

# Legal Analysis of Refugee Protection in Non-Signatory States to the 1951 Convention: A Case Study of Refugees in the North Sumatra

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**Abstract:** *This study examines refugee protection in Indonesia, a country that has not ratified the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The research focuses on the legal mechanisms applied in the jurisdiction of the North Sumatra Regional Office of the Ministry of Immigration and Corrections. It aims to explore (a) how international instruments govern refugee protection, (b) how Indonesia's domestic legal framework functions despite non-ratification, and (c) what strategic measures are required to strengthen national and regional protection systems. Using both normative and empirical legal methods, the study analyzes relevant statutes, international conventions, and interviews with government officers. The findings reveal that, although Indonesia is not formally bound by the 1951 Convention, the moral and constitutional principles of refugee protection apply through its human-rights commitments. Presidential Regulation No. 125 of 2016 on the Handling of Refugees from Abroad provides administrative recognition but lacks comprehensive legal certainty and long-term solutions such as integration, education, and employment access. Strengthening domestic legislation, empowering local governments, and promoting inter-sectoral collaboration are essential for ensuring humane and sustainable refugee protection in Indonesia*

**Keywords:** *refugee protection, 1951 Convention, international law, Indonesia, North Sumatra*

**Abstrak:** Studi ini meneliti perlindungan pengungsi di Indonesia, sebuah negara yang belum meratifikasi Konvensi 1951 tentang Status Pengungsi dan Protokol 1967-nya. Penelitian ini berfokus pada mekanisme hukum yang diterapkan di wilayah hukum Kantor Regional Sumatera Utara Kementerian Imigrasi dan Pemasarakatan. Tujuannya adalah untuk mengeksplorasi (a) bagaimana instrumen internasional mengatur perlindungan pengungsi, (b) bagaimana kerangka hukum domestik Indonesia berfungsi meskipun belum meratifikasi, dan (c) langkah-langkah strategis apa yang diperlukan untuk memperkuat sistem perlindungan nasional dan regional. Dengan menggunakan metode hukum normatif dan empiris, studi ini menganalisis undang-undang yang relevan, konvensi internasional, dan wawancara dengan pejabat pemerintah. Temuan menunjukkan bahwa, meskipun Indonesia tidak secara formal terikat oleh Konvensi 1951, prinsip-prinsip moral dan konstitusional perlindungan pengungsi berlaku melalui komitmen hak asasi manusianya. Peraturan Presiden No. 125 Tahun 2016 tentang Penanganan Pengungsi dari Luar Negeri memberikan pengakuan administratif tetapi kurang memiliki kepastian hukum yang komprehensif dan solusi jangka panjang seperti integrasi, pendidikan,

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dan akses pekerjaan. Penguatan legislasi domestik, pemberdayaan pemerintah daerah, dan promosi kolaborasi antar sektor sangat penting untuk memastikan perlindungan pengungsi yang manusiawi dan berkelanjutan di Indonesia.

**Kata kunci:** *perlindungan pengungsi, Konvensi 1951, hukum internasional, Indonesia, Sumatera Utara*

## I. INTRODUCTION

Human migration, whether within or across national borders, is an enduring feature of human history and has intensified in the modern era<sup>1</sup>. Within the framework of human rights, every individual possesses the right to freedom of movement, including to leave one's own country and to return (Universal Declaration of Human Rights [UDHR], 1948, art. 13). Furthermore, Article 14(1) of the UDHR recognizes the right to seek and enjoy asylum from persecution in other countries, although Article 14(2) sets limits for individuals prosecuted for non-political crimes or acts contrary to the purposes of the United Nations.

Forced displacement whether across borders (refugees) or within a country's territory (internally displaced persons) differs significantly from other forms of migration and therefore requires distinct legal mechanisms (Pellerin, 1995). Asylum seekers are individuals who have applied for protection but whose claims have not yet been determined. Not all asylum seekers qualify as refugees under international law; recognition of refugee status entails both rights and obligations for the host state<sup>2</sup>. Because refugees often lack valid travel documents, they are especially vulnerable to discrimination, violence, and refoulement in transit or destination countries. Even states that have ratified the 1951 Convention have occasionally violated its principles under the guise of national security<sup>3</sup>. Examples include the dismantling of refugee camps in Calais (France), the Australian government's policy of intercepting and turning back refugee boats<sup>4</sup>, and Thailand's forced deportation of Rohingya refugees to Myanmar. These incidents illustrate the tension between state sovereignty and international obligations to protect human life.

Indonesia's experience with refugees began during 1979–1996 when more than 120,000 Vietnamese “boat people” were settled temporarily on Galang Island (Riau Archipelago) under the supervision of UNHCR (United Nations High Commissioner for Refugees) and IOM (International Organization for Migration). Although the program ended in 1996, recent decades have witnessed a new surge of refugees arriving in Indonesia from Afghanistan, Somalia, and Myanmar. This influx poses fresh challenges ranging from security concerns to humanitarian and legal gaps in a country that has yet to

<sup>1</sup> S Hopgood, “DIGNITY AND ENNUI: Amnesty International, Amnesty International Report 2009: The State of the World's Human Rights,” *Journal of Human Rights Practice* 2, no. 1 (2010): 151–65, <https://doi.org/10.1093/jhuman/hup025>.

<sup>2</sup> I Daoust and K Folkelius, “UNHCR Symposium on Gender-Based Persecution,” *International Journal of Refugee Law* 8 (1996): 1–2, <https://doi.org/10.1093/ijrl/8.1-2.180>.

<sup>3</sup> Demetrios G Papademetriou and Myron Weiner, “The Global Migration Crisis: Challenge to States and to Human Rights,” *Population and Development Review* 22, no. 3 (1996): 569, <https://doi.org/10.2307/2137725>.

<sup>4</sup> Skolastika G Maing and M.elfan Kaukab, “DILEMA POLITIK LUAR NEGERI AUSTRALIA DALAM PENANGANAN PENGUNGI DAN PENCARI SUAKA,” *Jurnal Penelitian Dan Pengabdian Kepada Masyarakat UNSIQ* 8, no. 1 (2021): 28–39, <https://doi.org/10.32699/ppkm.v8i1.1529>.

ratify the 1951 Refugee Convention or its 1967 Protocol. Several internal and external factors influence Indonesia's position as a refugee transit state. Domestically, its archipelagic geography with long coastlines facilitates irregular entries, while the absence of a dedicated national law on refugees creates administrative ambiguities. Institutional overlaps among ministries also hamper coordination. Internationally, policies such as Australia's *Pacific Solution* (2001–2007) have shifted migration routes toward Indonesia, compelling it to act on humanitarian grounds by rescuing and hosting refugees stranded at sea (Amnesty International, 1997). While the government's collaboration with UNHCR and IOM reflects solidarity, its limited capacity and absence of legal obligations under the Convention constrain long-term solutions.

