

Optimizing International Legal Compliance in Addressing the Rohingya Refugee Crisis in Indonesia

Eva Arief¹, Muhammad Saiful Islam²

¹ Universitas 17 Agustus 1945 Semarang, Semarang

² Vilnius University, Lithuania

*Email korespondensi: evaarief21@yahoo.co.id

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Abstrak

This study aims to analyze and investigate Indonesia's response to the Rohingya refugee crisis and examine its compliance with international law in addressing complex humanitarian challenges while tracing the history of Rohingya refugees in Indonesia since 2017. The research focuses on recent developments, including the surge in refugee arrivals and increasing tensions between newcomers and local residents. This study employs normative juridical research emphasizing a case study approach, utilizing secondary data analyzed qualitatively and presented using descriptive qualitative analysis techniques. The results indicate that Indonesia has principally committed to international law concerning refugees through concrete actions, diplomacy, and dialogue. However, the handling of Rohingya refugees in Indonesia, as regulated by PERPRES 125/2016, does not fully align with international legal principles, particularly the non-refoulement principle of the 1951 Convention. Refugees are considered illegal immigrants with temporary accommodation ending in relocation or repatriation. Further efforts are needed to ensure treatment aligns with human rights norms and provides adequate protection, including the right to employment, which is challenging due to the scarcity of job opportunities for Indonesian citizens themselves.

Keywords: Human Rights; International Law Compliance; Optimization.

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1. Introduction

The Rohingya community has faced ethnic and religious persecution for decades and human rights violations in their home country, Myanmar. Hundreds of thousands have been forced to seek refuge from violence and ethnic discrimination, leading them to flee to neighboring countries such as Bangladesh, Thailand, Malaysia, and Indonesia.

The current Rohingya refugee crisis originating from Myanmar is one of the most urgent crises in the region. Following the outbreak of violence in 2017, more than 740,000 Rohingya fled Myanmar to neighboring Bangladesh in a mass exodus, according to the United Nations High Commissioner for Refugees (UNHCR). The majority of them reside in and around the Kutupalong and Nayapara refugee camps in the Cox's Bazar area of Bangladesh.¹

¹ UNHCR, "Rohingya Emergency," *United Nations High Commissioner for Refugees*, no. July (2019).

Indonesia has hosted Rohingya refugees since the outbreak of conflict with Myanmar's military forces in early 2017, particularly in the Aceh province. As of February 2023, Indonesia had accommodated around 1,000 Rohingya refugees, most of whom arrived in Aceh through overcrowded and perilous boat journeys. The situation became alarming with a recent surge, as 1,543 Rohingya refugees arrived by boat in Aceh since November 14, 2023. The total Rohingya population in Aceh, including 179 individuals recently rescued from Aceh waters, reached approximately 1,722 by December 12, 2023. Unlike previous waves of Rohingya refugees, the current wave faces rejection and dissatisfaction from local residents, driven by concerns over alleged past criminal activities and fears of potential troublemaking by the refugees during their stay under the Aceh Provincial Government's care.²

By late December 2023, protests erupted in response to the refugees' presence, exacerbating the challenges faced by the Rohingya population. However, the Indonesian government, despite the worsening crisis, did not take immediate action to address the refugees' dire conditions. Instead, circulating rumors regarding alleged human trafficking cases suggested that some Rohingya refugees might not be fleeing conflict but were smuggled illegally. This raises legal concerns, as refugee laws are not intended to protect illegal immigrants.³

Despite not being a signatory to the 1951 UN Refugee Convention, Indonesia has demonstrated its commitment to addressing refugee situations through Presidential Regulation No. 125 of 2016. This regulation establishes a framework for handling refugees from abroad, obligating the Indonesian government to meet their needs in accordance with international law. Although there is no formal international commitment, Indonesia's response underscores its recognition of the importance of upholding humanitarian principles in dealing with complex and challenging refugee crises.⁴

Currently, Indonesia faces two major challenges requiring careful consideration and strategic solutions. First, there are complex issues in determining the appropriate treatment of refugees in accordance with international law, particularly in the context of alleged cases of human trafficking. This challenge requires a wise and legally sound approach to ensure that the rights and

² UNHCR, "Rohingya Refugee Emergency at a Glance," *UNHCR Maps/Arc GIS*, 2018.

