



# Indonesia and the Rohingya crisis: An analysis of the role of transit countries in refugee protection

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## ABSTRACT

**Background:** This article examines Indonesia's role as a transit country in handling Rohingya refugees fleeing violence and persecution in Myanmar. On the other hand, this study also highlights ad hoc policies and humanitarian practices carried out by the central government, local governments, international organizations, and local communities in Aceh in accommodating and assisting Rohingya refugees. **Methods:** Using a normative legal approach and policy analysis, this study evaluates Indonesia's national legal framework which does not specifically regulate refugee status, thus creating challenges in providing long-term protection. **Findings:** The results of the study show that although Indonesia is not a party to the 1951 Refugee Convention, the principle of non-refoulement and the value of human solidarity have been the basis of a relatively consistent temporary policy. **Conclusion:** This article recommends the need to strengthen national regulations, multi-party coordination mechanisms, and increase the capacity of related institutions so that Indonesia can carry out its role as a transit country more effectively, humanely, and in line with human rights principles. **Novelty/Originality of this article:** This study offers a comprehensive analysis of Indonesia's role as a transit country in handling Rohingya refugees, which has previously been rarely studied in depth from a national legal and policy perspective. This study also raises the importance of integrating the principle of non-refoulement into domestic regulations as an innovation in more sustainable refugee protection policies.

**KEYWORDS:** refugee; asylum seeker; transit; Indonesia.

## 1. Introduction

The humanitarian crisis affecting the Rohingya ethnic group in Myanmar has become one of the biggest forced migration tragedies in the Southeast Asian region in the last decade (Paripurna et al., 2024). Systematic discrimination, violence, and persecution experienced by the Rohingya community have driven hundreds of thousands of people to flee to neighboring countries in search of protection (Kingston, 2018). Indonesia, although not the main final destination, is often a transit country for Rohingya refugees stranded in the waters of Aceh or other coastal areas (Asmara & Syahrin, 2021). As a non-party to the 1951 Refugee Convention and its 1967 Protocol, Indonesia faces a policy dilemma in responding to this cross-border refugee influx (Fadilah, et al., 2024). On the one hand, Indonesia has a moral obligation and humanitarian commitment to provide basic protection in accordance with the principle of non-refoulement recognized in customary international law. On the other hand, the limitations of national regulations that do not specifically regulate the status of refugees have caused the government's response to tend to be ad hoc and based on temporary policies (Ajawaila et al., 2022).

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In practice, handling Rohingya refugees in Indonesia involves coordination between the central government, local governments, international organizations such as United Nations High Commissioner for Refugees (UNHCR) and International Organization for Migration (IOM), as well as significant support from local communities, especially communities in Aceh. Local community solidarity is an important factor in ensuring that the basic needs of refugees are met, although it is not yet supported by a strong and sustainable policy framework (Hermawan, 2017). This phenomenon shows the complexity of Indonesia's role as a transit country that must balance national interests, humanitarian commitments, and regional geopolitical pressures (Zulkarnain, 2023). Therefore, this study is important to conduct in-depth analysis of policy dynamics, legal challenges, and opportunities to strengthen the protection of Rohingya refugees in Indonesia. This study is expected to contribute ideas for the development of national policies that are more responsive and in line with international human rights principles.

Various previous studies have examined the dynamics of Rohingya refugees in the Southeast Asia region, including Indonesia's role as a transit country. UNHCR (2015) in its report *Irregular Maritime Movements in South-East Asia* maps the movement patterns of Rohingya refugees by sea, focusing on rescue aspects and logistical challenges in the waters of Indonesia, Malaysia, and Thailand. Amnesty International (2015) through the study *Caught in the Middle* documented the living conditions of Rohingya refugees in Aceh and Medan, emphasizing limited access to education and employment and the suboptimal fulfillment of human rights. Another study by IOM Indonesia & UNHCR (2017) discusses Indonesia more broadly as a transit country for various refugee groups, including the Rohingya, with the main focus on coordination challenges and the limited capacity of international institutions to support the Indonesian government.

Meanwhile, Shivakoti (2017) focuses on the analysis of regional legal aspects, assessing the extent to which ASEAN is able to provide a common framework for the protection of Rohingya refugees. At the national level, attention is given to the policies of the Aceh Regional Government and the role of local communities in providing humanitarian assistance to refugees. However, these studies generally have limitations in explaining in depth the aspects of Indonesian national regulations and their relationship to the principle of non-refoulement as well as opportunities for future policy reform. This study is here to fill this gap by providing a comprehensive analysis of Indonesia's role as a transit country from a normative legal perspective, including an evaluation of the national legal framework, a review of ad hoc policies implemented by the government, and the potential for strengthening multi-party cooperation. With this approach, this study is expected to offer scientific contributions and policy recommendations that are more focused on efforts to protect Rohingya refugees in a more humane and sustainable manner in Indonesia.

## 2. Methods

This study uses a normative legal method, which is a method that focuses on the study of legal materials as a basis for analyzing problems. The normative legal method was chosen because this study aims to evaluate Indonesia's national legal framework in dealing with Rohingya refugees, examine its compliance with international legal principles, and identify potential for strengthening regulations and policies. The main data sources in this study consist of primary legal materials and secondary legal materials. Primary legal materials include national laws and regulations relating to immigration, human rights, and asylum seeker policies, such as Law Number 37 of 1999 concerning Foreign Relations, Law Number 6 of 2011 concerning Immigration, and Presidential regulations concerning international cooperation in the humanitarian field. In addition, the study also uses international documents, including the 1951 Refugee Convention, the 1967 Protocol, and various UN resolutions.

