

Tinjauan Hukum Internasional terkait Prinsip Non-Refoulement dan Repatriasi terhadap Kasus Pengembalian Pengungsi Suriah di Denmark = Overview of International Law on the Principle of Non-Refoulement and Repatriation Concerning the Case of Returning Syrian Refugees in Denmark

Simanjuntak, Yohanna Amelia, author

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Abstrak

Dalam Convention Relating to the Status of Refugees ("Konvensi Pengungsi") diaturmengenai prinsip non-refoulement juga merupakan hukum kebiasaan internasional dengan karakter jus cogens. Prinsip non-refoulement berlaku dari tahap awal proses suakahingga repatriasi. Repatriasi diupayakan bersifatsukarela, aman, dan bermartabat agar tidakmenimbulkan refoulement. Ketentuan prinsipnon-refoulement kembali dipertegas dalamEuropean Convention on Human Rights("ECHR") dan Charter of Fundamental Rights of the European Union ("EU Charter"). Denmark merupakan negara anggota dari Council of Europe ("CoI") dan European Union ("EU") yang telah meratifikasi Konvensi Pengungsi dan EU Charter serta melakukan inkorporasi ECHR ke dalam hukum nasionalnya. Pada tahun 2019, Denmark melakukan pengembalian pengungsiSuriah karena Suriah telah aman berdasarkanpenilaian Denmark dalam Country of Origin Information 2019. Tindakan Denmark tidakdidukung oleh organisasi internasional dan non-governmental organisation ("NGO") yang menyatakan bahwa repatriasi sukarela, aman, dan bermartabat ke Suriah belum tersedia. Denganmenggunakan metode penelitian hukum normatifyang berbasiskan pada data sekunder, penelitianskripsi ini hendak menganalisis apakahpengembalian pengungsi Suriah di Denmark melanggar prinsip non-refoulement. Adapun hasilpenelitian yang telah dilakukan, ditemukankesimpulan bahwa belum ada tindakan dan indikasi pelanggaran prinsip non-refoulementyang dilakukan oleh Denmark. Meski demikian, Denmark diharapkan untuk tetap menjunjungtinggi ketentuan prinsip non-refoulement dan memenuhi hak-hak dasar pengungsi yang hendakdikembalikan. Denmark juga diharapkan untukmenjaga komitmennya sebagai bagian dari EU dan CoI yang melalui instrumen hukumnya, yakni ECHR dan EU Charter, mempertegaskembali ketentuan prinsip non-refoulement. Denmark dapat melakukan kolaborasi organisasiinternasional, NGO, dan komite nasional Suriahuntuk memastikan repatriasi yang sukarela, aman, dan bermartabat.

.....Convention Relating to the Status of Refugees("Refugee Convention") governs the concept of non-refoulement as well as customary international law with jus cogens character. From the beginning of the asylum procedure till repatriation, the principle of non-refoulement applies. Repatriation is intended to be voluntary, safe, and dignified in order to avoid refoulement. The concept of non-refoulement has been reiterated in the European Convention on Human Rights ("ECHR") and the European Union Charter of Fundamental Rights ("EU Charter"). Denmark is a member of the Council of Europe ("CoI") and the European Union ("EU"), and it has ratified the Refugee Convention and the EU Charter, as well as incorporated the ECHR into national law. In 2019, Denmark carried out the return of Syrian refugees because Syria was safe based on the Danish assessment in the Country of Origin Information 2019. However, Denmark is expected to continue to uphold the provisions of the principle of non-refoulement and fulfill the basic rights of refugees who desire to be repatriated. Denmark is also required to retain its

commitment as a member of the EU and CoI, which reaffirms the principle of non-refoulement through its legal instruments, particularly the ECHR and the EU Charter. Denmark can work with international organizations, non-governmental groups, and Syrian national committees to facilitate voluntary, safe, and dignified repatriation.