

IN SEARCH OF DURABLE SOLUTIONS FOR REFUGEES IN INDONESIA: A STATE SECURITY AND HUMAN RIGHTS PROTECTION APPROACH

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Abstract: The Indonesian government is experiencing difficulties in dealing with the refugee problem. This is because the number of refugees in the waiting period is increasing and the destination country limits the acceptance quota. Currently, the refugee problem in Indonesia is regulated in Presidential Regulation No. 125/2016. However, its implementation has not been optimal, as it is hampered by coordination and legal compliance factors. The implementation of the Presidential Regulation creates inconsistencies in legal norms with other regulations. Then, some local governments have begun to reject the presence of refugees. They are not willing to prepare shelters for refugees, because it burdens the budget. Currently, the government does not have a long-term solution that can be used to solve the refugee problem in Indonesia. This paper will discuss Indonesia's role in solving the refugee problem by formulating strategic policies from a humanitarian perspective. This article uses socio-legal research with a qualitative approach. Although not a state party to the 1951 Convention, Indonesia has adopted various international laws that protect the human rights of refugees. However, its legal legitimacy is still disputed from the perspective of state security and sovereignty. Indonesia continues to be encouraged to ratify the convention to strengthen the promotion and defense of refugee rights. In fact, ratification can be a quick way to bridge the gap between international and domestic legal frameworks in addressing refugee issues in Indonesia. However, the government cannot wait to resolve this issue until the convention is ratified. There are several long-term solutions that can be practiced to address the refugee issue, including: pushing for human rights instruments to implement the basic rights of refugees; re-establishing the refugee issue as part of the National Human Rights Action Plan; revising Presidential Regulation No. 125/2016; and formulating a new policy with Indonesia, UNHCR, and giving greater authority to IOM to empower refugees while they wait to enter the destination country.

Keywords: Refugees, durable solutions, state security, Human Rights, Indonesia.

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1. INTRODUCTION

The issue of international refugees and asylum seekers has become a common topic for the international community. This is because this problem has crossed the territorial limits of a country and entered the territory of other countries in large numbers. Their presence is actually not a completely new phenomenon (Kang, 2021). In addition to the issue of climate change and terrorism, the issue of refugees and asylum seekers has become a global problem.

Refugees have been a problem since around the 20th century. The issue originally materialised during the Russian War (during the Russian Revolution), specifically when Russian refugees poured into Western Europe. Refugees are persecuted because their rights are denied in their home country. Additionally, they are looking for property or other nations to move to, places that are undoubtedly far from the repression of human rights (Kranrattanasuit, 2023). The First World War, which is regarded as the pinnacle of the nation-building process, is when the phrase and meaning of refugees first originated. It was projected that there were at least 1.5 million refugees at the time. Of these, 500,000 Armenian refugees were uprooted as a result of the killings and their forcible repatriation to Turkey. In the Middle East, the former Soviet Union, and other western nations, displaced individuals look for sanctuary (Oduyayo, 2018).

When the League of Nations selected Fridtjof Nansen, a Norwegian explorer of Africa, as the high commissioner for Russian refugees in Europe in 1921, the international community's efforts to address refugee issues were launched. Since these refugees lack identity documents serving as proof of their identity, they are unable to engage in some very basic legal actions, such as being unable to get married, enter into contracts, or travel. This issue ultimately become problematic. International treaties, such as those from 1928, 1933, 1938, 1939, and 1946, were drafted to address this. The 1951 Conference on the Status of Refugees, which was supplemented by the 1967 Protocol, served as the United Nations' continuation of these agreements (Kang, 2021).

The International Refugee Organisation (IRO) was founded by the UN with the mission of defending refugee groups that had been acknowledged by the LBB following the collapse of the LBB and the creation of the UN. The IRO's primary goal at first was repatriation, but as political tensions increased and finally led to the cold war, the focus of the strategy turned to resettlement. Later on, the UNHCR took over from the IRO as the primary refugee agency.

The initial step taken by UNHCR was to enter into the 1951 Convention on the Status of Refugees. The 1951 Convention is the starting point for any discussion on the issue of refugees. This convention is one of two other refugee conventions, namely the 1967 Protocol. In some respects this convention is seen as opening the way because it is the first time in history that a convention has provided a general definition of a refugee (Syahrin, 2021).

The 1951 Convention on the Status of Refugees, which was created at the conclusion of World War II, focuses on individuals who are outside the territory of their country of origin and become refugees as a result of events that took place in Europe before to January 1, 1951, and the concept of refugee that is outlined in it. In relation to It was judged necessary to broaden the 1951 Convention's time and geographic scope as the refugee problem worsened in the late 1950s and early 1960s (Oduyayo, 2018). As a result, during its creation, the 1967 Protocol, an supplementary protocol to the convention on the status of refugees, was created and approved.

Indonesia is one of the nations that must deal with the issues posed by foreigners seeking asylum and refugees who enter and stay over on Indonesian soil. Indonesia is the final stage for the surge of asylum seekers and refugees travelling to Australia, even though it is not a destination country due to its geographic location. In 1979, Indonesia faced a challenge with a sizable influx of refugees and asylum seekers for the first time. The Indo-China War between the People's Republic of China and Vietnam at the time resulted in the arrival of refugees and asylum seekers from Vietnam in Indonesia. Around 170,000 refugees and asylum seekers came to Indonesia to seek refuge (Taylor and Rafferty, 2010). They seek protection by land and by sea, so they are known as boat people.

In 1999, about 250,000 refugees from East Timor also approached Indonesia who entered the territory of East Nusa Tenggara. The influx of refugees was due to violence, confiscation of property and burning of houses by pro-integration militias in the East Timor region. In addition, countries from the Middle East, Central Asia and South have also visited Indonesia (Hugo, et.al., 2017).

According to information from Directorate General Immigration, Indonesia, as of July 11, 2023, there were 12.781 refugees in Indonesia. A total of 6,522 people live in official shelters, and the rest are independent refugee status. Based on their nationality, 6,703 people came from Afghanistan, 1,359 people from Myanmar, 1,260 people from Somalia, 614 people from Iraq, 489 people from Sudan, and the remaining 2,356 came from various other countries. The data consists of 70% adults, 28% children, and 2% parents (Directorat General of Immigration, 2023).

Indonesia has not joined the 1951 Convention and 1967 Protocol as a party. As a result, Indonesia lacks the power to give Refugee Status Determination (RSD). So that the UNHCR (UN High Commission for Refugees) can regulate refugee-related matters in accordance with the mandate it gets based on the UNHCR statutes of 1950. Since the 1951 Convention has become *ius cogens* and no refugee can be sent back to a place where his life or freedom is in danger, all nations, including those that have not ratified it, must uphold the standards of refugee protection that have been incorporated into general international law.

A significant international agreement that defines the legal parameters for refugee protection and state obligations towards them is the 1951 Convention Relating to the Status of Refugees. Its relevance goes beyond treaty law; it reflects the core values of

justice, solidarity, and humanity. The Convention establishes the requirements for who can be considered a refugee, their rights, and the responsibilities of nations to offer protection, non-refoulement, and access to basic services (Allain, 2001). The principles contained in the Convention are of utmost importance and apply to all states, regardless of their ratification status, as *jus cogens*, or peremptory rules of international law. They represent global principles that call for universal observance and respect, making it both morally and legally required of states to protect the rights and dignity of refugees (Farmer, 2008).

The 1951 Convention's *jus cogens* status forbids any deviation or reservation that would conflict with the fundamental ideas of the agreement, placing an unwavering obligation on governments to abide by its provisions (Costello and Foster, 2016). This improved legal standing emphasises how fundamental human rights are unalienable and how refugee protection is non-negotiable. The requirements of *jus cogens* require states to abstain from actions that go against the core principles of the Convention, such as unjustified detention, forced return to persecution, and discrimination on the basis of refugee status. The acknowledgement of refugee rights as preeminent standards signifies a common dedication to maintaining legal order, safeguarding human dignity, and guaranteeing the international community's joint accountability for safeguarding the most susceptible segments of the populace (Roman and Tania, 2019).