Secondary legal materials were obtained from scientific literature in the form of books, journal articles, research reports, UNHCR, IOM, Amnesty International policy documents, and relevant non-governmental organization publications. The data was also strengthened

by the results of the analysis of official reports from the Indonesian government and public policy statements related to the Rohingya crisis. The analysis technique used in this study is descriptive and evaluative analysis, namely by describing the applicable legal provisions and evaluating their implementation in the practice of handling Rohingya refugees in Indonesia. The deductive reasoning approach is used to draw conclusions from the general principles of international law and human rights norms towards an assessment of Indonesia's national policy as a transit country. With this method, the study is expected to provide an in-depth understanding of the normative aspects of Rohingya refugee protection, identify policy gaps, and offer constructive recommendations for strengthening national regulations and multi-party cooperation in handling the refugee crisis in a more humane and sustainable manner.

### 3. Results and Discussion

#### 3.1 Dynamics of the rohingya refugee crisis and the influx into Indonesia

The Rohingya refugee crisis began with the ongoing conflict in Rakhine State, Myanmar (Havez et al., 2024). The Rohingya ethnic group, who are predominantly Muslim, have long experienced structural discrimination and are considered a stateless group by the Myanmar government. Social tensions triggered by exclusionary policies, restrictions on freedom of movement, and denial of basic civil rights have worsened the situation (Setiawan & Hamka, 2020). The peak of the crisis occurred in 2012 and 2017, when massive military operations triggered a wave of Rohingya exodus to neighboring countries, including Bangladesh, Thailand, Malaysia, and Indonesia. Attacks on Rohingya villages caused casualties and destroyed settlements, forcing thousands to flee with only the bare necessities (Kingston, 2018).



Fig. 1. Refugee's boat  
(Nobre, 2024)

One of the characteristics of the Rohingya migration is the extremely dangerous sea travel pattern (Syahrin, 2018). Refugees often use overcrowded wooden boats that are not suitable for long-distance sailing. They are willing to risk their lives in search of a safer place,

even though the risk of starvation, dehydration, and death at sea is very high (Putri et al., 2023). The most frequently used shipping route leads to the Malacca Strait waters. Many Rohingya boats end up stranded in the waters of western Indonesia, especially on the coast of Aceh. This location is a landing point because the distance is relatively closer than the route to Malaysia.

Aceh has a long history of solidarity with Rohingya refugees. Since 2009, several groups of refugees have landed on the coast of North Aceh and East Aceh. Local fishing communities play an important role in rescuing refugees adrift at sea, before they receive further assistance from the local government and international organizations. The arrival of Rohingya waves occurs periodically. One major incident occurred in May 2015, when more than a thousand refugees landed in Langsa and Kuala Langsa. In the following years, the arrival flow continued, although the number fluctuated depending on the conditions in Myanmar and the policies of other countries in the region (Aling, 2024). The characteristics of Rohingya refugees arriving in Indonesia are generally vulnerable groups. Most of them consist of women, children, and the elderly (Adwani et al., 2021). Many of them experience physical and psychological trauma due to violence in their hometowns and long hardships during the voyage.

After landing, refugees are usually temporarily placed in shelters managed by local governments with the support of international organizations such as UNHCR and IOM. In the shelters, they receive basic services in the form of food, health care, and temporary protection (Dedi, 2024). As a transit country, Indonesia does not provide a permanent solution for Rohingya refugees. The Indonesian government's policy is temporary, namely accommodating until there is resettlement to a third country or voluntary repatriation to Myanmar. This creates prolonged uncertainty for refugees stranded in Indonesian territory (Sudrajat et al., 2024). The dynamics of the Rohingya refugee crisis show a combination of structural factors in Myanmar and geographical factors that make Indonesia, especially Aceh, the main landing point (Itasari, 2020). This condition demands serious attention in formulating a more coordinated and humane protection policy, taking into account the vulnerability of refugee groups and the limited capacity of transit countries.

In addition to conflict and discrimination, the Rohingya refugee crisis is also exacerbated by the role of human trafficking networks that exploit the vulnerability of this community. Many refugees have to pay very high fees to smuggling syndicates to get a place on the boat. Not infrequently, they become victims of extortion or violence during the long and inhumane sea journey (Sukendro et al., 2022). The presence of Rohingya refugees in Aceh has given rise to unique social dynamics. The Acehese people who have experienced conflict and tsunami show deep empathy, so that local solidarity becomes an important element of initial handling. This attitude has received appreciation from the international community, although in several other regions in Indonesia the acceptance of the community is not always the same (Liliansa & Jayadi, 2015). From a national policy perspective, Indonesia positions itself as a non-party state to the 1951 Refugee Convention, so that domestic regulations do not explicitly provide refugee status. However, the government still refers to the principle of non-refoulement and humanitarian considerations in handling the Rohingya (Kneebone et al., 2021). This policy approach is pragmatic and places more emphasis on cooperation with international institutions.

