

ANALISIS HUKUM TERHADAP PENANGANAN PENDEPORTASIAN DETENI ASING TIDAK MAMPU DI RUMAH DETENSI IMIGRASI

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ABSTRAK

Detensi administratif terhadap orang asing merupakan salah satu instrumen penegakan hukum keimigrasian yang berada dalam kewenangan negara sebagai perwujudan kedaulatan, namun dalam praktiknya kebijakan tersebut kerap menimbulkan persoalan hak asasi manusia, khususnya terhadap deteni asing yang tidak mampu dideportasi akibat keterbatasan finansial serta tidak terpenuhinya kriteria bantuan dari *International Organization for Migration* (IOM). Kondisi tersebut berpotensi menyebabkan penahanan berkepanjangan tanpa kepastian hukum yang jelas, sehingga bertentangan dengan prinsip *non-arbitrary detention* sebagaimana diatur dalam berbagai instrumen hukum internasional, terutama *International Covenant on Civil and Political Rights* (ICCPR). Penelitian ini bertujuan untuk menganalisis pengaturan hukum dan praktik pelaksanaan detensi terhadap deteni asing tidak mampu di Indonesia serta mengkaji kemungkinan penerapan mekanisme alternatif non-penahanan sebagai solusi yang lebih proporsional dan berorientasi pada perlindungan hak asasi manusia. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan perbandingan hukum, melalui penelaahan terhadap ketentuan hukum internasional dan peraturan perundang-undangan nasional di bidang keimigrasian. Hasil penelitian menunjukkan bahwa hingga saat ini Indonesia belum memiliki regulasi khusus yang secara komprehensif mengatur penanganan deteni asing tidak mampu, sehingga praktik detensi masih sangat bergantung pada diskresi pejabat imigrasi tanpa batasan yang jelas mengenai jangka waktu dan mekanisme pengawasan. Selain itu, penerapan alternatif non-penahanan belum diimplementasikan secara optimal, yang berdampak pada kerentanan deteni terhadap pelanggaran hak asasi manusia. Oleh karena itu, penelitian ini merekomendasikan perlunya pembaruan regulasi keimigrasian serta pengembangan dan uji coba mekanisme *alternatives to detention* guna mewujudkan keseimbangan antara kepentingan kedaulatan negara, kepastian hukum, dan perlindungan hak asasi manusia di Indonesia.

Kata kunci: Deteni Asing, Detensi Keimigrasian, Alternatif Non-Penahanan, Hak Asasi Manusia, Hukum Internasional.

**LEGAL ANALYSIS OF THE HANDLING OF DEPORTATION OF
INCOMPENSATED FOREIGN DETENTION IN IMMIGRATION
DETENTION CENTER**

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ABSTRACT

Administrative detention of foreigners is an immigration law enforcement instrument under the authority of the state as a manifestation of sovereignty. However, in practice, this policy often raises human rights issues, particularly for foreign detainees who cannot afford deportation due to financial constraints and failure to meet the criteria for assistance from the International Organization for Migration (IOM). This situation has the potential to lead to prolonged detention without clear legal certainty, thus contradicting the principle of non-arbitrary detention as stipulated in various international legal instruments, particularly the International Covenant on Civil and Political Rights (ICCPR). This study aims to analyze the legal regulations and practices for implementing detention for incompetent foreign detainees in Indonesia and examine the possibility of implementing alternative non-detention mechanisms (alternatives to detention) as a more proportionate solution oriented toward human rights protection. The research method used is normative juridical, with a statutory, conceptual, and comparative legal approach, through a review of international law and national immigration regulations. The results indicate that Indonesia currently lacks specific regulations that comprehensively govern the handling of indigent foreign detainees. Consequently, detention practices remain largely dependent on the discretion of immigration officials without clear time limits and oversight mechanisms. Furthermore, non-detention alternatives have not been optimally implemented, leaving detainees vulnerable to human rights violations. Therefore, this study recommends the need for immigration regulation reform and the development and testing of alternatives to detention mechanisms to achieve a balance between the interests of state sovereignty, legal certainty, and human rights protection in Indonesia.

Keywords: Foreign Detainees, Immigration Detention, Non-Detention Alternatives, Human Rights, International Law.