Problems emerge when the government is unresponsive while dealing with refugees or asylum seekers since Indonesia has not yet ratified international agreements concerning refugees and asylum seekers, especially the 1951 Convention and 1967 Protocol. UNHCR determines status, which is a lengthy process. As a result, there were signs of human rights breaches throughout the waiting period, such as abusive behaviour, including physical assault, the imprisonment of asylum seekers for an extended period of time without justification, and harsh interrogation techniques (Syahrin, 2017). Governments may also fail to offer asylum seekers and refugees proper protection, leaving them vulnerable to racial and xenophobic violence.

The National Commission on Human Rights claims that if Indonesia ratifies it, at least some benefits will accrue to Indonesia. The first benefit is that the government can decide for itself what status refugees and asylum seekers have. Second, in order to improve national capability for handling refugees and asylum seekers, the government may receive aid and collaboration from abroad. Third, stop the pillion who is driving with a different intention. The pillion is frequently connected to illegal activities like human trafficking (Sumarlan, 2019).

The Indonesian government's ratification of the 1951 Convention and 1967 Protocol is crucial for ensuring the protection, fulfilment, and respect of the human rights of refugees and asylum seekers. Additionally, the government's impasse in dealing with the increasing number of refugees and asylum seekers may be resolved by efforts to ratify these international human rights agreements. The action of ratifying the 1951 Convention and the 1967 Protocol gives the Government of Indonesia a wider opportunity to be directly involved and contribute in accordance with the handling of refugees and asylum seekers on a national level.

Indonesia faces a number of problems related to the refugee issue, which involves people fleeing conflict, violence and persecution in their home countries. The following are several problems related to the refugee issue in Indonesia: (1) Unclear Legal Status. Many refugees in Indonesia do not have clear legal status. This may result in uncertainty regarding their rights and obligations, including the right to employment, education, and access to health services; (2) Overcrowded Shelter Centers. The capacity of holding centers for refugees in Indonesia is often limited, resulting in uncomfortable conditions and health risks. Some refugees live in temporary holding centers, while others live in local communities; (3) Challenges of Access to Education; (4) Some refugee children face difficulties in accessing formal education. This could be due to an inability to pay school fees, limited school capacity, or language challenges; (5) Health Challenges. Refugees may face challenges in accessing adequate health services. Health facilities in holding centers are often limited, and access to health services in local communities may also be a problem; (6) Uncertain Work and Livelihood. Refugees in Indonesia often face difficulties in finding decent and safe work. Some of them are forced to work in conditions that are unstable and may not suit their skill; (7) Uncertainty of Status and Repatriation. Some refugees may face uncertainty regarding their status and whether they will be able to return to their home country or obtain refugee status in Indonesia (Syahrin, et al., 2022).

The Indonesian government is working with international organizations, such as UNHCR, and non-governmental organizations to address some of these problems and provide assistance and protection to refugees. Nevertheless, these issues continue to be the focus of attention in efforts to improve conditions and protection for refugees in Indonesia.

The 2016 Presidential Regulation Number 125 of 2016 Concerning the Handling of Refugees from Abroad, issued by President Joko Widodo, grants legal recognition to foreign refugees who have been granted refugee or asylum status by UNHCR Indonesia. However, civil society organizations in Indonesia criticized the regulation for using a security approach, not human rights. In addition, there has been no contextual change to this seven-year-old regulation. The lack of protection for refugees' human rights in these regulations actually makes it difficult for the government to implement these regulations, thereby worsening the situation for protecting the rights of refugees and asylum seekers in Indonesia (Suyatna, et al., 2021).

In addition, the handling of refugee issues must be examined from a security and sovereignty perspective (Benhabib, 2020). When considering refugee cases, a humanitarian viewpoint emphasises the moral obligation to shield and support marginalised people who have been compelled to leave their native countries because of political unrest, violence, or conflict. Humanitarian principles require that we all do our part to guarantee that their fundamental needs are satisfied and that their human rights be upheld (Tazreiter, 2006). The sovereignty approach, on the other hand, places more emphasis on a state's right to control its own territory while taking economic, social, and national security concerns into account. States frequently put their sovereignty before humanitarian concerns when handling refugees, creating a difficult rift between states' rights to defend their own interests and their moral duty to assist the less fortunate. Therefore, ensuring effective refugee protection while upholding state sovereignty is a problem that calls for a balanced

and comprehensive strategy to reconciling the humanitarian and sovereignty viewpoints in the handling of refugee situations (Kleist, 2018). Therefore, a durable solution framework is needed to overcome this problem by comparing best practices in several countries with the aim of obtaining comprehensive thinking.

2. RESEARCH METHOD

The method used in this research is social-legal research with a qualitative approach. This research was carried out by examining the situation based on statutory and empirical approaches related to existing phenomena. Data collection is carried out through literature reviews, existing legal materials, and social facts appropriate to the topic. Meanwhile, the analysis technique is carried out by constructing legal arguments using argumentative techniques (Tan, 2021).

3. DISCUSSION

3.1. Fundamental Rights of Refugees in the 1951 Convention and 1967 Protocol

Minimum requirements for the care of refugees, including their fundamental rights, are outlined in the 1951 Convention and 1967 Protocol. The Convention specifies provisions relating these refugees' rights as well as their legal status. Get a job and apply for welfare, get identification documents, travel documents, pay taxes, and transfer his assets to another nation where they were received with the intention of returning are a few of them (Darmawan and Heriyanto, 2023).

Expulsion and forced returns of people having refugee status are forbidden by the Convention. Article 33 of the 1951 Convention states this. No state party may deport or return (return) refugees for whatever reason to the border region where their independence or life may be in danger due to considerations of race, religion, nationality, members of a particular social group, or political opinions, according to Article 33 of the Convention. The 1951 Convention's Article 34 addresses the topic of naturalisation and integration for refugees.

Other clauses in Article 34 deal with the freedom of travel, housing, social security, education, and access to courts. The main provisions of the 1951 Convention can be divided into two categories: (a) provisions defining the status of non-refugees, their rights, and obligations; and (b) provisions defining who is a refugee, who is no longer a refugee, and who is a refugee from refugee status.

The 1951 Convention and the 1967 Protocol together govern the following clauses:

- a. The major goal of this convention is to establish a legal system that ensures the safety of a group of persons who are in a precarious position. According to Article 1 of the convention, a person is considered a refugee if they are outside of their country of citizenship due to a well-founded fear of being

persecuted due to their race, religion, nationality, membership in a particular social group, or political opinion and are unable to obtain or do not want to obtain the opportunity to protect their country because of the fear earlier or if they are not citizens and are outside of the country where they typically live before.

Therefore, a refugee is someone who has left their country of origin or usual residence and is unable to or does not want to receive the protection from that country that is normally their right due to a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group, or political beliefs. The UNHCR participates in this process if the country concerned requests it, allowing it to offer its many years of experience to the government concerned regarding the determination of whether a person is eligible for refugee status. Each country concerned determines whether a person is eligible for refugee status in accordance with its own established procedures that are consistent with international standards, based on the criteria contained in Article 1 of the 1951 Convention.

