



Contrasting Humanitarian and Security Considerations in Refugee Protection in Indonesia: Rohingya Refugees Case Study

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Abstract

The issue of refugees throughout history, war, and famine has caused population shifts, causing significant displacement and suffering. Today, the number of people has been pushed from their homes hit a record high with the ongoing trend of the world's conflict. The influx of refugees has created humanitarian and security dilemmas for many countries, including Indonesia. The Indonesian government sees the wave of refugees entering the country as a threat to national security. At the same time, the Indonesian government cannot turn a blind eye for humanitarian reasons. This study analyzes how Indonesia balances humanitarian and security considerations in its efforts to protect refugees. Using a qualitative descriptive method, this study discovers that from Indonesia's national security point of view, accepting refugees has several political, security, and social-economic consequences; hence, it requires further thorough examinations. Ratifying the 1951 Refugee Convention or its 1967 Protocol with all the following obligations is not the right choice for Indonesia at this time. Refugee issues will also cause immediate effects on the local economy, labor markets, businesses, and social infrastructure, which will cause greater social friction. However, in the name of humanity, Indonesia must continue to support refugee management by maintaining its position as a transit country through better management and a strong legal framework created to this end. This study recommends maximizing Indonesia's role as the Chair of ASEAN and as the former non-permanent member of the UN Security Council to enhance diplomacy and negotiations with Myanmar and the host countries of refugees. Indonesia can strengthen its coastline security and strictly check people entering Indonesia's territory.

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INTRODUCTION

According to the United Nations High Commissioner for Refugees (UNHCR), more than 100 million people globally have been pushed from their homes due to war, disaster, violence, discrimination, or other extenuating circumstances. The influx of refugees does not bring challenges only for the destination country but also for transit countries such as Indonesia. Indonesia is not a signatory country in the 1951 Convention relating to the Status of Refugees or its 1967 Protocol, nor does Indonesia have a national refugee status determination system. However, the problem of refugees is a cross-border problem, and Indonesia is surrounded by countries hosting large numbers of asylum-seekers and refugees, such as Malaysia, Thailand, India, and Australia (UNHCR, 2022). In India, the Rohingya refugees are forcibly deported to Myanmar by the Indian Government, where they face almost certain killings or ethnic cleansing in their origin country. The Indian Government argues that Rohingya refugees are vulnerable to recruitment by terrorist groups, pose serious security challenges, create social, political, and cultural problems, and threaten to disrupt India's demographic pattern (Nirmal, 2018). For this reason, Indonesia is often affected by issues related to refugees.

Since the 1970s, Indonesia has acted as a transit country for asylum seekers and refugees aiming to reach Australia and New Zealand (Afriansyah et al., 2022). After a lull during the late 1990s, the number of asylum-seekers and refugees arriving in Indonesia increased in late 2000, 2001, and 2002. Arrivals then slowed down from 2003 to 2008 but again peaked in 2009. However, from 2015 onwards until 2020, new arrivals declined again. By the end of December 2021, the cumulative number of refugees registered in Indonesia was as many as 13,745 persons from 50 countries (UN OCHA, 2022). These refugees and asylum seekers came from 20 countries, including Afghanistan, Somalia, Myanmar, Sri Lanka, Sudan, Palestine, Iraq, Iran, Pakistan, Ethiopia, Eritrea, Yemen, Vietnam, Egypt, Syria, Bangladesh, Jordan, Kuwait, Congo, and some are stateless (Ditjen Imigrasi RI, 2021).

It is reported that roughly 1,487 Rohingya refugees currently reside in Indonesia and are waiting for their settlement (Sekretariat Wakil Presiden RI, 2023). Currently, these illegal immigrants are being placed in temporary holding locations in a number of areas in Aceh. At the temporary shelter in the former Lhokseumawe immigration office building, the number of Rohingya refugees has now reached 514 people (CNN Indonesia, 2022b). Meanwhile, Pidie Regency has two shelter locations: the Mina Raya Foundation complex and the Kulam Village, Batee District, which reaches 755 people. Meanwhile, at Container Terminal (CT) 1 Pier, the Sabang Area Concession Agency (BPKS), Sabang City, there were 139 people, and at the Balee Meuseuraya Aceh (BMA) Building in Banda Aceh City, there were 135 people. Apart from immigrants who have come to Aceh since November, it turns out that there are 140 Rohingya refugees who have occupied the Mina Raya Foundation complex, Pidie Regency. As of now, the total number of Rohingya refugees in Aceh has reached 1,683 people.

In comparison, the highest number of Rohingya refugees in Indonesia was recorded back in 2017, in which a total of 959 people were registered (Liza, 2021). These people leave their country because of the violence against the Rohingya minority that has been going on for a long time. In 2015, an escalation of violent conflict against the Rohingya group broke out due to the revocation of the white card. The conflict has continued to this day and resulted in the increasing number of Rohingya refugees over time since then. The arrival of the Rohingya refugees was greeted with rejection by the Acehnese. At first, Indonesia, especially the Acehnese, has generally been supportive of Rohingya refugees. However, the situation is complex and can vary over time. There have been challenges,

including logistical issues, the need for international support, and the integration of refugees into local communities. Indonesia's approach often involves balancing humanitarian assistance and managing domestic and international pressures.

It resulted in a wave of rejection against the presence of Rohingya Muslim refugees in several areas of Aceh. This rejection has occurred alongside the increased influx of Rohingya refugees to the Aceh Province. One of the residents of Sabang City states that they rejected the arrival of Rohingya refugees for various reasons (Andriansyah, 2023). However, the main issue is their dissatisfaction with the behavior of the Rohingya refugees. He also mentioned social jealousy among the residents of the Rohingya refugees. There are many orphans and poor people who have not gotten any help yet from the government, whereas the government helps the refugees. Other than that, the Aceh Police have uncovered a human smuggling case involving Rohingya ethnic groups in Indonesia, mostly from Cox's Bazar in Bangladesh (Andriansyah, 2023).

As the global refugee crisis worsens, crossing borders has been done more often by refugees to find protection in other countries. When someone is forced to flee their country of origin or nationality, their immediate concern is protection against refoulement. Such protection is crucial and often the only way to prevent further human rights violations. The international community has acknowledged the principle of non-refoulement, which prohibits both the rejection of refugees at borders and their expulsion after entry, recognizing that their forcible return to a country where they may face persecution could endanger their life, security, and integrity (Syahrin, 2021). This principle is grounded in the international community and "common humanity" concepts. As embodied in human rights, it is integral to the foundation of freedom, justice, and peace worldwide (Syahrin, 2021). Additionally, the legal basis for protecting refugees from being forcibly returned to countries where they fear harm to their lives, safety, security, and dignity can also be found in laws prohibiting torture and cruel or inhuman treatment (OHCHR, 2023).

