of which is the Pekanbaru City National Unity and Politics Agency as the daily Chair, the Pekanbaru Regional Immigration Office, the Pekanbaru Immigration Detention Center, the Police, the Indonesian National Army, the International Organization for Migration Pekanbaru Representative Office and the United Nation High Commissioner for Refugees.

⁹ A. Betts dan G. Loescher, *Refugees in International Relations*, (New York: Oxford University Press, 2011), hlm. 1.

The facilitation of refugees from abroad by the International Organization for Migration has been determined in such a way. According to Article 26 paragraph (5) of Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad, basic needs facilities for refugees in shelters at least include: provision of clean water; fulfillment of food, drink, and clothing needs; health and hygiene services; worship facilities. Where if refugee shelters are not yet available, then refugees are placed in accommodation owned and managed by the private sector in each district/city area. Where funding for refugees from abroad in Pekanbaru City is known by the author based on observations, namely funded by the International Organization for Migration Pekanbaru Representative Office.

According to Notonegoro, an obligation is a burden to provide something that should be provided by a certain party." In addition to having rights within the scope of the above facilities, every refugee from abroad also has an obligation to comply with the rules and regulations that have been established in the refugee accommodation as regulated in Article 30 paragraph (1) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, which states that: "Every refugee is obliged to comply with the rules and regulations in the shelter as referred to in Article 25 letter h, the customs that apply in the local community, and the provisions of laws and regulations.

Based on Article 25 letter h of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad Jo. Article 22 paragraph (1) of Pekanbaru Mayor Regulation Number 229 of 2020 concerning the Position, Organizational Structure, Duties and Functions and Work Procedures of the National Unity and Politics Agency of Pekanbaru City, the determination and supervision of the implementation of these rules of procedure is the responsibility of the Pekanbaru City Government through the National Unity and Politics Agency of Pekanbaru City, especially in the Field of National Alertness and Conflict Management as follows:

1. Article 25 letter h of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, that: "Determination of rules and regulations in shelters by appointed district/city government officials.
2. Article 22 paragraph (1) of Pekanbaru Mayor Regulation Number 229 of 2020 concerning the Position, Organizational Structure, Duties and Functions and Work Procedures of the National Unity and Politics Agency of Pekanbaru City, that: "The National Alertness and Conflict Handling Sector in carrying out its duties assists part of the duties of the Head of the Agency in carrying out sub-affairs of national alertness and conflict handling, carries out the function of implementing policies

in the field of early warning, intelligence cooperation, monitoring foreigners, foreign workers and foreign institutions, alertness of inter-state borders, facilitation of institutional alertness, and handling of conflicts in the Pekanbaru City area.

Based on this, in Pekanbaru City, one of the provisions in the rules is that refugees from abroad must comply with the accommodation check-out hours, namely from 08.00 WIB to 20.00 WIB. This regulation was established by the National Unity and Politics Agency of Pekanbaru City as the Leading Sector and Daily Chair of the Pekanbaru City Refugee Handling Unit.

Although in the framework of organizing the handling of refugees has been regulated in such a way in Indonesian law, various problems that have the potential for conflict have emerged both in the regions and in the center related to the implementation of handling refugees from abroad, as well as in Pekanbaru City. "According to Max Weber, conflict is a basic element of human life, regarding this Weber said, conflict cannot be eliminated from human life. People can indeed change the means, objects, basic directions or supporters, but people cannot get rid of the conflict itself.¹⁰

The conflict in question is known based on initial research conducted by the author through observation, namely in Pekanbaru City, the problem was triggered by the large number of refugees from abroad in refugee accommodation who violated the rules for leaving the accommodation, especially the curfew, and many often stayed outside the accommodation and stayed outside the city of Pekanbaru. In the rules, one of them is regulated regarding the hours of leaving the accommodation, namely from 08.00 WIB to 20.00 WIB. The number of violations is quite high, namely throughout 2022 to 2024 as many as 41 (forty-one) cases.

Violations of the accommodation's rules regarding the provisions on the accommodation's entry and exit times based on the author's observations in the initial research were known to have an impact on disrupting security and order in Pekanbaru City, even the refugees made a commotion such as getting drunk outside the accommodation which resulted in assault on local residents of Pekanbaru City, demonstrations, disturbing residents around the accommodation to the point of blowing up the issue of prostitution and committing criminal acts.

