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The Indonesia's Paradox of Refugees Rights to Health

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Abstract

This research explores Indonesia's approach to refugee protection despite not being a party to the 1951 Refugee Convention and 1967 Protocol. Its originality lies in assessing how international human rights obligations shape national practices and identifying challenges in fulfilling refugees' rights. Using a normative legal approach, the study analyzes international instruments including the Universal Declaration of Human Rights and the Covenants on Civil, Political, Economic, Social, and Cultural Rights together with Indonesia's policies, framed by International Minimum Standards and National Treatment Standards. The study finds that Indonesia provides partial protection for refugees, ensuring limited access to housing, health, education, and social services. However, significant gaps remain due to the absence of legal recognition and institutional mechanisms. The research contributes to refugee law by highlighting the obligations of non-signatory states and offers practical implications for strengthening refugee protection in Indonesia and comparable contexts.

Keywords

Refugees – the 1951 convention – the 1967 protocol – human rights – health access – health equity

1 Introduction

Indonesia, as a non-signatory to the 1951 Refugee Convention and its 1967 Protocol, occupies a complex position in the global refugee protection landscape.^{1,2,3,4} Despite this, the nation's legal framework, including the 1945 Constitution and various domestic laws, reflects a commitment to humanitarian principles.^{5,6,7,8} Article 28 of the 1945 Constitution recognizes the right to seek asylum, aligning with Indonesia's obligations under the Universal

- 1 Bani Syarif Maula, "Examining the Handling of Rohingya Refugees in Indonesia through the Lens of International Law and Maqāsid Al-Shari'ah: An Exploration of Islamic Humanitarianism," *Mazahib* 23, no. 1 (June 2024): 1–40, <https://doi.org/10.21093/mj.v23i1.7942>.
- 2 Dodik Setiawan Nur Heriyanto, Sefriani Sefriani, and Fezer Tamas, "No Choice but Welcoming Refugees: The Non-Refoulement Principle as Customary International Law in Indonesia," *Lentera Hukum* 10, no. 1 (May 2023): 135, <https://doi.org/10.19184/ejll.v10i1.37920>.
- 3 Cifebrima Suyastri, Mohammad Thoriq Bahri, and Marhadi Marhadi, "Legal Gap in Refugee Protection in Non-Signatory Countries: An Evidence from Indonesia," *DANUBE* 14, no. 3 (September 2023): 193–214, <https://doi.org/10.2478/danb-2023-0012>.
- 4 Maja Janmyr, "The 1951 Refugee Convention and Non-Signatory States: Charting a Research Agenda," *International Journal of Refugee Law* 33, no. 2 (December 2021): 188–213, <https://doi.org/10.1093/ijrl/eeab043>.
- 5 Arnanda Yusliwidaka, Kholis Roisah, and Joko Setiyono, "The Development of National Law in The Context of The Implementation of International Humanitarian Law," *Croatian International Relations Review* 28, no. 89 (2022): 286–302.
- 6 Rinda Philona and Novita Listyaningrum, "Restorative Justice in Constitutional Perspective: Actualizing Constitutional Values of Justice in Indonesia," *KARSA Journal of Social and Islamic Culture* 33, no. 1 (June 2025): 241–71, <https://doi.org/10.19105/karsa.v33i1.20264>.
- 7 Fauzan Fauzan, "The Death Penalty in Legal Literature: A Study of Indonesian Law and International Human Rights," *Jurnal Ilmiah Mizani: Wacana Hukum, Ekonomi Dan Keagamaan* 8, no. 1 (March 2024): 144, <https://doi.org/10.29300/mzn.v8i1.2758>.
- 8 Alia Harumdani Widjaja, Winda Wijayanti, and Rizkisyabana Yulistyaputri, "Perlindungan Hak Penyandang Disabilitas Dalam Memperoleh Pekerjaan Dan Penghidupan Yang Layak Bagi Kemanusiaan," *Jurnal Konstitusi* 17, no. 1 (May 2020): 197, <https://doi.org/10.31078/jk1719>.

Declaration of Human Rights.^{9,10,11,12} Additionally, Indonesia's adherence to the International Convention on the Elimination of All Forms of Racial Discrimination underscores its dedication to human rights.^{13,14} In practice, Indonesia has implemented measures to manage refugee situations. Presidential Regulation No. 125 of 2016 outlines procedures for handling foreign refugees, focusing on temporary protection and eventual resettlement.^{15,16,17,18} This regulation, however, has faced criticism for its limited scope and the absence of a comprehensive legal framework, leading to challenges in ensuring refugees' rights and well-being. For instance, refugees often encounter significant barriers to employment and may have constrained access to education and healthcare, reflecting the complex and

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- 9 Bilal Dewansyah and Ratu Durotun Nafisah, "The Constitutional Right to Asylum and Humanitarianism in Indonesian Law: 'Foreign Refugees' and PR 125/2016," *Asian Journal of Law and Society* 8, no. 3 (October 2021): 536–57, <https://doi.org/10.1017/als.2021.8>.
 - 10 Oly Viana Agustine, "The Constitutional Will In Human Rights Protection For Refugees," *Constitutional Review* 3, no. 1 (August 2017): 119, <https://doi.org/10.31078/consrev316>.
 - 11 S. Kapferer, "Article 14(2) of the Universal Declaration of Human Rights and Exclusion from International Refugee Protection," *Refugee Survey Quarterly* 27, no. 3 (January 2008): 53–75, <https://doi.org/10.1093/rsq/hdn045>.
 - 12 C. McCrudden, "Human Dignity and Judicial Interpretation of Human Rights," *European Journal of International Law* 19, no. 4 (September 2008): 655–724, <https://doi.org/10.1093/ejil/chn043>.
 - 13 Ivan Garvalov, "The United Nations International Convention on the Elimination of All Forms of Racial Discrimination," in *Synergies in Minority Protection*, 1st ed., ed. Kristin Henrard and Robert Dunbar (Cambridge University Press, 2009), 249–77, <https://doi.org/10.1017/CBO9780511575372.010>.
 - 14 David Keane, "Assessing the Contribution of the International Convention on the Elimination of All Forms of Racial Discrimination to Global Racial Equality," in *The Long Walk to Equality: Perspectives on Racial Inequality, Injustice and the Law*, ed. Avis Whyte, Patricia Tuitt, and Judith Bourne (University of Westminster Press, 2024), 13–32, <https://doi.org/10.16997/book63.b>.
 - 15 Mahardhika Sjamsoe'oed Sadjad, "What Are Refugees Represented to Be? A Frame Analysis of the Presidential Regulation No. 125 of 2016 Concerning the Treatment of Refugees 'from Abroad,'" *Asian Journal of Law and Society* 8, no. 3 (October 2021): 451–66, <https://doi.org/10.1017/als.2021.3>.
 - 16 Dio Herdiawan Tobing, "Connecting the Obligation Gap: Indonesia's *Non-Refoulement* Responsibility Beyond the 1951 Refugee Convention," *Asian Journal of Law and Society* 8, no. 3 (October 2021): 521–35, <https://doi.org/10.1017/als.2021.7>.
 - 17 I Nyoman Suyatna et al., "Assessment of the Responsibility of Local Governments in Indonesia for the Management of Refugee Care," *Asian Journal of Law and Society* 8, no. 3 (October 2021): 467–89, <https://doi.org/10.1017/als.2021.4>.
 - 18 Antje Missbach and Yunizar Adiputera, "The Role of Local Governments in Accommodating Refugees in Indonesia: Investigating Best-Case and Worst-Case Scenarios," *Asian Journal of Law and Society* 8, no. 3 (October 2021): 490–506, <https://doi.org/10.1017/als.2021.5>.