³ M. Mahruf C. Shohel, "Education in Emergencies: Challenges of Providing Education for Rohingya Children Living in Refugee Camps in Bangladesh," *Education Inquiry*, 2022, <https://doi.org/10.1080/20004508.2020.1823121>.

⁴ M Alvi, Pangestu, Bangun Widodo Syahrin, "Diskursus Skema Pengawasan Pengungsi Setelah Penerbitan Peraturan Presiden No 125 Tahun 2016 Tentang Penanganan Pengungsi Dari Luar Negeri Dalam Perspektif Keimigrasian," *Jurnal Ilmiah Kajian Keimigrasian Politeknik Imigrasi 2*, no. 1 (2019).

welfare of refugees are protected while addressing the underlying complexities of alleged human trafficking situations.

Second, Indonesia faces the challenge of defining its role in addressing the Rohingya crisis to its roots and formulating sustainable solutions. This not only means providing immediate protection and support to refugees, as mandated by international law, but also actively engaging in initiatives that address the root causes of this crisis. Indonesia's role goes beyond temporary fixes; it involves efforts to contribute to regional mechanisms and collaborate with international partners to address systemic issues causing displacement.⁵

To address these challenges requires a comprehensive and multi-dimensional approach, involving legal expertise, diplomatic engagement, and cooperation with international organizations. Indonesia's commitment to finding long-term solutions to the Rohingya crisis underscores the nation's dedication to upholding human rights, strengthening regional stability, and addressing root causes contributing to displacement and humanitarian crises in the region.

Research on the Rohingya refugee crisis has been conducted by several researchers previously, such as the study conducted by Hary Primadi, titled "Progress in Handling Rohingya Refugees by the Indonesian Government in Aceh Province 2016-2018." His research concluded that Indonesia had made internal and external efforts in handling Rohingya refugees in Aceh. Internal efforts included search and rescue operations, providing shelter, health facilities, and logistical support. External efforts involved cooperation with countries like Malaysia and Thailand, as well as refugee organizations. Previous research differs from the study undertaken by the author, which seeks to provide an analysis of compliance and process challenges, rather than identifying or explaining technical handling methods.⁶

The two studies conducted by Mehruba Islam, titled "Cross Border Coordination & Global Governance Challenges: A Review on Rohingya Refugee Crisis," concluded that the handling of the Rohingya refugee issue is still suboptimal due to factors such as poor local, regional, and global governance, as well as weak coordination exacerbating the refugee situation. This research recommends the establishment of institutional networks to ensure

⁵ Penny Naluria Utami, Okky Chahyo Nugroho, and Donny Michael Situmorang, "Kebijakan Penanganan Pengungsi Luar Negeri Di Indonesia," *Inovasi* 18, no. 2 (2021), <https://doi.org/10.33626/inovasi.v18i2.246>.

⁶ Hary Primadi, "Progres Penanganan Pengungsi Rohingya Oleh Pemerintah Indonesia Di Provinsi Aceh Tahun 2016-2018," *EJournal Ilmu Hubungan Internasional* 7, no. 1 (2019).

effective regional and global governance in handling the refugee crisis, emphasizing the importance of coordination among global institutions for better refugee management, including safe repatriation and resettlement plans. Previous research focused more on international problematics, while the author's research emphasized regional aspects limited to the refugee issues in the Indonesian region.

The last study conducted by Mohammad Mehedy Hassan, titled "Rohingya Refugee Crisis and Forest Cover Change in Teknaf, Bangladesh," essentially found ecological impacts resulting from the expansion of Rohingya refugees and the necessary efforts to address them. This research emphasizes the ecological impact caused by refugee factors, unlike the author's study, which focuses more on optimizing Rohingya refugees in Indonesia.⁷

Based on this original study, this article aims to analyze and investigate Indonesia's response to the Rohingya refugee crisis, as well as to understand the compliance with international law in handling complex humanitarian challenges and trace the history of Rohingya refugees in Indonesia since 2017. This study focuses on recent developments, including the surge in refugee arrivals and increasing tensions between migrants and local residents.

