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LEGAL RECONSTRUCTION OF ALTERNATIVES TO DETENTION (ATD) IN THE INDONESIAN IMMIGRATION DETENTION SYSTEM: INTERNATIONAL AND LOCAL PERSPECTIVES

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Abstrak — *This study aims to analyze the legal framework of Alternatives to Detention (AtD) in the international immigration system and compare it with the immigration detention system in Indonesia. Furthermore, this study also aims to formulate a legal reconstruction model for AtD that is suitable for application in the Indonesian immigration detention system, taking into account the juridical, institutional, and socio-cultural aspects. The research method used is normative-doctrinal legal research, with a legislative, conceptual, comparative, and case-based approach. Data were collected through documentation studies, interviews with relevant stakeholders, and case studies of the implementation of AtD in other countries such as Australia, Belgium, Canada, and Thailand. The data analysis techniques used are qualitative and comparative analysis to evaluate Indonesia's immigration detention policy and the opportunities and challenges of AtD implementation. The results of the study indicate that although Indonesia has adopted several international principles related to human rights, the application of AtD in the Indonesian immigration system is still very limited. This study recommends regulatory changes, institutional strengthening, and public education to create acceptance for refugees and immigrants. A more comprehensive implementation of AtD can improve the immigration system to be more humane, effective, and in line with international standards.*

Keywords: *Alternatives to Detention (AtD), Indonesian Immigration, Human Righ*

1. INTRODUCTION

The practice of immigrant detention in Indonesia has raised various fundamental issues related to human rights protection and the effectiveness of migration manage ment. Immigration Detention Centers (Rudenim), which serve as temporary shelters for foreigners who violate immigration regulations, often experience overcrowding, leading to a decline in living standards and violations of detainees' basic rights. According to data from the Ministry of Law and Human Rights as of September 2022, more than 276,000 detainees were housed in detention facilities designed to accommodate a maximum of 132,107 people, leading to serious problems related to hygiene, ventilation, and adequate living standards. This situation is exacerbated by the length of detention periods, which lack a clear maximum limit stipulated in Law Number 6 of 2011 concerning Immigration. Conse quently, it is not uncommon for immigrants to be detained for periods disproportionate

to the violations committed, even reaching 10 years or more. Structural problems within Indonesia's immigration detention system are further complicated when dealing with vulnerable groups such as asylum seekers, refugees, children, and victims of human trafficking. The presence of asylum seekers and refugees without clear legal status in Indonesia complicates the situation, given that Indonesia is not a party to the 1951 Convention on the Status of Refugees. Consequently, they are often treated similarly to illegal immigrants and subjected to prolonged detention. Although Presidential Regulation No. 125 of 2016 concerning the Handling of Refugees from Abroad provides a minimal legal framework for refugee management, its implemen tation remains very limited and does not provide a comprehensive alternative mechanism. UNHCR data shows that as of December 2023, there were 9,785 regis tered refugees and asylum seekers in Indonesia, with the majority coming from Afghanistan, Myanmar, Somalia, and Iraq. From an international legal perspective, the concept of Alternatives to Detention (AtD) has emerged as a more humane and effective approach to immigration manage ment. The United Nations High Commis sioner for Refugees (UNHCR) defined AtD in 2012 as any law, policy, or practice that allows asylum seekers, refugees, and migrants to live in a community with propor tionate restrictions, while ensuring their rights are protected and their immigration obligations are met. The experience of implementing AtD in Indonesia demons trates complex dynamics. In 2018, the International Organization for Migration (IOM) transferred all refugees and asylum seekers from Immigration detention centers (Rudenim) to 84 community housing facili ties across Indonesia. However, academic research shows that although community housing conditions are better than detention, this practice still contains elements of restrictions on freedom and creates a "continuum of unfreedom." The international normative framework provides a strong foundation for the development of AtD development. The International Covenant on Civil and Political Rights (ICCPR), ratified by Indonesia through Law Number 12 of 2005, affirms that detention must be a last resort and must be proportionate to the objectives to be achieved. Human rights principles in the administration of justice also emphasize the importance of non-detention alterna tives, especially for vulnerable groups such as children, pregnant women, people with disabilities, and trauma victims. In the Indonesian context, the immigration legal framework stipulated in Law Number 6 of 2011 concerning Immigration actually provides space for the implementation of non-detention administrative immigration measures, such as restrictions, changes, or cancellations of residence permits, and prohibitions on being in certain places (Article 75). However, the implementation of these provisions is still very limited and tends to prioritize detention as the primary mechanism. Existing implementing regula tions, such as Regulation of the Director General of Immigration Number F-1002.PR.02.10 of 2006 the current Law on Procedures for Detaining Foreigners still places a strong emphasis on the detention aspect and has not yet comprehensively regulated the Immigration Detention Center (ATD) mechanism in accordance with international standards. Only in 2023 did the Directorate General of Immigration issue Guideline Number IMI-0170. GR.03.01 of 2023 concerning the Imple mentation of the Release of Detai nees from Immigration Detention Centers and the Granting of Permits to Stay Outside Immigration Detention Centers for Detai nees Who Have Stayed 10 (Ten) Years, which provides the option of placement outside the Immigration Detention Center for detainees who have stayed for a very long time. However, this guideline is still limited to extreme conditions and has not yet become a comprehensive and preventive AtD policy. A structured exchange of ideas on the reconstruction of Indonesian immigration law from an AtD perspective is becoming increasingly rele vant considering several strategic factors. First, Indonesia has a strategic geopolitical