Another challenge that arises is the limited availability of shelter facilities and long-term funding support. Many shelters were set up on an emergency basis with limited capacity, so refugees often move or wait for long periods of time for resettlement. This uncertainty about the future is what triggers anxiety and makes some refugees try to continue their journey illegally to other countries. From the description above, it can be concluded that the dynamics of the flow of Rohingya refugees to Indonesia is a complex phenomenon involving historical, political, geographical, and social factors. Although Indonesia is not the final destination country, its role as a transit country requires a more structured policy in order to guarantee basic refugee protection, strengthen multi-party cooperation, and consistently respect human rights principles.

### 3.2 Indonesia's national legal and policy framework for rohingya refugees

Indonesia's national legal framework for handling refugees, including the Rohingya, has not been comprehensively regulated in a single special regulation. Indonesia is currently not a party to the 1951 Refugee Convention or the 1967 Protocol, so it does not have a direct international legal obligation to grant refugee status in accordance with the provisions of these instruments (Zetter & Ruaudel, 2018). However, Indonesia remains bound by the principle of non-refoulement, which is already part of customary international law. This principle requires a state not to return a person to a territory where he or she is at risk of persecution, torture, or inhumane treatment. Thus, even though it is not a party to the Convention, Indonesia is still morally and legally obliged to respect the principle of non-refoulement (Sadjad, 2021).

One of the relevant regulations in the context of refugees is Law Number 6 of 2011 concerning Immigration. This law does not explicitly define the term "refugee," but recognizes the categories of illegal immigrants and asylum seekers. The articles in the Immigration Law regulate more about immigration law enforcement procedures, deportation, and immigration detention for foreigners who enter without valid documents (Sumarlan, 2019). To address the legal vacuum, the Indonesian government issued Presidential Regulation Number 125 of 2016 concerning Handling of Refugees from Abroad. This Presidential Regulation is the clearest policy basis regarding procedures for handling foreign refugees, including coordination mechanisms between agencies. This Presidential Regulation practically becomes the operational basis for handling Rohingya refugees in Indonesia.

In Article 1 of Presidential Regulation 125/2016, refugees are defined as "foreigners who are in the territory of the Republic of Indonesia due to fear of persecution." This definition is in line in substance with the definition in the 1951 Convention, although it remains limited to procedural aspects and does not provide long-term legal status. Presidential Regulation 125/2016 stipulates that refugees found in Indonesia will be placed in temporary shelters. The central government, through the Ministry of Foreign Affairs, the National Disaster Management Agency (BNPB), the Ministry of Social Affairs, and the Police, has the authority to coordinate to ensure that refugees receive basic protection, including food, shelter, and health services. In practice, the implementation of this policy is highly dependent on cooperation with international organizations, especially UNHCR and IOM. These two institutions assist in the process of identifying refugee status (status determination), data collection, providing logistical assistance, and finding long-term solutions through resettlement in third countries.

Presidential Regulation 125/2016 also regulates procedures for monitoring and controlling refugees, including provisions regarding financing, most of which is borne by international institutions. This shows that national policies are still ad hoc and dependent on external support for operational financing. Although this policy recognizes the basic rights of refugees, there are no provisions that regulate in detail the protection of other civil and economic rights, such as the right to work, the right to long-term formal education, or local integration. Most Rohingya refugees are only allowed to stay temporarily in shelters without a definite legal status. The national legal framework also does not clearly state special protection mechanisms for vulnerable groups, such as refugee women and children. Protection of vulnerable groups is usually carried out based on the technical policies of each institution and cooperation protocols with UNHCR.

From the perspective of international legal principles, the existence of Presidential Regulation 125/2016 is an important advance because it adopts elements of the principle of non-refoulement, at least in practice. Indonesia has consistently never repatriated Rohingya refugees to Myanmar, but has instead temporarily accommodated them while waiting for a permanent solution. However, national policies do not fully reflect the minimum standards for refugee protection set out in the 1951 Convention, for example regarding the right to work, freedom of movement, and the right to an officially recognized legal identity. As a result, many Rohingya refugees experience long-term uncertainty of legal

status. In addition to regulatory aspects, the role of state institutions in handling Rohingya refugees is also marked by limited capacity and funding. Local governments, especially the Aceh Government, play an important role in the initial phase of shelter, often assisted by the solidarity of local communities who provide voluntary assistance.

Overall, Indonesia's national legal and policy framework in handling Rohingya refugees can be said to be temporary, responsive to emergency situations, but has not been designed as a comprehensive long-term policy. This opens up opportunities for regulatory improvements to be more in line with international protection principles. Taking into account the principle of non-refoulement and the geopolitical dynamics of the region, strengthening the national legal framework is an urgent need so that Indonesia can play a more effective, humane role as a transit country, and in line with refugee protection standards in international law.

### *3.3 Challenges and opportunities for strengthening protection of rohingya refugees in Indonesia*

The handling of Rohingya refugees in Indonesia faces various complex challenges. One of the main obstacles is the absence of a national legal framework that comprehensively regulates the status and rights of refugees. Presidential Regulation Number 125 of 2016 is indeed the operational basis, but its nature is more procedural for temporary handling, without providing certainty of long-term legal status. In addition to the legal aspect, the limited capacity of government institutions is also a significant obstacle. Local governments, especially in Aceh, often lack the budget, trained human resources, and adequate facilities to ensure that refugees receive adequate basic services, ranging from health, nutrition, to psychosocial. Another challenge that has emerged is the less than optimal coordination between agencies. Because the responsibility for handling refugees involves many ministries, institutions, and local governments, the coordination mechanism is often slow and results in overlapping authorities. This can hamper the process of distributing aid and refugee services in the field.