2. Research Method

This research employs a normative juridical study with a qualitative approach and a case study methodology aimed at comprehensively investigating Indonesia's response to the Rohingya refugee crisis, particularly analyzing compliance with international law in addressing this complex humanitarian challenge. The qualitative methodology is chosen to explore various aspects of the crisis, capturing the depth and complexity of the issues involved.⁸ Meanwhile, the primary data collection technique utilized in this research is literature review. Extensive literature review, document analysis, and scholarly sources are employed to gather historical, legal, and contextual information related to Indonesia's response to the Rohingya refugee crisis. The library research approach allows for comprehensive exploration of the subject matter, incorporating diverse perspectives and insights from experts. The obtained data is then analyzed using qualitative techniques. Qualitative data obtained from the literature review will be systematically examined, categorized, and interpreted to identify patterns, themes, and key insights. This analytical

⁷ Mohammad Mehedy Hassan et al., "Rohingya Refugee Crisis and Forest Cover Change in Teknaf, Bangladesh," *Remote Sensing* 10, no. 5 (2018), <https://doi.org/10.3390/rs10050689>.

⁸ Juhnny Ibrahim Jonandi Effendi, "Metode Penelitian Hukum: Normatif Dan Empiris," *Depok: Prenandamedia Goup*, 2018.

approach allows for different understandings of Indonesia's response, considering the complexity of laws, human rights considerations, and broader implications of government actions or inaction.⁹

3. Research Results and Discussion

3.1. History of the Rohingya Refugee Crisis

The Rohingya conflict has a complex historical origin, involving political, ethnic, religious, and social factors. A significant starting point for this conflict dates back to the 19th century during British colonial rule in Myanmar (formerly Burma) from 1837 to 1937, marked by significant labor migration from India and Bangladesh to Myanmar. Although considered internal migration under British rule as part of the Indian Province, the indigenous population viewed this migration negatively.

Following Myanmar's independence in 1948, the government declared this migration illegal and denied Rohingya residents citizenship. Post-independence citizenship laws ostensibly provided opportunities for all groups to obtain Myanmar citizenship. According to the Myanmar Citizenship Law of 1948, citizens are those born to two "indigenous" parents; those with at least one grandparent who is "indigenous" (*jus sanguinis*); and those born in Myanmar from parents who have made Myanmar their permanent home for at least two generations (*jus soli*), or those born after independence and can acquire citizenship if born in Myanmar from one parent who is a citizen or abroad from a father who is a Myanmar citizen or parents working for the Myanmar state (Union Citizenship Act 1948, articles 5a-c).

However, in practice, the Citizenship Law is not as open as suggested by the law and court decisions. The conditions for obtaining Citizenship Rights have become increasingly difficult under authoritarian rule, making it harder for Rohingya communities to obtain citizenship. Due to this discrimination, Rohingya communities aspired to establish an independent state in the northern Arakan region, leading Myanmar to face various Mujahidin movements from the 1950s to the late 1960s.¹⁰

⁹ Sulaiman Sulaiman, "Paradigma Dalam Penelitian Hukum," *Kanun Jurnal Ilmu Hukum* 20, no. 2 (2018), <https://doi.org/10.24815/kanun.v20i2.10076>.

¹⁰ Elizabeth L. Rhoads, "Citizenship Denied, Deferred and Assumed: A Legal History of Racialized Citizenship in Myanmar," *Citizenship Studies* 27, no. 1 (2023), <https://doi.org/10.1080/13621025.2022.2137468>.