- b. According to Article 1C of the 1951 Convention, a person may lose his status as a refugee if: (a) having willingly reclaimed the chance to be protected by his country of citizenship; (b) after losing it, he voluntarily gains it back; (c) acquiring new citizenship and taking use of the protections offered by the nation where he does so; (d) voluntarily relocated outside of a country he fled due to persecution, or voluntarily relocated in a previously abandoned country; (e) because the circumstances that led to his registration as a refugee have changed, he can no longer decline to accept protection for his country of nationality; (f) Despite being stateless, he was able to return to his country of origin because the conditions that rendered him a refugee were no longer there.
- c. The 1951 Convention also addressed circumstances in which individuals were denied refugee status while possessing certain qualities. These individuals are divided into three sections. People who have received protection or aid from UN organisations or organisations other than UNHCR make up this group. The United Nations Relief and Works Agency, also known as UNRWA for Palestinian refugees, provides help to Palestinians in numerous Middle Eastern countries, for instance.
- d. Includes those who are not thought to require international protection. This clause refers to individuals who have been accepted by a nation and are now allowed the majority of the rights that are often reserved for the nation's citizens, in this case with the exception of legal citizenship. Regardless of their nationality, people of German ancestry from Central Europe and the former Soviet Union are all protected by the German constitution, hence they are not considered refugees under the 1951 Convention.
- e. Groups of people who are regarded to be eligible for international protection because they have previously committed major non-political crimes, crimes against peace, war crimes, or crimes against humanity outside of the country of refuge. either reside there as refugees or have engaged in behaviour that is at odds with the goals and objectives of the United Nations.

- f. The agreement includes detailed provisions about refugee rights to ensure the legal status of refugees in nations that grant asylum. Refugees are accorded the same minimum standard of rights that are accorded to foreigners generally, barring any specifically indicated exceptions to this rule in the convention. Because a refugee does not get protection from his country of citizenship, he is also granted specific privileges that are typically not granted to foreigners.

The following are the rights of refugees: (a) the right to be kept from leaving a nation where they fear persecution; (b) the right to remain in a country, except special circumstances such those involving public safety and national security; (c) Due to the circumstances that force refugees to flee their country of origin, it may not be possible for them to enter a country that has the potential to grant them asylum in the typical way, such as with a valid passport or entry visa. As a result, they may be exempt from penalties for entering a country's territory illegally that is a party to the Convention. But normally, refugees may not be subjected to such illegal admission or presence; (d) Participating nations are required by law to give refugees living on their soil the freedom to choose where they will live and to move around as they like, in conformity with the rules that apply to foreigners in general under the same circumstances; (e) both religious and legal freedom are guaranteed; (f) travel and identification documents; (g) a right to employment and housing; (h) availability of formal education; (i) help from the government, labour laws, and social security.

- g. Refugees are foreigners who are in a very vulnerable situation. This does not make them escape from their obligations as people living in other countries. Refugees have obligations to the country where they get asylum, and must comply with existing laws and regulations, as well as be authorized to take actions taken by the authorities for the maintenance of public order.

Indonesia's ratification of the Refugee Convention has great urgency because it involves the state's obligation to protect the rights of refugees. To demonstrate its adherence to international humanitarian standards and protect the rights and dignity of refugees living on its territory, Indonesia ought to ratify the Refugee Convention. After ratification, Indonesia will have a clear legal framework to support and protect refugees, making sure they get the help they need and are shielded from discrimination and persecution. Indonesia can exhibit its desire to work with the international community to address global issues, promote human rights, and build regional stability by ratifying the Convention. Ratification will help boost regional and global systems for refugee protection and assistance and improve Indonesia's standing as a responsible member of the international community. In general, Indonesia's principles and interests in advancing peace, stability, and respect for human rights both at home and internationally are aligned with the ratification of the Refugee Convention.

The Refugee Convention is an international agreement agreed by a number of countries to establish minimum protection standards for refugees (Goodwin-Gill, 2014). The reasons are as follows, (1) Legal Protection: Ratification of the Refugee Convention provides a legal basis for countries to provide protection to refugees. These rights include

basic rights such as the right not to be evicted, the right to work, the right to education, and the right to health. (2) International Solidarity: By ratifying this convention, Indonesia shows its involvement and commitment to international solidarity in dealing with the refugee issue. Countries that ratify this convention work together to tackle the refugee problem and share responsibility. (3) Improved Country Image: Active participation in the protection of refugees can improve a country's international image. This can create trust and strengthen friendly relations with other countries. (4) Refugee Empowerment: This Convention is very important in providing rights and protection to refugees, helping them build new lives and make positive contributions to society. This is in accordance with human rights values. (5) Addressing Common Challenges: Refugees often face complex challenges, and international cooperation recognized by the convention can help countries to address common problems. This includes financial assistance, exchange of information, and coordination of actions between countries. (6) Progress in Handling the Refugee Crisis: Ratification of the Refugee Convention can stimulate countries to develop more effective policies and mechanisms in dealing with the refugee crisis. This includes the establishment of special institutions, legal regulations, and procedures to provide protection to refugees. By ratifying the Refugee Convention, Indonesia expressed its commitment to comply with international standards in the protection of refugees and supports joint efforts to address the global refugee problem.

3.2. The Polemic of Indonesia's Position in Dealing with Refugee Problems

The number of asylum seekers and refugees continues to experience a significant increase. Indonesia is only used as an excuse so they can stay and settle down without having to go to the destination country. They are aware that Australia is currently very selective and firm in rejecting the presence of immigrants, both legal and illegal. Many of them then changed their destination from Australia to Indonesia. Therefore, asylum seekers and refugees take advantage of Indonesia's weak position, in order to enter Indonesian territory on the basis of human rights.

The influx of asylum seekers and refugees into Indonesia has started to raise concerns and inconveniences. It also poses a threat to social order, political stability, and even personal safety. They are extremely vulnerable in terms of status, the economy, and psychology, making them easy prey for international terrorist networks as well as networks engaged in human trafficking, drug trafficking, and people-smuggling. This could have an effect in addition to several Indonesian issues.

There are four attractions for refugees to be in Indonesia to their destination in Australia (Syahrin, et al., 2022). First, Indonesia is the closest country as an illegal route for foreign immigrants. Second, the sovereignty of Indonesian waters which still has many gaps and is not fully maintained. Thus, foreigners can easily enter without immigration checks. Not to mention the problem of government officials who have contributed to the entry of asylum seekers illegally. Third, the existence of UNHCR is an attraction for foreign refugees who have money. Fourth, both Indonesian citizens and foreigners, even officials who make asylum seekers and refugees a business field (Missbach and Cameron, 2022). Based on the data I got from refugees in the Kalideres area, at least they

have to pay around US\$ 5000 - 10,000 per person to get to Australia by first transiting to Indonesia. They handed over the money to a group of agents suspected of being a people smuggling syndicate.

The refugee problem is related to the application of the principle of non-refoulement. This principle becomes the rule of law that underlies the existence of refugees in a country. Article 33 paragraph (1) of the 1951 Convention states that every country must respect this principle as a coercive norm (*jus cogens*) and cannot be reduced by any reason.

The 1951 Convention's Article 33, Paragraph 1 regulates the concept of non-refoulement, but its applicability is not universal. The national legal sovereignty of each nation places restrictions on the non-refoulement principle. The non-refoulement principle does not apply if the refugees threatens national security or upsets public order in the nation where they seeks asylum, according to Article 33 paragraph (2) of the 1951 Convention.

However, a refugee who there are reasonable grounds to believe is a danger to the security of the country in which he is, or who, having been found guilty by a final judgement of a particularly serious crime, constitutes a danger to the community of that country, may not claim the benefit of the present provision (Syahrin, 2018).

Why would Indonesia, which is not a party to the convention, do the opposite if a state party to the convention can expel refugees? The application of the principle of non-refoulement for refugees and asylum seekers in Indonesia, which has been the basis for consideration, cannot be fully justified without referring to the human rights component. However, in fact, this principle must be prioritized and applied because of peremptory norms (*jus cogens*) and respect for human rights (Tobing, 2021).