In practice, Rohingya refugees also face restrictions on the right to freedom of movement and economic access. They are not allowed to work or live outside the shelter, which makes them completely dependent on aid. This situation has the potential to cause social tension with the surrounding community if not managed carefully. However, Indonesia has strong social capital in the form of local community solidarity, especially the Acehese people who have historically experienced conflict and the tsunami disaster. Many residents have shown empathy and taken the initiative to help refugees voluntarily, from providing food to daily assistance. Community solidarity is an important pillar that helps fill the gap in the state's role in emergency situations. However, civil society assistance needs to be supported by systematic policies so that aid distribution is fairer, more transparent, and does not create long-term dependency.

Great opportunities also come from cooperation with international organizations, especially UNHCR and IOM. UNHCR plays a role in the process of determining refugee status (status determination) and protecting basic rights, while IOM supports logistics, funding, and facilitation of the resettlement process to third countries. Cooperation with international institutions not only brings technical assistance and funding, but also helps ensure that refugee protection standards are more in line with international legal principles. However, high dependency on international institutions also poses a challenge if the sustainability of funding is disrupted. In the long-term context, the uncertainty of the legal status of refugees is a serious problem. Many Rohingya refugees have lived in Indonesia for years without certainty about when they will be resettled or voluntarily repatriated. This creates deep social and psychological vulnerability.

In addition, the absence of a national contingency plan that specifically handles the scenario of a large number of refugees is a gap that needs to be anticipated. Without careful planning, emergency response only relies on ad hoc policies and local initiatives. Opportunities to strengthen refugee protection can also be carried out through the

preparation of derivative regulations of Presidential Regulation 125/2016 that are more detailed regarding service standards, funding mechanisms, and protection of vulnerable groups such as women and children. More operational regulations can facilitate implementation in the field. Another important recommendation is to increase the capacity of human resources at the local government and shelter officer levels. Continuous training on refugee management, psychosocial services, and social conflict mitigation needs to be a policy priority.

Cooperation with ASEAN countries and international partners also needs to be strengthened through burden-sharing mechanisms and a more coordinated resettlement plan. Indonesia cannot be left to deal with this problem alone without regional solidarity and global support. In the long term, it is important for Indonesia to formulate a more comprehensive national refugee protection policy, based on the principle of non-refoulement, respect for human rights, and considering the balance of national and humanitarian interests (Ernawati, 2019). With improved regulations, strengthened cross-sector coordination, empowerment of local communities, and strengthened international cooperation, Indonesia has a great opportunity to build a Rohingya refugee protection system that is more humane, sustainable, and in accordance with international legal standards.

### *3.4 The principle of non-refoulement in handling refugees in Indonesia*

The principle of non-refoulement literally comes from French, meaning "not to return." This principle is based on the idea that a country must not return an individual to their country of origin if there is a risk that the person will face persecution (Simeon, 2019), torture, or inhuman or degrading treatment. This principle is enshrined in various international legal instruments, particularly in the 1951 UN Convention Relating to the Status of Refugees (Gil-Bazo, 2015), which serves as the foundation for the protection of refugees and asylum seekers in many countries. It is also reflected in protocols and other international laws that govern human rights protection (Putri et al., 2024). The importance of the non-refoulement principle lies not only in protecting individuals who are at risk to their safety but also in the commitment of states to uphold international standards in protecting human rights (Bruin & Wouters, 2003). Countries that have signed international conventions on refugees are obligated to ensure that people fleeing danger (Duffy, 2008), including war, political persecution, or systematic violence, are not forced back to places that may threaten their lives. This principle provides deep protection for asylum seekers by shielding them from the risk of persecution they may face in their home countries.

However, the implementation of this principle is not always straightforward, as there are significant challenges in its application, particularly in countries facing tremendous pressure related to migration and refugees. Some countries may view the principle of non-refoulement as an obstacle to immigration policies or as an excessive burden, especially in situations of humanitarian or political crises (Ahmad et al., 2025). Moreover, the issue of interpretation regarding the risks faced by individuals and the proper procedures to assess whether their return would be dangerous is also highly complex. Therefore, discussions about the implementation of this principle continue to evolve, along with the increasingly complex global dynamics related to migration and refugees. The principle of non-refoulement is a fundamental principle in international law related to the protection of human rights (Moran, 2021), particularly for individuals seeking international protection, such as refugees and asylum seekers. Literally, this principle originates from French and means "not to drive back." This principle requires states not to return individuals to their country of origin if there is a risk that the individual will face persecution, torture, or inhumane treatment. Many experts in international law and human rights protection have expressed various views on this principle (Yatani et al., 2023).