Non-refoulement has become a contentious issue in global compact negotiations because states are concerned that it might be applied too broadly to migrants who do not fall under the protection of refugee conventions. Another challenge facing the refugee regime is responsibility sharing: deciding which states will resettle vulnerable refugees and which will finance humanitarian aid for those not resettled. Freier (2021) states that they are hesitant to agree on a burden-sharing formula due to concerns over financial obligations, political repercussions of resettling refugees, and a desire to safeguard their sovereignty. The challenges in global migration governance include capacity limitations, inadequate responsibility sharing, restricted access to protection, statelessness, and lack of coordination (Freier et al., 2021). However, after such a difficult journey, this decision often puts both the refugees and the destination country in a perilous position due to many stigmas and considerations. Indonesia only acts as a temporary transit country for refugees. The Government of Indonesia is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol and is under no legal obligation to recognize the refugees. However, as the country is surrounded by neighboring countries hosting a large number of asylum-seekers and refugees, Indonesia is impacted regularly by mixed population movements. Thus, the scope of the study is guided by the following research question, how does Indonesia balance humanitarian and security considerations in refugee protection?

The primary aim of this study is to explore how Indonesia navigates the balance between humanitarian responsibilities and security considerations in its approach to refugee protection. Specifically, the study seeks to analyze the existing policies and

frameworks Indonesia employs to address both humanitarian needs and security concerns regarding refugees, assess the implications of accepting Rohingya refugees from Indonesia's national security point of view, and how to balance humanitarian and security considerations in refugee protection. The urgency of the research is to understand how Indonesia balances humanitarian and security considerations in refugee protection.

Meanwhile, the previous study on the relevant topic, among others, was conducted by Haradhan Kumar Mohajan and titled "The History of Rakhine State and the Origin of the Rohingya Muslims." This piece of writing explains the origin of the Rohingya, the form of their citizenship, and recent oppression in the Rakhine State of Myanmar (Haradhan, 2018). Rohingya, as a Muslim ethnic minority group, is considered among the most persecuted, vulnerable, and oppressed minorities in the world. Since the 1970s, several crackdowns on the Rohingya in Rakhine have forced them to flee to neighboring countries. The persecution of the Rohingya Muslims has increased due to Buddhist nationalism in Myanmar, and they continue to suffer from several forms of restrictions and human rights violations in Myanmar. Not only are they being denied Myanmar citizenship, but they are also victims of various forms of oppression, such as arbitrary taxation, land confiscation, destruction of mosques, torture and ill-treatment, extrajudicial executions, restrictions on movements, forced eviction and house destruction, forced laborers on roads and at military camps, and financial restrictions on marriage (Haradhan, 2018). In addition to that, Khan (2023), in their paper, "International Human Rights and the Plight of Rohingya in Myanmar," states that the Rohingya's existence is a historical fact in Myanmar. However, their ethnic minority status is not acknowledged as they are facing identity and citizenship problems along with severe international human rights violations. As years passed by, the Rohingya gradually lost their identity and eventually became stateless under Myanmar's domestic legal framework. Arguably, not only are their human rights seriously compromised in their present condition of statelessness, but they could also still face genocide, ethnic cleansing, and crimes against humanity. Hence, the paper concludes by emphasizing the responsibility to protect Rohingya Muslims from atrocities, including addressing their statelessness and lack of citizenship. Therefore, further research and advocacy are needed to ensure that the human rights of the Rohingya are protected by letting them have access to citizenship and legal identity.

Furthermore, Shyikh Mahdi wrote in the paper titled "The Plight of Rohingya People in Bangladesh: Access to Justice and Human Rights Protection" that Bangladesh has a long history of hosting Rohingya from the Northern Rakhine State of Myanmar, with the earliest arrivals recorded in 1948 (Mahdi, 2018). However, the recent influxes that occurred in the last few years forced a large number of Rohingya to flee to Bangladesh in the wake of severe state repression in Myanmar. The huge influx of refugees without proper reception and attention from the Bangladeshi side caused a severe humanitarian crisis, such as the appalling conditions of the refugee ghettos gradually deteriorating. Desperate for their survival, the Rohingya people are infiltrating various levels of the socio-economic structures of Bangladesh without any proper plan/management policy. Often, Bangladesh has been used as a transit zone by the Rohingya people en route to other countries. Therefore, a precise assessment of existing situations of rights to access justice, legal aid and representations, and fair trial of registered Rohingya residing currently in Bangladesh and check these in light of Bangladeshi national legal and international human rights standards is needed to avoid further chaos.

To complete prior research pertaining to Rohingya issues, this research offers another point of view on Rohingya and its impacts on security issues in Indonesia. However, the novelty of this research is the idea of contrasting the humanitarian and security aspects to enrich the decision-making process to address the problems related to refugees, particularly the Rohingya. This research argues that Indonesia must weigh the security impacts first before making decisions related to humanitarian reasons. Careful and thorough considerations to balance both perspectives while prioritizing the security aspect must be made by the government to avoid domestic chaos.

METHODS

To fulfill the purpose of the research, qualitative research in a descriptive manner is chosen. Qualitative research is an in-depth inquiry process of understanding social or human problems based on building a complex, holistic picture formed with words. Furthermore, it is an approach for exploring and understanding the meaning individuals or groups ascribe to a specific social problem (Creswell & Creswell, 2018). This method is primarily exploratory and chosen to uncover trends in thoughts, opinions, and events and dive deeper into the problem. The literature study becomes the primary data source for concluding this research. This research will use the Security Theory and Human Rights Approach to analyze the purpose of the study.

Security Theory

Like other terminologies in the fold of international relations theories, security has drawn many definitions. In the name of security, people and governments have taken action to protect themselves from threats. Although defining security is very elusive and its coverage is somewhat fluid, one can agree that national security is the ability of a country's government to protect its citizens, economy, and other institutions within the country (Hall & McSweeney, 2000). Several ideas come from experts and scholars regarding the definition of national security. According to Michael Louw, national security is the state of being free from external physical threats. Louw (1977) stated that all moral and intellectual dangers should be considered. Still, it is physical violence that is widely regarded as the ultimate leverage against the state and thus as a real and tangible threat to its survival. More specifically, the United Nations has described national security as a state's ability to protect and defend its citizenry (Osisanya, 2023).