Universal human rights does not mean that they must be enforced, but must pay attention to the aspects of boundaries that are recognized by regional law. Indonesia is not a state party to the 1951 Convention, so legally there are no norms binding Indonesia to comply with the principle of non-refoulement (Syahrin, et al., 2022). Article 28G paragraph (2) of the 1945 Constitution states that every person has the right to be free from torture or treatment that degrades human dignity and has the right to obtain political asylum from another country. This regulation is used as a legal basis for several parties to pressure the government to be proactive in dealing with asylum seekers and refugees who enter and live in Indonesia. However, it must be understood that these legal norms are not binding. This provision cannot be interpreted as a state obligation to grant asylum to someone who is being persecuted in their country of origin. Indonesia has only declared that the state recognizes the right to political asylum, but is not coercive to implement it in its national law. Moreover, until now Indonesia has not ratified the 1951 Convention and the 1967 Protocol, so whether Article 28G of the 1945 Constitution is adhered to or not will not have any implications.

Admittedly, the presence of asylum seekers and refugees in Indonesia has threatened state sovereignty and disrupted public order. The existence of differences in culture, ideology, and political views causes their existence to be detrimental to Indonesia

as a transit country. Even though it has been explained that none of the articles in Chapter XA of the 1945 Constitution are absolute. Everything can be limited and reduced if it turns out that the enforcement of these human rights actually threatens state sovereignty, including in this case the application of the principle of non-refoulement to asylum seekers and refugees.

Article 28J of the 1945 Constitution explains that:

- (1) Everyone is obliged to respect the human rights of other people in the orderly life of society, nation and state;
- (2) In exercising his rights and freedoms, everyone has the obligation to comply with the restrictions stipulated in the law for the sole purpose of guaranteeing recognition and respect for the rights and freedoms of others and to fulfill just demands in accordance with moral considerations, values religious values, security, and public order in a democratic society.

Based on these provisions, there are six limits to the application of human rights in Indonesia, namely: (a) Law; (b) the human rights of others; (c) the interests of society, nation and state; (d) morality; (e) religious values; (f) security and public order. It is these limitations that must be considered in applying the non-refoulement principle. If it turns out to be causing more harm to Indonesia, then there is no reason to expel asylum seekers and refugees from Indonesia.

Indonesia has the principle of selective immigration legal policy which is based on expediency. This principle is regulated in Part One of the Explanation of Law Number 6 of 2011 concerning Immigration, which means that only foreigners who are beneficial to the nation can come and live there. This principle places great emphasis on the following rules: (a) only useful foreigners may enter and reside in Indonesian territory; (b) only foreigners who do not endanger security and public order may enter and reside in Indonesian territory; (c) foreigners must comply with Indonesian legal requirements; and (d) foreigners entering and staying in Indonesian territory must be in accordance with their aims and objectives.

According to this principle, only foreigners can contribute to the welfare of the populace, the nation, and the state, as long as they do not jeopardise security and law and order, and they do not harbour animosity towards Indonesian citizens who wish to enter or leave its borders. Even under another view, these foreigners' movements must be consistent with state ideology and not pose a risk to the country's unity.

Typically, all foreigners entering Indonesian territory must have current, valid identification cards and visas. Under the guise of the non-refoulement principle, asylum seekers or refugees do not get absolute guarantees to remain in Indonesia when coupled to the principle of selective immigration policy. Additionally, when implementing this selective policy, care must be taken to strike a balance between the security approach and the prosperity approach. In order to fulfil its obligations and perform its powers, immigration must give consideration to state sovereignty and security (Sultoni and Suryokumoro, 2013).

The next dialectic is what is the legal position of Law Number 37 of 1999 in handling refugees in Indonesia? Can this law be used as a legal basis for recognizing the principle of non-refoulement for refugees? This regulation determines that the regulation of asylum seeker and refugee issues is regulated in a Presidential Regulation. However, this regulation had never been formed until the enactment of Presidential Regulation Number 125 of 2016 as a mandate from Law Number 37 of 1999. This means that for almost 17 years, Indonesia has not had a regulation that specifically and comprehensively regulates this issue. Then in 2011, the Immigration Law came into effect which divided foreigners into legal and illegal. This regulation does not regulate the protection and handling of asylum seekers and refugees from abroad. So the legal debate regarding the legality of both becomes a complicated matter. The immigration legal regime does not recognize their existence, but the foreign policy legal regime recognizes their rights as part of the subject of international protection.

From the explanation above, it is clear that Indonesian immigration law does not consider the principle of non-refoulement for refugees and asylum seekers. Both should be treated the same as foreigners in general. Deportation and criminal immigration investigations must be carried out if refugees and asylum seekers enter Indonesian territory illegally. In addition, Indonesia has not joined the 1951 Convention, so international law applicable in the convention cannot replace domestic law (such as immigration law). The concept of non-refoulement cannot be applied to refugees and asylum seekers in Indonesia using a legal substance approach (Legal System Theory) because this would violate Indonesian immigration law.

In handling asylum seekers and refugees, national interests must take precedence over global interests. There is no country above country. All countries have the same position, because they are limited by the sovereignty of their respective territories. Indonesia must see how Malaysia, Thailand, the United States and Australia treat asylum seekers and refugees who try to enter their country's territory. These countries take a sovereign approach by optimizing border operations to prevent the entry of illegal immigrants. Malaysia and Thailand are not state parties to the 1951 Convention (Davies, 2008). So their stance is clear, namely rejecting the presence of asylum seekers and refugees. These two countries show a consistent attitude that state sovereignty cannot be intervened by international institutions.

Australia and the United States also displayed the same thing. Despite being state parties, the two nations are currently firmly opposing the entry of refugees and those seeking asylum through varied border regulations. With his immigration policies, Donald Trump has continually rejected the presence of those seeking asylum. Nevertheless, Australia would sooner violate the 1951 Convention's Article 33, Paragraph 1, on the prohibition of refoulement than jeopardise its security or national sovereignty.

Despite not being a state signatory to the 1951 Convention, the Indonesian government adopted a different stance and instead used the principle of non-refoulement (Syahrin, 2017). For several reasons, Indonesia adheres to the non-refoulement policy. Indonesia is a signatory to a number of international human rights accords while not

being a party to the 1951 Convention. These safeguard the rights of refugees and forbid their repatriation to their home countries, when they risk persecution, torture, or grave human rights abuses. Respecting the non-refoulement principle is a sign of Indonesia's adherence to humanitarianism and international law. Indonesia assures that it does not add to the suffering of vulnerable individuals seeking sanctuary within its territory by adhering to the concept of non-refoulement. This demonstrates Indonesia's commitment to upholding the rights and dignity of refugees and asylum seekers, irrespective of their origins, country, or ethnicity. In the end, non-refoulement encourages a compassionate and human rights-based approach to refugee protection, which supports Indonesia's attempts to advance regional stability and cooperation. As a responsible member of the international community, it fortifies Indonesia's standing and advances the wider objective of resolving forced displacement and the refugee problem in the area and globally.

3.3. Indonesia's Urgency to Ratify the 1951 Convention and the 1967 Protocol

Countries that seek to become parties must fulfil a number of requirements outlined in the section describing the rights and obligations of state parties before the 1951 Convention and 1967 Protocol can be ratified. Indonesia must take into account its domestic issues in addition to these needs. The author believes that Indonesia delayed the ratification of this agreement for a number of internal reasons. Indonesia must consider factors such as its capacity to accommodate refugees and asylum seekers, possible socio-economic security problems, and Indonesia's national characteristics as a democratic country that upholds human rights principles.

