

## **BAB V**

### **KESIMPULAN**

Penelitian ini menganalisa peran *United Nations High Commissioner for Refugees* (UNHCR) dalam menangani masalah-masalah diskriminasi gender dan seks yang dialami pengungsi LGBTI di Finlandia. Mengacu pada teori dan konsep dalam kerangka pemikiran, peran UNHCR didasari pada konsep peran IGO dari Mingst sehingga dapat disimpulkan bahwa UNHCR dalam masalah ini memiliki peran sebagai pembentuk peraturan atau regulasi dalam pengumpulan informasi, analisis, dan pengawasan. Kemudian UNHCR juga berperan penting dalam menyediakan dan mengembangkan prosedur untuk membuat peraturan, menyelesaikan perselisihan, serta memberikan sanksi. Terakhir, UNHCR juga berperan sebagai organisasi yang memiliki otoritas untuk melakukan kegiatan operasional yang akan membantu negara mitra dalam menyelesaikan masalah tertentu.

Dalam menjalankan perannya ini, UNHCR mengambil tindakan-tindakan resmi berdasarkan *Age, Gender, dan Diversity Policy* yang menjelaskan keterlibatan organisasi terbatas pada proses identifikasi dan registrasi yaitu dalam penentuan status pengungsi, memberikan solusi dengan pemukiman kembali dan peningkatan kapasitas staf dalam proses integrasi para pengungsi. UNHCR juga dilihat sebagai organisasi yang dapat melaksanakan hak dan fungsinya berdasarkan pada *Convention relating to the Status of Refugees 1951* dan *Protocol relating to the Status of Refugees 1967*, sehingga UNHCR akan berperan tanpa melemahkan

tanggung jawab negara dengan bermitra dengan Pemerintah Finlandia secara khusus *The Finnish Immigration Service*.

Dalam kurun waktu 2012 – 2016, UNHCR dilihat sebagai penyaji solusi dengan menyediakan panduan-panduan khusus yang objektif dan tidak ofensif terhadap identitas gender dan orientasi seksual tertentu yang dimiliki oleh para LGBTI di Finlandia. Sebagai negara yang berada dalam masa pembenahan citra baiknya di mata internasional, UNHCR menjadi mitra penting yang dapat memperbaiki citra buruk mengingat tercatatnya berbagai kasus penolakan permohonan suaka atas dasar orientasi seksual yang terjadi pada 2008 – 2010 serta pengabaian hak asasi para pengungsi LGBTI pada krisis migran 2015 – 2016. Peristiwa ini menjadi sangat janggal karena Finlandia sebenarnya telah memiliki instrumen hukum yang melindungi LGBTI secara keseluruhan seperti *Aliens Act*, khususnya pada pasal 87, 90, dan 92 yang mewajibkan negara tersebut melindungi dan memberikan suaka bagi LGBTI yang termasuk dalam kategori anggota kelompok sosial tertentu dan mengalami ancaman atas orientasi seksual dan identitas gendernya.

Dalam analisis, UNHCR berhasil menjadi pendamping Pemerintah Finlandia dalam membentuk peraturan proses RSD hingga melakukan serangkaian pengumpulan dokumen dasar yang nantinya akan diserahkan pada *Finnish Immigration Service* sebagai informasi dan pertimbangan utama. Meskipun tidak memiliki wewenang untuk menetapkan individu yang diberikan status pengungsi, namun UNHCR diberikan wewenang untuk mengajukan dan menggunakan instrumen yang dimilikinya dalam proses menentukan kriteria. Untuk penanganan

pengungsi LGBTI sendiri UNHCR dan Pemerintah Finlandia telah sepakat untuk menggunakan *Guidelines on International Protection No. 9: Claims to Refugee Status Based on Sexual Orientation and/or Gender Identity Within The Context Of Article 1a(2) Of The 1951 Convention And/Or Its 1967 Protocol Relating To The Status Of Refugees* mengingat belum adanya panduan nasional Finlandia yang mengatur mengenai prosedur khusus LGBTI.

Kemudian untuk melaksanakan perannya dalam pembentukan peraturan, penyediaan dan pengembangan prosedur, UNHCR secara langsung terlibat pula dalam program pemukiman kembali Finlandia atau bernama *Refugee Quota* bahkan sejak awal pembentukannya pada 1985. Pada *resettlement programme* ini UNHCR diberikan sebanyak-banyaknya 100 tempat khusus untuk menangani kasus *emergency* termasuk kasus-kasus diskriminasi seks dan gender LGBTI. UNHCR juga dapat menggunakan alat penilaian khusus dalam *resettlement* ini salah satunya yaitu *Resettlement Assessment Tool: Lesbian, Gay, Transgender, and Intersex Refugees* karena Finlandia pun bergantung banyak pada penilaian UNHCR terhadap individu LGBTI.

Selain RSD dan *Resettlement*, organisasi ini juga melaksanakan kegiatan operasionalnya dalam membantu Finlandia untuk memastikan kapabilitas staf kepengungsian yang memadai dalam menangani LGBTI serta memastikan integrasi yang dijalankan oleh pemerintah. Namun dalam melaksanakan peran pada kerangka kerja ini, baik UNHCR maupun Finlandia tidak memiliki kerjasama meskipun organisasi ini menyebutkan telah melakukan beberapa operasi yang berkaitan dengan hal tersebut di Eropa dalam *Training Package on the Protection*

*of LGBTI Persons in Forced Displacement dan Protecting Persons with Diverse Sexual Orientations and Gender Identities.* Namun, kurang berperannya UNHCR dalam aspek integrasi dan pelatihan ini dapat terbantu dengan peran NGO yang menjadi mitra organisasi ini yaitu Seta Finlandia dan ILGA *Europe* sebagai kontak dan wadah UNHCR untuk mempromosikan instrumen yang dimilikinya seperti *Good Practices Related to LGBTI Asylum Applicants in Europe* dan *Working with Lesbian, Gay, Bisexual, Transgender & Intersex Persons in Forced Displacement.*

Oleh karena itu, dapat dikatakan bahwa Finlandia sebagai negara berdaulat dalam realitanya masih memiliki keterbatasan dalam menangani kasus LGBTI dan UNHCR juga memiliki peran yang terbatas untuk menjalankan dan mengimplementasikan keseluruhan panduan serta pelatihan yang dapat memfasilitasi pemerintah Finlandia secara khusus *Finnish Immigration Service* karena beresiko untuk melemahkan tanggung jawab negara.

Meskipun tidak sepenuhnya menjalankan dua kegiatan operasional dalam kerangka kerja *AGD Policy*, namun dapat disimpulkan bahwa UNHCR berhasil menjalankan perannya yang diwujudkan dalam pengaruh dan dorongan kepada pemerintah Finlandia hususnya secara konstitutif dimana UNHCR mempengaruhi penyusunan *Aliens Act* dan mendorong Kementerian Dalam Negeri melalui *Finnish Immigration Service* dan Kementerian Luar Negeri untuk melaksanakan *Quota Refugees*. Kemudian UNHCR juga berhasil menutupi ketidakmampuannya untuk melaksanakan peningkatan kapabilitas dan menjamin keadilan dalam integrasi melalui kerjasama dengan *ILGA-Europe* dan Seta Finlandia.

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