Furthermore, in preserving national security, governments rely on a range of tactics, including political, economic, and military power, along with diplomatic efforts (Osisanya, 2023). The term "preservation" acts as an important component of national security. It presupposes conscious, deliberate, and definite steps and actions the government must take to safeguard the country's security. In addition to that, governments attempt to build regional and international security by reducing transnational causes of the country's insecurity, such as climate change, terrorism, organized crime, economic inequality, political instability, and nuclear weapons proliferation. Along with the wide range of risks, national security has several dimensions, including economic security, energy security, physical security, environmental security, food security, border security, and cyber security. These dimensions correlate closely with national power elements: geography, resources, population, economic, political, military, psychological, and informational (Oxford Burma Alliance, n.d.).

Human Rights Approach

It is rather impossible to separate the human rights approach when discussing refugees. Human rights are a set of universal rights that are inherent to everyone. The Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948, was the first legal document to set out the basic fundamental human rights to be universally protected (OHCHR, 2023). Those rights range from the most fundamental right to life to those that make life worth living, such as the rights to food, education, work, health, and liberty. The principle of universality of human rights is the cornerstone of international human rights law. This simply means that everyone is all equally entitled to their human rights. Human rights law and international humanitarian law are complementary bodies of law that share a common goal: to protect the lives, health, and dignity of persons (ICRC, 2023). There are six principles of human rights. The principles are universal and inalienable, interdependent and indivisible, equal and non-discriminatory, and both rights and obligations (Human Rights Commission, 2023). These rights are declared in many international treaties and declarations. By becoming parties to international treaties, states assume obligations and duties under international law to respect, protect, and fulfill human rights.

To support the human rights approach, the non-refoulement principle shall be applied. The principle of non-refoulement is a concept that is well known in the framework of international protection applicable to refugees and asylum seekers. Non-refoulement is a concept in which the state shall not expel or return a refugee or asylum seeker in any manner whatsoever to the frontiers of territories where their life or freedom would be threatened on account of their race, religion, nationality, or membership of a particular social group or political opinion (Riyanto, 2010). Therefore, the principle of non-refoulement is generally relevant to protecting human rights as it constitutes the cornerstone of international refugee protection. The non-refoulement principle began as a response to the expulsion of refugees either by the state or non-state party to the 1951 Refugee Convention.

The principle then became a customary international law and had legally binding power to the state and non-state party to the 1951 Refugee Convention. However, according to Article 32, paragraph 1 of the 1951 Convention, the implementation of the non-refoulement principle is not absolute. Exceptions can be made if a refugee is considered to potentially cause a threat to national security and disturbance to public order. However, while Indonesia is not a State Party to the Refugee Convention 1951, it remains subject to the non-refoulement principle (Syahrin, 2017). This is because Indonesia has ratified the Convention against Torture, the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, and the ICCPR/International Covenant on Civil and Political Rights. Furthermore, it is also imperative for any state, including Indonesia, to comply with the rules of customary international law (Syahrin, 2017).

RESULT AND DISCUSSION

Rohingya Refugees

Myanmar is a Southeast Asian country with a military junta form of government, commonly known as The State Peace and Development Council (SPDC). At first, Myanmar was known as Burma, but the name was changed to Myanmar by the Military Junta on June 18, 1989. The Citizenship Law of Myanmar recognizes the seven largest ethnic minorities in Myanmar. Those ethnic minorities are Chin, Karenni, Kachin, Karen, Mon, Rakhine, and Shan. This law does not recognize the Rohingya. The Rohingya claim that

they have been in Rakhine for many generations. However, this claim has been rejected by the majority of Buddhist groups—the violence against the Rohingya minority that has been going on for a long time. Tensions between the Rohingya and the Government of Myanmar have then increased since the country's independence in 1948. In 1990, the SPDC stationed troops on the border and carried out land confiscations, which resulted in tensions between the Government of Myanmar and the Rohingya Muslim population. This resulted in 250,000 Rohingya fleeing their homeland due to persecution (Oxford Burma Alliance, n.d.).

Throughout history, the Rohingya have suffered from human rights violations committed by the Myanmar Junta Government. They also experienced extortion, land grabbing, forced evictions, and house destruction. Mass killings and rape of the Rohingya Muslim ethnic minority have also occurred in Myanmar. In 2015, an escalation of violent conflict against the Rohingya group broke out, a conflict that was partially caused by the revocation of the white card (Puspasari, 2019). Moreover, in the same year, there were also communal clashes between Rohingya Muslims and other Myanmar communities, which were backed by the military and took the lives of hundreds of people. The Muslim group was attacked by radical Buddhists who were allowed to move freely by the local authorities (BBC News Indonesia, 2017). The Government of Myanmar also destroyed Rohingya villages so that the physical evidence of the massacres that took place there would also disappear (Goldberg, 2018).

The violence against the Rohingya group has renewed calls for the international communities, especially countries in the ASEAN (The Association of Southeast Asian Nations) region, including Indonesia, to take stronger measures to deal with grievances that have festered in Rakhine for decades. The international community has shown solidarity by raising funds to assist the Rohingya group—an initiative that the Government of Myanmar declined. The country insisted on refusing aid and interventions from other countries regarding the Rohingya humanitarian conflict. Until 2019, it was recorded that approximately 600,000 Rohingya were still in Myanmar, and no one has ever been held accountable for crimes against humanity and acts of genocide committed against the Rohingya people (Human Right Watch, 2022).

The conflict in Myanmar has caused massive displacement of people who are called asylum seekers or refugees. Asylum seekers are defined as people who are waiting for their protection status as refugees to finish processing. Meanwhile, according to the 1951 Convention relating to the Status of Refugees, the definition of a refugee is a person who leaves his country of origin or residence due to persecution caused by race, religion, nationality, membership in certain social groups, and political parties. The Rohingya who left Myanmar and become refugees will only be able to apply as asylum seekers after being granted temporary accommodation under the non-refoulement article according to the 1951 Convention relating to the Status of Refugees (UNHCR, 2024a).

Throughout 2023, more than 1,600 Rohingya have reached Aceh Province. They sailed from Bangladesh and Myanmar using wooden boats. Later, the police suspected that there were criminal practices of human smuggling and human trafficking behind the arrival of refugees (Zulkarnaini, 2023). When the boats arrived carrying Rohingya refugees, there was resistance from the people of Aceh. There was an incident of residents refusing the arrival of the Rohingya refugees as they tried to break through the gate by breaking the lock and entering the former Lhokseumawe Immigration office in Puentuet forcibly. The people in the Puentuet Region who saw the crowd and were made aware that they were Rohingya refugees came to the location and rejected their arrival (Suroyo, 2023). All these Rohingya refugees were placed temporarily at the Aceh Social Service

Regional Office (Unit Pelaksana Teknis Daerah–UPTD) (BBC News Indonesia, 2022). It was unclear how long the immigrants would be kept at the facility. Until now, UNHCR, IOM, and the local government have been coordinating with the central government to discuss the fate of the hundreds of immigrants.