Against violations of the law, law enforcement must be carried out. This is in line with the expert opinion that: "the law functions as a protection of human interests, so that the law must be implemented normally, peacefully, but violations of the law can also occur, so that the law must be enforced so

¹⁰ I. B Wirawan, *Teori - Teori Sosial dalam Tiga Paradigma*, (Jakarta: Prenadamedia Group, 2016), hlm. 66.

that the law becomes a reality.¹¹ Law enforcement can be implemented through the application of sanctions as the sanctions have been regulated in laws and regulations. "Sanctions are feelings/actions that cause suffering as a result of evil actions/mistakes committed by someone because they have violated a rule. applicable.¹²

By Every refugee who does not comply with the rules and regulations in the shelter and customs shall be subject to special placement. As regulated in Article 30 paragraph (2) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, which states that: "Every foreigner as a refugee who does not comply with the rules and regulations in the shelter and customs as referred to in paragraph (1) shall be subject to special placement.

The special placement referred to is further stated in Article 30 paragraph (3) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, that: "Actions in the form of special placement as referred to in paragraph (2) are determined in the rules of procedure at the shelter as referred to in Article 25 letter h." Based on observations made by the author that as regulated in Point 3 letter b of the Rules of Procedure for Refugees from Abroad at the Pekanbaru City Refugee Accommodation Place, the action in the form of special placement is Isolation at the International Detention Coalition (IDC) which is located at the Pekanbaru Immigration Detention Center (Rudenim).

Regarding law enforcement in the form of implementing sanctions as desired by Article 30 paragraph (2) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, Article 30 paragraph (2) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, it is precisely from the initial research conducted by the author through observation that the implementation of sanctions for those who violate the accommodation regulations has not been implemented by the Pekanbaru City Refugee Handling Task Force, so that the law has not been effective. "A law can be called effective if there is a positive impact and public compliance. In such conditions, the law achieves its target in guiding or changing human behavior so that it becomes legal behavior.¹³

Based on the background of this research, it is known that there is a gap between the law (Das Sollen), namely 30 paragraph (2) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from

¹¹ Sudikno Mertokusumo, *Mengenal Hukum*, (Yogyakarta: Liberty, 2005), hlm. 160.

¹² Ngalim Purwanto, *Ilmu Pendidikan Teoretis dan Praktis*, (Bandung: Remaja Rosdakarya, 2000), hlm. 189.

¹³ Soerjono Soekanto, *Efektivitas Hukum dan pengaturan sanksi*, (Bandung: Ramadja Karya, 1988), hlm. 80.

Abroad and the implementation of the law (Das Seins), namely from 2022 to 2024, regarding 41 (forty-one) cases of violations of the hours of entry and exit of refugee accommodation in Pekanbaru City, law enforcement has not been carried out by the Pekanbaru City Refugee Handling Task Force from Abroad.

RESEARCH METHODOLOGY

This study uses sociological legal research. Sociological legal research is also often referred to as empirical research, namely: "A legal research method that functions to be able to see the law in a real sense and examine how the law works in a community environment. Because this study is studying people in social relations, the empirical legal research method can also be called sociological legal research.¹⁴ legal facts then seek solutions to the problems that arise in these social phenomena.¹⁵ Therefore, in this type of legal research, the requirement is that researchers basically have to know legal science and social sciences and have knowledge in social science research.

Sociological/empirical legal research prioritizes the existence of field research" which is essentially a method for specifically finding out the reality of what is happening in society, so conducting research on several current problems/hottest issues that are currently raging and expressed in the form of symptoms or social processes.¹⁶

RESULTS AND DISCUSSION

Law Enforcement Against Refugees Who Violate the Rules in Pekanbaru City Based on Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad

Protection of Human Rights in the concept of International Human Rights applies universally, therefore it does not recognize territorial boundaries. In the concept of Human Rights, the state has an obligation to respect, protect and uphold them, which are not only aimed at Indonesian citizens, but in a broad sense also include citizens from other countries in the territory of Indonesia.¹⁷

According to the results of observations made by the author in this study, it is known that Based on Human Rights and considering Indonesia as

¹⁴ Soerjono Soekanto, *Sosiologi Suatu Pengantar*, (Jakarta: Rajawali Pers, 2012), hlm. 12.