In the 1970s, the Rohingya separatist movement resurfaced from the remnants of the Mujahidin under the command of Moulvi Jafar Kawal of the Rohingya Liberation Party, prompting the Burmese government to launch Operation Dragon King in 1978, aimed at expelling those termed "foreigners" and compelling neighboring countries to do the same. The Rohingya population left Myanmar.¹¹

The situation deteriorated under the military rule of Ne Win when new citizenship laws were enacted in 1982, which removed the Rohingya ethnicity from the list of 135 ethnic groups and introduced three levels of citizenship. The most basic level, naturalization, requires evidence of family residence in Myanmar before 1948. Obtaining such documents proved to be a challenge for Rohingya, who were initially denied citizenship.¹²

In October 2016, Myanmar's border posts along the Bangladesh-Myanmar border were attacked by the Rohingya Solidarity Organization (RSO), a small armed Rohingya group active in the 1980s and 1990s, resulting in the deaths of at least 9 police officers. This reignited the first conflict between Rohingya armed groups and the Myanmar Military since 2001. Then, on August 25, 2017, the Arakan Rohingya Salvation Army (ARSA) launched coordinated attacks on 24 police posts and military bases, resulting in 71 Myanmar security forces killed. The attacks triggered massive retaliatory actions from Myanmar forces and led to a large-scale exodus of Rohingya population to neighboring countries.¹³

3.2. Criteria for Refugee Status

Defining refugee status is crucial as it allows authorities to distinguish between refugees and undocumented immigrants. While refugees must be protected by the host country under International Customary Law, host countries generally have law enforcement measures against undocumented immigrants and the right to deport them to their country of origin.

The criteria for refugees have been established by the United Nations Convention Relating to the Status of Refugees (1951 Convention). According to Article 1 of this Convention, a refugee is someone who has

¹¹ Elahi K Maudood, "The Rohingya Refugees in Bangladesh: Historical Perspectives and Consequences," in *John Rogge (Ed.), Refugees: A Third World Dilemma*, 1987.

¹² UNICEF Bangladesh, "Bangladesh Humanitarian Situation Report No. 58," *UNICEF*, no. 58 (2021).

¹³ Fuat Albayumi, Nourma Meysita Hadi, and Djoko Susilo, "Diplomasi Indonesia Dalam Menyelesaikan Krisis Pengungsi Rohingya Tahun 2017," *Nation State Journal of International Studies* 1, no. 2 (2018), <https://doi.org/10.24076/nsjis.2018v1i2.121>.

been forced to leave their country of origin due to well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group. The individual must be outside their country of origin and unable or unwilling to seek protection from that country, driven by a reasonable fear that the government cannot or will not protect them from dangers such as war, violence, or targeted threats. Additionally, refugees include individuals who are stateless, residing outside their previous residence, and unwilling or unable to return due to similar fears of persecution.¹⁴

The Refugee Convention of 1951 originated after World War I (1914-1918), when millions sought refuge after leaving their homeland. European governments responded by creating a series of international agreements to provide travel documents, marking the recognition of these individuals as the first refugees of the 20th century. Their numbers surged during and after World War II (1939-1945), with many fleeing Nazi persecution and forced deportation.

Proses ini dimulai di bawah Liga Bangsa-Bangsa pada tahun 1921 dan This process began under the League of Nations in 1921 and culminated in the 1951 Convention. The United Nations General Assembly initiated this Convention in 1950, signed on July 28, 1951, and came into effect on April 22, 1954, after being ratified by six countries. However, the 1951 Convention initially focused on the protection of European refugees post-World War II.

To address this limitation, the 1967 Protocol, adopted on October 4, 1967, eliminated the geographical restrictions previously applicable to six European countries, making it universally applicable to protect all individuals fleeing conflict and persecution. The Convention defines who is considered a refugee, outlining their rights and the legal obligations of states, and has been ratified by 147 countries.¹⁵

While not a signatory to the 1951 Convention or the 1967 Protocol, Indonesia implicitly regulates the procedures for granting asylum to refugees through Article 26 of the Law on International Relations (Law No. 37 of 1999). This process is conducted in accordance with international law,

¹⁴ Albayumi, Hadi, and Susilo.

¹⁵ Ulrike Krause, "Colonial Roots of the 1951 Refugee Convention and Its Effects on the Global Refugee Regime," *Journal of International Relations and Development* 24, no. 3 (2021), <https://doi.org/10.1057/s41268-020-00205-9>.

customs, and practices. These regulations were further strengthened by Presidential Regulation No. 125 of 2016 (PERPRES 2016) concerning the Handling of Refugees Abroad.