context-dependent nature of their rights and entitlements under international and domestic legal frameworks, which can contribute to heightened vulnerability. Regionally, Indonesia's approach to refugees is influenced by ASEAN's collective stance.^{19,20,21,22} While ASEAN has not established a binding regional framework for refugee protection, it has taken steps to address related issues, such as the ASEAN Declaration on the Protection of Migrant Workers and Family Members in Crisis Situations.^{23,24,25,26} However, the lack of a unified policy on refugees within ASEAN has led to inconsistent practices among member states, affecting the overall protection of refugees in the region.^{27,28,29,30} Internationally, Indonesia's position on refugee

- 19 Nikolas Feith Tan, "The Status of Asylum Seekers and Refugees in Indonesia," *International Journal of Refugee Law* 28, no. 3 (October 2016): 365–83, <https://doi.org/10.1093/ijrl/eeu045>.
- 20 Amy Nethery and Carly Gordyn, "Australia–Indonesia Cooperation on Asylum-Seekers: A Case of 'Incentivised Policy Transfer,'" *Australian Journal of International Affairs* 68, no. 2 (March 2014): 177–93, <https://doi.org/10.1080/10357718.2013.841122>.
- 21 Sriprapha Petcharamesree, "ASEAN and Its Approach to Forced Migration Issues," *The International Journal of Human Rights* 20, no. 2 (February 2016): 173–90, <https://doi.org/10.1080/13642087.2015.1079021>.
- 22 Susan Kneebone, "Introduction Migrant Workers Between States: In Search of Exit and Integration Strategies in South East Asia," *Asian Journal of Social Science* 40, no. 4 (2012): 367–91, <https://doi.org/10.1163/15685314-12341246>.
- 23 Antje Missbach and Gunnar Stange, "Muslim Solidarity and the Lack of Effective Protection for Rohingya Refugees in Southeast Asia," *Social Sciences* 10, no. 5 (May 2021): 166, <https://doi.org/10.3390/socsci10050166>.
- 24 Kate McMillan and Sriprapha Petcharamesree, "Towards an Asean Model of 'Responsibility-Sharing' for Refugees and Asylum-Seekers," *Asia-Pacific Journal on Human Rights and the Law* 22, no. 1 (June 2021): 49–68, <https://doi.org/10.1163/15718158-22010005>.
- 25 Tamara Tubakovic, "The Failure of Regional Refugee Protection and Responsibility Sharing: Policy Neglect in the EU and ASEAN," *Asian and Pacific Migration Journal* 28, no. 2 (June 2019): 183–209, <https://doi.org/10.1177/0117196819841094>.
- 26 Maula, "Examining the Handling of Rohingya Refugees in Indonesia through the Lens of International Law and Maqāsid Al-Shari'ah."
- 27 AA Ahmad, Z Abdul Rahman, and AMH Mohamed, "The Role of Non Signatory State to the 1951 Refugee Convention: The Malaysian Experience.," *Pertanika Journal of Social Sciences & Humanities*, 2017.
- 28 Sébastien Moretti, "Southeast Asia and the 1951 Convention Relating to the Status of Refugees: Substance without Form?," *International Journal of Refugee Law* 33, no. 2 (December 2021): 214–37, <https://doi.org/10.1093/ijrl/eeab035>.
- 29 Sébastien Moretti, "Contested Regionalism in the Asia-Pacific: The Case of the Bali Process and the Protection of Refugees," *Journal of Ethnic and Migration Studies* 48, no. 12 (September 2022): 2855–72, <https://doi.org/10.1080/1369183X.2021.1972565>.
- 30 Jenica Alva and Irawati Handayani, "Regionalism as a Solution to Refugee Protection in ASEAN," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 06, no. 02 (August 2019): 379–406, <https://doi.org/10.22304/pjih.v6n2.a9>.

protection is evolving. While it has not ratified the 1951 Refugee Convention, it has engaged with the United Nations High Commissioner for Refugees (UNHCR) to address refugee issues within its borders.^{31, 32} This collaboration reflects a pragmatic approach, balancing national sovereignty with international humanitarian obligations. This study lies in its examination of Indonesia's unique position as a non-signatory state navigating the complexities of refugee protection. By analyzing the interplay between domestic laws, regional dynamics, and international commitments, this research aims to provide a comprehensive understanding of Indonesia's role in global refugee governance. A significant research gap exists in exploring the implications of Indonesia's non-signatory status on its refugee policies. While existing literature has addressed aspects of refugee protection in Indonesia, there is limited analysis of how the absence of formal legal commitments influences the country's practices and international relations. This study seeks to fill that gap by providing an in-depth analysis of Indonesia's refugee policies and their alignment with international standards. Indonesia's approach to handling refugees reflects a complex balance between humanitarian considerations and national interests. While not bound by international conventions, Indonesia's legal and policy frameworks demonstrate a commitment to refugee protection. Understanding this dynamic is crucial for assessing Indonesia's role in the broader context of international refugee governance.

1.1 *Theoretical Studies*

The study of humanitarian commitment by a state that has not ratified the 1951 Refugee Convention and the 1967 Protocol can be understood through several theoretical perspectives. First, human rights theory emphasizes that fundamental rights, including the right to health,^{33, 34} are universal and

31 Muhammad Alvi Syahrin et al., "Juridical Argumentation in Limiting the Non-Refoulement Principle for Refugees: A Study of Immigration Policy and Indonesian State Sovereignty," *Journal of Infrastructure, Policy and Development* 8, no. 8 (August 2024): 6423, <https://doi.org/10.24294/jipd.v8i8.6423>.

32 M. Alvi Syahrin, "The Implementation of Non-Refoulement Principle to the Asylum Seekers and Refugees in Indonesia," *Sriwijaya Law Review* 1, no. 2 (July 2017): 168, <https://doi.org/10.28946/slrev.Vol1.Iss2.41.pp168-178>.

33 Adina Preda, "Justice in Health or Justice (and Health)?"—How (Not) to Apply a Theory of Justice to Health," *Public Health Ethics* 11, no. 3 (November 2018): 336–45, <https://doi.org/10.1093/phe/phy008>.