¹⁵ Soerjono Soekanto, *Pengantar Penelitian Hukum*, (Jakarta: UI-Pers, 1986), hlm. 43.

¹⁶ Hadari Nawawi, *Metode Penelitian Bidang Sosial*, (Yogyakarta: Gadjah Mada University Press, 1998), hlm. 63.

¹⁷ Balitbang HAM, *Buku Pedoman... Loc.Cit.*

a member of the United Nations, in order to realize good international relations, the State of Indonesia accepts refugees from abroad in the form of temporary accommodation considering that Indonesia did not sign the 1951 Convention and the 1967 Protocol which are Conventions of member countries of the United Nations which contain a number of rights and obligations of refugees to the host country based on the Principle of Non-Refoulement. This means that Indonesia temporarily accommodates refugees and Indonesia is not the destination country for these refugees so that it does not have an obligation to accept refugees to settle in Indonesia.

According to Article 1 number 1 of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, "Refugees from Abroad are foreigners who are in the territory of the Unitary State of the Republic of Indonesia due to a well-founded fear of persecution on the grounds of race, ethnicity, religion, nationality, membership of a particular social group, and different political opinions and do not want protection from their country of origin and/or have received asylum seeker status or refugee status from the United Nations through the High Commissioner for Refugee Affairs in Indonesia."

"The principle of non-refoulement is a principle that states that refugees should not be returned to a country where they are facing serious threats to their freedom and life. "The principle of non-refoulement is oriented towards the principle of protection in human rights law regarding matters related to the protection of individuals from acts that fall into the category of torture and/or harsh punishment that is degrading and inhumane. The most fundamental principle for the entire international refugee law system is legally in Article 33 of the 1951 Convention on Refugees."¹⁸ This principle also applies to refugees from abroad who are in the jurisdiction of the Unitary State of the Republic of Indonesia.

The above is reinforced by the results of the author's interview with the Head of the Pekanbaru Immigration Detention Center, in this case represented by the Head of Security and Order of the Immigration Detention Center, who stated that; "The factor of the Indonesian nation's participation in the UN which upholds human rights in the international organization and in order to maintain good relations in the international world and the Indonesian nation's thinking that strengthening cooperation in various fields is needed, then the Indonesian state is willing to accommodate refugees from abroad with a transit system before the refugees are sent to the destination country/third country, namely America, Australia and Canada. In its implementation, the Indonesian state respects the Principle of Non-Refoulement, where refugees may not be returned to a country where they are seriously threatened by their

¹⁸ Mentari Jastisia dan M. Husni Syam, *Perlindungan Hukum..., Loc. Cit.*

freedom and life. Although the Indonesian state has not ratified Indonesia, it has not signed the 1951 Convention and the 1967 Protocol which are the Conventions of member countries of the United Nations as countries receiving refugees."¹⁹

Article 2 of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, states that: "Handling of Refugees is carried out based on cooperation between the central government and the United Nations through the High Commissioner for Refugees in Indonesia and/or international organizations." For this reason, based on observations made by the author, the Indonesian government's cooperation in handling refugees from abroad is carried out by the Indonesian government and the UN.

According to the study of documents/literature conducted by the author through legislation, Article 21 of the 1951 Convention states that refugees have the right to a place to live. When faced with the condition that shelter is not yet available, refugees can be placed in temporary accommodation which according to Article 24 paragraph (3) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad is determined by the local regent/mayor.

Therefore, funding and acceptance including the placement of refugees from abroad in Pekanbaru City is based on the results of the author's interview with the Acting Head of the National Unity and Politics Agency of Pekanbaru City, it is known that: "Refugees from abroad in Indonesia in general and in Pekanbaru City who are stranded in Indonesia and seeking asylum are assigned refugee status in Pekanbaru City, after which they are handed over to the Pekanbaru City government to be placed in a very decent and good refugee shelter which is called refugee accommodation from abroad, funding for housing, namely accommodation, monthly food money, free health facilities is funded by PP through a third party, namely IOM Pekanbaru."²⁰

Based on the results of the author's interview with the Head of the International Organization for Migration (IOM) Pekanbaru Representative Office, it is known that the refugee accommodations are the Indah Sari Guesthouse on Jl. Putri Indah, Bukit Raya District (Behind the Prime Park Hotel); Satria Hotel Accommodation on Jl. D'Cops Guesthouse

¹⁹ Interview of the Author with the Head of the Pekanbaru Immigration Detention Center, in this case represented by Mrs. Dewi Natali, as the Head of the Security and Order Section of the Pekanbaru Immigration Detention Center, on Tuesday, December 10, 2024, at 11.10 WIB, at the Pekanbaru Immigration Detention Center.