position as a transit country for asylum seekers and refugees heading to third countries, thus requiring a more adaptive and humane migration management system. Second, pressure from the interna tional community and human rights organizations to improve detention condi tions and adopt best practices in migration management is increasing. Third, from an economic perspective, the high operational costs of detention are a burden on the state budget, while AtD has proven to be more cost-effective without sacrificing the effective ness of immigration oversight. Fourth, the COVID-19 pandemic has worsened conditions in Rudenim due to the inability to maintain social distancing in overcrowded facilities, thus increasing the urgency of developing AtD. Comparative experiences from various countries show that AtD is not only more humane but also more effective in achieving immigration policy goals. In Australia, the Community Detention program, launched in 2010, has succes sfully reduced the number of detainees in immigration detention centers with a high level of compliance with immigration procedures. In Belgium, a community-based mentoring and monito ring program for asylum seekers has shown a 98% atten dance rate during immigration proceedings. Meanwhile, Indonesia's own experience with IOM-managed community housing since 2018 provides important lessons about the potential and challenges of implementing AtD in transit countries that are not signatories to the 1951 Convention. Howe ver, the implementation of AtD in Indonesia faces various complex chal lenges that require comprehensive legal recons truction. These challenges include: (1) the absence of specific regulations that regulate the AtD mechanism in detail and comprehensively; (2) the absence of an institution specifically responsible for implementing AtD with clear coordination between the Directorate General of Immi gration, UNHCR, IOM, and other stake holders; (3) minimal infrastructure and human resource readiness to carry out regular monitoring; (4) concerns about security risks and human smuggling; (5) limited access of refugees and asylum seekers to basic rights such as employ ment, education, and health services that hinder their independence outside of detention; and (6) negative stigma against immigrants in community, as seen in the violence against Rohingya refugees in Aceh in December 2023. Therefore, an in-depth study is needed on how to design a legal framework for AtD that is appropriate to the Indonesian context while still referring to international standards and best practices. The urgency of AtD legal reconstruction is also driven by the dynamics of global immigration law developments that increasingly recognize that immigration detention has serious psychological and social impacts, espe cially for vulnerable groups. Various studies show that prolonged detention can cause mental health disorders, trauma, and complicate the process of future social integration. In this context, AtD is not merely a technical alternative, but rather a human rights imperative human rights that must be integrated into the national immigration law system. Furthermore, the development of AtD aligns with the new paradigm in global migration governance that emphasizes a whole-of-society approach and inclusive migration gover nance. The Global Compact for Safe, Orderly, and Regular Migration, adopted in 2018, affirmed countries' commitment to using detention only as a last resort and developing more humane alternatives. Indonesia, although not a signatory to the document, still needs to consider evolving norms in international immigration law as part of its responsibility as a member of the international community. Based on the above description, research on the legal reconstruction of AtD within the Indonesian immigration detention system is crucial and strategic. This research will not only fill the academic gap on AtD in the Indonesian context but is also expected to provide a practical contribution to the formation of a more humane, effective, and internationally standardized immigra tion policy. The intended legal reconstruc tion must be able

to bridge the gap between the interests of state sovereignty in regulating the movement of foreigners and the obligation to protect human rights, as well as between administrative efficiency and the principles of justice and humanity.