34 Josephine Odikpo and Ebenezer Durojaye, "Litigating Health Rights Issues: The Nigerian Experience," in *Litigating the Right to Health in Africa* (Routledge, 2016), 141–56.

inalienable.^{35, 36, 37} Regardless of ratification, the principle of non-discrimination applies to all individuals, including refugees. The right to health is not contingent upon nationality or legal status, and this aligns with the idea of universal human rights.^{38, 39, 40} Second, humanitarianism and international solidarity theory explain that states have an ethical and moral obligation to assist refugees.^{41, 42, 43, 44, 45} Even if not legally bound, states are compelled to uphold humanitarian standards, particularly in health, as a response to global humanitarian principles. In Indonesia, this manifests through cooperation with international organizations such as UNHCR and IOM and through ad hoc national regulations. Third, the tension between state sovereignty and international obligation is crucial. Indonesia maintains sovereignty in regulating who enters and stays within its territory. However, it is simultaneously constrained by international norms and expectations. This duality explains why Indonesia adopts policies that attempt to balance its sovereign rights

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- 35 Matthew DeCamp et al., "Health as a Human Right: A Position Paper From the American College of Physicians," *Annals of Internal Medicine* 176, no. 11 (November 2023): 1516–19, <https://doi.org/10.7326/M23-1900>.
 - 36 Wendy K. Mariner and George J. Annas, "A Culture Of Health And Human Rights," *Health Affairs* 35, no. 11 (November 2016): 1999–2004, <https://doi.org/10.1377/hlthaff.2016.0700>.
 - 37 Paula Braveman and Sofia Gruskin, "Poverty, Equity, Human Rights and Health," *Bulletin of the World Health Organization* 81 (2003): 539–45.
 - 38 Brad Crammond, "The Instrumental Value of Human Rights in Health," in *Health Equity, Social Justice and Human Rights* (Routledge, 2012), 160–69.
 - 39 Audrey R. Chapman and Salil D. Benegal, "Globalization and the Right to Health," in *The State of Economic and Social Human Rights*, 1st ed., ed. Lanse Minkler (Cambridge University Press, 2013), 61–85, <https://doi.org/10.1017/CBO9781139235600.004>.
 - 40 Myongsei Sohn, "Globalization of Public Health Law and Ethics," *Asia Pacific Journal of Public Health* 24, no. 5 (September 2012): 851–55, <https://doi.org/10.1177/1010539512462501>.
 - 41 Andrea Paras, *Moral Obligations and Sovereignty in International Relations: A Genealogy of Humanitarianism*, 1st ed. (Abingdon, Oxon ; New York, NY: Routledge, 2019). | Series: Routledge global institutions series: Routledge, 2018), <https://doi.org/10.4324/9780203711958>.
 - 42 Paul Tiedemann, "Are There Moral Duties toward Refugees? Considerations in Legal Ethics," *Laws* 10, no. 1 (January 2021): 4, <https://doi.org/10.3390/laws10010004>.
 - 43 Jamal Barnes and Samuel M. Makinda, "Abusing the International Solidarity Principle: Human Rights, International Solidarity, and the EU's Bilateral Migration Deals," *Review of International Studies*, September 1, 2025, 1–22, <https://doi.org/10.1017/S0260210525101125>.
 - 44 Rebecca Dowd and Jane McAdam, "International Cooperation And Responsibility-Sharing To Protect Refugees: What, Why And How?," *International and Comparative Law Quarterly* 66, no. 4 (October 2017): 863–92, <https://doi.org/10.1017/S0020589317000343>.
 - 45 André Grahle, "Why Volunteers Should Be Activists: Towards an Ethics of Ground Relationships," in *Responsibility for Refugee and Migrant Integration*, ed. S. Karly Kehoe, Eva Alisic, and Jan-Christoph Heilinger (De Gruyter, 2019), 149–64, <https://doi.org/10.1515/9783110628746-011>.

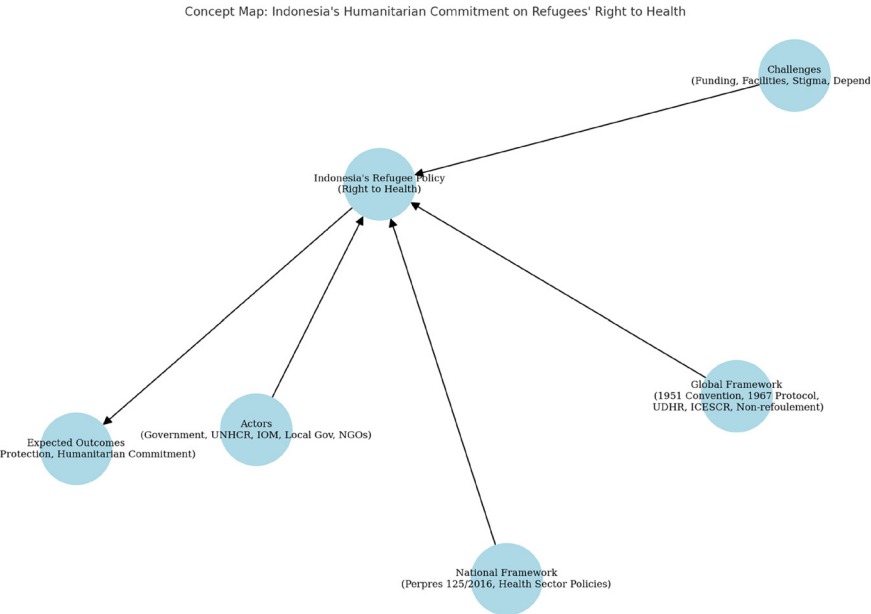
with adherence to international standards, particularly concerning the treatment of refugees. Fourth, the right to health framework, grounded in WHO standards and the International Covenant on Economic, Social and Cultural Rights (ICESCR), provides a clear legal foundation. Indonesia ratified the ICESCR through Law No. 11 of 2005, which makes the right to health legally binding domestically. Thus, even without ratifying the 1951 Convention, Indonesia remains obligated to guarantee access to essential health services for refugees.

1.2 *Conceptual Framework*

The conceptual framework integrates theoretical insights with the Indonesian case, focusing on how refugee health rights are addressed in practice. At the global level, the 1951 Convention and 1967 Protocol serve as the benchmark for refugee protection, while the Universal Declaration of Human Rights and the ICESCR ensure that health rights remain universal. The principle of non-refoulement, as customary international law, prohibits states from returning refugees to places where their life or freedom would be at risk. At the national level, Indonesia has developed a legal and policy foundation through Presidential Regulation No. 125 of 2016 on the Handling of Refugees from Abroad. While this regulation does not explicitly regulate health rights in detail, it provides the institutional framework for government agencies to cooperate with international organizations and local authorities. Health-related access is facilitated through public hospitals and local government services, often coordinated with IOM. Actors play a central role in the policy's implementation. The central government, represented by the Ministry of Law and Human Rights, the Ministry of Foreign Affairs, and the Ministry of Health, creates overarching policies. Local governments are responsible for operationalizing these policies, while international organizations such as UNHCR and IOM provide support in terms of resources and expertise. Civil society organizations contribute to advocacy and service delivery at the grassroots level. However, the policy framework faces several challenges. Financial limitations and inadequate healthcare facilities restrict consistent service delivery. Refugees often face social stigma, being perceived as outsiders or burdens. Indonesia's dependency on international aid also reduces sustainability, as most refugee programs rely heavily on external funding. These challenges illustrate the gap between normative commitments and practical realities. Despite these challenges, the expected outcomes of the policy are to ensure refugees' access to essential health services, uphold human rights, and demonstrate Indonesia's humanitarian commitment. This outcome illustrates

a unique model of a non-party state that seeks to balance sovereignty with humanitarian responsibility.

1.3 Concept Map Narrative



SOURCES: AUTHOR, EDITED.