The adoption of Presidential Regulation No. 125 of 2016 marked Indonesia's first formal step to regulate foreign refugees. It covers procedures for identification, temporary placement, and coordination with international agencies but fails to address integration, education, or employment rights. The regulation's administrative nature leaves significant legal uncertainties. Field observations in North Sumatra show that inconsistent interpretations among local officials lead to uneven implementation. Consequently, protection efforts remain fragmented and highly dependent on UNHCR's Refugee Status Determination (RSD) process<sup>5</sup>.

According to UNHCR data, as of 2024 Indonesia hosts approximately 12,000 refugees 55% from Afghanistan, 10% from Somalia, and 6% from Myanmar. The number rose dramatically in 2023 with the arrival of over 2,200 Rohingya refugees through Aceh and North Sumatra. Limited facilities and restrictions on work and education have increased their vulnerability to poverty and social friction. Given its strategic position in regional migration flows, Indonesia faces a dilemma: balancing state sovereignty with humanitarian responsibility in accordance with international norms.

This study seeks to analyze Indonesia's legal framework for refugee protection through a case study of the North Sumatra Regional Office of the Ministry of Law and Human Rights. Specifically, it addresses three questions:

1. How do international norms govern refugee protection in non-signatory states?
2. How adequately does Indonesia's domestic law reflect those norms?
3. What strategic steps can strengthen refugee protection mechanisms at the national and regional levels?

By combining normative and empirical methods, the research aims to bridge the gap between legal ideals and practical implementation while situating Indonesia's experience in comparison with other non-signatory countries such as Malaysia and Thailand.

## II. RESEARCH METHODS

This study employs a normative-empirical legal research method (applied legal research) to examine the legal protection of refugees in a state that has not ratified the 1951 Convention. The normative aspect utilizes a statute approach and a conceptual approach to analyze the synchronization between international human rights instruments such as the Universal Declaration of Human Rights and Indonesian domestic regulations,

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<sup>5</sup> Mohamad Iqbal Jamilurir Rachman, "KERJASAMA INDONESIA DENGAN LEMBAGA-LEMBAGA TERKAIT DALAM PENANGANAN PENGUNGSI," *Jurist-Diction* 1, no. 1 (2018): 262, <https://doi.org/10.20473/jd.v1i1.9745>.

specifically Presidential Regulation No. 125 of 2016 concerning the Handling of Refugees from Abroad<sup>6</sup>.

The data for this research consist of both primary and secondary sources. Secondary data are gathered through a literature study encompassing primary legal materials (international conventions and national statutes), secondary legal materials (legal journals and reports from international organizations), and tertiary materials. Simultaneously, primary data are collected through field research in North Sumatra to capture the dynamic implementation of policies at the regional level, including the roles of local governments and international agencies such as UNHCR and IOM<sup>7</sup>.

Data collection techniques are carried out systematically through documentary studies and in-depth interviews. The documentary study is intended to dissect the "legal gaps" regarding the protection of refugees' fundamental rights within the local context. Interviews are conducted with relevant stakeholders in North Sumatra, such as officials from the Immigration Office (specifically the Medan Immigration Detention Center) and non-governmental organizations, to obtain an objective overview of the administrative and social constraints faced by refugees in the region.

The data are processed using a qualitative analysis with a descriptive-analytical method. The researcher will evaluate the collected data to identify how the principle of non-refoulement is upheld by Indonesia as a non-signatory state based on international customary law. The results of this analysis are then synthesized to provide recommendations regarding the strengthening of the domestic legal framework to ensure legal certainty for refugee protection in North Sumatra while maintaining national sovereignty.

### **III. RESULTS AND DISCUSSION**

#### **1. International Legal Framework on Refugee Protection**

The international legal framework governing refugee protection is anchored in the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. Together, these treaties establish the definition of a refugee and outline rights such as non-refoulement, non-discrimination, and protection against penalization for irregular entry. The principle of non-refoulement, contained in Article 33(1), is central to international refugee law, prohibiting states from returning refugees to territories where their life or freedom may

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<sup>6</sup> "The Law Number 39 of 1999 on Human Rights" (1999).

<sup>7</sup> Joko Setiyono, "KONTRIBUSI UNHCR DALAM PENANGANAN PENGUNGSI INTERNASIONAL DI INDONESIA," *Masalah-Masalah Hukum* 46, no. 3 (2018), <https://doi.org/10.14710/mmh.46.3.2017.275-281>.

be threatened.<sup>8</sup> Scholars argue that non-refoulement has evolved into a **jus cogens** norm meaning a peremptory rule of international law from which no derogation is permitted. Thus, even non-signatory states must respect the rule as customary international law<sup>9</sup>.

Non-refoulement is also embedded in broader human rights treaties that Indonesia has ratified. Under Article 7 of the ICCPR, states cannot subject any person to torture or cruel, inhuman, or degrading treatment; by interpretation, this prohibits returning a person to a territory where such risks exist. Likewise, Article 3 of the Convention against Torture requires states not to expel, return, or extradite a person to a country where they face credible risks of torture. Therefore, although Indonesia has not ratified the 1951 Convention, it is still bound by treaty-based obligations and constitutional values. Beyond formal treaty obligations, the UNHCR plays a critical role in providing protection mechanisms. In states without established national asylum systems including Indonesia, Malaysia, and Thailand UNHCR assumes functions usually managed by governments: registration, Refugee Status Determination (RSD), humanitarian support, and preparation for resettlement. While this temporary arrangement ensures protection, scholars note a long-term structural problem: it weakens the state's development of its own legal tools, reinforcing dependency and limiting legal certainty for refugees.<sup>10</sup>

Additionally, international soft-law instruments have shaped refugee protection. For example:

- a. UNHCR Guidelines on Child Asylum Claims (2009) ensure the “best interests of the child” in refugee policy.
- b. Global Compact on Refugees (2018) calls for shared responsibility among states in hosting and integrating refugees.
- c. ASEAN Human Rights Declaration (2012) though non-binding recognizes the right to seek asylum.

These instruments underscore shared humanitarian responsibility and encourage non-signatory states to adopt pragmatic, rights-based approaches.<sup>11</sup>

Although Indonesia has not ratified the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol, the core principles of these instruments especially non-refoulement are still binding as customary international law. In practice, this means Indonesia may not return refugees to their country of origin if doing so would endanger their safety or freedom.<sup>12</sup> Indonesia has, however, ratified the ICCPR and CAT, which require the state to protect individuals from torture and cruel, inhuman, or degrading treatment or punishment. As a result, the protection of refugees is closely tied to Indonesia's broader human rights commitments<sup>13</sup>. Presidential Regulation No. 125 of 2016 was later introduced as the first administrative instrument to define who qualifies as a refugee and how they should be treated. Yet its legal weight is not equivalent to that of

<sup>8</sup> 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,” *Mazabib Jurnal Pemikiran Hukum Islam* 23, no. 1 (2024), <https://doi.org/10.21093/mj.v23i1.7942>.