While some travel overland from Bangladesh to Thailand, other Rohingya are embarking upon dangerous and often deadly ocean voyages to neighboring countries such as Indonesia, Malaysia, and Thailand. Figure 1 shows the Rohingya group's movement flow to neighboring countries. Figure 1 shows that most Rohingya refugees come to Indonesia through Aceh Province. It also happened in December 2022 when a boat carrying more than 180 Rohingya arrived on Aceh's coastline (BBC News Indonesia, 2022). Therefore, the conflict in Myanmar also became a challenge for Indonesia as it resulted in many refugees coming from Myanmar to Indonesia. Indonesia, as the largest archipelagic country in the world, is Indonesia directly bordered by ten countries in the region, including Myanmar. It makes Indonesia vulnerable to security threats and domestic instability caused by the influx of refugees from Myanmar.



Figure 1. Flow of Movement of the Rohingya Group to Neighboring Countries (Maizland, 2023)

Currently, there are many criminal cases involving Rohingya refugees (Dedi, 2023); Ade Herianto, the Head of the Criminal Investigation Unit at the Aceh Regional Police, said that approximately 32 Rohingya individuals have been suspects in human trafficking and drug cases from 2015 to 2023. A Rohingya refugee identified as the police arrested RU for raping a minor at a temporary shelter in Padang Tiji, Pidie, Aceh, in July 2023. The perpetrator even threatened the victim, brandishing a knife to prevent the victim from speaking out, and the assault occurred while the victim's parents were outside the barracks. With the assistance of a UNHCR translator, the perpetrator admitted to committing the sexual assault. Many refugees have fled, and some have discarded aid provided by the local community. They also frequently complain that the food portions provided are too small. Cases of rape by Rohingya refugees against local residents have also occurred in South Sulawesi (Soplantila, 2024). This behavior has upset the local community and created social jealousy, as many impoverished locals have not yet received government assistance.

The Application of Non-Refoulement to Exercise Human Rights Approach for Rohingya Refugees in Indonesia

There are many causes of the exodus of refugees. A primary reason individuals become refugees is a well-founded fear of persecution based on race, religion, nationality,

membership in a particular social group, or political beliefs. This fear may arise when they are outside their country of nationality and are either unable or unwilling to seek protection there. Additionally, refugees may include those who lack nationality and are outside their former habitual residence due to such events and are unable or unwilling to return (UN Human Rights, 1951). The refugee problem has become a classic example of the interdependence of the international community. It is solid evidence of how one country's refugee problem can directly affect other countries. There is also a clear link between the refugees and human rights issues. The violation of human rights does not only become the main cause of mass exodus, but it also eliminates the option of the refugees' voluntary return to their origin countries.

Although Indonesia has not ratified the 1951 Convention relating to the Status of Refugees and is not under any legal obligation to recognize refugees and asylum seekers, the country has a long tradition of hosting refugees and people in need of international protection (UN Human Rights, 1951). Hence, applying the non-refoulement principle to accept Rohingya refugees is comprehensible. Bear in mind that displacement is a form of population movement with different characteristics than other forms. Such characteristics distinguish refugees from other migrants' categories, thus affecting the protection mechanisms applied to them. The principle of non-refoulement forms an essential protection under international human rights, refugee, humanitarian, and customary law under the 1951 Convention relating to the Status of Refugees.

There is an ongoing debate regarding whether the principle of non-refoulement should be classified as *jus cogens* or merely as customary international law. The principle of non-refoulement is widely recognized and codified in international treaties such as the 1951 Refugee Convention and its 1967 Protocol. These treaties explicitly establish non-refoulement as a legal obligation for state parties (*jus cogens*). However, *jus cogens* norms are considered peremptory international law norms binding on all states and cannot be derogated from (Syahrin, 2021). They occupy a higher status than ordinary customary international law norms. States, as members of the international community, are prohibited from departing from *jus cogens* norms under any circumstances. *Jus cogens* is regarded as fundamental to the international legal system, and violations of these norms can jeopardize the stability of the international community's legal framework (Riyanto, 2012). For a norm to attain *jus cogens* status, there must be widespread and consistent acceptance by the international community as a whole. On the other hand, customary international law develops through consistent state practice and *opinio juris* (the belief that a certain practice is obligatory as a matter of law). The designation of the non-refoulement principle as *jus cogens* stems from the fact that it is currently acknowledged and affirmed as an international legal norm by the international community through multilateral treaties and other pertinent international legal frameworks.

The compelling and irreversible nature of *jus cogens* applies universally to all actions taken by states as members of the international community under international law. Therefore, *jus cogens* restricts state interactions within the international system. The critical question is whether the non-refoulement principle qualifies as a *jus cogens* norm in international law (Collins, 2016). To evaluate whether non-refoulement qualifies as *jus cogens*, Article 53 of the Vienna Convention of 1969 provides a pertinent reference. According to Article 53, for a norm to be eligible as *jus cogens*, it must meet certain conditions: (1) acceptance and recognition by the international community, and (2) it must be a norm from which no derogation is permitted (Syahrin, 2021).

The classification of the non-refoulement principle as a *jus cogens* norm in international law can be assessed through several points (Syahrin, 2021). First, the

principle is entrenched in international law through multilateral treaties, notably Article 33 of the 1951 Convention. Second, customary international law has long recognized non-refoulement preceding formal codification. Countries beyond those parties observe this principle in the 1951 Convention and its 1967 Protocol. Third, non-refoulement has been reaffirmed and explicitly acknowledged as *jus cogens* in legal instruments accepted by numerous international communities. Fourth, its acceptance and application within the international refugee protection system is evidenced by the practices of organizations like UNHCR, as reflected in decisions of its Executive Committee that signify consensus among member states. Moreover, the view of international legal experts corroborates the status of non-refoulement as a *jus cogens* norm, underscoring its legitimacy in international law (Kim, 2017).

The coercive legal character of the non-refoulement principle cannot be nullified or invalidated by instances of violations against it. The *jus cogens* status of the non-refoulement principle can only be replaced if new norms emerge and are universally accepted to replace it in international law (Holmes & Castañeda, 2016). This principle is fundamental within the international protection framework for refugees and asylum seekers and is considered inviolable in international relations (Syahrin, 2021). International organizations consistently uphold and apply the non-refoulement principle. Since this principle is an established norm of international law recognized and adopted globally as *jus cogens*, states are obligated not to violate it, individually and collectively. With the development of international human rights law, the non-refoulement principle has become a method to fulfill and protect non-derogable rights, such as the right to be free from torture, cruel, inhuman, or degrading treatment, and persecution.