The definition of a refugee as outlined in Article 1 of PERPRES 2016 states that a refugee is a foreigner present in Indonesian territory due to well-founded fear of persecution. This fear is based on factors such as race, ethnicity, religion, nationality, affiliation with a particular social group, or political opinion. These individuals may have refused protection from their country of origin or have been granted asylum or refugee status by the UN through representatives overseeing refugees in Indonesia or UNHCR. Substantially, the refugee definition stated in PERPRES 2016 reflects the 1951 Convention. Both also address the need to treat refugees humanely and fulfill their basic rights.

The 1951 Convention protects the basic rights of refugees based on principles of customary international law. Non-refoulement, which is its cornerstone, ensures that refugees cannot be expelled or returned to a country where their life or freedom is threatened based on race, religion, nationality, membership in a particular social group, or political opinion.

Another important right is the right to work, which provides refugees with the opportunity to gain wage employment and engage in entrepreneurship. The host country is obligated to provide the most favorable treatment to refugees, at least equivalent to that given to other foreign nationals in similar conditions.

Regarding housing, refugees lawfully residing in the host country should enjoy the same rights to public housing and rental subsidies as other foreign nationals. Similarly, access to education is a crucial provision, ensuring refugee children the right to equivalent basic education as national education. Additionally, they should be given access to secondary education, higher education, vocational training, and language learning equivalent to that of citizens.

Refugees also have the right to obtain identity and travel documents allowing them to travel outside their country of residence. Access to justice is another important aspect, granting refugees the right to free access to legal processes and legal assistance.

Below is a comparison of Refugee Rights as regulated in the 1951 Convention and PERPRES 2016:

Table 1
Secondary Data Analysis

No.	Refugees' Rights	The 1951 Convention	The 2016 Regulation
1.	Non-refoulement	✓ Article 33	X
2.	Right to employment	✓ Article 17-19	X
3.	Access to housing and public relief	✓ Article 21	✓ Article 24-30
4.	Right to Education	✓ Article 22	X
5.	Identity and travel documents	✓ Articles 27-28	✓ Article 25 & 37
6.	Access to courts	✓ Article 16	X
7.	Exemption from exceptional measures in case of refugees' illegal entry	✓ Article 31	X
8.	Freedom of Religion	✓ Article 4	✓ Article 25

One interesting aspect between the two is the principle of non-refoulement. The 1951 Convention prohibits returning refugees to a country where their life, security, or freedom is threatened. While Article 29 of PERPRES 2016 allows for voluntary deportation. However, this occurs if their refugee status application is rejected by the UN, meaning their situation does not meet the criteria for refugee status as set out in the 1951 Convention.

Regarding the Right to Work and the Right to Education, although not explicitly mentioned in PERPRES 2016, in practice, refugee children are provided educational opportunities in refugee camp facilities through coordination with the International Organization for Migration (IOM). However, the implementation of the right to work remains a challenge to date because the Indonesian government is still striving to provide job opportunities for its citizens.¹⁶

3.3. Rohingya Refugee Status in Indonesia

The status of Rohingya refugees in Indonesia remains a controversial and complex debate, particularly in the context of granting refugee status based on the 1951 UN Convention and Presidential Regulation Number 125 of 2016. Fundamentally, the 1951 UN Refugee Convention and its 1967 Protocol provide the international legal framework to protect refugees' rights. This convention defines who can be considered a refugee, their rights, and the obligations of recipient countries to protect and grant refugee status to those who qualify.

In the Indonesian context, the regulation concerning refugee status is governed by Presidential Regulation Number 125 of 2016. This regulation aligns national law with international standards regarding refugees. However, granting refugee status to Rohingya in Indonesia faces several challenges and controversies.

First, it should be noted that granting refugee status is not an easy process. The Refugee Convention requires recognition that an individual experiences "well-founded fear of being persecuted" based on race, religion, nationality, membership in a particular social group, or political opinion. In the context of Rohingya, persecution in Myanmar by the Government and Buddhist extremist groups has led to serious violence and discrimination, with many deaths resulting from this persecution. According to reports from Médecins Sans Frontières (MSF), a non-governmental organization

¹⁶ E.N. Domloboy Nst., "PERANAN INTERNATIONAL ORGANIZATION FOR MIGRATION (IOM) DALAM MENANGANI PERMASALAHAN REFUGEES (PENGUNGS) ROHINGYA DI INDONESIA," *Jurnal PIR: Power in International Relations* 2, no. 1 (2018), <https://doi.org/10.22303/pir.2.1.2017.70-81>.