2. RESEARCH METHODOLOGY

2.1. Problem Formulation

Based on the description above, the problem formulation discussed in this research is as follows:

- *What is the legal framework for Alternatives to Detention (AtD) in international immigration law and how does it compare to the current Indonesian immigration detention system?*
- *What is the appropriate model for legal reconstruction of Alternatives to Detention (AtD) for implementation in the Indonesian immigration detention system, considering the legal, institutional, and socio-cultural aspects?*

2.2. Research using normative-doctrinal law.

This research is a normative-doctrinal legal research that focuses on the analysis of legal norms, legal principles, and legal doctrines related to Alternatives to Detention (AtD) in the Indonesian immigra tion detention system. According to Marzuki in 2017, normative legal research is research conducted to find legal rules, legal principles, and legal doctrines to answer the legal issues faced, in accor dance with the prescriptive character of legal science. Doctrinal legal research takes the form of an inventory of positive law, an effort to discover the principles and philosophical basis (dogma or doctrine) of positive law, and an effort to discover law in concreto that is appropriate to be applied to resolve a particular legal problem. The characteristics of normative-doctrinal legal research in this research lie in its object of study which focuses on legal norms, both those contained in laws and regulations and in the form of legal principles and immigration law doctrine. This research is not intended to test a hypothesis, but rather to provide a prescription for what should be done to reconstruct the AtD law in Indonesia (Marzuki, 2017). Therefore, this research seeks to find legal arguments that can address the legal issue of how to reconstruct the AtD legal framework that is appropriate to the Indonesian context while still meeting international standards. The approaches used in this research include:

- *First, the Statute Approach to examine immigration laws and regulations related to detention, such as Law Number 6 of 2011, Government Regulation Number 31 of 2013 and its amendments, and Presidential Regulation Number 125 of 2016.*
- *Second, the Conceptual Approach to analyze the concept of AtD from the perspective of international human rights law doctrine and immigration law.*
- *Third, the Comparative Approach to examine AtD practices in Australia, Belgium, Canada, and Thailand as lessons for Indonesia.*
- *Fourth, the Case Approach to examine detention and community housing practices in Indonesia. As a normative-doctrinal legal research, this research uses legal materials as its primary sources, consisting of:*
  - *Primary Legal Materials. Primary legal materials are authoritative and legally binding, including:*
  - *International legal instruments:*
    - *Universal Declaration of Human Rights 1948;*
    - *ICCPR 1966;*
    - *Convention Relating to the Status of Refugees 1951 and its Protocol 1967;*
    - *Convention on the Rights of the Child 1989;*
    - *UNHCR Guidelines on Alterna tives to Detention 2012.*
- *Indonesian laws and regulations:*
  - *Law Number 6 of 2011 concerning Immigration in conjunction with Law Number 6 of 2023;*
  - *Law Number 39 of 1999 concer ning Human Rights, Law Number*

12 of 2005 concerning Ratification of the ICCPR;
- *Government Regulation Number 31 of 2013 in conjunction with Government Regulation Number 40 of 2023;*
- *Presidential Regulation Number 125 of 2016, Minister of Law and Human Rights Regulation Number 4 of 2017;*
- *Director General of Immigration Regulation Number F-1002.PR.02. 10 of 2006;*
- *Director General of Immigration Guidelines Number IMI-0170.GR. 03.01 of 2023 and*
- *Director General of Immigration Decree Number IMI-402.GR.03.06 of 2024;*

- *Legislation from other countries for comparative study:*
  - *Migration Act 1958 (Australia);*
  - *Immigration and Refugee Protec tion Act (Canada);*
  - *Royal Decree on Reception (Bel gium); and*
  - *Immigration Act B.E. 2522 (1979) (Thailand).*
  - *Secondary Legal Materials*
  - *Secondary legal materials provide explanations of primary legal materials, including:*
  - *Textbooks on immigration law, international human rights, refugee law, and AtD;jurnal hukum nasional dan internasional seperti Journal of Refugee Studies, International Migration Review, Citizenship Stu dies, Refuge: Canada's Journalon Refugees, Jurnal Penelitian hukum Dejure, Indonesian journal of Inter national Law, dan Jurnal HAM;*
  - *Reports and publications from UNHCR, IOM, OHCHR, IDC, the Global Detention Project, Human Rights Watch, and Amnesty International;*
  - *dissertations, theses, and relevant research results; (e) policy papers and policy documents related to migration management; and*
  - *seminar and conference materials in the field of immigration law.*
- *Tertiary Legal Materials. Tertiary legal materials provide guidance and explanations for primary and secon dary legal materials, including legal dictionaries (Black's Law Dictionary, Indonesian Legal Dictionary), legal encyclopedias, journal article indexes, and online legal databases (Hein Online, JSTOR).*