In addition to the factors mentioned previously, legal regulations must also be taken into account. Presidential Regulation Number 125 of 2016 cannot answer the current refugee problem. This regulation still needs improvement so that the interests of all parties can be accommodated. Then, coordination between institutions in the field is hampered due to the egocentrism of stakeholders. For example, local governments often refuse to assume additional responsibilities related to the arrival of refugees in areas they control. The striking differences between local culture and refugee culture have the potential to trigger public unrest. Apart from that, there will be a new burden if the assimilation process occurs between refugees and the local population because children resulting from assimilation are not included in repatriation or resettlement (Syahrin, et al., 2022).

Due to its strategic location between two seas and two continents, Indonesia serves as a transit country for refugees from the Asian continent, the majority of whom travel on to the Australian continent. The refugees who come have various backgrounds or goals. There are refugees who come to Indonesia for economic reasons or purely in search of life safety (avoiding armed conflict and human rights violations) (Kranrattanasuit, 2023). The economic crisis which has resulted in a decline in the level of welfare and security in many countries, and an increase in the poverty rate as well as globalization and access to information facilitates the ongoing evacuation, especially those carried out illegally (illegally). The limited security of Indonesia's maritime borders increases the chances of illegal refugees entering this vast archipelagic nation.

The 1951 Convention on Refugees outlines a number of fundamental liberties and rights that refugees urgently require. These rights and obligations must be carried out by all parties to the Convention. There are stages that must be carried out by the state party. First, refugees who enter a country without their complete documents will not be penalized, as long as they report themselves to the local authorities as soon as possible. Usually in every country there is its own processing center which is not mixed with immigration quarantine even though both are managed by the same agency that specifically handles foreigners. Second, there is a prohibition for parties to return refugees or those who claim to be asylum seekers to their country of origin by force. This refers to the non-refoulment principle, which states parties are obligated to uphold, which prohibits sending refugees back to their place of origin if they fear for their safety and freedom.

A law governing the treatment of refugees is required in order to uphold their rights and obligations. State parties that are participants in the 1951 Convention are required to make the majority of this rule. Law No. 6 of 2011 Governing Immigration is in effect despite the fact that Indonesia is not a signatory to the 1951 Convention. In regards to the provisions for foreigners, it is stated in Article 1 Paragraph (9) of Law Number 6 of 2011 Concerning Immigration that foreigners are those who are not Indonesian citizens. A refugee or asylum seeker who refers to Law Number 6 of 2011 concerning Immigration is still considered to fall under the broad group, which is represented by the term “foreigners.” Indonesia has not accepted the 1951 Convention as a result, as there are still national legal frameworks in place that govern refugee issues.

The 1951 Convention was the first international agreement to address the most crucial facets of a refugee’s existence, making it crucial to ratify. The agreement also provides a minimum set of rights that must be granted to refugees, including receiving the same treatment as other foreign nationals in the host country and, in many situations, the same treatment as native-born citizens. The bare minimum of rights acquired includes: (a) the right not to be repatriated to a country where the refugees have reason to fear persecution (Article 33); (b) the right not to experience expulsion, except in certain very clear circumstances (Article 32); (c) exemption from the penalty for illegally infiltrating a State Party to this Convention (Article 31); (d) right to work (Article 17); (e) the right to own a house (Article 21); (f) right to education (Article 22); (g) the right to obtain public assistance (Article 23); (h) the right to freedom of religion (Article 4); (i) the right to obtain legal services (Article 16); (j) freedom of movement within the territory of the state (Article 26); (k) the right to obtain an identity card (Article 27).

In fact, Indonesia still finds it challenging to ratify the 1951 Convention because there are several articles that are thought to be very difficult to implement. If Indonesia becomes a state party to the 1951 Convention, then Indonesia must implement the provisions stipulated in the 1951 Convention as in the article mentioned above in order to achieve the rights of refugees. The Indonesian government is taking into consideration Articles 17 and 21, which deal with the right to work for refugees and the right to a house, respectively. The Contracting State shall give to refugees lawfully..., with respect to the right to engage in wage-earning employment, as stated in article 17. Given that Indonesia is a developing nation with a high rate of unemployment and this article’s requirement that

states parties to the Convention provide work for refugees, it is thought to be too onerous for the Indonesian government. Additionally, the per capita income of the Indonesian population is also deemed insufficient.

Apart from that, Article 21 contains “As regards housing, the Contracting States, in so far as the matter is regulated by laws or regulations or is subject to the control of public authorities, shall accord to refugees legally staying in their territory treatment as favorable as possible and, in any event, not less favorable than that accorded to aliens generally in the same circumstances.” There is a clause regarding housing for refugees in that article, and it is likewise seen to be exceedingly difficult for the Indonesian government to implement. In addition to Indonesia’s high poverty rate, the country still has many underdeveloped areas that require proper infrastructure from the central government. As a result, any policies the government adopts to provide facilities in the form of homes for refugees are wholly inappropriate and still far from Indonesia’s status as a developing nation.

Other sections of other 1951 Convention articles are still applicable if applied by the Indonesian government, however if implemented, they may also result in inequalities for Indonesian society. These clauses are found in Article 4’s right to freedom of religion as well as Article 22’s right to education.

The Indonesian government can genuinely make this happen by implementing the right to education for refugees outlined in Article 22. Some of the refugee children in Cianjur, West Java, have been able to receive a rudimentary education there, although only up to the level of elementary school. However, the policy to provide education for refugees up to secondary level or tertiary level is highly unlikely to be implemented, bearing in mind that there are also very few Indonesians who can pursue higher education, moreover the education rate is quite expensive (Missbach, 2014).

The Indonesian government has the authority to carry out the provisions of Article 4 relating to refugees’ rights to freedom of religion, but there are a number of factors to take into account before doing so. First of all, Indonesia only recognises six different religions. The Indonesian government is concerned that if these provisions are implemented and there are refugees who follow a religion or belief that Indonesia does not recognise, there may be conflict between religious communities.

There are also non-judicial provisions which are taken into consideration that the Indonesian government has not ratified the 1951 Convention. Several parties did not want Indonesia to have to ratify the convention (Tobing, 2021). In general the arguments of the parties were that first they argued that the 1951 Convention was an old product, because the convention was signed in 1951 and at first the convention was made only to deal with events before January 1, 1951 that happened in Europe, the 1951 Convention emphasized more on dealing with the problem of residues from World War II .

Then there is the opinion that the complexity of the flow of irregular population movements or what is commonly called irregular migration, and the rules contained in the 1951 convention are considered insufficient or no longer sufficient (Kristin and Dewi,

2021). Many other countries consider why they should ratify the convention and use a legal framework that has been largely abandoned. In addition, the 1951 Convention is no longer able to provide a solution to the current complexity of illegal migration, especially the case of refugees in Indonesia.

There are also many cases of refugees who leave their country solely because of economic problems, then they move to another country illegally and they claim they are asylum seekers and they state various reasons so that they get mercy from the country they are going to or the country they are traveling to. skip, while the 1951 Convention does not set up in that direction.

Then on the other hand, the current system in Indonesia, although not yet formally legal, is categorized as Indonesia being able to respect the main principles contained in the 1951 Convention, namely the principles of non-refoulment, non-criminalization, and non-discrimination. According to international rules, at least Indonesia has respected these three main principles. In essence, the Indonesian government does not return them to their country of origin (Listriani and Kadir, 2020). Indonesia does not punish those who commit immigration violations, does not discriminate against them, or discriminates against them among refugees and asylum seekers.

When it comes to legal protection for refugees, one of the most fundamental safeguards is the ability to prevent their arbitrary return to nations where they run the risk of persecution. This idea, also referred to as the non-refoulement principle, is frequently cited as the cornerstone of global refugee protection. The 1951 Convention's Article 33, paragraph 1 provides a detailed explanation of this right.