The concept map illustrates the interaction between global frameworks, national frameworks, actors, challenges, and expected outcomes, all of which converge in Indonesia's refugee health policy. On the left, the global framework provides the normative and legal backdrop. Although Indonesia is not a party to the 1951 Convention and 1967 Protocol, the country is still guided by the UDHR, ICESCR, and the principle of non-refoulement. The arrow from the global framework to the central node demonstrates that these global norms influence and shape Indonesia's domestic refugee policies. Another pathway originates from the national framework, represented by Presidential Regulation No. 125/2016 and supporting health sector regulations. The arrow signifies that domestic law serves as the operational foundation through which international commitments are translated into practice. The actors government agencies, international organizations, local governments, and NGOs are mapped as critical stakeholders that directly contribute to policy implementation. The arrow illustrates that their roles converge into Indonesia's refugee health policy as a collaborative mechanism. Challenges form another node that influences the policy outcome. These challenges, including

financial constraints, limited facilities, social stigma, and reliance on external aid, are connected to the central node to highlight their impact on the effectiveness of policy implementation. Finally, on the right side, the expected outcomes are linked to Indonesia's refugee policy, indicating that the primary goals are access to health services, protection of refugee rights, and the reinforcement of humanitarian commitment. The directional mapping shows a progression: global norms and national frameworks converge through actors and are constrained by challenges, but ultimately aim toward humanitarian outcomes. This mapping clarifies that Indonesia's policy on refugees' right to health is not a linear process but a dynamic interplay of international law, domestic politics, stakeholder participation, and practical constraints. It represents a hybrid model of humanitarian commitment by a state that remains outside the formal refugee protection regime yet continues to uphold essential aspects of refugee rights.

2 Methods

This study uses a normative legal approach to examine Indonesia's policy on refugees' rights to health in relation to international human rights obligations. The research begins with examining primary legal sources at the international level, such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights. The study then examines national legal and policy frameworks in Indonesia, including laws, regulations, presidential decrees, and administrative guidelines related to refugee management and access to health services. The principle of international minimum standards and the doctrine of national treatment are employed to assess whether Indonesia provides refugees with rights and protections comparable to its citizens, particularly in the field of health care. The research also incorporates doctrinal analysis by engaging with secondary sources, such as scholarly articles, legal commentaries, jurisprudence, and reports from international organizations. Finally, the methodology involves contextualization, bridging the gap between law in theory and law in practice, particularly in situations where refugees face barriers to accessing health services.

3 Result and Discussion

Indonesia occupies a distinctive position in the management of international refugees. The country is neither a signatory to the 1951 Refugee Convention nor to its 1967 Protocol, the two primary international legal instruments regulating refugee status and protection.^{46,47,48,49} Indonesia must contend with the reality of refugee presence within its borders, yet without a national legal framework that is fully aligned with international standards. From a legal standpoint, Indonesia possesses a strong constitutional foundation for the protection of human rights. Articles 28G and 28I of the 1945 Constitution guarantee every individual the right to personal protection, freedom from torture, and other fundamental rights.^{50,51} These provisions are reinforced by Law No. 39 of 1999 on Human Rights, which affirms the universality of basic rights without discrimination. Although the law does not explicitly address refugees, the rights it enshrines are applicable to all persons within Indonesia's jurisdiction. In practice, however, these protections are often inadequately realised due to the absence of specialised legal instruments dedicated to refugee issues.

In response to increasing flows of migrants and refugees, the government enacted Presidential Regulation No. 125 of 2016 on the Handling of Refugees from Abroad.⁵² This regulation is the first domestic legal instrument specifically addressing refugee management. It adopts UNHCR's definition of refugees, establishes procedures for identification and temporary accommodation, and outlines coordination mechanisms among central government, local

46 Suyatna et al., "Assessment of the Responsibility of Local Governments in Indonesia for the Management of Refugee Care."

47 Tedi Sudrajat, Baginda Khalid Hidayat Jati, and Chander Mohan Gupta, "Questioning Indonesia's Role in Addressing Rohingya Refugees: A Legal, Humanitarian, and State Responsibility Perspective," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi*, June 1, 2024, 1–19, <https://doi.org/10.24090/volksgeist.v7i1.10506>.

48 Arie Afriansyah, Hadi Rahmat Purnama, and Akbar Kurnia Putra, "Asylum Seekers and Refugee Management: (Im)Balance Burden Sharing Case between Indonesia and Australia," *Sriwijaya Law Review*, January 31, 2022, 70–100, <https://doi.org/10.28946/slrev.Vol6.Iss1.1145-pp70-100>.

49 Tamara Megaw, "Protection for All? Inclusion of Sexual and Gender Minority Refugees in Indonesia," *International Migration Review*, April 3, 2025, 01979183251328989, <https://doi.org/10.1177/01979183251328989>.

50 Dewansyah and Nafisah, "The Constitutional Right to Asylum and Humanitarianism in Indonesian Law."

51 Mohammad Ibrahim, "The Judicialisation of Discrimination in the Indonesian Constitutional Court," *International Journal of Discrimination and the Law* 22, no. 2 (June 2022): 125–51, <https://doi.org/10.1177/13582291221094923>.

52 Sadjad, "What Are Refugees Represented to Be?"

authorities, and international organisations. Nevertheless, while Presidential Regulation No. 125 of 2016 is formally binding within Indonesia's administrative legal framework, it primarily operates as a policy instrument, as it does not confer directly enforceable rights or obligations upon refugees comparable to those established under statutory law. Consequently, the protection framework for refugees in Indonesia remains largely administrative and coordinative in nature, relying significantly on institutional practices and inter-agency cooperation. In this context, international organisations particularly UNHCR and IOM continue to play a central role, not as a substitute for state responsibility, but as key operational partners in the absence of a comprehensive statutory regime governing refugee rights. From a human rights perspective, Indonesia faces a persistent dilemma. On one hand, the state bears both moral and legal obligations to uphold human rights principles as stipulated in international treaties it has ratified, including the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). These instruments guarantee rights to life, education, health, and protection from arbitrary expulsion. On the other hand, Indonesia's non-ratification of the 1951 Convention and 1967 Protocol means it is not legally obliged to confer official refugee status or the associated rights, such as lawful employment or permanent integration.

Within the broader framework of international law, the principle of non-refoulement stands as a universally acknowledged norm. This principle prohibits the deportation of refugees to countries where they face persecution or threats to life and safety. Although Indonesia is not party to the 1951 Convention, non-refoulement is recognised as customary international law binding on all states. Accordingly, Indonesia remains under an international legal obligation not to deport refugees to conditions of danger. In practice, Indonesia delegates refugee status determination (RSD) to UNHCR, which works alongside IOM to provide accommodation, healthcare, and basic services. This arrangement reflects a form of legal and policy dualism. Indonesia is not formally bound by the global refugee regime, yet it applies aspects of refugee protection through domestic regulation and international cooperation. At the same time, Indonesia seeks to safeguard its sovereignty and domestic stability by limiting refugee status so as to prevent its transformation into a pathway for permanent migration. Indonesia may be characterised as a state in transition neither fully committed to the international refugee legal regime, nor entirely disengaged from humanitarian responsibilities. This intermediate position demands a delicate balance between national interests, humanitarian obligations, and diplomatic relations with the international community. As long as refugee

TABLE 1 Major refugee movement in indonesia

Refugees group	Timeline	Estimate numbers (in Indonesia)	Key locations	Outcome/ statues
Vietnamese “Boat People”	1975–1996 (peak late 1970s–1980s)	250.000 passed through Galang Island	Galang Island (Riau Archipelago)	Mostly resettled in third countries (U.S, Canada, Australia, Europe); Camps closed in 1996
Afghan Refugees	2000s – present	7000–8000 (peaking around 2014–2016, now fewer)	Jakarta, Bogor, Cisarua, Medan	Many waiting for resettlement via UNHCR; limited rights in Indonesia; prolonged stays (10+ years for some)
Rohingya Refugees	2009–present (notably 2015 crisis, renewed arrivals 2020s)	Thousands, major influxes in 2015 and 2023	Aceh (Lhokseumawe, Bireuen, Pidie), Medan	Mostly provided temporary shelter; no permanent integration; dependent on humanitarian aid
Other Groups (Somali, Iraqi, Iranian, Sudanese,	1990s–present (small, steady flows)	Hundreds to low thousands	Urban centers (Jakarta, Medan, Pekanbaru)	Remain under UNHCR/IOM care; transit status with

TABLE 1 Major refugee movement in indonesia (*cont.*)

Refugees group	Timeline	Estimate numbers (in Indonesia)	Key locations	Outcome/ statues
Pakistani, Sri Lankan)				uncertain future

SOURCES: AUTHOR.

status continues to be determined by UNHCR and refugee management is conducted through the ad hoc framework of Presidential Regulation 125/2016.