3. RESEARCH RESULTS AND DISCUSSION

3.1. International Legal Framework for Alternatives to Detention (AtD)

Alternatives to Detention (AtD) is a concept emerging in international law as a more humane solution to migration management. AtD refers to any policy or practice that allows asylum seekers, refugees, and migrants to live in the community with proportionate restrictions, rather than detaining them in detention facilities. This principle has been recognized in inter national law and is encouraged as a measure to mitigate the negative impact of prolonged detention on individuals awaiting further decisions in immigration legal procedures. AtD focuses on protecting human rights and ensuring that every individual, especially those from vulnerable groups, receives fair and humane treatment during the immigration process. One of the main instruments underlying the implemen tation of AtD is the International Covenant on Civil and Political Rights (ICCPR), which was ratified by Indonesia in 2005 through Law Number 12 of 2005. The ICCPR regulates civil and political rights, with a particular emphasis on the protection of individual liberty. In this regard, the ICCPR emphasizes that detention may only be carried out as a measure of last resort, and must be carried out for a legitimate purpose, for example to protect public security or to supervise individuals awaiting further decisions regarding their legal status. Article 9 of the ICCPR emphasizes that detention must be carried out lawfully, not arbitrarily, and must comply with the principles of proportionality, by providing access to the detainee's basic rights, such

as the right to a lawyer and humane treatment. Although Indonesia is not a state party to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, these two international documents remain influential in shaping Indonesia's refugee policy. The 1951 Convention relating to the Status of Refugees provides protection to individuals fleeing violence or persecution in their home countries and in need of international protection. One of the key principles of this Convention is the obli gation of states to provide protection to refugees without subjecting them to unnecessary detention. The Convention states that states should not detain refu gees or asylum seekers solely because of their status, but should instead seek alternative solutions that are more humane and in accordance with the principle of non-discrimination. The AtD principle embodied in the 1951 Convention aligns with guidelines from the United Nations High Commissioner for Refugees (UNHCR), which has developed guidelines for the implementation of AtD in countries facing refugee and asylum seeker problems. The UNHCR guidelines emphasize the impor tance of avoiding detention as a primary option and encourage states to adopt more flexible, community-based alternatives. The UNHCR believes that detention should be a last resort, after all other alternatives have been considered and exhausted. If detention is necessary, states should ensure that it is proportionate, for a short period of time, and under humane condi tions. Therefore, UNHCR proposes various alternatives, such as community-based supervision, the use of social security systems, and technology-based monitoring to monitor individuals awaiting further decisions in immigration legal procedures. In addition to the ICCPR and the 1951 Refugee Convention, the principles of AtD are also enshrined in other international instruments, such as the 1989 Convention on the Rights of the Child (CRC) and the UNHCR guidelines on AtD. The CRC emphasizes the protection of children's rights, including those involved in immigra tion proceedings. In this context, the detention of children should be avoided, and countries should seek more child-friendly alternatives that are adequate to their needs, such as placement in foster families or child protection centers. In practice, the implementation of AtD in various countries has shown that this approach is not only more in line with human rights standards but also more effective. In terms of costs and monitoring. Countries such as Australia and Belgium have successfully implemented AtD programs, which allow migrants, asylum seekers, and refugees to remain in the community with appropriate supervision. In Australia, for example, the Community Detention program, launched in 2010, has successfully reduced the number of detainees in detention centers, with a high level of compliance with immigration processes. However, even though AtD has been recognized in international law, implementation challenges remain, particu larly in countries facing significant migration issues, including Indonesia. Indonesia, although not a signatory to the 1951 Convention, still needs to consider the principles contained in that international instrument. The country faces the complexities of managing refugees and migrants, and the implementation of AtD in Indonesia is highly relevant, given the increasing number of refugees entering through irregular channels and the limited available handling facilities. Overall, the international legal framework underlying the AtD concept provides important guidance for countries, including Indonesia, to manage migration and refugees more humanely. Broader implementation of the AtD would minimize the negative impacts of detention, provide better protection for vulnerable individuals, and ensure that the state meets its international obligations regarding human rights protection.