None of the Contracting States shall expel or return a refugee in any way to the borders of the territories where his life or freedom would be threatened by reason of his race, religion, nationality, membership of a particular social group or political opinion.

The fundamental tenet of refugee law, as stated in Article 33 of the 1951 Convention, bans the state from deporting or sending a person back to their place of origin if doing so will put their life and freedom in danger.

The author argues that if Indonesia applies the principle of non-refoulement, it will affect the stability of the country's sovereignty. Taking in foreign refugees could provide Indonesia with a number of difficulties and risks related to social, economic, and security concerns. Resources and infrastructure are under pressure, particularly in places where there is a high concentration of refugees. This could worsen already-existing conflicts and socioeconomic inequality. The flood of refugees may exacerbate anti-immigrant emotions and xenophobic views in several spheres of society, resulting in social unrest and tensions amongst communities. Arrivals of refugees may also bring security problems, such as possible infiltration by criminal organisations, human trafficking rings, or extremist organisations preying on weaker segments of society.

For the implementation of the principle of non-refoulment for refugees who are in transit in Indonesia, it can be seen that the Indonesian government still provides opportunities for refugees to remain in Indonesian territory, especially in the process of determining the status carried out by UNHCR. The process of granting status and finding a third country for refugees does take quite a long time, but the Indonesian government also does not repatriate these refugees. From the actions taken by the Indonesian government, the Indonesian government has been able to implement the non-refoulment provisions of the 1951 Convention (Prabaningtyas, 2019). Though many other rights have not been realised and are still challenging to put into practise, it is crucial to note that the Indonesian government has been able to uphold the three most crucial principles of the 1951 Convention, namely not to repatriate (non-refoulment), non-expel (non-expulsion), and non-discrimination.

3.4. Comparison of Refugee Handling Laws in Several Countries

3.4.1. Australia

Australian rules for handling cases of asylum seekers and refugees have undergone a very protracted process of formulation and implementation. The policy of handling asylum seekers received attention, when the position of Prime Minister was held by John Howard. In 2001, Howard initiated a programme known as Operation Relex to stop unauthorised ships from entering Australian territorial seas and asylum seekers (and people traffickers) from trying to enter Australia. By intercepting, arresting, and blocking ships carrying individuals attempting to enter Australia without a visa, Operation Relex protects Australia's maritime borders. Then several other policies were implemented to prevent the arrival of refugees, namely *Pacific Solution*, Offshore Processing, and Provision of Temporary Protection Visas for Refugees (Ford, et.al., 2010).

Additionally, under Kevin Rudd's leadership, the approach to treating asylum seekers changed to border security measures intended to obstruct people traffickers' operations. Asylum seekers arrived in increasing numbers at this time. Australia spends a lot of money on these asylum seekers as a result of how they are handled. The large amount of budget spent on the policy of handling asylum seekers has caught the attention of Australian leaders and prospective leaders. At this time the Australian government also issued a controversial policy in dealing with asylum seekers, namely sending asylum seekers who came to Australia by sea to the nearest country, in this case Papua New Guinea and the Nauru Islands in the Pacific. This policy is intended to address the large number of asylum seekers in Australia. For its role in the asylum plan, Papua New Guinea will receive a large amount of financial assistance. Then, from 2010 to 2012, Australia introduced a number of refugee and asylum seeker-related policies under the direction of Prime Minister Jullia Gilliard. The Australian government has implemented a number of policies to address the problem of unauthorised maritime arrivals, such as The Pacific Solution, Mandatory Detention, Enforcement of Bridging Visa, Return of Asylum Seekers to Their Country of Origin, and Malaysia Solution. Under Julia Gillard's leadership, the entire Australian government's stance tended to be punitive or punish

asylum seekers who arrived by boat without legal documentation. The above-mentioned policies developed by the Australian government are political process-influenced policy products.

The Department of Immigration and Citizenship, under the auspices of the Australian government, is in charge of overseeing border security for all immigrant arrivals from abroad. This department is in charge of formulating Australian immigration laws, including the power to judge whether immigrants are admitted legally. The Australian Prime Minister and Minister of Immigration established an Expert Panel on Asylum Seekers to address the issue of asylum seekers arriving by boat. The panel's role is to offer reports on potential government solutions. The Expert Panel was created with the intention of giving government policymakers advice and suggestions on how to stop the boat migration of asylum seekers by utilising the principle of disadvantage. The Australian government is attempting to convey to asylum seekers that it is pointless to attempt to obtain refuge without using the mechanisms that have been provided, which is why the principle of incapacity exists.

Then finally during the current leadership of Tony Abbott, the handling and formulation of policies related to refugee protection tended to decline. This is evidenced by the many rejections of refugees and asylum seekers and Australia's fear of the crime of trafficking in persons that might occur, and tend to only think about the national aspect, without paying attention to the existing humanitarian aspects. Australia also has time to modify its asylum seeker policy so that people coming by boat on the mainland may be deported to Papua New Guinea or Nauru Island in the Pacific, for example. Earlier immigration processing remedy. When refugees arrive in isolated island regions like Christmas Island, the Australian government has the right to deport them to a prison facility on Nauru. This rule has been in place since the middle of 2013.

According to the Australian government's most recent initiative, which involved changing the Immigration Law, provisions for the issuance of temporary visas for refugees were added. The law permits refugees to reside in Australia for three to five years at that location. This visa, however, bans individuals arriving by boat from settling permanently in Australia because the Australian government will not offer permanent protection.

A growing number of refugees and asylum seekers are entering Australia as a result of it becoming a destination nation. The amount of money needed to handle refugees on an annual basis has always been an issue. As long as boats are still being used to enter Australia illegally, these costs will continue to rise. In order to more effectively reduce the costs already incurred, the Australian Government believes that stopping the arrival of illegal vessels will be more successful.

Australia joined the 1951 Convention on the Status of Refugees as a State Party. Australia has the authority to set its own refugee handling policy because it is a participating nation. Australia is also given the right to make reservations for several articles in the convention and the freedom to provide protection to anyone who requests asylum. As a participating country, Australia has the obligation to provide facilities for refugees, as

well as fulfill the rights granted by the convention to refugees. Australia is also required to cooperate with UNHCR in dealing with refugees and is burdened with the obligation to always inform all regulations related to refugees to the UN Secretariat General.

Sovereign Border Operations is a form of rights exercised by Australia as a Contracting State to the Convention. Australia made this policy to reduce the number of asylum seekers entering by sea. Australia's policies include: (a) Operation Relex, a plan to stop ships transporting people who want to enter Australia without a visa by intercepting, holding, and stopping them from leaving port; (b) Pacific Solution offers temporary protection visas for refugees and offshore processing.

On several occasions, policies issued by Australia do not have standard protection for asylum seekers. Under this new Australian policy, boat people coming to Australia will be sent directly to Papua New Guinea and if possible will live there. Kevin Rudd stated that asylum seekers would not be resettled in Australia but directly to Papua New Guinea. He announced this new policy in Brisbane with the Prime Minister of Papua New Guinea, Peter O'Neill. According to him, this decision was taken to ensure border security. The policy also aims to stop people from taking the risk of going to Australia by boat. According to him, the new approach will enable Australia to assist more people in need and stop people traffickers from abusing our legal system. From now on, any asylum seeker arriving by boat will not be given the opportunity to live in Australia as a refugee. The Minister of Immigration, Tony Burke stated that this regulation came into effect for boats arriving in Australia from the time they were in the border waters.