3.1 *Historical Overview*

This Table 1 highlights the recurring pattern of refugee presence in Indonesia: large-scale temporary hosting, ad hoc humanitarian responses, and eventual reliance on international resettlement rather than national integration. The Vietnamese boat people crisis in the late 20th century demonstrated Indonesia’s willingness to cooperate with international agencies when third-country resettlement was guaranteed. In contrast, the Afghan and Rohingya cases reveal the difficulties of protracted refugee situations without clear resettlement pathways, leaving many stranded for years with limited rights. The table also underscores Indonesia’s role as a transit state that provides temporary protection while resisting the obligations of a permanent host under international refugee law. Refugee movements in Indonesia have historically been shaped by regional conflicts and the country’s geographical position along key migration routes.^{53,54} One of the earliest and most significant episodes occurred during the late 1970s and 1980s, when the aftermath of the Vietnam War led to a mass exodus of Vietnamese refugees, often

53 Afriansyah, Purnama, and Putra, “Asylum Seekers and Refugee Management.”
54 Wahyuni Kartikasari, “Modern Migration Pattern in Indonesia: Dilemmas of a Transit Country,” *UNISCI Journal* 18, no. 53 (May 2020): 23–42, <https://doi.org/10.31439/UNISCI-81>.

referred to as “boat people”.^{55, 56, 57, 58, 59} Many of these individuals attempted dangerous sea journeys across the South China Sea, and Indonesia became one of the primary sites for temporary settlement.

The Indonesian government, in collaboration with the United Nations High Commissioner for Refugees (UNHCR), established a large refugee camp on Galang Island in the Riau Archipelago.⁶⁰ At its peak, the camp hosted over 250,000 Vietnamese refugees before they were eventually resettled in third countries such as the United States, Canada, and Australia. This episode set an important precedent for Indonesia’s role as a transit country rather than a final destination for asylum seekers. In the decades that followed, Indonesia continued to serve as a crossing point for refugees from regions experiencing protracted crises. Afghan refugees, displaced by decades of conflict, foreign intervention, and Taliban rule, have made their way to Indonesia in significant numbers. Many of them see Indonesia as a temporary stop while awaiting resettlement in Western countries, particularly Australia. Similarly, Rohingya refugees from Myanmar have sought refuge in Indonesia after fleeing systematic persecution, ethnic violence, and state repression in Rakhine State. Large numbers of Rohingya have landed in Aceh, often rescued by local fishermen after perilous journeys across the Andaman Sea. Local Acehnese communities, drawing on cultural and religious solidarity, have often been the first responders, providing food and shelter even when state institutions were slow to act. However, these humanitarian gestures are usually short-term, and Indonesia lacks a sustainable framework for long-term refugee integration.

55 Richard Towle, “Processes and Critiques of the Indo-Chinese Comprehensive Plan of Action: An Instrument of International Burden-Sharing?,” *International Journal of Refugee Law* 18, nos. 3–4 (September 2006): 537–70, <https://doi.org/10.1093/ijrl/eel015>.

56 Nathalie Huynh Chau Nguyen, “Years of Separation: Vietnamese Refugees and the Experience of Forced Migration After 1975,” in *Remembering Migration*, ed. Kate Darian-Smith and Paula Hamilton, Palgrave Macmillan Memory Studies (Cham: Springer International Publishing, 2019), 123–39, https://doi.org/10.1007/978-3-030-17751-5_9.

57 Christine Su and Paul Tran, “The Vietnamese,” in *People and Cultures of Hawai’i: The Evolution of Culture and Ethnicity* (2011), 270–82, Scopus.

58 Jemma Purdey, “Seeking Refuge Amid Suffering in Indonesia’s Galang Vietnamese Refugee Camp,” in *Detention Camps in Asia: The Conditions of Confinement in Modern Asian History* (Brill, 2022), 41:274.

59 Dhiana Puspitawati and Fransiska Ayulistya Susanto, “Protection of People at Sea under International Law: Lesson Learnt from Pushback Action to Boat People in Indonesia and Malaysia,” *Brawijaya Law Journal* 10, no. 2 (October 2023): 143–65, <https://doi.org/10.21776/ub.blj.2023.010.02.02>.

60 Purdey, “Seeking Refuge Amid Suffering in Indonesia’s Galang Vietnamese Refugee Camp.”

Despite this recurring pattern, Indonesia has not ratified the 1951 Refugee Convention or its 1967 Protocol. The reasons for this stance are multi-layered. From a legal perspective, ratification would require Indonesia to adopt comprehensive asylum legislation and provide refugees with a set of rights and protections, including the right to employment, education, healthcare, and freedom of movement. Policymakers argue that Indonesia does not yet have the institutional infrastructure or financial resources to meet these obligations. Instead, refugee management has been conducted through presidential decrees, such as Presidential Regulation No. 125 of 2016 on the Handling of Refugees, which provides a basic framework for coordination with international organizations but does not establish a national asylum system. Another major concern is the potential “pull factor.” Indonesian authorities often fear that ratification would encourage larger numbers of refugees to enter the country, given its proximity to conflict-affected regions and its location along smuggling and trafficking routes toward Australia. Since Indonesia is not a preferred destination country and most refugees see it only as a transit point, the government resists legal commitments that might make it a *de facto* host for thousands of individuals unable to move onward.

Geopolitical dynamics reinforce this position, Indonesia occupies a crucial position in regional refugee politics, particularly in relation to Australia. Australia’s increasingly restrictive asylum policies, including offshore detention and maritime pushbacks, have effectively externalized part of its refugee management burden onto transit states like Indonesia. This has created tensions, as Indonesia is expected to prevent onward migration without receiving substantial support or burden-sharing mechanisms in return. At the same time, Indonesia seeks to maintain constructive relations with Australia and other Western states, leading it to tolerate the presence of refugees but only within a limited, controlled framework. Domestic politics and sovereignty concerns further complicate the picture. Within Indonesia, refugee issues do not command strong political attention, as they are not central to voter interests and are often overshadowed by domestic socio-economic challenges. Public discourse tends to view refugees as temporary guests whose presence is the responsibility of international agencies such as UNHCR and the International Organization for Migration (IOM). National sovereignty remains a guiding principle in Indonesia’s foreign policy, rooted in its historical experiences of colonialism and its commitment to the principle of non-interference, a cornerstone of ASEAN regionalism. Ratifying the Refugee Convention is often portrayed by policymakers as a potential compromise of sovereignty, binding Indonesia to international obligations that could limit its discretion over migration management.