²⁰ Author's Interview with Mr. Hadi Sanjoyo, SSTP., M.Si as Acting Head of the National Unity and Politics Agency of Pekanbaru City, on Monday, December 9, 2024, at 11.00 WIB, at the Office of the National Unity and Politics Agency of Pekanbaru City.

Accommodation on Jl. Mustafasari, Bukit Raya District; Siak Resort Accommodation on Jl. Fanel Guesthouse Accommodation on Jl. Tegalsari, Budi Sari Alley, Rumbai Pesisir District; Tasqya House Accommodation on Jl. Orchid Guesthouse Accommodation on Jl. Musyawarah, Nangka Ujung, Payung Sekaki District (Near the Payung Sekaki PLN Office); and Nevada Boarding House Accommodation on Jl. Kertama, Marpoyan Damai District.”²¹

The number of refugees placed in 8 refugee accommodation places from abroad in Pekanbaru City is quite large. Therefore, based on the results of observations conducted by the author, it is known that in order to carry out good refugee handling, then throughout Indonesia where there are refugees from abroad, a Task Force for Handling Refugees from Abroad was formed, one of which is in Pekanbaru City.

Regarding the formation of the Task Force for Handling Refugees from Abroad in Pekanbaru City based on the results of the author's interview with Plt. Head of the National Unity and Politics Agency of Pekanbaru City, that: "The Task Force for Handling Refugees from Abroad was formed in the center and regions. In Pekanbaru City, it was formed based on Presidential Regulation Number 125 of 2016 concerning Handling Refugees from Abroad; Decree of the Coordinating Minister for Political, Legal and Security Affairs of the Republic of Indonesia Number 55 of 2019 concerning the Task Force for Handling Refugees from Abroad of the Coordinating Ministry for Political, Legal and Security Affairs; Circular Letter Number 300/2308/SJ Concerning the Establishment of the Task Force for Handling Refugees from Abroad in the Regency/City, in Pekanbaru City consisting of the Pekanbaru City Kesbangpol Agency, Pekanbaru Immigration Office, Pekanbaru Immigration Detention Center, Pekanbaru City Resort Police, Bukit Raya Sector Police, Senapelan Sector Police, Payung Sekaki Sector Police, Bukit Raya Sector Police, Rumbai Pesisir Sector Police, Pekanbaru City Sector Police, Sub-district Heads and Village Heads throughout Pekanbaru City, District Command Military 0301/ Pekanbaru, International Organization for Migration Pekanbaru, United Nations High Commissioner for Refugees Pekanbaru.”²²

The implementation of handling refugees from abroad in Pekanbaru City by the Pekanbaru City Regional Government is one form of the government's role as a public servant. An important principle that is a guideline for the Pekanbaru City Regional Government in carrying out its role

²¹ Author's Interview with Mrs. Yurika Asni, as the Head of the International Organization for Migration (IOM) Pekanbaru Representative Office on Thursday, December 5, 2024, at 10.10 WIB, at the IOM Pekanbaru Representative Office.

²² Author's Interview with Mr. Hadi Sanjoyo, SSTP., M.Si as Acting Head of the National Unity and Politics Agency of Pekanbaru City, on Monday, December 9, 2024, at 11.00 WIB, at the Office of the National Unity and Politics Agency of Pekanbaru City.

as a public servant is good governance. "UNDP defines good governance as the exercise of political, economic and administrative authority a nation's affair at all levels (the application of political, economic and administrative authority to manage the affairs of a nation at all levels)."²³

Based on the study of documents/literature conducted by the author, it is known that "Indonesia has been faced with the presence of refugees from abroad for more than 10 years, which is increasing day by day. This is a consequence of Indonesia as a transit country so that it must also face the problem of refugees which continues to increase along with changes in Australian policy regarding asylum seekers and refugees which is called the turn back the boat policy and the rejection of resettlement for refugees to their country which is one of the third countries and a country that ratified the 1951 Convention and Protocol 196."²⁴