According to James C. Hathaway, an expert in international law, the principle of non-refoulement relates not only to the return of individuals to countries deemed unsafe but also encompasses the protection of individuals who may face threats to their lives if forced to

return. Hathaway emphasizes that this principle provides a strong foundation for human rights protection, ensuring that states are responsible for protecting individuals from the risks they face in their country of origin. This includes both physical and psychological threats that can occur in the context of political violence or war. According to Guy S. Goodwin-Gill, the principle of non-refoulement also encompasses the protection of broader fundamental human rights, including the right to live free from fear. He argues that forced return to one's country of origin can threaten an individual's integrity, as they may be forced to face persecution or degrading treatment. Therefore, the principle of non-refoulement is an integral part of the international human rights protection system.

On the other hand, according to Catherine Phuong, a human rights researcher, non-refoulement is not only a right granted to individuals seeking asylum but also reflects a state's commitment to international law. Phuong emphasizes that this principle is a way to ensure that states do not collaborate with human rights violations through forced returns. It also illustrates the state's role in protecting broader humanitarian values. In David J. Harris's view, the principle of non-refoulement is seen as a key pillar in maintaining the integrity of the international legal system regarding refugee protection. He argues that this principle not only protects individuals from direct threats but also prevents states from evading their international obligations in ways that harm individuals in need of protection. Harris believes that the application of this principle must be carried out carefully, given the challenges inherent in risk assessment and proper legal procedures. Fionnuala Ní Aoláin further argues that the principle of non-refoulement is also an important tool in addressing global conflicts that result in mass displacement of people. Aoláin argues that states must commit to consistently implementing this principle, particularly in emergency situations involving refugees from war or political persecution. She believes that implementing this principle will ensure that states do not neglect their responsibility to protect vulnerable individuals. However, a major challenge in implementing this principle, as noted by Elspeth Guild, is the differing interpretations of the risks faced by individuals seeking protection. Guild explains that risks deemed serious enough to preclude forced return are not always easy to identify and objectively measure. This is one of the main challenges in ensuring the effective and fair application of the principle of non-refoulement.

According to Alex Conte, an academic in international law, the principle of non-refoulement also plays a crucial role in the context of global human rights law. Conte emphasized that this principle is part of an international obligation that must be respected by states and cannot be justified solely for political or national security reasons. He argued that states must ensure that forced returns are carried out through transparent procedures and meet strict international standards. Implementing the principle of non-refoulement is not always easy, especially when dealing with countries facing significant migration pressures. As highlighted by Maria-Teresa Gil-Bazo, the greatest challenge in implementing this principle is complying with international obligations amidst domestic needs to regulate migration flows. Gil-Bazo explained that although the principle of non-refoulement has a strong basis in international law, states often face a conflict between their national interests and their international obligations.

Finally, according to Melanie K. Shapiro, implementing the principle of non-refoulement requires cooperation between states and international organizations to ensure that no individual is returned to a situation that puts them at risk. Shapiro underscores the importance of effective oversight and enforcement mechanisms in ensuring that this principle is respected, even as states face significant pressures in managing refugees and migration. Overall, the principle of non-refoulement is a crucial element of international law that protects individuals from serious threats such as persecution and torture (Fitriyadi & Latukau, 2020). However, its implementation in practice often faces various challenges, ranging from differing interpretations of risks to conflicts with state domestic policies. Therefore, further discussion and development regarding the application of this principle continues to be crucial in the evolving global context (Bruin & Wouters, 2003).

The principle of non-refoulement in Indonesia is a highly relevant topic in the context of human rights protection, particularly in protecting refugees and asylum seekers. This



principle requires states not to return individuals fleeing threats, such as persecution or torture, to their home countries if there is a risk to their safety. As a state bound by various international legal instruments, including the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (Supaat, 2013), Indonesia has an obligation to implement the principle of non-refoulement, although its implementation is not always easy. Since joining the UN Convention Relating to the Status of Refugees in 1951, Indonesia has not formally ratified the treaty. Nevertheless, Indonesia has adopted several principles for refugee protection through domestic policies. The decision not to ratify this convention creates challenges in ensuring the effective implementation of the principle of non-refoulement. This is reflected in existing policies, such as the limited protection provided to refugees and the absence of a strong legal basis for refugee protection in Indonesia.

The implementation of the principle of non-refoulement in Indonesia relies largely on ad-hoc policies implemented by the government through the United Nations High Commissioner for Refugees (UNHCR) (Trevisanut, 2014). For example, in some cases, the Indonesian government has collaborated with UNHCR to provide temporary protection to asylum seekers stranded in Indonesia. However, in many cases, asylum seekers are often trapped in prolonged legal limbo, as Indonesia lacks a clear and structured refugee system. It is important to note that Indonesia frequently serves as a transit country for refugees fleeing neighboring countries, such as Afghanistan, Myanmar, and Somalia. Many of these refugees hope to continue their journey to a safer third country. However, Indonesia, which has not ratified the refugee convention, has no legal obligation to grant refugee status to these individuals, so they are often treated as illegal citizens. The principle of non-refoulement in Indonesia is highly relevant in the context of human rights protection, particularly in protecting refugees and asylum seekers. This principle requires states not to return individuals fleeing threats, such as persecution or torture, to their home country if there is a risk to their safety. As a state bound by various international legal instruments, including the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, Indonesia has an obligation to implement the principle of non-refoulement, although its implementation is not always easy (Kim, 2017).