(NGO) based in France, since the violence began in 2017, approximately 6,700 Rohingya have been killed, including 730 children.¹⁷

However, there are several issues to consider in granting refugee status to Rohingya in Indonesia. One of them is the fact that most of them have previously been accommodated and granted refugee status in Bangladesh under the supervision of the UN Refugee Agency, UNHCR, where the place should already be considered safe for them to reside as it is directly supervised by the UN. Therefore, their journey to Indonesia may be considered illegal because it does not meet the criteria for granting refugee status, namely experiencing "well-founded fear of being persecuted" where they should have been in a safe condition in their previous location. Meanwhile, economic conditions and difficult living conditions as well as lack of job opportunities in their previous location do not fall under the category of assessment for refugee status both in the 1951 UN Convention and PERPRES 2016.

However, it is important to understand that the conditions in refugee camps in Bangladesh are also not always safe and conducive. There are reports of tension and violence in the camps, including recruitment efforts by extremist groups and human trafficking practices. Conditions in these refugee camps create an environment vulnerable to exploitation by irresponsible individuals. Some extremist groups have attempted to recruit refugees, exploiting their uncertainty and frustration.

At this point, some Rohingya refugees decide to leave these camps and seek a new life elsewhere. Inadequate conditions in Bangladesh and uncertainty about the future can trigger their determination to seek solutions outside the refugee camps. Some of them choose to sail to Indonesia as a potential destination to seek a better life. In this context, granting refugee status to Rohingya in Indonesia can be seen as an alternative solution to reduce pressure in refugee camps in Bangladesh.

3.4. Government of Indonesia's Efforts in Resolving the Rohingya Refugee Crisis

Since the Rohingya refugee crisis erupted in 2017, the Indonesian government has been actively involved in addressing the issue. It is

¹⁷ Iqthyer Uddin Md Zahed, "Impact of the Geopolitical Status Quo Vis-à-Vis the Rohingya Crisis on the Social, Economic, and Political Aspects of Bangladesh," *Asian Politics and Policy* 15, no. 4 (2023), <https://doi.org/10.1111/aspp.12716>.

important to note that Indonesia's foreign policy is characterized by active non-alignment, freedom in cooperation with other countries, and active participation in maintaining world peace. Since the Rohingya crisis broke out in 2017, the Indonesian government has actively engaged in regional diplomacy and dialogue. In high-level dialogues and meetings within ASEAN, the UN, and other regional organizations, Indonesia has sought collaborative solutions. In 2018, Indonesia hosted the ASEAN High-Level Conference on the Rohingya Refugee Crisis, aiming to enhance coordination and address the root causes of the conflict to find long-term solutions. Furthermore, on several occasions during subsequent ASEAN summits, Indonesian President Joko Widodo held special meetings with Myanmar's leaders to discuss resolving the Rohingya refugee crisis. However, Indonesia's diplomacy is constrained by the principle of non-interference in internal matters, whereby Indonesia is prohibited from intervening in Myanmar's domestic affairs. Myanmar claims to be undertaking efforts to suppress separatist movements seeking to separate Rakhine State from Myanmar's integral territory.¹⁸

In addition, the Indonesian government is also involved in managing Rohingya refugees who arrive in its territory. This includes search and rescue efforts for Rohingya refugees stranded in Indonesian waters, followed by the provision of shelters scattered across the provinces of Aceh, North Sumatra, and Riau, as well as healthcare assistance and other basic needs.¹⁹

The Indonesian government is also actively collaborating and coordinating with the UNHCR (United Nations High Commissioner for Refugees) and IOM (International Organization for Migration). UNHCR plays a role in documenting and verifying refugee status, while IOM assists in providing humanitarian aid and refugee relocation. Government efforts also involve education and training initiatives to assist Rohingya refugees, especially children, in preparing them for a better future.