3.2. Comparison with Indonesia's Immigration Detention System

Indonesia, although not a signatory to the 1951 Convention on the Status of Refu gees, has developed a detention system regulated by Law Number 6 of 2011

concerning Immigration. This system prioritizes detention as the primary solution for dealing with immigrants who violate immigration regulations, resulting in immi gration management that often does not comply with human rights principles. One of the main forms of detention facilities is the Immigration Detention Center (Rudenim), which has a limited capacity to accom modate foreigners who violate immigration laws. However, these facilities often suffer from overcapacity, with thousands of detainees housed in inadequate spaces, leading to degraded living conditions, including poor sanitation, air quality, and malnutrition. This overcapacity problem creates serious human rights violations. Detainees who should receive humane treatment, with adequate access to food, clean water, medical care, and other basic protections, are often forced to live in substandard conditions. Data obtained from the Indonesian Ministry of Law and Human Rights in 2022 showed that more than 276,000 detainees filled facilities that were only supposed to accommodate 132,107 people. This situation creates numerous challenges, not only for detainees but also for staff working in these facilities, who must handle a far greater number of people than their designed capacity. Furthermore, while some regulations provide alternatives to detention, such as restrictions on stay permits or visa cancellation (Article 75 of the Immigration Law), the implementation of these alternatives remains limited and often overlooked. The heavy reliance on the detention system creates significant chal lenges in adopting a more humane approach. While recognized in Indonesian immigration law, regulations related to non-detention are not effectively implemented. This demonstrates that despite awareness of the importance of the Alternatives to Detention (ATD) principle, the Indonesian system still focuses on detention as the primary solution, contrary to international guidelines that prioritize the implementation of ATD. This comparison demonstrates that while Indonesia has regulations that provide space for non-detention, such as restric tions on stay permits or visa cancella tions, its practices prioritize detention over the implementation of non-detention alterna tives that are more in line with international standards. For example, despite some programs, such as the transfer of refugees to community housing facilities in 2018 managed by the International Organization for Migration (IOM), the system remains inherently restrictive. Which can be considered a continuum of unfreedom. This practice still contains elements of restraint of freedom, although it is better than detention in Rudenim facilities. Further more, Indonesia does not yet have in-depth and comprehensive regulations regarding the implementation of AtD. There are no specific regulations that govern the implementation of AtD in detail and comprehensively, so migration manag ement tends to rely on detention as the primary solution. In fact, a system that prioritizes detention as the primary mecha nism in handling immigration contradicts the basic principles of international law, which emphasize that detention should be a last resort. Countries that have successfully implemented AtD, such as Australia and Belgium, have clear and comprehensive regulations and mechanisms that allow individuals involved in immigration proce dures to live in the community with adequate supervision. In Australia, for example, the implementation of Community Detention has been proven to reduce the number of detainees in immigration detention centers. This program has enabled refugees and asylum seekers to live in the community with proportionate restrictions, accompanied by strict supervi sion. Compliance with immigration proces ses in Australia is also very high, with individuals actively participating in legal and immigration processes. Furthermore, Belgium has developed a community-based program that supports refugee oversight through community-based mentoring and monitoring, demonstrating very high levels of attendance at legal procedures. Mean while, Indonesia, despite having a basic legal framework in Law No. 6 of 2011, has not fully aligned its immigration practices with international standards. Its detention-

focused system has left the country lagging behind in implementing more progressive policies that respect human rights and are more effective in managing migration. Indonesia also faces difficulties in ensuring oversight of detai nees outside of detention facilities, due to the lack of an effective system to replace detention with more humane alternatives. Thus, a comparison with countries more advanced in implemen ting AtD suggests that Indonesia needs to overhaul its immigration detention system, introducing policies that are more in line with human rights principles and international stan dards. The implemen tation of AtD in Indonesia requires clear regulations and more comprehensive imple mentation to reduce reliance on detention while maintai ning effective oversight of individuals involved in immigration proce dures.

3.3. Legal Reconstruction Model for Alternatives to Detention (AtD) in the Indonesian Immigration Detention System

3.3.1. Legal Aspects of AtD Legal Reconstruction

From a legal perspective, the legal recons truction of Alternatives to Detention (AtD) in Indonesia requires changes and improve ments to existing laws and regulations, particularly regarding the handling of immigrants who violate immigration provi sions. Currently, Law Number 6 of 2011 concerning Immigration serves as the primary legal basis for the implementation of detention policies. Although this law regulates various aspects of immigration, it does not provide sufficient scope to regulate alternatives to detention. Therefore, legal reconstruction to accommodate the imple mentation of AtD must include legislative revisions that provide greater flexibility in implementing non-detention policies. The first necessary element is to explicitly incorporate the AtD principle into the Immigration Law. To date, the law has emphasized detention as the primary solution for dealing with immigrants who violate immigration regulations. This is reflected in several provisions that grant immigration officials broad authority to detain individuals deemed to have violated the law. Therefore, revisions to the articles related to detention must be made to better accommodate community based supervi sion mechanisms or other administrative alternatives. Providing options for placing individuals outside of detention facilities, such as restricting stay permits or monitoring Home-based detention can be a more humane solution and in line with international standards. In addition, more detailed and comprehensive implementing regulations must be produced. Regulation of the Director General of Immigration Number F-1002.PR.02.10 of 2006 concer ning Procedures for Detention of Foreig ners, which regulates current detention procedures, focuses more on managing detainees in detention facilities Detention. This regulation needs to be adjusted to international legal developments that prioritize the principles of non-detention alternatives. In line with the AtD principles, the implementing regulations need to introduce measures to provide placement options for individuals outside of Immigra tion Detention Centers (Rudenim) with proportional oversight, without compromi sing effectiveness.