Since joining the UN Convention Relating to the Status of Refugees in 1951, Indonesia has not formally ratified the treaty. Nevertheless, Indonesia has adopted several principles for refugee protection through domestic policies. The decision not to ratify this convention creates challenges in ensuring the effective implementation of the principle of non-refoulement. This is reflected in existing policies, such as the limited protection provided to refugees and the lack of a strong legal basis for refugee protection in Indonesia. One of the biggest challenges in implementing the principle of non-refoulement in Indonesia is the uncertainty surrounding the legal status of refugees. Without a clear legal system regarding refugee status, many individuals are trapped in uncertain situations, threatened with detention or deportation to their home countries, which risks worsening their situation. This uncertainty not only violates their human rights but also undermines trust in Indonesia's refugee protection system.

On the other hand, Indonesia also faces social and political pressures related to migration and refugee issues. As a developing country with limited resources, Indonesia often struggles to manage high migration flows. This puts the government under pressure to limit the number of refugees accepted, even though this often risks violating the principle of non-refoulement, which requires states not to return individuals to their home countries if there is a threat to their lives. In 2016, Indonesia issued a more open policy towards accepting refugees through a program supported by the UNHCR. This policy opened up opportunities for refugees to reside temporarily in Indonesia while awaiting resettlement to a third country. However, this policy is insufficient to provide adequate protection for refugees, especially in terms of security and access to basic services, such as education and healthcare. Many refugees live in extremely limited conditions and face uncertain futures.

In recent years, Indonesia has also begun to develop a better system for refugee protection, but this remains limited in some areas. For example, the government has begun building temporary refugee shelters, but these are still far from sufficient. This

demonstrates that despite efforts to provide protection for refugees, significant challenges remain in providing adequate facilities and supporting the implementation of the principle of non-refoulement. One aspect that requires attention is the potential misuse of the non-refoulement principle for political gain. For example, in some cases, refugees from countries with tense political relations with Indonesia may be viewed with skepticism. At the same time, Indonesia must ensure that the application of the non-refoulement principle is not distorted by political considerations or national interests, but remains focused on protecting human rights.

Regarding Indonesia's legal system, reforms are needed to create clearer policies regarding refugees and asylum seekers. Without clearer and more specific laws regarding refugee status, Indonesia will continue to face difficulties in consistently implementing the non-refoulement principle. A more structured refugee protection policy will ensure that this principle is respected and that refugees enjoy their basic rights, such as the right not to be punished or persecuted in their home country. The implementation of the principle of non-refoulement is also related to Indonesia's active role in the international community. As a country located in Southeast Asia, Indonesia has a significant responsibility in addressing refugee issues. Furthermore, Indonesia can play a significant role in building a refugee protection system in Asia, given the large number of refugees stranded in the region. Therefore, it is crucial for Indonesia to commit to ratifying the 1951 Refugee Convention and its 1967 Protocol, as well as strengthening its active role in international dialogue on refugee protection.

It is also crucial to highlight Indonesia's contributions to various international forums, such as the Global Compact on Refugees, which focuses on multilateral solutions to refugee issues. Through this commitment, Indonesia can strengthen its capacity to provide protection to refugees and asylum seekers in a more structured manner and in accordance with international standards. Overall, the implementation of the principle of non-refoulement in Indonesia faces various challenges, including legal ambiguity, limited resources, and social and political pressures. Nevertheless, efforts to improve the refugee protection system and ratify international instruments related to refugee protection remain important steps in enhancing Indonesia's commitment to human rights protection and recognition of the principle of non-refoulement.

#### 4. Conclusions

The Rohingya refugee crisis is a complex humanitarian issue that has a direct impact on Indonesia as one of the main transit countries in Southeast Asia. Although Indonesia is not a party to the 1951 Refugee Convention and the 1967 Protocol, the principle of non-refoulement, which has become part of customary international law, is still recognized and applied in national policy practice. The domestic legal framework, especially through Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad, has provided a legal basis for procedural handling of refugees, although it is temporary in nature and has not regulated in detail the rights of refugees in the long term.

The implementation of the Rohingya refugee handling policy in Indonesia faces various challenges, ranging from limited capacity of government institutions, uncertainty of the legal status of refugees, to weak cross-sector coordination. However, the solidarity of local communities, especially in Aceh, and close cooperation with international organizations such as UNHCR and IOM are important assets in providing basic protection for refugees. In the future, opportunities to strengthen the protection system can be realized through the formulation of more comprehensive policies, increasing human resource capacity, optimizing the division of responsibilities with the international community, and integrating human rights principles more consistently into national policies. With these steps, Indonesia can play the role of a transit country in a more humane, responsible manner, and in line with international refugee protection standards.