This is reinforced by the results of the author's interview with the Head of the UNHCR Pekanbaru Representative, in this case represented by the Senior Protection Assistant (Community Based Protection) UNHCR Pekanbaru Representative, who stated that; "There is no firmness regarding the limitation of the period of transit of refugees in Indonesia. However, based on the Immigration Law, there is a maximum limit of 10 years, therefore before 10 years, efforts are made to return them to their country of origin (if it is safe) and send them to a third country (if their country of origin is still in conflict). The return of refugees to a third country is subject to the laws of the third country. Not all third countries accept refugees because they do not meet the requirements set by the third country even though these countries have ratified the 1951 Convention and the 1967 Protocol, which are Conventions of UN member states that contain a number of rights and obligations of refugees to the host country based on the Principle of Non-Refoulement, changes in Australian policy regarding asylum seekers and refugees called the turn back the boat policy and rejection of resettlement for refugees to their country which is one of the third countries of refugee destinations."²⁵

²³ Hayat, *Manajemen Pelayanan Publik*, (Depok: PT RajaGrafindo Persada, 2019), hlm. 165.

²⁴ Abu Hasan Ashari, Sudi Fahmi dan Adrian Faridhi, "Implementasi Perlindungan Pengungsi di Kota Pekanbaru berdasarkan Peraturan Presiden Nomor 125 Tahun 2016 tentang Penanganan Pengungsi dari Luar Negeri," *Prosiding SEMNASHUM Universitas Lancang Kuning*, Vol. 1 No. 2 Tahun 2024, hlm. 4.

²⁵ Interview with the Author with the Head of the UNHCR Pekanbaru Representative Office, in this case represented by Mr. Erik Rahmadanil, as the Senior Protection Assistant (Community Based Protection) of the UNHCR Pekanbaru Representative Office, on Thursday, December 5, 2024, at 09.00 WIB, at the UNHCR Pekanbaru Representative Office..

One of the government's authorities is the authority of attribution/attribute, H.D. Van Wijk and Willem Konijnenbelt, namely "Attribution: toekening Van een bestuursbevoegheid door een wetgever aan een bestuursorganaan, (attribution is the granting of government authority by the law maker to a government organ)."²⁶

Every refugee from abroad who is in Indonesia, especially in Pekanbaru City, has an obligation to comply with the rules and regulations made by the Pekanbaru City government. This obligation is regulated in Article 30 paragraph (1) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, which states that: "Every refugee is obliged to comply with the rules and regulations in the shelter as referred to in Article 25 letter h, the customs that apply in the local community, and the provisions of laws and regulations.

Then related to the violation of the Rules of Procedure for Refugees from Abroad in Refugee Accommodation Places in Pekanbaru City, which has an impact on disturbing the security and public order of Pekanbaru City and also violating the law, in the author's interview with Plt. The Head of the National Unity and Politics Agency of Pekanbaru City, he stated that: "the problem was triggered by the large number of refugees from abroad in refugee accommodation who violated the rules of accommodation check-out hours, especially the curfew, and many often stayed outside the accommodation and stayed outside the city of Pekanbaru. In the rules, one of them is regulated regarding the check-out hours of the accommodation, namely from 08.00 WIB to 20.00 WIB. The number of violations is quite high, namely throughout 2022 to 2024 there were 41 (forty-one) cases. Violations of the rules of the accommodation regarding the provisions on the check-out hours of the accommodation based on the results of the author's observations in the initial study were known to have an impact on disrupting security and order in Pekanbaru City, even the refugees made a scene such as getting drunk outside the accommodation leading to abuse of local Pekanbaru residents, demonstrations, disturbing residents around the accommodation to the point of blowing up the issue of prostitution and committing criminal acts."²⁷

"In the aspect of law enforcement, often in certain circumstances the use of force is required to maintain the dignity of the law and the existence of law enforcement institutions. This is related to the legal nature of the law/norm if it is attached to sanctions, although in essence the law/norm must be seen

²⁶ Ridwan HR, *Hukum Administrasi...*, *Loc. Cit.*

²⁷ Author's Interview with Mr. Hadi Sanjoyo, SSTP., M.Si as Acting Head of the National Unity and Politics Agency of Pekanbaru City, on Monday, December 9, 2024, at 11.00 WIB, at the Office of the National Unity and Politics Agency of Pekanbaru City.

with the correlation between other laws/norms."²⁸ Therefore, it is necessary to apply sanctions.