This news comes at a time when Rudd is conducting a policy overhaul for asylum seekers regarding the upcoming elections. Australia has faced the problem of increasing numbers of asylum seekers arriving by boat in recent months. In preparation, the offshore processing center on Manus Island in Papua New Guinea will be expanded to accommodate 3,000 people. Australia has promised to provide assistance to Papua New Guinea, including in the field of building hospitals and universities. Asylum seekers are a very serious problem for Australia. Ships arriving in Australia have increased rapidly in the last 18 months, mostly containing asylum seekers from Iraq, Iran, Sri Lanka and Afghanistan. Most of these ships were overcrowded and in poor condition, so many sank. The ship stopped in Indonesia and from there headed to Christmas Island, the Australian region closest to Java (Kneebone, 2017).

The Papua New Guinean court system, according to the UNHCR, is severely understaffed to handle the influx of asylum seekers. Every year, thousands of people seeking refuge attempt to travel to Australia by sea. According to UNHCR, Australia's regional settlement agreements with the government of Papua New Guinea present important problems that have not been fully addressed to yet.

Papua New Guinea is now not prepared to accommodate asylum seekers, according to the UN, because of a lack of managerial capacity, expertise, and physical circumstances. UNHCR stated that Australia's new policy has operational, legal, and policy issues. According to Richard Towle, a UNHCR representative, the decision to remove (asylum seekers) did not relieve Australia of its obligation to offer additional protection.

Prime Minister Kevin Rudd has issued a new policy regarding asylum seekers. He claimed that the new system would give smugglers a loud and unambiguous warning to stop bringing people into Australia. This country was then criticized because it was considered to be avoiding responsibility and shifting its problems to developing countries.

For the record, there has been no direct implementation of the model for handling refugees in Australia by Indonesia to date. Even though Indonesia and Australia are two countries that are close to each other and have a number of intersecting refugee problems, they both have different approaches to handling refugees. Australia has a strict policy against refugees who try to enter the country illegally via waterways. This policy is known as the operation sovereign borders policy, which includes placing refugees in holding centers outside Australian territory, such as on Nauru and Manus Island in Papua New Guinea.

Meanwhile, Indonesia, as a transit country, is often a stopover place for refugees on their way to Australia or other countries. The Indonesian government is working with UNHCR and international organizations to provide temporary protection and basic services to refugees in its territory. It is important to note that refugee issues and migration policies can be very sensitive and change over time. The two countries continue to strive to increase cooperation and dialogue to overcome this problem at the bilateral level and in the context of regional cooperation, such as the Pacific Development Cooperation Forum.

3.4.2. *Singapore*

Refugee migration in the Southeast Asia region is increasing, due to conflicts in several countries. In light of the current refugee crisis, the Government of Singapore and the UNHCR came to an agreement on a strategy that would give refugees access to international protection. While UNHCR intends for more permanent resettlement, Singapore is acting as a transit camp for refugees as a temporary sanctuary.

Members of the committee decided to implement a new strategy known as the Comprehensive Plan of Action at the Conference on Indochina in 1989. The Singapore transit camp endured severe hardships. Singapore continues to welcome new immigrants under its new refugee screening process, although recent admissions do not ensure resettlement, even temporarily.

Today, rejected asylum applicants gather in the Singapore transit camp, many of whom are unwilling to leave on their own volition. Many refugees protested against UNHCR, participated in hunger strikes, or even attempted suicide as a result of the danger of being sent back home. Officials from the Singaporean government dismantled the camp in 1996 and vowed that refugees would no longer be permitted in Singapore, even if other nations pledged to take them in, feeling misled by the resettlement countries and troubled by the entire experience (Davies, 2008).

Singapore has maintained this policy for many years, stopping refugees at the shoreline and sending them away after giving them food, drink, and gasoline. Singapore's refugee policy has, nevertheless, gradually loosened in recent years. Singapore's Prime

Minister Lee Hsien Loong raised the matter of looking for Rohingya in 2009. Singapore cannot accept asylum seekers, but will provide humanitarian aid so they can leave for other countries, according to a minister of state for international affairs.

Despite Singapore's unpleasant historical experiences with refugees, the government offers another justification for not welcoming newcomers. Singapore is one of the most populated and second-smallest countries in Asia. Refugees will undoubtedly increase the strain on the nation's infrastructure.

Aside from Singapore's experience of accepting refugees in the past, their reason for rejecting refugees and asylum seekers is because of the narrowness of their territory because their land is only 715 kilometers and has a population of 5.47 million. With that, they reasoned that because of the narrow area, they refused the arrival of refugees or asylum seekers.

Since Singapore truly intends to raise its population from roughly 5.5 million to 6.9 million by 2030, there is no justification for turning away refugees. This expansion was anticipated in the Singapore Population White Paper of 2013, which made the case that the country's land area had increased by 23% since 1965 and that the population growth was sustainable due to steadily growing investments in infrastructure and land capacity. Up until today, Singapore has been one of the several Southeast Asian nations that has refused to accept refugees.

Singapore may have, however, been able to get past its past interactions with refugees. With a special chapter devoted to Advocates for Refugees in Singapore (AFR-SG), UNCHR started a new campaign in 2016 to persuade governments all around the world to join the battle to end citizenship. Singapore's refugee acceptance policy is still far from being changed. But it is possible to make progress towards finding homes for the millions of people still leaving the country without a state with the ongoing work of UNCHR, AFR-SG, and anybody else who is taking the time to help.

The Singapore government has emphasized that its country cannot accept the arrival of refugees from Rohingya to enter their country. Quoted from the Straits Times, Singapore's Senior Minister of Foreign Affairs, Balaji Sadasivan said that his country was constrained by the size of the area to accept refugees. The Singapore government was once pressured by UNHCR to help Rohingya immigrants who were adrift in the middle of the ocean. However, this request was rejected by Singapore. The Singaporean government has promised to help Rohingya immigrants but not in the form of providing land. Instead, assistance in the form of food, medicine, and medical personnel.

3.4.3. *Malaysia*

The Malaysian government has a policy of freeing foreigners from having visas to several Islamic countries such as Iran, Iraq, Afghanistan, Sri Lanka and granting them visas upon arrival. This opportunity was used by refugees who came from conflict countries to enter Malaysia legally and finally they got refugee status from UNHCR in that country.

The Malaysian government takes tough measures against those who already have refugee status and those who do not have status. Those who work illegally, if caught are often treated harshly by the Malaysian government by putting them in prison.

Malaysia is a country that has an open policy *and* a silent policy *regarding* the handling of refugees. This means that Malaysia does not hold back the entry of refugees, but also does not give priority rights or special attention to this problem. One of the reasons for Malaysia implementing an open policy is because they see the other side of the refugees.

The policy taken by the Malaysian government is to implement an open policy *and* a silent *policy* regarding the handling of refugees.⁴ In that sense, the Government of Malaysia implements a policy that does not restrain the entry of refugees, but also does not give priority rights or special attention to the problems of refugees and asylum seekers. The Malaysian government has a policy of freeing foreigners to have visas for Islamic countries such as Iraq, Iran, Afghanistan, Sri Lanka and giving them visas upon arrival to Malaysia. Their arrival came to Malaysia legally and finally received status from UNHCR as refugees. They are there waiting for resettlement *to* a third country.

The other side is cheap labor. We know, if Malaysia needs a lot of manpower for development, then, they need cheap labor and don't need to be given protection obligations. So, refugees are the right choice. However, Malaysia also has a positive policy to deal with refugee problems.

One of them is the plan to grant work permits *in* 2004 which will be given specifically to Rohingya refugees. However, this plan has not been implemented so far. Despite being a recipient country, Malaysia does not have clear rules regarding the handling of refugees. Even though Malaysia is not a nation that has joined the 1951 refugee convention and 1967 protocol, Malaysia adheres to the principles and follows the rules set forth by UNHCR in dealing with instances of refugees and asylum seekers. to address the rising number of refugees and asylum seekers entering Malaysia. Malaysia developed a ground-breaking policy to allow refugees who have had UNHCR cards to work there for up to three years in certain manufacturing and plantation industries. The Malaysian government also permits refugees and asylum seekers to attend non-government educational institutions like private schools. The Malaysian government is working with UNHCR in the field of application and production of UNHCR cards, but the determination of refugee status remains UNHCR's responsibility. In Malaysia itself there is also an agency namely IOM Malaysia which handles and provides protection for refugees and asylum seekers.