<sup>9</sup> Muhammad Zubair, Muhammad Aqeel Khan, and Muzamil Shah, “An Analysis Of The Legal Framework Of International Refugee Protection System,” *Global Political Review* IV, no. I (2019), [https://doi.org/10.31703/gpr.2019\(iv-i\).01](https://doi.org/10.31703/gpr.2019(iv-i).01).

<sup>10</sup> Daoust and Folkelius, “UNHCR Symposium on Gender-Based Persecution.”

<sup>11</sup> Setiyono, “KONTRIBUSI UNHCR DALAM PENANGANAN PENGUNGSI INTERNASIONAL DI INDONESIA.”

<sup>12</sup> All Mu izz Abas and Mohd Al Adib Samuri, “Islamic Legal Perspectives on Refugee Protection and Welfare: A Case Study of Malaysia,” *De Jur: Jurnal Hukum Dan Syar’iah* 16, no. 1 (2024), <https://doi.org/10.18860/j-fsh.v16i1.26507>.

<sup>13</sup> Mohd. Yusuf Daeng, *Sosiologi Hukum* (Pekan baru: Alaf Riau, 2018).

a statute and it does not fully address the substantive gaps concerning the legal status and rights of refugees.<sup>14</sup>

On the ground, Refugee Status Determination (RSD) is carried out entirely by UNHCR. This arrangement makes Indonesia heavily reliant on an international organization and limits the state's effective sovereignty over people within its own territory.<sup>15</sup> Refugees are housed in immigration detention centres or in Community Houses (CH) managed by IOM. These CHs are intended not only as places to stay, but also as spaces for social interaction, psychosocial support, and economic empowerment<sup>16</sup>. Even so, these facilities are often not suitable for long-term residence, and many refugees end up spending years in conditions of profound uncertainty.<sup>17</sup> Access to education and health services is uneven: some children can attend early childhood education, kindergarten, primary school, or to a limited extent junior secondary school, but senior secondary and higher education are largely out of reach. Refugees are also legally barred from working, which forces them to depend entirely on humanitarian assistance. This situation not only contradicts the spirit of the 1951 Convention but also undermines their dignity.<sup>18</sup> The policy approach remains largely security-driven, reflected in administrative detention, restrictions on movement, and the tendency to treat refugees as if they were irregular migrants, including housing them in facilities never designed for long-term stays. Many officials also lack a clear understanding of the legal distinction between refugees and irregular migrants, leading to procedural mistakes in detention, identification, and even deportation.

Because Indonesia has no specific refugee law, protection is patchy and varies significantly between regions. Presidential Regulation 125/2016 is interpreted differently from one locality to another, including in North Sumatra. Coordination between ministries such as Foreign Affairs, Immigration/Corrections, and Social Affairs is weak and poorly structured, which often results in overlapping mandates and inconsistent policies.<sup>19</sup> The principle of non-refoulement has also not been clearly written into national law, leaving space for possible violations if political priorities change, even though in practice Indonesia has so far tended not to deport refugees. At the same time, the absence of an integrated refugee information system makes it difficult to plan policies effectively and to allocate resources efficiently.

The 1951 Convention sets out states obligations to protect refugees through a number of key provisions. Article 33 establishes the principle of non-refoulement, which prohibits returning refugees to countries where they would face persecution or serious harm. Article 3 enshrines the principle of non-discrimination, requiring protection regardless of race, religion, nationality, or other status. Articles 7 and 26 allow states to impose some limits on freedom of movement, but only if these are reasonable, lawful,

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<sup>14</sup> Kristina Meilina Sinaga and Tumpal Simarmata, "SEJARAH PENDIDIKAN PEREMPUAN DI TAPANULI UTARA (1868-1945)," *JUPIIS: JURNAL PENDIDIKAN ILMU-ILMU SOSIAL* 5, no. 1 (2013), <https://doi.org/10.24114/jupii.v4i2.554>.

<sup>15</sup> David Fernando, Razico P Putra, and Satria Yulanda, "KERJASAMA DIREKTORAT JENDERAL IMIGRASI DENGAN UNHCR (UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES)," *Jurnal Sains Riset* 11, no. 1 (2021), <https://doi.org/10.47647/jsr.v11i1.399>.

<sup>16</sup> Moritz Hoferer et al., "The Impact of Technologies in Political Campaigns," *Physica A: Statistical Mechanics and Its Applications* 538 (2020): 122795, <https://doi.org/10.1016/j.physa.2019.122795>.

<sup>17</sup> Oren Rianto, Nurfitri Nugrahaningsih, and Ori Fahriansyah, "Proses Pengambilan Kebijakan Australia Operation Sovereign Borders Serta Pelanggaran Prinsip Non-Refoulement Dalam Menanggulangi People Smuggling 2013-2016," *SOVEREIGN: Jurnal Ilmu Hubungan Internasional* 4, no. 2 (2022).

<sup>18</sup> Hopgood, "DIGNITY AND ENNUI: Amnesty International, Amnesty International Report 2009: The State of the World's Human Rights."

<sup>19</sup> Rachman, "KERJASAMA INDONESIA DENGAN LEMBAGA-LEMBAGA TERKAIT DALAM PENANGANAN PENGUNSI."

and compatible with a dignified standard of living. Article 17 obliges states to grant refugees access to the labour market and the means for an adequate livelihood, while Article 22 guarantees the right to education, especially at the primary and secondary levels. Article 28 requires states to issue identity documents and, where possible, travel documents to refugees. Article 31 makes clear that refugees seeking protection must not be punished solely for their illegal entry or presence, as long as they present themselves promptly to the authorities. Taken together, these provisions require states parties to put in place fair asylum procedures, safeguard refugees' basic rights, and prevent their return to dangerous situations.

The 1967 Protocol expanded the reach of the 1951 Convention by removing its geographical and temporal limits. As a result, the Convention now applies to refugees from all parts of the world, and not just those from Europe before 1951 (Article 1 of the 1967 Protocol). The definition of a refugee and the obligation of non-refoulement remain anchored in the 1951 Convention (Article 1A (2)). This includes obligations to protect the rights to work, education, health care and social services, fair asylum procedures, and the issuance of identity and travel documents, along with proportionate freedom of movement, all within the Convention's normative framework. States are also expected to work together internationally to address the root causes that drive people to become refugees.