"Sanctions are feelings/actions that cause suffering as a result of evil actions/mistakes committed by someone because they violate a rule."²⁹ "Sanctions can be said to play a role as part of an indicator that improves the process of improvement/correction in explaining a person's behavior, so that in the future it can bring about better changes."³⁰

Refugees who have violated the rules of order in accommodation have violated the provisions in Article 30 paragraph (1) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, so they must be given legal sanctions. The legal sanctions are regulated in Article 30 paragraph (2) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, which states that: "Every foreigner as a refugee who does not comply with the rules of order in the shelter and customs as referred to in paragraph (1) shall be subject to action in the form of special placement."

The special placement referred to is further stated in Article 30 paragraph (3) of Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, that: "Actions in the form of special placement as referred to in paragraph (2) are determined in the rules of procedure at the shelter as referred to in Article 25 letter h." Based on observations made by the author, it is known that the action in the form of special placement is Isolation at the International Detention Coalition (IDC) which is located at the Pekanbaru Immigration Detention Center (Rudenim) as stated in Point 3 letter b of the Rules of Procedure for Refugees from Abroad at the Pekanbaru City Refugee Accommodation Place.

This is reinforced by the results of the author's interview with the Acting Head of the National Unity and Politics Agency of Pekanbaru City, in the interview he stated that "The Pekanbaru City PPLN Task Force has determined and stated it in the Rules of Procedure for Refugee Accommodation for Refugees from Abroad in Pekanbaru City, that special placement for refugees who violate the accommodation rules is at the International Detention Coalition (IDC) which is located at the Pekanbaru Immigration Detention Center (Rudenim), but this has not been implemented due to constraints on facilities and food budget at the International Detention

²⁸ Antonius Cahyadi dan E. Fernando M. Manullang, *Pengantar Ke Filsafat Hukum*, (Jakarta: Kencana Prenada Media Group, 2007), hlm. 84.

²⁹ Ngalim Purwanto, *Ilmu Pendidikan....*, *Loc. Cit.*

³⁰ Ahmad Ali Budaiwi, *Imbalan dan Hukuman Pengaruhnya Bagi Pendidikan Anak*, (Jakarta: Gema Insani, 2002), hlm. 30.

Coalition (IDC). So for refugees who violate the rules of procedure, there has been no law enforcement until now.”³¹

This is reinforced by the results of the author's interview with the Head of the Pekanbaru Immigration Detention Center, in this case represented by the Head of the Security and Order Section of the Pekanbaru Immigration Detention Center, who stated that: "There is no readiness from the International Detention Coalition (IDC) located at the Pekanbaru Immigration Detention Center (Rudenim) to be used as a special place/isolation for refugees from abroad in Pekanbaru City due to inadequate building facilities and then there is no budget to provide food for refugees who will be isolated there. Regarding this, the Pekanbaru City government should help facilitate it because handling these refugees is a joint responsibility of the Pekanbaru City PPLN Task Force.”³²

Based on the results of the author's interview with the Acting Head of the National Unity and Politics Agency of Pekanbaru City, it is known that there are a number of violations of regulations that have not been enforced by law, as the author presents in the form of this table:³³

Table I
Number of Violations for Refugees from Abroad in Refugee Accommodation Places in Pekanbaru City Regarding the Limitation of Entry and Exit Hours for Refugee Accommodation in 2022 to 2024 That Have Not Been Enforced

No.	Refugee Accommodation Name	Year and Number of Violations (Cases)		
		2022	2023	2024
1.	Indah Sari Guesthouse Accommodation	1	1	2
2.	Satria Hotel Accommodation	2	1	1
3.	D’Cops Guesthouse Accommodation	2	2	1
4.	Siak Resort Accommodation	1	2	1
5.	Wisma Fanel Accommodation	1	1	1
6.	Akomodasi Rumah Tasqya	1	2	1
7.	Akomodasi Wisma Orchid	1	1	1

³¹ Author's Interview with Mr. Hadi Sanjoyo, SSTP., M.Si as Acting Head of the National Unity and Politics Agency of Pekanbaru City, on Monday, December 9, 2024, at 11.00 WIB, at the Office of the National Unity and Politics Agency of Pekanbaru City.