Despite not being a signatory to the Refugee Convention and lacking a national system for determining refugee status, Indonesia is obligated to adhere to the non-refoulement principle as a *jus cogens* norm in international law. As a *jus cogens* norm, the non-refoulement principle is considered fundamental and binding on all states, irrespective of their participation in specific treaties like the Refugee Convention. Therefore, Indonesia, like all other countries, must uphold this principle and ensure that refugees and asylum seekers within its borders are protected from such risks per international legal standards. Furthermore, Indonesia, in its efforts to protect refugees, adheres to the Responsibility to Protect (R2P) principle, which prioritizes safeguarding potential victims over the rights of sovereign states to intervene in each other's affairs. R2P acknowledges both the positive obligations associated with sovereignty and the international community's responsibility to ensure international protection (Nirmal, 2006).

The R2P identifies a four part approach to this concept as follows: (1) each individual state has the responsibility to protect its population from genocide, war crimes, ethnic cleansing and crimes against humanity; (2) the international community should assist states to exercise this responsibility, and ensure early warning capabilities are established and maintained; (3) the international community, through the UN, has the complimentary (residual) responsibility to use appropriate diplomatic, humanitarian and other peaceful means in accordance with chapters VI and VIII of the UN Charter, to help to protect populations from genocide, war crimes, ethnic cleansing; and (4) the international community is prepared to take collective action in a timely and decisive manner, through the UN security council, in accordance with the UN Charter, including chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations, as appropriate, should peaceful means be inadequate and national

authorities are manifestly failing to protect their population from genocide, war crimes, ethnic cleansing and crimes against humanity.

As a result, the Indonesian government authorizes UNHCR to carry out its refugee protection mandate and identify solutions for refugees in the country. While the refugees are waiting, the UN's International Organization for Migration (IOM) fills the gap for the state in providing the refugees and asylum seekers within the country with basic necessities for life. IOM has been housing over half of Indonesia's refugees and asylum seekers as of 2020 (UNHCR, 2011). Moreover, it provides essential medical care and access to educational opportunities. Yet despite this support being better than that provided in detention centers, some refugees and asylum seekers in Indonesia have reported that even in IOM housing, there are limits on freedom of movement and association. This is in addition to the restrictions imposed by the Indonesian government for refugees and asylum seekers.

As a non-signatory country, the only domestic regulation regarding refugees in Indonesia is Presidential Regulation Number 125 of 2016 on the Management of Foreign Refugees. It is mentioned in the Presidential Regulation that Indonesia's contribution remains only as a transit country for refugees and nothing more. This is a promising step to a better humanitarian response for refugees and asylum seekers arriving in Indonesia. Therefore, as Indonesia continues to accept refugees due to humanitarian considerations and respect for the non-refoulement principle, a much-needed legal framework to validate refugees' presence and to ground civil-society organizations' advocacy on their behalf is now provided in the Presidential Regulation and as a *jus cogens* international law. In addition to that, Andi Rachmiyanto, Director for International Security and Disarmament in the Indonesian Foreign Ministry, claims that although Indonesia 'is not yet a signatory of the convention, what Indonesia does fulfill [the convention] in principle and spirit' (Missbach et al., 2018). According to this view, Indonesia adheres to basic protection principles following the non-refoulement principle, upholds human rights values, collaborates with the UNHCR, and offers at least temporary protection for refugees.

The Implications of Accepting Rohingya Refugees in Indonesia's National Security Point of View

According to UNHCR's Refugee Population Statistics Database, Turkey hosts the largest number of refugees, with 3.7 million people (UNHCR, 2022). Colombia is second with more than 2.5 million, including other people needing international protection, while Germany comes in third place with approximately 2.2 million refugees (UNHCR, 2022). While many programs are created to help refugees settle and adapt to their new lives, some problems still occur. In countries of asylum and resettlement, complications with mental health also prevail due to language and cultural barriers, the post-traumatic stress of feeling persecution in their home countries, and difficulty seeking mental health treatment (UNHCR, 2011). Refugees generally burden local infrastructure, the environment, and resources. However, they also provide cheap labor, expand consumer markets, and justify increased foreign aid (Madzimure, 2019).

Indonesia only acts as a transit country. Thus, the impact caused by refugees is not as significant as it is in the destination country. However, such an impact still influences the situation in the country of origin. Recently, the Directorate General of Immigration regretted the recklessness of UNHCR and IOM in the management of foreign refugees, causing social problems (CNN Indonesia, 2022a). Acting Director General of Immigration, Widodo Ekatjahjana, said that UNHCR and IOM are responsible for providing basic rights

for refugees, such as clean water, adequate food, and health and worship facilities. Immigration through the Immigration Detention Center plays a role in collecting data through travel documents, immigration status, and identity. Furthermore, the Immigration Detention Center officers coordinate with the UN through the office of the High Commissioner for Refugees in Indonesia. This follows the provisions of Presidential Regulation Number 125 of 2016 on the Management of Foreign Refugees.

According to the former Indonesian Coordinating Minister for Political, Legal, and Security Affairs, Wiranto, terror attacks by refugees or asylum seekers are common in Europe (Humas Polhukam RI, 2018). Refugees are often predisposed to radical views, one of which is ISIS, further to carry out acts of terror in the country they are going to. He also stated his reluctance to make Indonesia a target for terrorists under the guise of asylum seekers. Therefore, oversight and vigilance must continue to be tightened. However, Wiranto also ensured that Indonesia would continue supporting IOM and UNHCR's activities in facilitating asylum seekers coming to Indonesia. As the Indonesian Coordinating Minister for Political, Legal, and Security Affairs, Mahfud MD did not take much different position regarding the refugee matters compared to his predecessor, Wiranto. While he did not issue a strong statement on refugees like Wiranto, Mahfud MD was previously quoted as saying that since Indonesia never signed any international agreements on sheltering refugees, the government can only temporarily shelter Rohingya refugees who drifted into Aceh waters on humanitarian grounds (Humas Polhukam RI, 2018).

From Indonesia's national security point of view, accepting refugees has several political, security, and social-economic consequences. From a security point of view, the entry of these refugees can threaten national security because of its broad impact on national security. Examples that can be seen from other countries are the rampant cases of sexual harassment that occurred in several European countries committed by refugees from Arab countries (Deutsche Welle, 2016). To prevent this from happening in Indonesia, it is necessary to make a regulation that can maintain the security of those who live side by side with refugees. Furthermore, through Presidential Regulation Number 125 of 2016 on the Management of Foreign Refugees, the Indonesian government does not distinguish legal from illegal refugees. The difference is how they enter Indonesian territory, in which legal and illegal ways are defined. The legal way here is using a tourist passport. Upon entry into Indonesia, passport holders typically come to the UNHCR office and lodge a request to be registered as refugees. Meanwhile, the illegal method in question is through people smugglers or boat people, such as Rohingya refugees. This is because they are not allowed to obtain official citizenship documents in their country of origin, Myanmar.

