

ABSTRACT

M. ALVI SYHRIN. LEGAL CONSTRUCTION TO LIMITING THE APPLICATION OF NON-REFOULEMENT PRINCIPLES FOR ASYLUM SEEKERS AND REFUGEES IN THE INDONESIA'S IMMIGRATION SELECTIVE POLICY. This dissertation is under supervision of Prof. Dr. Zudan Arif Fakrullah, S.H., M.H as Supervisor and Dr. Hj. RA. Evita Isretno Israhadi, S.H., M.H., M.Si as Assistant Supervisor.

Indonesia is not a state party to the 1951 Convention concerning the Status of Refugees and the 1967 Protocol. So that there are no inherent rights and obligations for Indonesia to deal with the problem of asylum seekers and refugees entering Indonesian territory. But in the name of humanity, the principle of non-refoulement is regulated in Article 33 paragraph (1) of the Convention in 1951. This is certainly contrary to the immigration selective policy which states that only foreigners are useful and do not disrupt the sovereignty of countries that can enter Indonesian territory.

The formulation of the problems examined are as follows: (1) Why Indonesia which is not a state party to the Convention in 1951 applies the principle of non-refoulement for asylum seekers and refugees, (2) What is impact of applying the principle of non-refoulement for asylum seekers and refugees in Indonesia? (3) How does legal construction limit the application of the principle of non-refoulement to asylum seekers and refugees immigration selective policy in Indonesia?

The research method used is socio-legal research with primary and secondary data sources which are processed through mixed thinking logic (inductive-deductive). This research approach will look at how the implementation of normative legal provisions in its action on any particular legal event in a society, specifically related to the problem.

Based on the results of the discussion, the conclusions are obtained: (1) Indonesia applies the principle of non-refoulement for asylum seekers and refugees with humanitarian considerations and respect for international legal norms (jus cogens) which are then normalized in national law, (2) The existence of various multisectoral impacts and legal anomalies in empirical reality that have the potential to threaten state security, (3) The application of the principle of non-refoulement is relative, because it is limited by several theories and legal norms that apply. The legal model to limit these principles is constructed into the stages of discovery, storage, supervision, status determination, and action.

The advice given are as follows: (1) Indonesia has not ratified the 1951 Convention, (2) Provided strict legal action to asylum seekers and refugees who violated Indonesian laws and regulations, (3) Improved coordination across related institution, (4) evaluated rules relating to the handling of asylum seekers and refugees in Indonesia, and (5) Incorporating construction / legal models to limit non-refoulement principles in legislation.

Keywords: Principle of Non-Refoulement, Immigraion Selective Policy, Asylum Seekers, Refugees