³² Interview of the Author with the Head of the Pekanbaru Immigration Detention Center, in this case represented by Mrs. Dewi Natali, as the Head of the Security and Order Section of the Pekanbaru Immigration Detention Center, on Tuesday, December 10, 2024, at 11.10 WIB, at the Pekanbaru Immigration Detention Center.

³³ Author's Interview with Mr. Hadi Sanjoyo, SSTP., M.Si as Acting Head of the National Unity and Politics Agency of Pekanbaru City, on Monday, December 9, 2024, at 11.00 WIB, at the Office of the National Unity and Politics Agency of Pekanbaru City.

8.	Nevada Boarding House Accommodation	1	1	1
	TOTAL (Kasus)	14	17	10

Data source: National Unity and Politics Agency of Pekanbaru City, processed in 2024

The form and number of legal violations that occurred due to violations of accommodation entry and exit hours by refugees from abroad in Pekanbaru City are based on the results of the author's interview with the Acting Head of the National Unity and Politics Agency of Pekanbaru City as presented by the author in the table below:³⁴

Tabel 2
Forms and Number of Legal Violations Occurring Due to Violations of Accommodation Entry and Exit Hours by Refugees from Abroad in Pekanbaru City from 2022 to 2024

Tahun	Jenis Pelanggaran Hukum			
2022	Drunkenness Leads to Abuse	Demonstration	Disturbing Residents Around Accommodation	Prostitution
	Wisma Fanel Accommodation;	Accommodation Wisma Indah Sari, Accommodation Hotel Satria;; Accommodation Wisma D'Cops; Accommodation Siak Resort; Accommodation Wisma Fanel; Accommodation Rumah Tasqya; Accommodation Wisma Orchid; Accommodation Kost Nevada	D'Cops Guesthouse Accommodation; Siak Resort Accommodation	Satria Hotel Accommodation,
Amount	1	10	2	1
2023	Beautiful Guesthouse	Beautiful Guesthouse	D'Cops Guesthouse	

³⁴ Author's Interview with Mr. Hadi Sanjoyo, SSTP., M.Si as Acting Head of the National Unity and Politics Agency of Pekanbaru City, on Monday, December 9, 2024, at 11.00 WIB, at the Office of the National Unity and Politics Agency of Pekanbaru City.

	Accommodation Sari; Tasqya House Accommodation	Accommodation Sari, Satria Hotel Accommodation; D'Cops Guesthouse Accommodation; Siak Resort Accommodation; Fanel Guesthouse Accommodation; Tasqya House Accommodation; Orchid Guesthouse Accommodation; Nevada Boarding House Accommodation	Accommodation Orchid Guesthouse Accommodation; Fanel Guesthouse Accommodation	
Amount	2	12	3	-
2024		Accommodation Wisma Indah Sari; Accommodation Hotel Satria; Accommodation Wisma D'Cops; Accommodation Siak Resort; Accommodation Wisma Fanel; Accommodation Rumah Tasqya; Accommodation Wisma Orchid; Accommodation Kost Nevada	D'Cops Guesthouse Accommodation	Indah Sari Guesthouse Accommodation
Jumlah	-	8	1	1
TOTAL	3	30	6	2

Data source: National Unity and Politics Agency of Pekanbaru City, processed in 2024.

Related to the problems in this study, the author analyzes that the legal validity, namely Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, has not been balanced with legal validity, this is due to the following:

1. Refugees who violate the provisions in Article 30 paragraph (1) of Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad, means that this law has not been effectively applied to refugees from abroad in Pekanbaru City.
2. Sanctions in the form of special placement have not been applied to refugees from abroad in Pekanbaru City who have violated Article 30 paragraph (1) of Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad, meaning that the Pekanbaru City PPLN Task Force has not implemented the provisions in Article 30 paragraph (2) of Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad. This shows that the law has not been effectively applied to the Pekanbaru City PPLN Task Force

So in general it can be said that Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad has not been effectively implemented in Pekanbaru City.