Although Indonesia has issued Presidential Regulation No. 125/2016 concerning the Handling of Foreign Refugees, its implementation still faces several challenges in complying with international legal standards. First,

¹⁸ F. Morshed, "The Role of Religion in Conflict and Peace Building-The Context of Rakhine State in Myanmar.," *Religions and Peace Buiding*, 2018.

¹⁹ Tirza Listiarani, "ANALISIS KEBIJAKAN LUAR NEGERI INDONESIA DALAM MENERIMA PENGUNGGI ROHINGYA DI INDONESIA," *Jurnal PIR : Power in International Relations* 5, no. 1 (2021), <https://doi.org/10.22303/pir.5.1.2020.19-32>.

implicitly, the handling of refugees in Indonesia still reflects the view that they are considered undocumented immigrants. This is reflected in the use of immigration detention centers as shelters. The terminology "immigration detention center" carries connotations of confinement or detention associated with alleged legal violations. If refugees are considered undocumented immigrants, this can hinder efforts to provide them with protection in line with their rights as refugees. This contradicts the basic principle that views refugees as individuals in need of protection due to well-founded fear of persecution in their home country.

Furthermore, Presidential Regulation No. 125/2016 indirectly states that the sheltering of refugees in Indonesia is only temporary (Article 29), with the ultimate plan being relocation to a third country or repatriation to the country of origin. This provision clearly contradicts the principle of non-refoulement in the 1951 Refugee Convention, which prohibits states from returning refugees to territories where they may face threats to their lives or persecution.²⁰

By establishing repatriation as one of the options, Indonesia runs the risk of violating its international obligations to protect refugees from the risk of persecution or ill-treatment in their country of origin. This could jeopardize the safety of Rohingya refugees fleeing systematic violence and discrimination in Myanmar.

To become a country that complies with international law and respects the principles of refugee protection, Indonesia needs to make several fundamental improvements. First, Indonesia must cease the practice of placing refugees in immigration detention centers and grant them status consistent with the definition of refugees in the 1951 Convention. Second, Indonesia must ensure that no refugees are forcibly returned to their country of origin if there is a risk of persecution or threats to their safety.

4. Closing

4.1. Conclusions

The definition of refugees according to both the UN Convention of 1951 and Presidential Regulation No. 125/2016 is individuals facing persecution or serious threats based on race, religion, nationality, membership of a particular social group, or political opinion in their home country. Refugee status cannot

²⁰ Penny Naluria Utami, "Implementasi Peraturan Presiden Nomor 125 Tahun 2016 Tentang Penanganan Pengungsi Dari Luar Negeri Di Provinsi Kepulauan Riau," *Jurnal Legislasi Indonesia* 16, no. 3 (2019).

be automatically granted solely due to difficult economic conditions or life in the home country. There are allegations that Rohingya refugees do not meet the criteria as refugees because the criterion of "threats to life or persecution" cannot be implemented for them. Indonesia has committed to implementing compliance with International Law and Customary Law regarding refugees through concrete actions, diplomacy, and dialogue. However, the handling of Rohingya refugees in Indonesia, as regulated in Presidential Regulation No. 125/2016, reflects some inconsistencies with the principles of International Law. Refugees are considered undocumented immigrants with temporary shelters that end with relocation or repatriation, raising concerns about the non-refoulement principle of the 1951 Convention. Further efforts are needed to ensure that treatment of refugees complies with human rights norms and provides adequate protection in line with international conventions. Additionally, some refugee rights outlined in the 1951 UN Convention, such as the right to employment for refugees, cannot be implemented because Indonesia still lacks job opportunities for its own citizens.

4.2. Suggestions

The Indonesian government needs to revise Presidential Regulation No. 125/2016 to align with international law, especially the principle of non-refoulement, and provide training for relevant officials on refugee law and human rights. Strengthening cooperation with UNHCR and IOM, developing rehabilitation and integration programs for refugees, and increasing public awareness are crucial. Additionally, regular evaluation mechanisms for refugee handling and collaboration with the private sector to create job opportunities and training opportunities for refugees, reducing dependence on government aid, are required.

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