The emphasis on state sovereignty and the priority given to domestic development agendas also play a central role, as do uncertainties surrounding the policies of key destination countries for refugees, such as Australia (Koser, 2007). However, the choice not to ratify these instruments has serious implications: refugees remain in a state of legal limbo, their basic rights are constrained, and Indonesia's reputation as a state committed to human rights is open to question.<sup>20</sup> By contrast, many other developing countries have ratified these instruments without experiencing severe negative consequences, especially when supported by international organisations.<sup>21</sup>

The difficulties Indonesia faces are therefore not only legal and administrative, but also social, political, and institutional. Public attitudes towards refugees are mixed. Some communities show solidarity, while others worry about competition for scarce resources, jobs, and public services (Agustina, 2019). Because public communication on refugee issues is limited, refugees are often seen primarily through a security lens. The media plays an important role in counterbalancing this by promoting more nuanced and humanised perspectives. Civil society organisations and local NGOs often act as first responders, yet their efforts are constrained by limited funding and the lack of clear frameworks for cooperation. Government transparency in sharing data, policies, and practices related to refugees is also still low, which undermines accountability and public trust.<sup>22</sup>

In light of this, several urgent priorities emerge. First, there is a clear need for a national refugee law that defines who is a refugee, sets out their rights and obligations, regulates status determination procedures, and governs access to education, housing, and limited employment, while clarifying institutional responsibilities and reducing

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<sup>20</sup> Budi Hermawan Bangun, "Tantangan ASEAN Dalam Melakukan Penanganan Pengungsi Rohingya," *PADJADJARAN Jurnal Ilmu Hukum (Journal of Law)* 4, no. 3 (2018), <https://doi.org/10.22304/pjih.v4n3.a8>.

<sup>21</sup> Yusuf Daeng et al., "Perlindungan Data Pribadi Dalam Era Digital: Tinjauan Terhadap Kerangka Hukum Perlindungan Privasi," *Innovative: Journal Of Social Science Research* 3, no. 6 (2023): 2898–2905.

<sup>22</sup> Rachman, "KERJASAMA INDONESIA DENGAN LEMBAGA-LEMBAGA TERKAIT DALAM PENANGANAN PENGUNGSI."

overlapping mandates.<sup>23</sup> Second, a shift is needed from a security-based approach to a humanitarian and rights-based one, moving away from policies centred on control and detention towards viewing refugees primarily as victims of conflict rather than threats to stability.<sup>24</sup> Third, inter-agency coordination must be strengthened: fragmented authority without an integrated mechanism inevitably produces inconsistent policies, making a specialised institution or cross-sectoral task force essential for harmonising data and policy at both national and local levels. Fourth, education and health must be treated and implemented as fundamental rights, especially for children, through the active involvement of local education and health authorities in line with minimum international standards.<sup>25</sup>

Looking ahead, Indonesia has real potential to become a regional leader in refugee protection within ASEAN, supported by its strategic geopolitical position and long-standing tradition of multilateral diplomacy. Achieving this would require integrating the principles of the 1951 Convention and the 1967 Protocol into national law, even without formal ratification, including the explicit codification of non-refoulement. It would also require building the capacity of state officials and developing an accurate, integrated refugee information system, making better use of cooperation with UNHCR and IOM without allowing them to replace the state's role, and strengthening the contributions of civil society, the media, and local values such as “gotong royong” (mutual cooperation) in fostering social integration for refugees. Ultimately, the main issue is not only the absence of formal ratification of the 1951 Convention and the 1967 Protocol, but how Indonesia understands and frames refugee protection as a moral, constitutional, and international responsibility. With comprehensive national regulations, strong institutional coordination, and a rights-based, humanitarian approach, Indonesia can both uphold state sovereignty and protect human dignity, offering a model for other states facing similar dilemmas.<sup>26</sup>

## 2. The Indonesian Legal Framework and Institutional Practice

Indonesia's approach is formally “non-party,” yet practically humanitarian. Historically, the Indonesian state has responded to refugee inflows on moral, constitutional, and diplomatic grounds, hosting Vietnamese boat refugees (1979–1996), Rohingya (2015–present), and Afghan refugees stranded after Taliban takeover. However, until 2016, there was no legal instrument regulating refugees domestically. Presidential Regulation No. 125/2016 represents Indonesia's first national-level acknowledgement of refugee presence. While progressive, the regulation remains administrative, not rights-based. It governs identification, rescue at sea, temporary shelter, and coordination, but does not regulate rights to employment, education, healthcare, movement freedom, or permanent

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<sup>23</sup> Decky J Paseki Abdul Latifa Mahdayani and Thor B Sinaga. “Prespektif Hukum H A M Terhadap Pengungsi Akibat Konflik Menurut Konvensi Wina, “Tentang Pengungsi,” *Fakultas Hukum UNSRAT Lex Privatum* 13, no. 5 (1951).

<sup>24</sup> Diandra Paramita Anggraini, “Solusi Pemenuhan Kesejahteraan Pengungsi Selama Proses Resettlement Dari Perspektif Hukum Indonesia,” *Jurnal Ilmiah Kajian Keimigrasian* 5, no. 1 (2022), <https://doi.org/10.52617/jikk.v5i1.260>.

<sup>25</sup> Anggit Wasesa Praja, Andy Apriansah, and Burhanuddin Susanto, “Pemberian Hak Asuh Anak Kepada Ayah Antara Positivisme Hukum Dan Hukum Progresif,” *Fundamental: Jurnal Ilmiah Hukum*, 2024, <https://doi.org/10.34304/jf.v12i2.184>.

<sup>26</sup> Chairunnisa Chairunnisa and Marlina Marlina, “Peran KSPPS BMT Bahtera Pekalongan Dalam Meminimalisir Ketergantungan Pedagang Terhadap Rentenir Melalui Pembiayaan Murabahah,” *SERAMBI: Jurnal Ekonomi Manajemen Dan Bisnis Islam* 2, no. 1 (2020): 63–72, <https://doi.org/10.36407/serambi.v2i1.153>.

solutions. Scholars emphasize that the absence of substantive rights results in legal limbo refugees may remain in Indonesia 5–10 years while awaiting resettlement.<sup>27</sup>

In practice, refugee handling remains fragmented. The Ministry of Law and Human Rights, Immigration, Ministry of Social Affairs, Ministry of Foreign Affairs, local governments, and police each hold partial roles but without clear authority or budget allocation.<sup>28</sup> Some local governments perceive refugee management as the responsibility of the central government. This produces delays in housing, social assistance, and community integration.

Empirical findings from the North Sumatra Regional Office reveal:

- a. Refugee housing is mostly externally funded, via IOM.
- b. Local governments are involved indirectly, mainly in security and logistics.
- c. Refugee identification heavily relies on UNHCR databases, not state systems.
- d. No national biometric or data-sharing system exists; thus, refugees often lack formal legal identity in Indonesia.