3.3.2. Institutional Aspects in the Implementation of AtD

Institutional aspects play a crucial role in the implementation of the Alternatives to Detention (AtD) system in Indonesia. To date, the Directorate General of Immigration (DJI) has been the primary institution responsible for managing immigrant deten tion. Although the DJI plays a key role in handling immigration issues, this institution does not yet have an adequate structure to support the optimal implementation of AtD. This is due to limitations in the existing system and a heavy reliance on detention as the primary mechanism, which leaves little room for the implementation of more humane non-detention alternatives. There fore, the establishment of a special institution directly responsible for managing the implementation of AtD is necessary. This agency should have the authority and capacity to design, oversee, and implement

AtD programs that involve community-based supervision and provide alternative placements outside of detention facilities. This new agency could collaborate with international organizations, such as the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM), which already have experience and expertise in refugee management and international migration. This specialized agency should serve several key purposes: first, ensuring that detained individuals are treated in accordance with human rights principles; second, supervising those placed outside of detention facilities through appropriate monitoring mechanisms; and third, providing necessary support to detainees, such as access to basic services, including health, education, and employment. Therefore, this agency should collaborate closely with various relevant sectors to ensure the fulfillment of detainees' basic rights while they await legal decisions regarding their immigration status. One of the key tasks of this agency is to design effective oversight mechanisms. Supervision of individuals placed outside of detention facilities should be conducted regularly and in a structured manner to ensure that they do not violate immigration provisions. For example, technology-based supervision, such as the use of electronic tracking devices or other monitoring applications, can be used to ensure compliance with applicable regulations without requiring detainees to remain in confined facilities. These oversight mechanisms must be aligned with the principle of non-detention and respect the dignity of individuals. Furthermore, these specialized institutions must play a role in providing practical support to detainees placed outside of detention facilities. One of the key challenges in implementing AtD is ensuring that individuals who are not detained still have adequate access to basic services essential for their survival. This includes access to health services, education, and employment opportunities, which not only support their well-being but also accelerate their integration into society. In this regard, institutions handling AtD must be able to collaborate with other government ministries and institutions, such as the Ministry of Health, the Ministry of Education, and the Ministry of Manpower, to ensure fair and equal access to these services. Inter-agency coordination is also crucial in AtD implementation. The Indonesian government, UNHCR and IOM must work more closely to ensure that all parties share a common understanding of best practices for more humane migration management in accordance with international standards. Strong collaboration will enhance policy effectiveness and enable better monitoring of the implementation of the AtD system. Furthermore, it is crucial for these agencies to share data and information openly and transparently to ensure that the policies and programs implemented truly benefit all parties involved. This institutional strengthening also includes the development of clear guidelines or standard operating procedures (SOPs) for the implementation of AtD. These guidelines should detail the procedures for selecting individuals who can be placed outside of detention facilities, the conditions that must be met to ensure their effective supervision, and the actions to be taken in the event of violations. Furthermore, it is crucial to provide training to officials involved in AtD implementation, including immigration officers, staff from oversight agencies, and members of the public who will play a role in community-based oversight. In the long term, institutional strengthening also needs to be accompanied by updates to the systems and infrastructure that support AtD management. For example, the development of an integrated database system between government agencies and international organizations to monitor the immigration status and activities of detainees. This will improve administrative efficiency, reduce the potential for abuse, and ensure that the Alternatives to Detention (ATD) policy can be implemented consistently throughout Indonesia. With appropriate institutional strengthening, the implementation of Alternatives to Detention (ATD) in Indonesia can not only promote a more

humane migration management system but also enable the country to fulfill its international obligations to protect human rights. The successful implemen tation of an ATD system will reduce reliance on detention, improve the living conditions of detainees, and provide them with the opportunity to live in society with greater dignity.