While the number of Rohingya refugees may not be as large as the Afghan refugees, the number continues to increase as a result of the unresolved conflicts in Myanmar, along with the number of refugees who have not registered themselves with UNHCR and live with no assistance in different parts of Indonesia. With the increasing trend of persecution of the Rohingya by the Myanmar government, it can only be expected that the incoming waves of refugees will increase and have a much greater impact on Indonesia's security and instability in the future. In addition, there is also a tendency for higher transnational crimes, such as human trafficking, migrant smuggling, and drug smuggling, in line with the influx of refugees. Another threat in the security sector is the possibility of refugees arriving with infectious diseases. Many Rohingya who live in Cox's Bazar Camps Bangladesh are infected with contagious diseases such as HIV/AIDS, deadly scabies, and COVID-19 (UN OCHA, 2022). This security threat from the health aspect also

needs to be taken seriously by the Government of Indonesia, considering that the Rohingya have never had access to health care in Myanmar and have only had very little access to health in refugee camps such as Cox's Bazar Camps. Preventive measures must be taken so those who live side by side with refugees will not get infected by the diseases as well.

From a political standpoint, coordination and synergy between ministries/agencies need to be strengthened to avoid the impression of laying the blame on one another and with due consideration of budgeting policy at the local level. This is because the implementation of Presidential Regulation Number 125 on Refugees is not yet optimal. There is only a limited budget, and Regional Governments are reluctant to contribute to developing a refugee shelter. Maintenance to keep community houses for refugees running often burdens the regional budget. The budgetary strain is tough now that the central government manages the regional budget and is directed toward post-COVID-19 economic recovery and handling poverty and unemployment. This is compounded by the heavy burden of personnel and infrastructure spending that local governments must make. In addition, as mentioned above, the Directorate General of Immigration regrets UNHCR and IOM's lack of responsibility in providing community houses for Rohingya refugees in Aceh, forcing them to be accommodated temporarily without adequate assistance in a facility owned by the Aceh Social Service.

From a socio-economic perspective, most people in Indonesia, even those in big cities like Jakarta, are not yet informed that refugees and asylum seekers are different from economic migrants. Local communities sometimes reject refugees for resentment that they receive monthly living rations from international agencies. This contradicts the local population, some living in very poor conditions. Moreover, the biggest challenge and obstacle in the cooperation between the Government of Indonesia and UNHCR is the reduction in financial assistance from donor countries for UNHCR and IOM's operations in Indonesia. The global crisis and increasing refugee problems have forced donor countries to cut their aid funds, which is why Indonesia's UNHCR and IOM funds have also been affected. This is also why UNHCR actively advocates for the Government of Indonesia to grant refugee permits to carry out income-generating activities. This is done to fulfill the rights of refugees as individuals to make a living. It is not uncommon for refugees to run out of money and resort to begging on the side of the road. This, in turn, only worsens the social friction in society.

Moreover, it is common for many refugees to eventually run away from the community house as they feel the uncertainty of staying in the facility. The flight of these refugees usually causes social friction in society because people see refugees as foreigners who can cause disturbance in their area. An example occurred in Alue Buya Pasie Village, Aceh, in March 2022. As many as 114 Rohingya refugees who were stranded in the area were expelled by local residents because they did not accept being reprimanded when they were caught trying to flee from the shelter (CNN Indonesia, 2022b). The most recent escape involved 27 refugees fleeing a camp at the West Aceh regent's office complex in Meulaboh, likely aided by human smugglers they paid to ferry them to Malaysia (Zulkarnaini, 2024). Local authorities suspect the refugees were taken to North Sumatra, but their whereabouts remain unknown. If they managed to escape the community house, the socio-economic problems that arise would certainly be greater as it would force refugees to make money and violate their status by potentially performing criminal acts such as selling drugs or working as prostitutes, which would certainly affect the safety and comfort of Indonesian people (Sapto, 2016).

If this ever-evolving migration crisis is not handled with precaution, it could pose substantial risks to developed nations, impacting their identity and economy. The increased need for cities to accommodate migrant populations would lead to heightened urbanization. At the same time, greater scientific and technological engagement may contribute to significant environmental challenges affecting global economic, social, and political developments. Today, the global migration process is characterized by two conflicting trends: a dramatic increase in the movement of human populations across nations and a simultaneous rise in exclusionary right-wing politics marked by racism, xenophobia, and the construction of fortified borders (Nirmal, 2006).

Moreover, if migration is poorly managed, it could adversely affect national growth and international development, undermine the human rights and dignity of migrants, increase social and interstate tensions, and potentially threaten global peace (Ghosh, 2021). Migration often falls into mismanagement in both origin and destination (including transit) countries. For instance, in origin countries, migration may occur due to economic or political pressures rather than due to free and rational choice, leading to disorderly and disruptive movements that are largely unwelcome abroad. When this occurs and receiving countries feel overwhelmed by waves of disruptive and unpredictable inflows, concerns about immigration spiraling out of control can prompt governments to adopt even stricter measures, thereby perpetuating a harmful cycle (Ghosh, 2021).

However, in its application, countries may take different actions under justifiable legal procedures while adhering to the non-refoulement principle. Similarly, the application of the non-refoulement principle involves several considerations. According to Article 33, paragraph (1) of the 1951 Convention, a country may undertake actions that differ from the strict implementation of the non-refoulement principle under specific and legitimate circumstances and through accountable legal procedures. This may include the expulsion of refugees or asylum seekers from its territory. Furthermore, article 33, paragraph (2) of the 1951 Convention outlines two reasons that could justify actions potentially conflicting with the obligation to uphold the non-refoulement principle as stated in paragraph (1). Firstly, the presence of refugees or asylum seekers could be perceived as a threat to national security. However, it is important to note that the interpretation of national security threats is highly subjective and should be assessed by the sovereign state in good faith on a case-by-case basis. Secondly, if refugees or asylum seekers have committed severe crimes that significantly disrupt public order in the host country, this could also provide grounds for deviating from the principle.

The Declaration on Territorial Asylum 1967, an international instrument adopted by the UN General Assembly, also guides member states in implementing the non-refoulement principle. A state must observe certain limitations in expelling refugees or asylum seekers from its territory (Syahrin, 2021). Firstly, any expulsion decision must be based on meticulous legal procedures and careful consideration of the circumstances. This process should uphold the fundamental principles of human rights law. Secondly, when carrying out expulsions, the state must ensure that refugees or asylum seekers are transferred to a safe third country where they will be protected and their rights respected.

