



Penanganan Pengungsi di Indonesia dalam Perspektif HAM

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Outline

- Katalisator/Pemicu
- Situasi Faktual
- Rujukan Normatif
- Kondisi terkini dan pemikiran ke depan



Katalisator/Pemicu



- Traditionally :
 - Ethno-nationalist conflicts, identity struggles and repression .
- But recently:
 - *demographic, environmental and economic forces* are playing an increasingly influential role and are the primary factor for the rise in undocumented migrants who are being moved and **exploited by smugglers**.
 - Cross-fertilize with other related trans-national issues: (New issues i.e. Maritime Security, TOC, Terrorism).



Situasi Faktual

- Fakta Historis :
 - *Sbg kawasan “refugee producing region” (eg. Indochinese in 1970s) ;*
 - *Indonesia as host for Refugee Processing Center.*
- Indonesia & Wilayah Asia Tenggara :
 - *..as countries of origin, host and transit Area (due to geographical position & other factors);*
 - Refugees & asylum seekers arrived from : Afghan, Iraq (Middle East) , Sri Lanka, Myanmar, African Countries, Rohingya, etc .
- Bagian dari arus migrasi global.



Rujukan Normatif

- Fakta Historis (Surat Edaran Perdana Menteri) 7 September 1956 No. 11/R.I./1956.
 - Perlindungan kepada pencari suaka di Indonesia.
- UUD Pasal. 28 (G)
 - (1) Setiap orang berhak atas perlindungan diri pribadi, keluarga, kehormatan, martabat, dan harta benda yang dibawah kekuasaannya, serta berhak atas rasa aman dan perlindungan dari ancaman ketakutan untuk berbuat atau tidak berbuat sesuatu yang merupakan hak asasi. **)
 - (2) Setiap orang berhak untuk bebas dari penyiksaan dan perlakuan yang merendahkan derajat martabat manusia dan berhak memperoleh suaka politik dari negara lain.
- UU HAM : UU No 39/ 1999.
- UU Hubungan Luar Negri (UU no 37/ 1999: Pasal. 25, 26, 27.
- Convention Against Torture 1984/ ratified in 1998;
- CERD / ratified by 1999;
- CEDAW / ratified by 1984;
- Convention on the Right of Child of 1990.....ratified by UU No 23 of 2003;
- UU. No. 11 2005/ICESCR;
- Act No. 12 Th. 2005/ ICCPR;
- UU No 9/1992 diperbarui UU No 6/2011 Keimigrasian .
- PP No 13 of 2013
- UU. No. 12 of 2006: Kewarganegaraan
- UU No 1.Th. 1979 . Ekstradisi
 - (Pasal. 5 para. 1 & para. 14)



Indonesia & Asia Tenggara

- Indonesia memiliki reputasi dan komitmen utk: *“allowing people who are in danger to enter its territory”*.
 - *(Non-Refoulement)*
- Indonesia sbg epicentrum :
 - *“ due to the size role and historical background”*.
- Dinamika & perkembangan di Indonesia berpengaruh terhadap kawasan (ASEAN members).
- Persoalan mendasar di kawasan :
 - *Management of International Migration Flows: Human Trafficking.*
- *No basic policy concerning refugee & asylum seeker.*
- *Absence of the competent institution*
- *No standard mechanism*
- *No status for Refugees/ Asylum seekers (limbo situation)*
- *Lack of a basic conceptual understanding of asylum and refugees among policy makers.*
- *Lack of political willingness;*
- *Fear of a pull factor due to national security, and negative social & economic impacts.*
- *Sectarian and the presence of international terrorist network create adverse climate to refugee and asylum seeker in South East Asia.*
- *Low priority in view of domestic problems (IDPs, unemployment, poverty)*



Perkuat implementasi : “Int’l Refugee Instrument in the region”

:

- **Principle of *Non-Refoulement* & supporting policies.**

Meneguhkan permasalahan Refugee in the region/ASEAN :

- Sharing burdens and responsibilities more equitably;
- Addressing security-related concern more effectively

“orchestrated actions” . Kerangka kerja regional yg efektif:

- Regulasi; Kelembagaan, Kebijakan.
- Human Resources Capacity. Incl. specialized/ expertise within human rights & Protection of Refugee framework;

Collaboration through Comprehensive Plan of Action: (CPA):



Maturnuwun





Thank You