3.3.3. Socio-Cultural Aspects in the Legal Reconstruction of Alternatives to Detention (ATD)

In addition to legal and institutional aspects, socio-cultural factors play a crucial role in the implementation of Alternatives to Detention (ATD) in Indonesia. Although the country has adopted human rights prin ciples in various international legal instru ments, the reality on the ground shows that stigma against immigrants, especially refugees, remains a significant barrier to their acceptance by society. Fear of immigrants and refugees often stems from a lack of understanding of their true circumstances. As a result, refugees are often perceived as a threat, leading to discrimination and violence. The violence against Rohingya refugees in Aceh in December 2023 is a clear example of the significant challenges faced by this vulne rable group. This stigma, if not addressed effectively, can worsen the conditions of refugees and exacerbate social tensions between them and the host community. Therefore, it is important to recognize that the successful implementation of the AtD depends not only on regulatory changes and institutional strengthening, but also on shifting existing social paradigms within society. One of the most effective steps to address these socio-cultural challenges is through more intensive educational programs and public awareness cam paigns. This education aims to provide the public with a better understanding of the basic rights of immigrants and refugees and the reasons why they seek protection in Indonesia. These awareness campaigns can be conducted through various media, both mass media and social media, targeting a wider community. In this regard, the government, together with international agencies such as UNHCR and IOM, can play an active role in disseminating accurate information about the conditions of refugees and refugees immigrants. This awareness campaign could also include an explanation of the principles of Alternatives to Detention (ATD) and its benefits for society in general. The public should be made aware that the implementation of ATD is not only an international obligation that Indonesia must comply with, but also a step towards building a more inclusive, just, and humane Indonesia. This outreach is important to reduce fears that often stem from ignorance. With better understanding, it is hoped that the public will accept immigrants and refugees more openly and without prejudice. Furthermore, to support better social acceptance of immigrants and refugees, policies that prioritize their social integration into local communities are needed. These social integration programs should include providing equal access to basic services such as education, health care, and employment. Local communities should also be provided with training and resources to understand the rights of immigrants and refugees and to create a supportive environment for them. This program benefits not only refugees and immigrants but also the local community, as they will become part of the broader social development process. To mitigate potential tensions, it is crucial for the government and relevant institutions to adopt a community-based approach to the implementation of AtD. This includes facilitating meetings between immigrants, refugees, and local residents to share experiences and build better relationships. This dialogue can be conducted through social activities, such as seminars, workshops, or cultural events involving refugees and the local community. This will help reduce fear and build a deeper understanding of the lives and challenges faced by immigrants and refugees. Furthermore, this community-based ap proach can create a more supportive environment for community-based over sight, a crucial aspect of AtD implemen tation. Communities that understand the

plight of refugees and immigrants will be more open to accepting them and will support the implementation of AtD policies in a more positive manner. The reconstruction of AtD law in Indonesia must involve not only regulatory changes and institutional strengthening, but also socio-cultural transformation within the community. A more open and inclusive society will create a safer environment for immigrants and refugees, while supporting more humane policies in migration management. With appropriate educational and social integration measures, Indonesia can adopt a more inclusive, adaptive AtD policy that prioritizes human rights protection, especially for vulnerable groups such as refugees and immigrants. Effective implementation of AtD in Indonesia, within a more inclusive socio-cultural context, will foster a more humane immigration system aligned with international standards. This will not only fulfill Indonesia's international obligations but also strengthen the country's commitment to building a more just society and respecting the human rights of all individuals, regardless of their migration status.

4. CONCLUSION AND RECOMMENDATIONS

4.1. Conclusion

- *This study highlights the urgency of legal reconstruction of Alternatives to Detention (ATD) within Indonesia's immigration detention system through a comprehensive analysis of the intern ational legal framework, actual condi tions on the ground, and implemen tation challenges within the social and institutional context in Indonesia. Based on the overall discussion, it can be concluded that Indonesia requires a new approach to handling immigrants who violate immigration regulations, especially vulnerable groups such as refugees, asylum seekers, children, women, and victims of human traffic king. ATD is not merely a technical option or administrative alternative, but a fundamental necessity in building an immigration system that aligns with human rights principles and evolving international legal standards.*

- *This study found that although Indone sia already has basic regulations allowing for non-detention measures, such as Article 75 of the Immigration Law, which regulates administrative actions, these regulations have not been formulated and implemented operationally as a true ATD mechanism. More detailed regulations, such as Director General Regulation No. F-1002.PR.02.10 of 2006 and the latest 2023 guidelines regarding exit permits for detainees who have been detained for more than ten years, demonstrate reform efforts, but they remain limited, partial, and reactive. There is no preventive, comprehensive, and long-term AtD policy like those implemented in developed countries.*