Scholars identify this as a structural governance gap: Indonesia recognizes refugee presence, but does not create mechanisms for self-reliance or social participation.<sup>29</sup>

Another critical problem is work prohibition. Refugees cannot legally obtain jobs even though many have university degrees, medical skills, or technical training. This forces them into 100% dependency on IOM or charity, contradicting the sustainability principles of the Global Compact on Refugees (2018). Socioeconomic exclusion generates psychological stress, poverty risk, and community tension.<sup>30</sup>

In contrast to many countries, Indonesia does not offer permanent residency, local integration, or naturalization, even after 10 years of residence. Resettlement is uncertain: since 2017, countries such as Australia, Canada, and the U.S. have drastically reduced refugee quotas. Thus, “transit” in Indonesia has become “prolonged containment.”

Indonesia’s national legal framework for protecting refugees has evolved under unusually complex conditions, because Indonesia is not a party to the 1951 Convention Relating to the Status of Refugees or the 1967 Protocol. Geographically, Indonesia is a strategically located archipelagic state between two continents and two oceans, making it a key transit point in global migration routes, including for refugees and asylum seekers. Many refugees from the Middle East, South Asia, and Africa enter Indonesian territory hoping to continue their journey to final destination countries such as Australia. Even though Indonesia is not formally bound by treaty obligations in this field, the presence of thousands of refugees has forced the government to adopt specific policies. In this situation, Indonesia’s responsibility is understood primarily as a moral and humanitarian duty rather than a treaty-based legal obligation.<sup>31</sup>

One of the main foundations for regulating foreigners in Indonesia is the selective policy laid down in Law Number 6 of 2011 on Immigration. This principle gives the state

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<sup>27</sup> Hartanto Hartanto, Gunarto Gunarto, and Anis Mashdurohatun, “Reconstruction Of Transport Regulatory On Marine Toll To Support Sea Connectivity Based On Pancasila Justice,” *Legal Reconstruction in Indonesia Based on Human Right* 0, no. 0 (2019), <https://jurnal.unissula.ac.id/index.php/apic/article/view/7831>.

<sup>28</sup> Khairunnisa Simbolon, “SIKAP THAILAND DAN INDONESIA TERHADAP PENGUNGI ROHINGYA DALAM PENDEKATAN KONSTRUKTIVIS,” *Jurnal PIR: Power in International Relations* 2, no. 1 (2018), <https://doi.org/10.22303/pir.2.1.2017.37-49>.

<sup>29</sup> Anggraini, “Solusi Pemenuhan Kesejahteraan Pengungsi Selama Proses Resettlement Dari Perspektif Hukum Indonesia.”

<sup>30</sup> Heri heriyanto and Nuchraha Alhuda Hasnda, “Krisis Pengungsi: Normatif Dan Praktis Penanganan Pengungsi Masyarakat Etnis Rohingya Myanmar Di Indonesia,” *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia* 5, no. 3 (2024), doi:10.52005/rechten.v5i3.137.

<sup>31</sup> Zubair, Khan, and Shah, “An Analysis Of The Legal Framework Of International Refugee Protection System.”

legal authority to decide selectively who may enter, reside, and work in Indonesia, based on national interests. Foreign nationals who are considered able to contribute positively to the economy, society, or development such as investors, students, or skilled workers are prioritised, while those who may pose social or economic burdens can be restricted. Through the Immigration Law, the government is empowered to regulate visas, residence permits, and work permits by taking into account economic, political, social, and cultural considerations. In the case of refugees, the “selective policy” is applied by offering temporary protection without any obligation to grant permanent or long-term rights as envisaged in the 1951 Convention and the 1967 Protocol. Indonesia thus manages refugees in a selective way, continuing to prioritise national stability and avoiding broader commitments related to their social and economic integration.<sup>32</sup>

This “selective policy” is closely tied to the principle of state sovereignty. On one side, it gives Indonesia flexibility to determine who may enter and remain within its territory according to national needs. On the other, sovereignty affirms the state’s full right to regulate its internal affairs and set conditions of entry without external interference. The link between the two is evident when Indonesia having not ratified the 1951 Refugee Convention or the 1967 Protocol uses the “selective policy” to regulate the presence of refugees and other foreigners in line with its capacity to provide temporary protection, while retaining full control over immigration policy. In this way, sovereignty becomes the legal and political basis for responding to potential social and economic challenges arising from the presence of refugees, without being bound by international obligations that might be seen as constraining domestic policy.

However, this “selective policy” has significant consequences for refugees in Indonesia. Because the 1951 Convention and the 1967 Protocol have not been ratified, refugees often find themselves without a clear legal status. This legal uncertainty restricts their access to basic rights such as employment, education, and health services.<sup>33</sup> It deepens insecurity in their everyday lives and may ultimately increase the social burden on the state. At the same time, the “selective policy” reflects Indonesia’s attempt to maintain social and political stability by placing national interests first and avoiding binding international commitments that may be perceived as an added burden (Gibney, 2012). Thus, while the policy offers flexibility for the state, it also exposes its limitations in ensuring effective protection and meaningful integration of refugees into Indonesian society.<sup>34</sup>

Presidential Regulation Number 125 of 2016 on the Handling of Refugees from Abroad is the central legal instrument for refugee management in Indonesia. It was issued to address a legal vacuum in providing minimum protection. The regulation creates a coordination framework that brings together the central government, local governments, and relevant agencies so that refugees can be handled in a more organised and humane way. The definition of a refugee in Presidential Regulation 125/2016 refers to a foreign national in Indonesia who has a well-founded fear of persecution, conflict, or serious human rights violations, a definition that is substantively consistent with the 1951 Convention. However, this definition does not grant refugees full legal subject status with

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<sup>32</sup> Rianto, Nugrahaningsih, and Fahriansyah, “Proses Pengambilan Kebijakan Australia Operation Sovereign Borders Serta Pelanggaran Prinsip Non-Refoulement Dalam Menanggulangi People Smuggling 2013-2016.”

<sup>33</sup> Latifa Mahdayani Abdul, Decky J Paseki, and Thor B Sinaga, “Prespektif Hukum HAM Terhadap Pengungsi Akibat Konflik Menurut Konvensi Wina 1951 Tentang Pengungsi,” *Fakultas Hukum UNSRAT Lex Privatum* 13, no. 5 (2024).

<sup>34</sup> Yusa Shabri Utomo, Wahyu Prawesthi, and Bachrul Amiq, “PERLINDUNGAN HUKUM TERHADAP PENGUNGI DI INDONESIA,” *COURT REVIEW: Jurnal Penelitian Hukum (e-ISSN 5, no. 04 (2025): 2776–1916, <https://doi.org/10.69957/cr.v5i04.1993>*.

permanent rights; it functions instead as an administrative label for temporary management purposes.<sup>35</sup> Notably, the Immigration Law is not cited among the legal considerations of this Presidential Regulation. Its formal legal basis is Article 27 paragraph (1) of Law Number 37 of 1999 on Foreign Relations. This shows that the refugee concept is framed primarily as a matter of foreign relations, meaning that, at least normatively, responsibility for handling refugees is not confined to immigration authorities although in practice the operational burden falls heavily on immigration institutions.