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## References

- Adwani, A., Rosmawati, R., & Aiyub Kadir, M. Y. (2021). The responsibility in protecting the Rohingya refugees in Aceh Province, Indonesia: An international refugees law perspective. *IIUM Law Journal*, 29(S2), 1–21. [https://doi.org/10.31436/iiumlj.v29i\(s2\).677](https://doi.org/10.31436/iiumlj.v29i(s2).677)
- Ahmad, N., Ariffin, D. I., & Razali, N. (2025). A Critical Overview of International Refugee Law and the Non-refoulement Principle. *Manchester Journal of Transnational Islamic Law & Practice*, 21(1). <https://www.electronicpublications.org/catalogue/283>
- Ajawaila, D. P., Matulapelwa, A. H., & Ngongare, S. (2022). Peranan Indonesia dalam kasus etnis Rohingya berdasarkan konsep responsibility to protect (R2P). *Jurnal Sains Sosial dan Humaniora (JSSH)*, 2(1), 131–136. <https://doi.org/10.52046/jssh.v2i1.1204>
- Aling, D. M. R. (2024). Analisis yuridis krisis pengungsi Rohingya di Aceh dan peran UNHCR di Indonesia berdasarkan hukum organisasi internasional. *Lex Privatum*, 14(3), 1–12. <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/58369>
- Amnesty International. (2015). *Southeast Asia: Deadly journeys – The refugee crisis in the Bay of Bengal and Andaman Sea*. Amnesty International. <https://www.amnesty.org/en/documents/asa21/2574/2015/en/>

- Asmara, M. T., & Syahrin, A. (2021). Aktualisasi kebijakan imigrasi Indonesia terkait hak asasi manusia bagi pengungsi Rohingya di Indonesia. *Journal of Law and Border Protection*, 1(2), 73–84. <https://doi.org/10.52617/jlbp.v1i2.174>
- Bruin, R., & Wouters, K. (2003). Terrorism and the non-derogability of non-refoulement. *International Journal of Refugee Law*, 15(1), 5–29. <https://doi.org/10.1093/ijrl/15.1.5>
- Dedi. (2024, January 4). *Sederet aksi kriminal imigran Rohingya di Aceh, dari narkoba hingga perkosa anak di bawah umur*. Viva.co.id. <https://www.viva.co.id/trending/1664361-sederet-aksi-kriminal-imigran-rohingya-di-aceh-dari-narkoba-hingga-perkosa-anak-di-bawah-umur>
- Duffy, A. (2008). Expulsion to face torture? Non-refoulement in international law. *International Journal of Refugee Law*, 20(3), 373–390. <https://doi.org/10.1093/ijrl/een022>
- Ernawati, N. (2019). The legal consequences of the application of two Australian policies as members of the 1951 Refugee Convention reviewed from the VCLT 1969. *Jurnal IUS*, 7(1). <https://doi.org/10.29303/ius.v7i1>
- Fadilah, F. P., Hakim, M. A. T., Frefy, F. A. P., & Wahyuni, R. (2024). Peran Perserikatan Bangsa-Bangsa dalam penyelesaian pelanggaran HAM terhadap etnis Rohingya di Myanmar: Perspektif responsibility to protect concept. *Media Hukum Indonesia (MHI)*, 2(3). <https://doi.org/10.5281/zenodo.11663887>
- Fitriyadi, A. A., & Latukau, F. (2020). Diferensiasi pengungsi dan pencari suaka dalam hukum pengungsi internasional dan hubungannya dengan prinsip non-refoulement. *Jambura Law Review*, 2(2), 120–138. <https://doi.org/10.33756/jlr.v2i2.5400>
- Gil-Bazo, M. T. (2015). Refugee protection under international human rights law: From non-refoulement to residence and citizenship. *Refugee Survey Quarterly*, 34(1), 11–42. <https://doi.org/10.1093/rsq/hdu021>
- Havez, M., Ernawati, N., Pitaloka, D., Rosidi, A., & Jumadi, J. (2024). Balancing local community interest and international responsibilities in the context of the expulsion of Rohingya refugees in Aceh. *Indonesian Journal of International Law*, 21(4), 6. <https://doi.org/10.17304/ijil.vol21.4.1823>
- Hermawan, B. B. (2017). Tantangan ASEAN dalam melakukan penanganan pengungsi Rohingya. *Padjajaran Jurnal Ilmu Hukum*, 4(3), 569–586. <https://doi.org/10.22304/pjih.v4n3.a8>
- Itasari, E. R. (2020). The role of the ASEAN Intergovernmental Commission of Human Rights in giving protection to the Rohingya in Southeast Asia. *Jurnal IUS Kajian Hukum dan Keadilan*, 8(3), 569–583. <https://doi.org/10.29303/ius.v8i3.803>
- International Organization for Migration (IOM) Indonesia & United Nations High Commissioner for Refugees (UNHCR). (2017). *Indonesia as a transit country: Challenges and responses*. International Organization for Migration (IOM). <https://indonesia.iom.int/indonesia-transit-country-challenges-and-responses>
- Kim, S. (2017). Non-refoulement and extraterritorial jurisdiction: State sovereignty and migration controls at sea in the European context. *Leiden Journal of International Law*, 30(1), 49–70. <https://doi.org/10.1017/S0922156516000625>
- Kingston, L. N. (2018). Protecting the world's most persecuted: The responsibility to protect and Burma's Rohingya minority. In *The responsibility to protect* (pp. 179–191). Routledge. <https://doi.org/10.4324/9781315537153-11>
- Kneebone, S., Missbach, A., & Jones, B. (2021). The false promise of Presidential Regulation No. 125 of 2016? *Asian Journal of Law and Society*, 8(3), 431–450. <https://doi.org/10.1017/als.2021.2>
- Liliansa, D., & Jayadi, A. (2015). Should Indonesia accede to the 1951 Refugee Convention and its 1967 Protocol? *Indonesia Law Review*, 5(3). <https://doi.org/10.15742/ilrev.v5n3.161>
- Moran, C. F. (2021). Strengthening the principle of non-refoulement. *The International Journal of Human Rights*, 25(6), 1032–1052. <https://doi.org/10.1080/13642987.2020.1811690>