In practice, Indonesia has adopted what may be described as a pragmatic, halfway approach. While refusing formal ratification, it continues to cooperate closely with UNHCR and IOM in providing temporary protection, accommodation, and assistance to refugees. Camps, shelters, and community housing are often funded and managed by these international agencies, while the government allows refugees to remain in the country under a tolerated but precarious status. This approach enables Indonesia to maintain flexibility and sovereignty while also fulfilling a minimal humanitarian role in line with international expectations. Indonesia's experience illustrates the dilemmas faced by transit countries caught between humanitarian imperatives and the constraints of limited capacity, domestic politics, and geopolitical pressures. Its stance as a "non-signatory yet active participant" underscores the tension between global refugee protection norms and national sovereignty in Southeast Asia. This balancing act has enabled Indonesia to manage refugee inflows on an ad hoc basis but leaves unresolved questions about long-term integration, rights protection, and the sustainability of its approach in the face of growing regional instability.

3.2 *Indonesia, ASEAN, and International Context*

Indonesia's approach to immigration and asylum is shaped primarily by its domestic regulatory framework, most notably Law No. 6 of 2011 on Immigration and Presidential Regulation No. 125 of 2016 concerning the handling of refugees.^{61, 62, 63, 64} Law No. 6/2011 provides the general legal basis for governing the entry, stay, and departure of foreign nationals, including provisions related to deportation, detention, and visa requirements.^{65, 66, 67} However, it does not contain detailed mechanisms for addressing the status and rights of

61 Susan Kneebone, Antje Missbach, and Balawyn Jones, "The False Promise of Presidential Regulation No. 125 of 2016?" *Asian Journal of Law and Society* 8, no. 3 (October 2021): 431–50, <https://doi.org/10.1017/als.2021.2>.

62 Suyastri, Bahri, and Marhadi, "Legal Gap in Refugee Protection in Non-Signatory Countries."

63 Sadjad, "What Are Refugees Represented to Be?"

64 Tan, "The Status of Asylum Seekers and Refugees in Indonesia."

65 Aries Harianto, "Regulating Foreign Labor in Emerging Economies: Between National Objectives and International Commitments," *Academic Journal of Interdisciplinary Studies* 10, no. 3 (May 2021): 384, <https://doi.org/10.36941/ajis-2021-0092>.

66 Solehuddin Solehuddin, "The Proprietary Rights Status of the Apartment Units Held by Foreign Nationals in Job Creation Law," *Legality: Jurnal Ilmiah Hukum* 30, no. 1 (March 2022): 88–102, <https://doi.org/10.22219/ljih.v30i1.20199>.

67 Tatik Sunatri, Aghia Khumaesi Suud, and Penny Naluria Utami, "Analyzing the Enforcement of Fines on Foreign Offenders of Fisheries Crimes in the Indonesian

refugees. The more specific instrument, Presidential Regulation No. 125/2016, was introduced in response to growing numbers of asylum seekers and refugees in Indonesia.^{68, 69} This regulation outlines coordination between government agencies, assigns responsibilities for temporary shelter and humanitarian support, and provides a legal framework for managing refugees while they remain in Indonesian territory. Despite these efforts, Indonesia does not have a comprehensive refugee law that grants legal recognition or a pathway to long-term integration. Instead, the responsibility for refugee status determination is delegated to the United Nations High Commissioner for Refugees (UNHCR). Asylum seekers who arrive in Indonesia must register with UNHCR to undergo the refugee status determination process, and their rights and protections during this period are largely dependent on international oversight rather than domestic legal guarantees. This reliance on UNHCR underscores Indonesia's position as a transit rather than a destination country, since the state does not provide formal asylum procedures or confer legal status on refugees within its national legal framework.

The absence of a dedicated refugee law creates a significant legal gap. While Indonesia allows refugees to remain temporarily within its borders, it offers no pathway toward permanent resettlement or naturalization. Refugees cannot legally work, access higher education, or fully participate in society, leaving them in a prolonged state of limbo. They depend on international organizations, non-governmental actors, and temporary support mechanisms while awaiting potential resettlement in third countries. However, global resettlement opportunities are limited, and many refugees end up spending years or even decades in Indonesia without clarity about their future. This legal gap reflects the tension between Indonesia's humanitarian commitment to providing temporary protection and its deliberate decision not to ratify the 1951 Refugee Convention or its 1967 Protocol, thereby avoiding the obligations of permanent integration. When Indonesia's framework is viewed in comparative perspective, its reliance on UNHCR for refugee status determination stands out within the Southeast Asian context. Unlike countries such as the Philippines and Cambodia, which have ratified the 1951 Refugee Convention

Exclusive Economic Zone (IEEZ)," *Jurnal IUS Kajian Hukum Dan Keadilan* 12, no. 3 (December 2024): 487–501, <https://doi.org/10.29303/ius.v12i3.1231>.

68 Susan Kneebone, Antje Missbach, and Balawyn Jones, "The False Promise of Presidential Regulation No. 125 of 2016?" *Asian Journal of Law and Society* 8, no. 3 (October 2021): 431–50, <https://doi.org/10.1017/als.2021.2>.

69 Asher Lazarus Hirsch and Cameron Doig, "Outsourcing Control: The International Organization for Migration in Indonesia," *The International Journal of Human Rights* 22, no. 5 (May 2018): 681–708, <https://doi.org/10.1080/13642987.2017.1417261>.

and its 1967 Protocol, Indonesia deliberately remains outside this regime. In the Philippines, national legislation and ratification of the Convention provide a domestic asylum framework that allows the government to directly grant refugee status and, at least in principle, extend rights such as work and education. Cambodia, though less developed institutionally, has also accepted the treaty framework, signaling a willingness to align with international refugee law. Indonesia, by contrast, has opted for a more limited humanitarian approach: allowing refugees to stay temporarily under Presidential Regulation No. 125/2016 while leaving legal recognition and resettlement responsibilities to UNHCR.

Neighboring states such as Malaysia⁷⁰ and Thailand⁷¹ share Indonesia's non-ratification stance but employ different practices. Malaysia, for example, does not have any legal framework governing refugees,⁷² but it has become a major host country with hundreds of thousands of Rohingya and other displaced persons residing there.⁷³ Refugees in Malaysia, like in Indonesia, rely on UNHCR identification cards to access limited protections, yet they often face informal labor exploitation due to the absence of work rights. Thailand has also avoided ratifying the Convention but has developed ad hoc measures to manage refugee inflows, particularly from Myanmar, where large refugee camps along the border have been tolerated for decades. Compared to these countries, Indonesia hosts smaller refugee populations, but the situation is marked by similar structural uncertainty and the absence of long-term solutions. The contrast with Singapore further emphasizes Indonesia's position. Singapore has not ratified the Convention and adopts a strict immigration control policy, generally avoiding the long-term presence of refugees on its territory. Refugees who arrive are typically processed quickly for transit elsewhere. In this sense, Indonesia's framework is more accommodating than Singapore's because it provides for temporary housing and government

70 Elizabeth Rowe and Erin O'Brien, "'Genuine' Refugees or Illegitimate 'boat People': Political Constructions of Asylum Seekers and Refugees in the Malaysia Deal Debate," *Australian Journal of Social Issues* 49, no. 2 (July 2014): 171–93.