Balancing Humanitarian and Security Considerations in Refugee Protection

Although in terms of numbers, it cannot be said that there are many, the existence of refugees and asylum seekers in Indonesia remains confusing because of the lack of solid and comprehensive legal references to be used as guidelines in managing,

regulating, and protecting the presence of refugees in Indonesia. Indonesia does not yet have a comprehensive legal framework for handling asylum seekers and refugees. Although Presidential Regulation Number 125 of 2016 on the Management of Foreign Refugees has clarified the treatment, it is insufficient to provide legal certainty or legal force. Even within the country, no national agency is fully responsible for dealing with refugees. Then, local governments find it difficult to deal with asylum seekers and refugees stranded in their areas. Meanwhile, international agencies like UNHCR and IOM also have limited mandates and budgets.

Responsibilities for dealing with refugees then become unclear because in dealing with any refugee problems, the questions that generally arise are related to the red tape: Who is responsible for handling refugees in Indonesia? Is it the central or regional governments that become the leading sector in refugee management? What budget is available, and for what purposes? Before these questions can be answered, concerns also arise about refugees' security and socio-economic impact. On the other hand, refugees and asylum seekers cannot be returned by force when they face a real risk of torture and persecution in their countries. There is also the non-refoulement principle in international refugee law, which is part of customary international law that binds all states, regardless of whether they are parties to the 1951 Refugee Convention or its 1967 Protocol.

These considerations create a dilemma in the decision-making processes when it comes to refugees: the Indonesian government sees the wave of refugees entering the country as a threat for reasons of national security, but at the same time, the government cannot let go and turn a blind eye for humanitarian reasons. The problem of refugees is indeed a cross-border problem, but in the end, sometimes, not all countries want to be responsible. Other significant challenges and obstacles often arise in the policies of asylum host countries, such as Australia, which is increasingly closing its doors to accepting refugees who are already in Indonesia (SBS News, 2014). This has an impact on the slow process of resettlement of refugees. The collaboration between the Indonesian government and UNHCR found differences in perceptions regarding the resettlement process between the Government of Indonesia and UNHCR. In an interview with UNHCR Public Information Officer Mitra Salima Suryono in 2018, she stated that sometimes the Government of Indonesia had the impression of "forgetting" that the resettlement decision was in the hands of the host country, not UNHCR's authority.

This has resulted in the government of Indonesia sometimes putting too much pressure on UNHCR to carry out the resettlement process. This then puts the refugee status in limbo since Indonesia does not have the legal framework and straightforward mechanism to end the uncertainty over their status. As for the refugees, returning to the country of origin (repatriation) is not possible. Meanwhile, they only have a tiny chance to resettle in a third country. However, settling permanently in Indonesia (reintegration) is not a good choice either, considering Indonesia is not yet included in the developed countries category, with many of its people still below the poverty line (Susetyo, 2021).

In Malaysia, As of the end of June 2024, there are 109,650 Rohingyas. Many of them live and work illegally, often in construction, where they are paid low wages (UNHCR, 2024b). Similar to Indonesia, Malaysia faces challenges related to social conflicts between Rohingya refugees and the local population. Since Malaysia is not a signatory to the 1951 Refugee Convention and its 1967 Protocol, Rohingya refugees do not receive legal protection under Malaysian law. In February 2024, dozens of Rohingya refugees, along with other Myanmar nationals, escaped from a temporary immigration detention center in northern Malaysia (Aljazeera, 2024). As there are no legislative or administrative

provisions in place for dealing with the situation of refugees and asylum-seekers in Malaysia, UNHCR conducts all activities related to the protection of refugees, namely the reception, registration, documentation, and refugee status determination of asylum-seekers and refugees.

Thailand is neither a signatory to the 1951 Refugee Convention nor its 1967 Protocol and lacks a national legal framework for managing refugees. Under the Immigration Act of 1979, Rohingya are categorized as illegal immigrants (Chuah, 2024). Furthermore, Thailand uses different management strategies for Rohingya compared to other Myanmar refugees. Non-Rohingya Myanmar refugees are housed in government-run border camps and receive temporary shelter. In contrast, Rohingya refugees reside in urban areas. They are deemed “illegal,” which exposes them to the risk of arrest and indefinite detention in immigration detention centers (IDCs) or closed shelters. As of June 2022, there were approximately 470 Rohingya in IDCs in Thailand. Due to the lack of a system for identifying and tracking Rohingya refugees and asylum seekers, the precise number of Rohingya in Thailand remains uncertain (Chuah, 2024).

To ensure the balance between the humanitarian and security aspects in the protection of refugees, the Government of Indonesia needs to take several steps, both internally and externally. Externally, Indonesia should maximize its role as the Chair of ASEAN and as the former non-permanent member of the UN Security Council to enhance diplomacy and negotiations with Myanmar and refugees’ host countries such as Australia. The Indonesian government needs to promote its authority and reposition in diplomacy, which shall be carried out in ways such as strengthening Indonesia’s role in encouraging multilateral, bilateral, and global cooperation, consolidating Indonesia’s leadership in ASEAN while strengthening ASEAN cooperation and centrality, as well as strengthening the Ministry of Foreign Affairs with a focus on enhancing budget, diplomacy, and the development of special expertise in the field of law and strategic research. In the Annual Press Statement of the Minister of Foreign Affairs in Bandung, Indonesia, in January 2024, Foreign Minister Retno Marsudi stated that democracy and stability in Myanmar would be the key to resolving the Rohingya issue. Foreign Minister Retno also emphasized that strong cooperation is needed between regional countries and UN agencies to resolve the Rohingya refugees (Humas Kementerian Luar Negeri RI, 2024). Indonesia also needs to increase diplomacy with Laos as the Chair of ASEAN 2024 to clarify the Five Point Consensus (FPC) agreed upon in 2021 by ASEAN countries in an effort to build peace for Myanmar and consider inviting the military junta to ASEAN forums to open the door to ASEAN dialogue with Myanmar.