- Nobre, F. (2024, September 1). *A boat with a lot of people on it in the water A tourist boat cruises along the Douro River at sunset*. Unsplash License. <https://unsplash.com/photos/a-boat-with-a-lot-of-people-on-it-in-the-water-Gsy7g3tNCN0>
- Paripurna, C. F., Pradita, R. D., Priageng, S. P., & Ummah, A. (2024). Global citizen and shared responsibility: Addressing the Rohingya refugee crisis in Indonesia. *ARRUS Journal of Social Sciences and Humanities*, 4(6), 697–704. <https://doi.org/10.35877/soshum3406>
- Putri, E. A., Wahyuni, W. S., Syaputra, M. Y. A., Paramesvari, A. J., & Pratama, G. A. (2023). Legal protection of Rohingya citizens related to the conflict in Myanmar. *Jambura Law Review*, 5(1), 60–75. <https://doi.org/10.33756/jlr.v5i1.16722>
- Putri, R. W., Putri, Y. M., Ernawati, N., Havez, M., & Sabatira, F. (2024). Balancing the principles of non-refoulement and national security in the protection of refugee rights: A legal and policy analysis of refugee handling in Australia. *Jurnal IUS Kajian Hukum dan Keadilan*, 12(2), 372–392. <https://doi.org/10.29303/ius.v12i2.1391>
- Sadjad, M. S. (2021). 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(3), 451–466. <https://doi.org/10.1017/als.2021.3>
- Setiawan, A., & Hamka, H. (2020). Role of Indonesian humanitarian diplomacy toward Rohingya crisis in Myanmar. *Proceedings of the 4th International Conference on Social and Political Sciences (ICOSAPS 2019)*. <https://doi.org/10.4108/eai.5-11-2019.2292481>
- Shivakoti, R. (2017). *ASEAN's role in the Rohingya refugee crisis*. Global Is Asian. <https://lkyspp.nus.edu.sg/gia/article/asean-s-role-in-the-rohingya-refugee-crisis>
- Simeon, J. C. (2019). What is the future of non-refoulement in international refugee law? In *Research handbook on international refugee law* (pp. 183–206). Edward Elgar Publishing. <https://doi.org/10.4337/9780857932815.00020>
- Sudrajat, T., Jati, B. K. H., & Gupta, C. M. (2024). Questioning Indonesia's role in addressing Rohingya refugees: A legal, humanitarian, and state responsibility perspective. *Volkgeist: Jurnal Ilmu Hukum dan Konstitusi*, 7(1), 1–19. <https://doi.org/10.24090/volkgeist.v7i1.10506>
- Sukendro, A., Santoso, P., Sumertha, I. G., Puspasari, P., & Maysara, M. M. (2022). Conflict resolution in handling foreign refugees in West Jakarta, Indonesia. *International Journal of Social Science Research and Review*, 3(4), 1–7. <https://journals.ijramt.com/index.php/ijramt/article/view/1896>
- Sumarlan, Y. (2019). Political economy of pragmatic refugee policies in Indonesia as a transit country. *Asian Review*, 32(3), 63–93. <https://so01.tci-thaijo.org/index.php/arv/article/view/240363>
- Supaat, D. I. (2013). Escaping the principle of non-refoulement. *International Journal of Business, Economics and Law*, 2(3), 86–97. <https://oarep.usim.edu.my/entities/publication/cd24d5a1-06cc-42e9-a9de-e8be593b316e/full>
- Syahrin, M. A. (2018). The Rohingya refugee crisis: Legal protection on international law and Islamic law. *1st International Conference on Indonesian Legal Studies (ICILS 2018)*, 94–99. <https://doi.org/10.2991/icils-18.2018.18>
- Trevisanut, S. (2014). The principle of non-refoulement and the de-territorialization of border control at sea. *Leiden Journal of International Law*, 27(3), 661–675. <https://doi.org/10.1017/S0922156514000259>
- United Nations High Commissioner for Refugees (UNHCR). (2015). *Mixed maritime movements: In South-East Asia in 2015*. UNHCR. <https://www.refworld.org/reference/regionalreport/unhcr/2015/en/112153>
- Yatani, V. G., Safrin, M., & Wagian, D. (2023). Exclusion of the principle of non-refoulement in article 33 paragraph 2 of the 1951 Refugee Convention. *Ex Aequo Et Bono Journal of Law*, 1(1), 53–65. <https://doi.org/10.61511/eaebjol.v1i1.2023.108>

- Zetter, R., & Ruaudel, H. (2018). Refugees' right to work and access to labour markets: Constraints, challenges and ways forward. *Forced Migration Review*, 58(June), 4–7. <http://www.fmreview.org/economies>
- Zulkarnain. (2023, November 19). *Acehnese residents' dilemma facing thousands of Rohingya refugees continue to arrive*. Kompas. <https://www.kompas.id/baca/english/2023/11/19/en-aceh-mulai-menolak-pengungsi-rohingya>

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