71 Rapeepong Suphanchaimat et al., "Evolution and Complexity of Government Policies to Protect the Health of Undocumented/Illegal Migrants in Thailand – the Unsolved Challenges," *Risk Management and Healthcare Policy* Volume 10 (April 2017): 49–62, <https://doi.org/10.2147/RMHP.S130442>.

72 Jera Lego, "Making Refugees (Dis)Appear: Identifying Refugees and Asylum Seekers in Thailand and Malaysia," *Austrian Journal of South-East Asian Studies*, December 29, 2018, 183–198 Pages, 183–198 Pages, <https://doi.org/10.14764/10.ASEAS-0002>.

73 Aslam Abd Jalil and Gerhard Hoffstaedter, "Refugee Registration Schemes in Malaysia: Governing Refugees by Maintaining the Status Quo and Reinforcing Borders," *Migration and Society* 7, no. 1 (June 2024): 46–61, <https://doi.org/10.3167/arms.2024.070106>.

coordination under Presidential Regulation No. 125/2016, yet it still stops short of offering a durable solution.

Ultimately, Indonesia's reliance on UNHCR highlights both a regional trend and a national choice. Within ASEAN, refugee protection is fragmented and inconsistent, shaped more by sovereignty concerns and geopolitical considerations than by international legal obligations. Indonesia's decision not to adopt a specific refugee law or ratify the 1951 Convention reflects its desire to maintain flexibility and limit long-term commitments.⁷⁴ However, this leaves refugees in Indonesia dependent on uncertain third-country resettlement pathways and vulnerable to prolonged limbo, underscoring the persistent legal gap that distinguishes its approach from both convention signatories like the Philippines and non-signatories like Malaysia and Thailand.

From an international perspective, Indonesia's approach to refugee protection is often seen as a pragmatic but incomplete response to a growing humanitarian challenge. Global actors such as UNHCR, IOM, and various donor states acknowledge Indonesia's willingness to provide temporary refuge and basic humanitarian assistance under Presidential Regulation No. 125/2016. This regulation represents an important step, as it at least offers a structured framework for inter-agency coordination and prevents arbitrary handling of refugees by local authorities. However, the international community also recognizes that Indonesia's refusal to ratify the 1951 Convention and its reliance on UNHCR for refugee status determination leave fundamental gaps in protection. UNHCR views Indonesia as a critical transit country within the Asia-Pacific region, situated between conflict zones in South and Southeast Asia and potential resettlement destinations like Australia, North America, and Europe. Because Indonesia lacks a national asylum system, UNHCR carries the burden of processing refugee claims, issuing identification documents, and attempting to secure third-country resettlement for recognized refugees. Yet, the resettlement pipeline is extremely limited: only a fraction of refugees in Indonesia are accepted by resettlement countries each year. This has led to frustration both for the refugees, who remain in limbo for years, and for Indonesian authorities, who are compelled to manage growing numbers without clear long-term solutions.

74 Pamungkas A. Dewanto, *Proceedings of the Southeast Asian Conference on Migration and Development (SeaCMD 2023)*, 1st ed, with Kinanti R. Sabilla and Tri S. Nurkholiq, Atlantis Highlights in Social Sciences, Education and Humanities Series, v. 16 (Dordrecht: Atlantis Press (Zeger Karssen), 2024).

From the standpoint of global refugee governance, Indonesia's stance reflects a broader pattern of "burden shifting" rather than "burden sharing."⁷⁵ While signatory states to the 1951 Convention are expected to integrate refugees or at least offer them stable legal status, Indonesia's non-ratification allows it to defer these responsibilities to international agencies. At the same time, Indonesia frames its role as consistent with humanitarian principles, emphasizing temporary shelter and basic protection without committing to permanent resettlement. This balance allows Indonesia to maintain sovereignty over migration policy while still gaining recognition from international actors as a cooperative partner in humanitarian response. Nevertheless, international organizations and advocacy groups often highlight the human cost of this legal gap. Refugees in Indonesia face restrictions on employment, education, and mobility, making them dependent on aid for survival. The lack of a domestic asylum law also means that protections can vary widely depending on local government attitudes and available resources. UNHCR and allied NGOs frequently call for Indonesia to move beyond temporary frameworks and establish a more comprehensive legal regime that provides refugees with clearer rights and pathways for self-reliance. In this sense, Indonesia is caught between international expectations and domestic political realities. On one hand, its geographical position and relatively stable political environment make it a logical hub for regional refugee protection. On the other, concerns about sovereignty, resource limitations, and political sensitivities surrounding migration deter the government from adopting the 1951 Convention framework. As a result, Indonesia remains a case of what some scholars term "the Non-signatory state" a country deeply engaged in refugee management without the formal obligations of international refugee law.

Diplomatically, Indonesia has consistently framed its role in refugee management as that of a transit country rather than a permanent destination. This framing is central to how it justifies its limited commitments at both regional and international forums. In United Nations meetings and ASEAN dialogues, Indonesian representatives often emphasize that their territory is not intended to host refugees indefinitely but to provide temporary shelter while UNHCR and third countries work toward durable solutions. By positioning itself this way, Indonesia underscores both its humanitarian willingness to host displaced populations and its sovereignty-based rationale for

75 Raden Ajeng Rizka Fiani Prabaningtyas, "Indonesia and The International Refugee Crisis: The Politics of Refugee Protection," *Journal of Indonesian Social Sciences and Humanities* 9, no. 2 (December 2019): 131–46, <https://doi.org/10.14203/jissh.v9i2.152>.

avoiding obligations associated with permanent integration. This diplomatic narrative serves multiple purposes. First, it aligns with domestic political considerations, as Indonesian leaders remain wary of public resistance to permanent refugee settlement. By emphasizing “transit,” the government reassures its population that the state will not be compelled to absorb refugees permanently. Second, it provides a pragmatic defense in international settings, allowing Indonesia to claim credit for humanitarian action while deflecting criticism for not ratifying the 1951 Refugee Convention or creating a comprehensive asylum law. In this sense, Indonesia’s diplomatic stance functions as a balancing act: maintaining international legitimacy while minimizing domestic political costs.

Within ASEAN, Indonesia’s position is relatively moderate. Compared to Singapore, which takes a strict stance against hosting refugees, and Malaysia or Thailand, which host large refugee populations with minimal legal protections, Indonesia presents itself as a cooperative partner willing to shoulder part of the humanitarian burden, albeit on a temporary basis. This has allowed Indonesia to play a mediating role in regional discussions, especially regarding the plight of Rohingya refugees arriving by boat. Indonesia has frequently called for “shared responsibility” within ASEAN, stressing that no single state should be expected to carry the burden alone, while also avoiding commitments that would anchor refugees permanently within its borders. On the global stage, Indonesia uses this diplomatic framing to highlight the principle of international burden-sharing. Its officials regularly argue that durable solutions can only be achieved if wealthier states increase resettlement quotas and provide more resources to countries of first asylum. By doing so, Indonesia positions itself as a responsible actor constrained not by unwillingness, but by structural limitations. This narrative has proven effective in deflecting pressure from international organizations and donor governments, while still keeping the spotlight on the global community’s responsibility. In practice, however, this diplomatic framing reinforces the legal and humanitarian gap that refugees experience in Indonesia. While the government highlights its role as a transit country, the reality is that many refugees remain in Indonesia for years without prospects for resettlement, creating a contradiction between Indonesia’s diplomatic posture and the lived experiences of those it hosts. The “transit country” label, therefore, functions less as an accurate description of reality and more as a diplomatic strategy to justify reliance on temporary measures.