The implementation of Presidential Regulation 125/2016 depends heavily on cooperation with international organisations, particularly UNHCR and IOM. UNHCR is responsible for identifying refugee status, assessing eligibility for protection, and arranging resettlement to third countries, while the Indonesian government facilitates refugees' presence in the country. Indonesia still lacks an internal legal mechanism to conduct refugee status determination (RSD) independently. This legal gap significantly restricts refugees' access to basic rights: they cannot work legally, face serious barriers in entering formal education, and often live in inadequate social conditions while enduring long and uncertain waiting periods for resettlement. This reality stands in sharp contrast to the Universal Declaration of Human Rights, which upholds the right to seek and enjoy asylum, and to Indonesia's ratification of various international human rights treaties. The tension between these international commitments and the lack of a domestic framework exposes a major weakness in the national system of legal protection.

Local governments play an increasingly visible role in refugee management, but this also brings its own challenges. Many regions lack sufficient budget and resources to meet refugees' needs, which weakens coordination at the local level. Refugees are frequently perceived as a social burden, leading to resistance within local communities, especially when regulations and funding arrangements are unclear. Tensions between refugees and local residents can escalate as they compete for limited jobs, health services, and other public facilities. In some cases, horizontal conflicts have arisen due to limited public understanding of refugees' legal status and the humanitarian nature of their situation. These developments show that weaknesses in the legal framework affect not only administrative practice but also broader social stability.

Against this backdrop, the development of a specific national refugee law becomes essential. Such a law would provide legal certainty, clearly define institutional responsibilities, and systematically guarantee the protection of human rights.<sup>36</sup> Core principles of international law, such as non-refoulement which prohibits returning individuals to countries where they face a real risk of persecution are widely recognised as part of customary international law. Even without being a party to the 1951 Convention, Indonesia remains morally and normatively bound by these principles.<sup>37</sup> A national legal framework should therefore explicitly incorporate non-refoulement and ensure particular protection for vulnerable groups within the refugee community, such as children, women, and persons with disabilities, who need more tailored safeguards.<sup>38</sup>

To build an effective system, the roles of government agencies, NGOs, and civil society must also be strengthened. These actors are crucial providers of health services,

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<sup>35</sup> Aisyah Nurannisa Muhlisa and Sandy Kurnia Christmas, "Prinsip Non-Refoulement Dalam Optimalisasi Peran Rumah Detensi Imigrasi Bagi Perlindungan Hak-Hak Pengungsi," *NOLAN - Noblesse Oblige Law Journal* 1, no. 1 (2024).

<sup>36</sup> Yusuf Daeng, *Sosiologi Hukum*.

<sup>37</sup> Fortuna Qothrunnada, Annisa, and Muhammad Zulfa Shidfan, "Perlindungan Hukum Terhadap Etnis Rohingya Di Indonesia," *Jurnal ISO: Jurnal Ilmu Sosial, Politik Dan Humaniora* 4, no. 2 (2024), <https://doi.org/10.53697/iso.v4i2.1813>.

<sup>38</sup> Muhlisa and Christmas, "Prinsip Non-Refoulement Dalam Optimalisasi Peran Rumah Detensi Imigrasi Bagi Perlindungan Hak-Hak Pengungsi."

education, and psychosocial support. Any future national regulation should therefore formally recognise and regulate their contributions so that refugee protection becomes more inclusive, coordinated, and effective.<sup>39</sup> Ensuring that policy and practice are aligned will demonstrate Indonesia's commitment to humanitarian values and reinforce its position as a key regional actor capable of responding to global challenges, including migration and forced displacement. A stronger legal framework will not only improve protection for refugees but also support public order and legal certainty within Indonesia.

North Sumatra offers a concrete illustration of these dynamics, as it hosts a significant refugee population. Medan, the provincial capital, has become a key hub for refugees from Afghanistan, Somalia, the Rohingya community, and other countries. Their situation falls under the authority of the Regional Office of the Ministry of Law and Human Rights for Immigration and Corrections in North Sumatra (Kanwil Imipas Sumut), which is responsible for implementing immigration policy and human rights protection at the regional level. Kanwil Imipas Sumut collects data, coordinates with UNHCR and IOM, and supervises refugees placed in immigration detention centres and community housing. These activities are carried out with reference to Presidential Regulation 125/2016 and internal regulations of the Directorate General of Immigration. Nevertheless, officers on the ground face serious difficulties because there is no national legislation that clearly defines the legal status of refugees.<sup>40</sup>

In practice, refugee management in North Sumatra depends heavily on collaboration between the Ministry of Law and Human Rights, local governments, UNHCR, IOM, and religious or social organisations. The reliance on international actors is obvious, as the Regional Office lacks sufficient resources to provide refugees' basic needs, including food, healthcare, and education. Much of the financial burden is borne by non-governmental organisations supported by international donors (Maulana, 2017). Indonesia's non-party status to the 1951 Convention also means that there is no formal national recognition of refugee status. In North Sumatra, refugees are usually seen as foreign nationals who must be monitored under immigration rules, rather than as legal subjects entitled to special forms of protection.

The approach adopted by the Regional Office of the Directorate General of Immigration in North Sumatra is largely administrative rather than rights-based. Refugee management is framed within immigration control procedures instead of a broader human rights perspective.<sup>41</sup> While the measures taken do show an intention to act in accordance with humanitarian values, the absence of a strong legal basis means that these efforts remain voluntary and non-binding.

More generally, Indonesia's refugee law and policy framework has developed in a non-standard setting. Indonesia's status as a non-party to the 1951 Convention and the 1967 Protocol has created a legal gap in regulating refugee status and protection. Existing legal instruments do not recognise refugees as legal subjects with a permanent status; they are treated as "foreigners" whose presence is temporary and who do not enjoy full legal rights comparable to citizens or permanent residents. Presidential Regulation 125/2016 governs only the administrative aspects of refugee management and does not provide status recognition or substantive legal protection similar to that envisaged by the 1951

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<sup>39</sup> Maulana Nazril et al., "Suksesi Kepemimpinan Politik Di Negara Demokrasi: Mekanisme, Tantangan, Dan Implikasinya," *Amandemen: Jurnal Ilmu Pertahanan, Politik Dan Hukum Indonesia* 1, no. 3 (2024): 103–11, <https://doi.org/10.62383/AMANDEMEN.V1I3.268>.

<sup>40</sup> Zubair, Khan, and Shah, "An Analysis Of The Legal Framework Of International Refugee Protection System."