Internally, Indonesia can strengthen its coastline's security and strictly check people entering Indonesia. Indonesia also needs to set the perimeter for refugees so they do not live alongside the local community and increase the risk of escaping. Even if the Indonesian government wants to continue accepting these refugees, it should make available a centralized settlement as it did with the Vietnamese refugees on Galang Island. Moreover, the public facilities on Galang Island have now been renovated since they were used as a special referral hospital during the COVID-19 pandemic (Egeham, 2020). This is done to avoid the resulting impacts, especially social impacts because restoring a community's social conditions is complicated and costly. In addition to that, as the country is located in a strategic position as an archipelagic country with vast and open sea boundaries on the transit route to Australia, Indonesia certainly needs robust and comprehensive policies and mechanisms to protect asylum seekers and refugees, as well as its own people and national security. This is particularly significant since more refugees are predicted to come in the future. The strengthening of state institutions

tasked with maintaining security and handling foreign refugees in Indonesia, such as the Indonesian Navy, the Indonesian Police, the Ministry of Transportation of RI, Bakamla RI (Indonesian Maritime Security Agency), local governments, and Basarnas RI (Indonesian National Search and Rescue Agency) need to be strengthened.

For this reason, Indonesia also does not need to consider the option of ratifying the 1951 Refugee Convention or its 1967 Protocol, considering that it is already overpopulated and the government is faced with the challenge of creating jobs. Economic logic argues that admitting refugees will compensate for the shortfall of native-born workers and provide cheap and unskilled labor in the country. However, Indonesia is by no means experiencing a labor shortage. Even now, the government is trying to match the number of laborers with job availability. Based on the data from Statistics Indonesia, Indonesia's population in 2020 was 270.20 million. From these data, the number of productive workforces is 140 million, with a relatively high open unemployment rate of 8.42 million (Novrizaldi, 2021).

Apart from that, many Indonesians still work with minimum wage. In addition to unemployment, the problems of poverty, social inequality, state debt, and uneven development remain persistent in Indonesia. Therefore, ratifying the 1951 Refugee Convention or its 1967 Protocol with all the following obligations is not the right choice for Indonesia at this time. It places a heavier burden on the state, and refugees will also cause immediate effects on the local economy, labor markets, businesses, and social infrastructure, which will all cause greater social friction. Plenty of research also shows that on the negative side, refugees can burden the host country by straining public and private services, causing physical and economic overcrowding, and increasing societal strife and the potential for civil conflict (Shellito, 2016). Nevertheless, in the name of humanity, Indonesia must continue to support refugee management by maintaining its position as a transit country through better management and a strong legal framework. After all, providing assistance to refugees in need can be done without ratifying conventions.

The government of Indonesia can develop and implement a comprehensive national legal framework that outlines the rights and responsibilities of refugees, as well as the obligations of the Indonesian government and relevant stakeholders. Indonesia must also create and enforce protocols for managing refugees in transit, including guidelines for temporary accommodation, access to basic services, and security measures. Ensure that these protocols align with humanitarian principles and the best interests of refugees. While Indonesia may choose not to ratify specific international conventions, it actively engages in regional and global dialogues on refugee issues. Advocate for collaborative solutions and support frameworks that align with Indonesia's national interests and humanitarian commitments. By implementing these recommendations, Indonesia can strengthen its role as a transit country and enhance its capacity to provide effective and humane support to refugees.

CONCLUSIONS, RECOMMENDATIONS, AND LIMITATIONS

Although Indonesia has not ratified the 1951 Convention relating to the Status of Refugees and is not under any legal obligation to recognize refugees and asylum seekers, the country has a long tradition of hosting refugees and people in need of international protection. The Indonesian government cannot forcibly deport the Rohingya refugees due to the non-refoulement principle. However, balancing the humanitarian and security considerations of Indonesia's efforts to protect refugees requires further thorough examinations due to the fact that this action has several political, security, and

socioeconomic consequences. Furthermore, the application of the non-refoulement principle to refugees in Indonesia, a country that is not a party to the 1951 Geneva Convention, is more based on the principle of *jus cogens* international law, as stated in Article 33 of the Convention on the Status of Refugees. The non-refoulement principle was initially recognized as a framework for refugee protection that prohibits recipient countries from expelling individuals to territories where they would face persecution. Over time, the principle of non-refoulement has become binding not only on states party to the 1951 Convention but also attained *jus cogens* status. For instance, states must respect each other's territorial sovereignty and human rights and not aggress against other states. This means states without ratifying the 1951 Convention must adhere to this principle, including Indonesia. All states are obliged to uphold the standards of refugee protection that have become part of customary international law, as these conventions have become *jus cogens*, and no refugee can be returned to a territory where they will be persecuted except based on national security. Although Indonesia denies refugees, they are still accommodated and processed by the UNHCR without diminishing the rights inherent in them as regulated by international refugee law.

Additionally, surrounded by neighboring countries hosting a large number of asylum-seekers and refugees, Indonesia is impacted regularly by mixed population movements. Thus, the country accepts refugees into its territory based on humanitarian considerations. Although in terms of numbers, it cannot be said that there are many, the existence of refugees and asylum seekers in Indonesia remains confusing because of the lack of solid and comprehensive legal references to be used as guidelines in managing, regulating, and protecting the presence of refugees in Indonesia. Indonesia does not yet have a comprehensive legal framework for handling asylum seekers and refugees. Although Presidential Regulation Number 125 of 2016 on the Management of Foreign Refugees has clarified the treatment, it is insufficient to provide legal certainty or legal force.

From Indonesia's National Security point of view, accepting refugees brings about several consequences in political, security, and social-economic dimensions, such as increasing the risk of the occurrence of transnational crime, disease transmission, and social conflict within the community. Economic logic argues that admitting refugees will compensate for the shortfall of native-born workers and provide cheap and unskilled labor in the country. However, Indonesia is not experiencing a labor shortage; many Indonesians are unemployed and still work at minimum wage. In addition to these problems, the problems of poverty, social inequality, state debt, and uneven development remain persistent in Indonesia. Therefore, ratifying the 1951 Refugee Convention or its 1967 Protocol with all the following obligations is not the right choice for Indonesia now. It places a heavier burden on the state, and refugees will also cause immediate effects on the local economy, labor markets, businesses, and social infrastructure, which will all cause greater social friction. Nevertheless, in the name of humanity, Indonesia must continue to lend its support for refugee management by maintaining its position as a transit country through better management and a strong legal framework created to this end. After all, assisting refugees in need can be done without ratifying conventions.

The recommendation that can be given for this problem is maximizing Indonesia's role as the Chair of ASEAN and as the former non-permanent member of the UN Security Council to enhance diplomacy and negotiations with both Myanmar and refugees' host countries such as Australia. Indonesia can strengthen security on its coastline and carry out strict checks on people entering Indonesia alongside the Indonesian Navy, the Indonesian Police, the Ministry of Transportation of RI, Bakamla RI (Indonesian Marine

Security Agency), local governments, and Basarnas RI. Due to resource constraints and contextual limitations, this study may be limited in its ability to comprehensively explore the perspectives of all stakeholders involved in Indonesia's refugee protection policies, potentially affecting the depth and breadth of the qualitative data collected.

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