TABLE 2 Refugees in Indonesia (2023–2024)

Category	Data	Sources
Total refugees and asylum seekers in Indonesia	12,700 (from 50+ countries)	UNHCR (2024)
Registered refugees (UNHCR)	7803	UNHCR (2024)
Children	30% of total	UNHCR (2024)
Adults	68% of total	UNHCR (2024)
Major country of origin: Afghanistan	42–45% of total	UNHCR
Major country of origin: Myanmar (Rohingya)	22% of total	UNHCR
Major country of origin: Somalia	9–11% of total	UNHCR

SOURCES: AUTHOR.

3.3 *Human Rights Perspective*

The Table 2 on refugees in Indonesia for the period 2023–2024 provides a snapshot of both the demographic composition and the scale of displacement that the country is managing. The first key point is the total number of refugees and asylum-seekers, which stands at around 12,700 individuals from more than 50 different countries. Within this broader figure, UNHCR records approximately 7,803 officially registered refugees, showing that not all individuals have formal registration or may still be in the asylum-seeking process. The demographic breakdown highlights that nearly one-third of the population are children, which underscores the importance of education, child protection, and psychosocial support services. Adults make up roughly 68 percent, with a gender distribution of about 35 percent women and 65 percent men. This imbalance reflects not only patterns of flight where men often travel first in search of safety but also the vulnerabilities faced by women and children within refugee communities, particularly in accessing healthcare and protection.

The distribution by country of origin reveals that the largest group, around 42 to 45 percent, are Afghans. This is directly connected to the decades of conflict, political instability, and persecution that Afghanistan has endured,

leading to one of the world's largest protracted refugee populations. The second largest group, about 22 percent, comes from Myanmar, particularly the Rohingya, who continue to flee systemic persecution and statelessness. Somalia accounts for around 9 to 11 percent, reflecting displacement driven by civil conflict and insecurity in the Horn of Africa. Together, these three groups form the majority of the refugee population in Indonesia, but smaller numbers also come from countries such as Iraq, Sudan, and Sri Lanka. Overall, the table illustrates the dual reality of Indonesia's refugee management: while the absolute numbers are relatively modest compared to neighboring Malaysia or Thailand, the diversity of origins and the high proportion of vulnerable groups such as children pose significant humanitarian challenges. The demographic and origin data also show that Indonesia is not just a temporary stopover for those fleeing persecution but, in many cases, a prolonged place of waiting, where families and individuals remain stuck for years without durable solutions due to legal restrictions and limited resettlement opportunities.

Refugees in Indonesia exist in a complex legal and humanitarian landscape shaped by the absence of a national refugee law and Indonesia's decision not to ratify the 1951 Refugee Convention or its 1967 Protocol. Legally, they are categorized under Law No. 6 of 2011 on Immigration as "illegal immigrants," a classification that emphasizes state sovereignty and immigration control rather than humanitarian protection. This approach reflects Indonesia's broader political stance, where national security and sovereignty remain the primary lens through which refugee issues are interpreted. Despite this restrictive framework, Indonesia has nonetheless tolerated the presence of refugees within its territory by allowing temporary stay arrangements in cooperation with the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). This situation illustrates a paradox: refugees are officially illegal, yet in practice, they are afforded a humanitarian space to reside temporarily while awaiting resettlement to third countries.

The lived experience of refugees under this system reveals the significant humanitarian challenges created by the absence of formal rights. Access to education for refugee children is particularly constrained, as they are not legally permitted to enroll in state schools. While some municipalities, such as Jakarta, have shown flexibility by allowing informal participation in classes, many children are relegated to community-run schools or NGO-led learning centers that often lack stable funding, qualified teachers, and long-term sustainability. Healthcare access is theoretically possible through public hospitals, but barriers remain, including administrative restrictions, language difficulties, and financial costs that exceed the limited stipends provided by

aid organizations. Employment opportunities are the most restricted area of refugee life, as Indonesian law explicitly prohibits refugees from working. This leaves many individuals and families dependent on aid from international organizations or local charity groups, resulting in prolonged economic marginalization and psychological stress linked to idleness and uncertainty about the future. From a human rights perspective, Indonesia's position raises important concerns about compliance with international norms. The principle of non-refoulement prohibiting the return of individuals to places where they face persecution is considered a cornerstone of refugee protection under customary international law, binding even on non-signatories of the Refugee Convention. Indonesia has generally adhered to this principle, refraining from forced deportations of refugee populations. Nevertheless, the absence of legal recognition and the lack of durable solutions leave refugees in prolonged states of limbo, undermining their ability to live with dignity. This creates a delicate balancing act between state sovereignty, which Indonesia strongly asserts, and humanitarian responsibility, which is often externalized to international agencies and local communities.

The situation of Rohingya refugees in Aceh provides an illustrative case. When boats carrying Rohingya refugees stranded at sea reached Aceh, local fishermen and communities frequently intervened to provide rescue, shelter, and humanitarian assistance. This demonstrates the strong cultural and religious values of solidarity within Acehnese society, often surpassing the state's official stance. However, these Rohingya communities remain confined in shelters with minimal prospects for integration or legal recognition, reinforcing their temporary and uncertain status. In contrast, Afghan refugees in Jakarta and Bogor present another long-term case. Many of these refugees, fleeing protracted conflict and persecution, have lived in Indonesia for more than a decade while awaiting resettlement. Living in rented accommodations supported by modest IOM stipends, they endure restricted access to education, no right to work, and limited healthcare options. The psychological toll of indefinite waiting is visible, with reports of increasing frustration, depression, and even suicide among Afghan refugees in recent years. Taken together, these dynamics reveal how Indonesia's refugee policy is shaped less by formal legal commitments and more by an interplay of humanitarian pragmatism, international cooperation, and domestic political considerations. The state continues to frame refugees within the lens of immigration enforcement while informally tolerating their presence to avoid humanitarian crises and international criticism. This approach, while preventing large-scale refoulement, also entrenches a system where refugees remain "illegal" actors

in Indonesia's humanitarian landscape visible in public consciousness, yet invisible in legal recognition.

4 Conclusion

In conclusion, Indonesia occupies a unique position in the global refugee landscape as a "Non-signatory state," navigating the tension between humanitarian responsibility and national sovereignty. While the country has not ratified the 1951 Refugee Convention or its 1967 Protocol, it nonetheless provides temporary protection and basic assistance to refugees through Presidential Regulation No. 125/2016 and close cooperation with UNHCR and IOM. This approach allows Indonesia to uphold fundamental human rights principles, including non-refoulement, while avoiding formal legal obligations associated with permanent refugee status. Historical and contemporary refugee flows from Vietnamese boat people to Afghan and Rohingya populations illustrate Indonesia's role primarily as a transit country, offering temporary shelter but limited integration, education, employment, and long-term security. The country's reliance on international organizations, combined with domestic regulatory gaps, creates a paradoxical system in which refugees are both "illegal" and yet tolerated, reflecting Indonesia's pragmatic balancing of humanitarian imperatives, regional diplomatic considerations, and domestic political constraints. Ultimately, Indonesia's experience underscores the challenges faced by states that engage actively in refugee management without full adherence to international legal frameworks, highlighting the need for more comprehensive domestic policies to secure refugee rights and provide sustainable solutions.

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