Inhibiting Factors in Law Enforcement Against Refugees Who Violate the Rules in Pekanbaru City Based on Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad

Based on the results of the research conducted by the author as a whole using observation data collection techniques, structured interviews and document/literature studies as described above, the author analyzes that the factors that hinder law enforcement against refugees who violate the rules in Pekanbaru City based on Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad, are as follows:

1. Legislative factors, namely:
 - a. Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad is deemed not to accommodate the legal needs for handling refugees in Pekanbaru City.
 - b. Pekanbaru City does not yet have derivative regulations such as Regional Regulations/Mayor Regulations that regulate more firmly, clearly and comprehensively regarding the handling of refugees from Abroad in Pekanbaru City.
 - c. The difficulty of law enforcement due to the many violations by refugees triggered by the conditions for returning refugees to third countries is also clashed with the laws of

third countries. Not all third countries or destination countries accept refugees because they do not meet the requirements set by the third country or destination country, even though these countries have ratified the 1951 Convention and the 1967 Protocol

2. Law enforcement/ government factors, namely:
 - a. lack of coordination and synergy between agencies and stakeholders that have joined the Pekanbaru City PPLN Task Force, especially in the application of sanctions in the form of special placement for refugees who violate the rules into isolation at the International Detention Coalition (IDC) located at the Pekanbaru Immigration Detention Center (Rudenim).
 - b. The number of Human Resources implementing the tasks and functions of handling refugees in Pekanbaru City, namely the Pekanbaru City PPLN Task Force, is inadequate to support law enforcement.
 - c. the hesitation of the Pekanbaru City PPLN Task Force in applying sanctions to refugees from abroad in Pekanbaru City where the local police, if they want to apply criminal sanctions to refugees who violate the rules of refugee accommodation followed by violations of the law, are feared to violate international human rights
3. Community factors, namely:
 - a. Refugees from abroad in Pekanbaru City. Where if the sanctions in the form of special placement/isolation in the International Detention Coalition (IDC) are enforced, it is certain that refugee demonstrations will occur and this will have an increasingly widespread impact. The very large number of refugees, who are rude and often fight the Security Guards in refugee accommodation if reprimanded by the Security Guard for entering and leaving the accommodation beyond the hours specified in the rules for refugees in the accommodation make the Security Guards in the refugee accommodation afraid so that they do not report refugees who often stay outside the accommodation to the government, IOM and UNHCR and Rudenim.

4. Facilities/facilities factors, namely:
 - a. Budget limitations of the Pekanbaru City National Unity and Politics Agency for handling refugees in Pekanbaru City, especially in terms of monitoring refugees in accommodation, law enforcement and meetings and coordination to improve synergy between stakeholders and related agencies.
 - b. The International Detention Coalition (IDC) owned by the Pekanbaru City Immigration Center is inadequate for isolation places, also faced with minimal budget, especially for food for refugees who will later be isolated in the place.
 - c. The Pekanbaru City Civil Service Police Unit and the Pekanbaru City regional government do not have a special place that can be used as a temporary isolation place for refugees in Pekanbaru City who violate the rules and regulations.
5. Cultural factors, namely the differences between the refugees' culture and the culture in Indonesia, make it difficult for refugees to accept the accommodation rules and regulations that are made by taking into account Malay customs and cultural habits.

CONCLUSION

1. Law enforcement against refugees who violate the rules in Pekanbaru City based on Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad has not been implemented properly, as evidenced by the fact that special placement sanctions have not been applied to refugees who violate.
2. Factors that hinder law enforcement are: First, the legislative factor, namely Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad has not accommodated; Pekanbaru City does not yet have a Regional/Mayor Regulation that regulates more comprehensively regarding the handling of refugees; The difficulty of law enforcement is due to the many violations by refugees triggered by the conditions of returning refugees to third countries being clashed with the laws of third countries. Second, the factor of law enforcement officers/government, namely the lack of coordination and synergy of the Pekanbaru City PPLN Task Force; The number of human resources of the Pekanbaru City PPLN Task Force is inadequate; The hesitation of the Pekanbaru City PPLN Task Force in applying sanctions to refugees is feared to violate international human rights. Third, the community factor, namely if sanctions in the form of special placement are enforced against

refugees, it is certain that refugee demonstrations will occur; The very large number of refugees, who are rude and fight the refugee accommodation security guards, make the security guards afraid so that they do not report refugees who often stay outside the accommodation. Fourth, the facility factor, namely the limited budget of the Pekanbaru City National Unity and Politics Agency; the Pekanbaru International Detention Coalition (IDC) is inadequate for isolation places faced with minimal budget; The local government does not have a special place for temporary isolation. Fifth, the cultural factor, namely the difference in refugee culture and culture in Indonesia.

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