- *From an international legal perspective, AtD has become an important paradigm in modern migration governance. Instruments such as the ICCPR, the CRC, the 2012 UNHCR Guidelines on AtD, and the 2018 Global Compact for Migration firmly emphasize that deten tion is not the primary mechanism, but rather a last resort that must be strictly limited. Countries such as Australia, Belgium, and Canada have demons trated that the AtD model is not only more humane but also more effective in ensuring compliance with immigration procedures. The high compliance rates in these countries demonstrate that community-based supervision does not diminish the effectiveness of law enforcement and, in fact, is more successful in handling many cases than conventional detention.*

- *This comparison reveals a significant gap between international practices and the situation in Indonesia. The detention system in Indonesia remains heavily centered on Immigration Detention Centers (Rudenim), with conditions facing many chronic problems such as*

overcapacity, lack of minimum service standards, lack of access to basic services, and uncertainty about deten tion durations. Previous research has also demonstrated that prolonged detention can have serious psycho logical and social impacts on detainees. This reality demands fundamental reform through the integrated implemen tation of AtD within the immigration legal framework.

- *Practically, the results of this study, through an analysis of the legal aspects, confirm that legislative changes are necessary to provide a strong legal basis for the implementation of AtD. Revision of the Immigration Law is essential so that the AtD principle is not merely an exception, but a key instrument in immigration management. Subsidiary regulations such as Govern ment Regulations (PP), Ministerial Regulations (Permenkumham), and technical guidelines must also regulate the AtD mechanism in detail, including requirements, procedures, oversight systems, individual rights, and evalua tion mechanisms.*

- *Institutionally, this study identifies that the Directorate General of Immigration requires functional restructuring or the establishment of a special unit to handle the professional implementation of AtD. Implementing AtD requires expertise, cross-sector coordination, and a work pattern that differs from traditional detention. Therefore, strengthening human resource capacity, developing modern oversight instruments (e.g., electronic tracking and digital monitoring), and a coordination system between the central government, local governments, UNHCR, IOM, and civil society organizations are crucial.*

- *Furthermore, this study also highlights that socio-cultural aspects play a significant role in the success of the AtD. The biggest challenge stems not only from the legal aspect, but also from public perception, which often still views refugees and immigrants as threats. Lack of public understanding of refugee status and the state's international obligations can lead to rejection, discrimination, and even violence, as occurred in the case of Rohingya refugees in Aceh in 2023. Therefore, public education, awareness campaigns, and social integration programs must go hand in hand with regulatory reform. Efforts to build social acceptance are key to ensuring that the AtD policy does not reap resistance and does not create tensions within the community.*

- *Overall, this study confirms that the reconstruction of the AtD law is a strategic step that must be implemented with a multi-dimensional approach. AtD reform is not just about regulatory changes, but also about shifting policy orientation, institutional culture, and the public paradigm regarding migration. With AtD, Indonesia can reduce its currently significant detention opera tional burden, strengthen its position as a responsible transit country, and demonstrate a real commitment to respecting human rights law in the immigration realm.*

4.1. Recommendations

- *Therefore, the results of this study can provide a final recommendation that Indonesia needs to:*
  - *Revise the Immigration Law to incorporate AtD as a fundamental principle.*
  - *Develop derivative regulations that regulate AtD in detail, including evaluation mechanisms, oversight procedures, and placement proce dures.*
  - *Establish or strengthen a dedicated AtD institution with adequate capa city and authority.*
  - *Develop a modern, technology-based oversight system to ensure compliance without the need for detention.*

- *Build public awareness through educational campaigns to ensure the public understands the urgency of AtD and de-stigmatizes immi grants or refugees.*
- *Promote social integration programs, including access to education, health care, and commu nity activities.*
- *Strengthen collaboration with UNHCR, IOM, and national organi zations to ensure the implemen tation of AtD in accordance with international standards.*

- *This research provides both an academic basis and practical recom mendations for policymakers to design reforms to Indonesia's immigration system that are more humane, efficient, and oriented towards protec ting human rights. The structured and comprehensive implementation of AtD will lead Indonesia towards a more modern and civilized migration governance, while strengthening the country's position in contributing to global efforts to reduce unnecessary detention practices. The results of this research are expected to serve as a scientific reference and policy consi deration for the government, acade mics, and other stakeholders in reali zing an Indonesian immigration system that is inclusive, adaptive, and in line with developments in interna tional law.*

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