<sup>41</sup> Ilyas Satriaji, "Eksistensi Konvensi Internasional Hak Asasi Manusia Dalam Sistem Hukum Indonesia Berdasarkan Peristiwa Hukum Paniai 2020," *Sosio Yustisia: Jurnal Hukum Dan Perubahan Sosial* 2, no. 1 (2022), <https://doi.org/10.15642/sosyus.v2i1.153>.

Convention.<sup>42</sup> The absence of formal recognition of the non-refoulement principle in national law further illustrates the limitations of Indonesia's legal system in providing even basic protection, despite non-refoulement being widely accepted as a binding norm of customary international law.

### Discussion

As a discussion, a series of fundamental problems has emerged: there is no formal recognition of refugee status in the national legal system; there is no national RSD mechanism; Presidential Regulation 125/2016 has weak legal standing; there are no explicit guarantees of basic rights for refugees; in practice, refugees are often treated in the same way as irregular migrants, including being placed in immigration detention; there are no clear legal mechanisms when rights are violated; technical implementing regulations are lacking; central–local coordination is vague; no specific budget is allocated; and refugees' access to justice is severely limited when they are victims or alleged offenders in legal cases.<sup>43</sup> Without meaningful reform, Indonesia's refugee protection system will remain both ineffective and unjust, as the experience in North Sumatra clearly demonstrates.

For these reasons, Indonesia needs a national refugee law that can fill the legal vacuum and provide a clear mandate for institutions such as the Regional Offices of the Directorate General of Immigration in managing refugee issues. Such a law would not necessarily require Indonesia to become a party to the 1951 Convention, but it could enshrine basic protection principles that reflect human rights standards and global moral expectations. Substantive provisions might include formal national recognition of refugee status, a transparent and accountable RSD system, guarantees of access to education, employment, and basic health services, special protection for refugee children and women, mechanisms for legal protection and legal aid, funding arrangements combining state and donor resources, regulations on voluntary local integration and relocation, and explicit incorporation of the non-refoulement principle into national legislation.<sup>44</sup>

With a strong legal framework in place, local implementing agencies would be better equipped to act consistently and effectively. Coordination between central and regional levels of government would become clearer and more predictable, and the public would have a better understanding of the legal position of refugees, helping to reduce social tensions fuelled by misinformation or prejudice. The adoption of a refugee law would also enhance Indonesia's diplomatic profile in international forums such as ASEAN, UNHCR, and the UN Human Rights Council, while giving concrete expression to the values of Pancasila and the constitutional commitment to “just and civilised humanity” (kemanusiaan yang adil dan beradab<sup>45</sup>). Ultimately, protecting refugees is not simply a gesture of goodwill; it is a moral, constitutional, and international responsibility. Enacting a national refugee law is therefore both a logical and urgent step if Indonesia is to be not only sovereign in law, but also an active and dignified participant in the global system of humanitarian protection.

### 3. Comparative Perspective: Malaysia and Thailand

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<sup>42</sup> Abdul Latifa Mahdayani and Wina, “Tentang Pengungsi.”

<sup>43</sup> Utomo, Prawesthi, and Amiq, “PERLINDUNGAN HUKUM TERHADAP PENGUNGI DI INDONESIA.”

<sup>44</sup> Muhlisa and Christmas, “Prinsip Non-Refoulement Dalam Optimalisasi Peran Rumah Detensi Imigrasi Bagi Perlindungan Hak-Hak Pengungsi.”

<sup>45</sup> Rahmat Fauzi, Ali Marzuki Zebua, and Ican Mandala, “Tasamuh Value As Conflict Resolution In Multicultural Society (Nilai Tasamuh Sebagai Resolusi Konflik Dalam Masyarakat Multikultural) Ican Mandala,” *Edugma: Jurnal Kependidikan Dan Sosial Keagamaan* 08, no. 02 (2022).

Malaysia maximizes **economic inclusion**; Thailand maximizes humanitarian stability. Indonesia, by contrast:

Table 1.  
Comparison on policy strategies among non-signatory states  
between Malaysia, Thailand, and Indonesia

<i>Country</i>	<i>Recognition</i>	<i>Right to Work</i>	<i>Education</i>	<i>National Screening</i>	<i>Integration Pathway</i>
<i>Malaysia</i>	UNHCR Cards	Informal allowed	Informal schools	No	No
<i>Thailand</i>	Temporary Protection	Limited camp-based	NGOs + border schools	Yes (2022)	No
<i>Indonesia</i>	Administrative recognition	<b>Prohibited</b>	<b>No formal access</b>	No	No

Scholars conclude that Indonesia’s approach is the **most restrictive** among the three—a model of “humanitarian containment” rather than integration.<sup>46</sup> For thousands of refugees, Indonesia has become a transit state without transition.

### Humanitarian Challenges In North Sumatra

North Sumatra, particularly Medan and Belawan, is a frontline region for refugee arrival. Interviews show five chronic humanitarian gaps:

#### (1) Overcrowded and Unsanitary Shelters

Shelters managed with IOM funding often lack adequate sanitation, ventilation, and space. The COVID-19 pandemic worsened crowding risks. UNHCR Asia-Pacific reports increasing mental-health problems among refugees in prolonged confinement.

#### (2) No Access to Education

Refugee children especially Rohingya mostly study in informal learning centers run by Islamic boarding schools, NGOs, or volunteer groups. Without state recognition:

- a. No formal diplomas
- b. No curriculum continuity
- c. No access to Indonesian public schools
- d. High risk of lost generation

This contradicts Indonesia’s constitutional commitment to education rights (Law No. 20/2003).

#### (3) Employment Exclusion

Refugees are legally barred from work. Many adults spend 3–10 years without income, leading to psychosocial dependency, depression, and vulnerability to trafficking.

#### (4) Social Tension and Xenophobia

Field interviews reveal mixed community responses. Cultural proximity to Muslim refugees increases empathy, but economic hardship intensifies resentment. Studies show social tension rises when locals believe refugees receive “too much assistance”.<sup>47</sup>

<sup>46</sup> Rahmat Fauzi, Ali Marzuki Zebua, and Ican Mandala, “Tasamuh Value As Conflict Resolution In Multicultural Society (Nilai Tasamuh Sebagai Resolusi Konflik Dalam Masyarakat Multikultural) Ican Mandala.”

<sup>47</sup> Chairussani Abbas Sopamena, “PENGUNGSI ROHINGYA DAN POTENSI KONFLIK & KEMAJEMUKAN HORIZONTAL DI ACEH,” *Jurnal Caraka Prabhu* 7, no. 2 (2023), <https://doi.org/10.36859/jcp.v7i2.1927>.

### **(5) Security and Gender Risks**

Women and children are vulnerable to exploitation—especially those in long-term shelters. Lack of privacy, overcrowding, and limited law enforcement create risk of harassment or trafficking.

Toward a Human-Rights-Based and Integrated Policy, scholars argue that transitional models must replace containment-based administration. Four strategic directions emerge:

#### **(1) Adopt a National Refugee Law**

A comprehensive law should institutionalize:

- a. fair status-determination procedures
- b. prohibition on detention of children
- c. conditional work permits
- d. education access
- e. community-based integration
- f. pathways to long-term stay

Such a law aligns with Indonesia's Pancasila values and ensures conformity with international norms.<sup>48</sup>

#### **(2) Create a National Refugee Management Agency**

A single agency with budget allocation and data-sharing across ministries would eliminate institutional overlaps. This aligns argues that refugee protection must shift from ad-hoc humanitarianism to governance-based management.

#### **(3) Empower Local Governments**

North Sumatra case studies show that effective refugee response depends on local capacity: training, funding, and partnerships with mosques, schools, and NGOs. Participatory community programs language training, skills workshops, and cultural events reduce xenophobia and promote coexistence.

#### **(4) Strengthen ASEAN Regional Cooperation**

Indonesia could lead ASEAN in developing a regional burden-sharing mechanism, similar to the EU relocation system. ASEAN members do not need treaty ratification, but can share:

- a. funding
- b. resettlement quotas
- c. maritime rescue
- d. anti-smuggling operations
- e. refugee education centers

This is consistent with Indonesia's diplomatic leadership in human-rights advocacy<sup>49</sup>.

Finally, Indonesia's refugee handling is rooted in humanitarian commitment, yet constrained by legal, institutional, and operational gaps. The North Sumatra case demonstrates systemic weaknesses: work prohibition, education exclusions, data fragmentation, and local social tension. Without legislative reform and regional cooperation, Indonesia will remain a permanent transit state a humanitarian buffer zone rather than a rights-based refuge.

The juridical analysis of refugee protection in North Sumatra reveals a significant regulatory paradox between humanitarian mandates and administrative sovereignty. Although Presidential Regulation No. 125 of 2016 provides a legal basis for refugee management, its implementation at the regional level is hindered by a vacuum in derivative legislation, such as Regional Regulations (Peraturan Daerah). This condition creates administrative ambiguity for the North Sumatra Provincial Government and the Medan

<sup>48</sup> Sinaga and Simarmata, "SEJARAH PENDIDIKAN PEREMPUAN DI TAPANULI UTARA (1868-1945.)"

<sup>49</sup> Bangun, "Tantangan ASEAN Dalam Melakukan Penanganan Pengungsi Rohingya."

City Government regarding the allocation of regional budgets. Consequently, the protection of refugees' fundamental rights remains ad-hoc and entirely dependent on international organizational funding. This legal uncertainty triggers administrative stagnation, preventing any functional integration of refugees into the local socio-legal framework.

The most critical socio-legal impact in the region is the phenomenon of a protracted refugee situation, which undermines both social and security stability. North Sumatra, particularly Medan, has become a saturation point for refugees trapped in the uncertainty of third-country resettlement processes, which have become increasingly restricted globally. Empirically, this condition results in heightened psychological distress, manifesting in frequent public protests and disruptions to public order. Furthermore, the absolute prohibition on formal employment creates a state of total economic dependency; this compels refugees to engage in illegal informal economic activities as a survival mechanism, which inherently conflicts with Indonesian immigration statutes and creates potential for legal friction.

The challenges of social integration in North Sumatra also encompass the potential for horizontal friction fueled by social jealousy between local communities and refugee groups. The presence of refugees in community houses within densely populated areas is often misperceived by local residents as a privileged group receiving material assistance without the obligation to work, amidst the economic hardships of the local populace. This challenge is exacerbated by a lack of strategic communication from authorities in educating the public on the legal status of refugees as vulnerable asylum seekers. Therefore, strengthening inter-institutional coordination within the Regional Refugee Task Force (Satgas Penanganan Pengungsi) is essential to mitigate the risk of social conflict and to formulate policies that balance international humanitarian obligations with the socio-economic stability of North Sumatra.

#### IV. CONCLUSION

This study has shown that Indonesia's approach to refugee protection is characterized by a complex tension between the principles of state sovereignty and humanitarian obligation. Although Indonesia has not ratified the *1951 Convention Relating to the Status of Refugees* or its *1967 Protocol*, it remains morally and constitutionally bound to uphold the principle of non-refoulement, which has attained the status of customary international law.

The enactment of Presidential Regulation No. 125 of 2016 represents an important administrative milestone but fails to provide a comprehensive legal framework. Its focus on procedural coordination identification, temporary shelter, and inter-ministerial cooperation leaves substantive issues unresolved, including the right to work, access to education, and long-term integration. As a result, refugees remain in a legal and social limbo, heavily dependent on international organizations such as UNHCR and IOM.

Empirical findings from North Sumatra reveal that the absence of clear authority and limited local resources impede effective implementation. Refugees experience prolonged uncertainty, socioeconomic exclusion, and inadequate living conditions. While local communities sometimes demonstrate solidarity especially where cultural and religious ties exist social tension occasionally arises when refugees are perceived as economic competitors or as recipients of unequal aid.

Comparative analysis with Malaysia and Thailand highlights potential pathways for reform. Both countries, despite being non-signatories, have established *functional protection systems*: Malaysia tolerates limited employment and informal education through UNHCR partnerships, while Thailand operates temporary protection camps with

humanitarian access. These pragmatic arrangements, though imperfect, underscore the feasibility of balancing sovereignty with compassion through *policy innovation and shared responsibility*.

## V. SUGGESTION

For Indonesia, the suggestion toward a human-rights-based, integrated national system is both a moral imperative and a diplomatic opportunity. Building upon the findings, this research proposes four interrelated strategies to advance refugee protection nationally and regionally:

1. **Legislative Reform:**  
Enact a *National Refugee Law* that codifies definitions, rights, and obligations consistent with international standards. The law should institutionalize *non-refoulement*, clarify procedures for status determination, and provide pathways for limited socioeconomic participation (Simarmata, 2013).
2. **Institutional Coordination:**  
Establish a *National Refugee Management Agency* under the Ministry of Law and Human Rights, supported by an integrated database connecting the Ministry of Foreign Affairs, the Immigration Directorate, and local governments (Setiyono, 2018).
3. **Local Empowerment and Public Education:**  
Strengthen local-government capacity in host regions like North Sumatra through budget allocations, training, and community-dialogue initiatives. Promoting cultural understanding and civic tolerance reduces friction and enhances social resilience.
4. **Regional and Global Collaboration:**  
Indonesia can take a leading role within ASEAN by advocating for a *regional framework on refugee protection* similar to Europe's cooperative mechanisms. Multilateral resettlement programs and financial-burden sharing would align humanitarian action with regional stability.

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