⁴ Indonesia also implemented an open policy, by issuing Presidential Regulation Number 125 of 2016 and several other regulations. Indonesia adopts humanitarian values so that refugees during the waiting period in Indonesia can be given their basic rights until they are transferred to a third country.

The Malaysian government's immigration policy is implemented by the Malaysian Immigration Department under the Ministry of Home Affairs. In essence, the Malaysian government's immigration legal politics was imposed to protect the territorial integrity of immigration duties in developed countries. Approach to security and in carrying out immigration duties in relation to law enforcement, the position of Malaysian immigrants gives rights to officials to search and arrest criminal acts committed by foreigners.

Even though Malaysia is not a nation that has joined the 1951 refugee convention and 1967 protocol, Malaysia adheres to the principles and follows the rules set forth by UNHCR in dealing with instances of refugees and asylum seekers. As a result of the growing number of refugees and asylum seekers entering Malaysia, Malaysia implemented a pioneering policy of working for refugees who hold UNHCR cards. They can work in Malaysia in parts of the manufacturing and plantation sectors for a maximum of three years. Additionally, the Malaysian government permits refugees and asylum seekers to attend private schools or non-government educational institutions. The Malaysian government is working with UNHCR in the field of application and production of UNHCR cards, but the determination of refugee status remains UNHCR's responsibility. Malaysia itself also has an agency, namely IOM Malaysia, which handles and provides protection for refugees and asylum seekers.

At first Malaysia refused the arrival of refugees just like Indonesia, but there were causal factors that made Malaysia change its policy which initially rejected the Rohingya refugees, finally accepting them to come to Malaysian territory. Factors for changing the policy are : (a) Internal Factors. The Malaysian government is assisting the Rohingya refugees so that there are no longer actions that should not occur in accordance with human rights. The attitude of the Malaysian people as a country in the Southeast Asian region that upholds human values and has a Muslim majority population has prompted Non-Governmental Organizations (NGOs) to organise protests outside the Myanmar Embassy in Kuala Lumpur, so that Malaysia, which is predominantly Muslim, can help contemplate the fate of the Rohingya Muslims, such as helping in the form of temporary housing for them. As a place for them to carry out their activities as refugees and asylum seekers in that country. (b) External Factors. International pressure has made Malaysia no longer reject Rohingya refugees. Foreign policy contained in Richard Snyder's Theory in foreign policy decisions that affect a country in making and determining a policy. International pressure comes from the United Nations which wants to achieve peace with its policy so that the states of Southeast Asia, especially Malaysia, can accept and help Rohingya refugees (Prabandari and Adiputera, 2019).

Malaysia changed its policy to become a country that is willing to accept the arrival of Rohingya refugees. The United Nations obliges all of its members to create stable and prosperous conditions necessary for the creation of peace between nations. Many of the refugees and asylum seekers work illegally in Malaysia. Therefore the Malaysian government strictly prohibits both refugees and asylum seekers who work in Malaysia and arrests them and finally puts them in jail.

Table 1. Comparison of Refugee Handling Regulation in Several Countries

	Australia	Singapore	Malaysia	Indonesia
States Parties to the 1951 Convention	Yes	No	No	No
Applying the Principle of Non-Refoulement	No	No	No (Conditional)	Yes
Policy	Closed	Closed	Closed (Conditional)	Open
Approach Models	Security Protection, Selective, Prevention, Enforcement	Security Protection, Selective, Prevention, Enforcement	Security Protection, Selective, Prevention, Enforcement	Responsive, Humanist, Empathic, Permissive, Tolerant
Government Legal Policy	<ul style="list-style-type: none"> - <i>Operation Sovereign Border</i> - Operation Relex - <i>Pacific Solutions</i> - <i>Mandatory Detention</i> - <i>Turn Back Boat</i> - <i>Resettlement</i> to Third Countries - Application of <i>Bridging Visa</i> - Offshore Processing - Provision of Temporary Protection Visas for Refugees 	<ul style="list-style-type: none"> - <i>Operation Sovereign Border</i> - <i>Turn Back Boat</i> - Law enforcement 	<ul style="list-style-type: none"> - <i>Operation Sovereign Border</i> - Pioneer Policy - Accepting asylum seekers and refugees to be used as cheap labor 	<ul style="list-style-type: none"> - Law Number 37 of 1999 concerning Foreign Relations - Presidential Regulation Number 125 of 2016 Handling Refugees from Abroad - Regulation of the Director General of Immigration No. IMI- 0352. GR.02.07 concerning Handling of Illegal Immigrants Declaring Themselves as Asylum Seekers and Refugees - Regulation of the Director General of Immigration Number: IMI- 1487.UM.08.05 of 2010 concerning Implementation of Handling Illegal Immigrants - Director General of Immigration Letter Number: F4.II.01.102.198 Year 2001 concerning <i>Illegal Migrants / Asylum Seekers</i> - Director General of Immigration Letter Number: F.II.01.10-562 of 2001 concerning Handling of Illegal Immigrants from South Asia - Director General of Immigration Letter Number: F-II.01.10-1297 of 2002 concerning Handling of Foreigners Declaring Himself as Asylum Seekers or Refugees - Office Letter of the Director General of Immigration Number IMI-GR.02.03-1910of 2018 concerning Changes to the Policy for Handling Asylum Seekers and Refugees by the <i>International Organization for Migration</i> (IOM) - Service Letter of the Director General of Immigration Number IMI-UM.01.01-2827 of 2018 concerning Return to the Functions of the Immigration Detention Center

Source: own elaboration

Based on the description above, it can be understood that Singapore has a comprehensive and holistic immigration policy, including in terms of handling refugees. The following are some similarities between refugee policies in Singapore and Malaysia that have been implemented by Indonesia: (1) Not Signing the UN Refugee Convention. Singapore is not a party to the UN Refugee Convention. Therefore, there is no legal framework that specifically regulates the status and rights of refugees in Singapore. (2) Strict Immigration Conditions. Singapore implements strict immigration policies to maintain social, economic stability and national security. This includes managing refugee problems. (3) Placement in Detention Center. People identified as refugees and entering Singapore without permission can be placed in temporary detention centers while the government determines their status and next steps. This detention center aims to ensure security and compliance with immigration regulations. (4) Assessment and Status Determination Process. Singapore has an assessment process to determine the immigration status of every individual, including those claiming refugee status. However, this process is carried out in accordance with Singapore's national laws, not under the framework of the UN Refugee Convention. (5) International Cooperation. Although Singapore is not a party to the UN Refugee Convention, the country is involved in international cooperation to address regional immigration and security issues. Singapore can work together with neighboring countries and international organizations to tackle the refugee problem. It is important to remember that government policies may change over time and in response to specific situations. As a country that has a strict policy towards immigration, including refugee issues, each country often emphasizes the importance of maintaining stability and security in the context of its policies.

3.5. Human Rights Advocacy as a Basic Instrument for Protection and Empowerment of Refugees

Human rights education, according to the Human Rights Educator's Network of Amnesty International USA, is an expression of adherence to the Universal Declaration of Human Rights, promotion of democratic principles, and initiatives to advance the critical thinking and communication skills necessary for democracy. The UNHCR describes human rights education as programmes of instruction and information-sharing intended to create a global culture of respect for human rights by educating individuals, developing their abilities, and influencing their behaviour. In essence, the Universal Declaration of Human Rights guarantees that everyone has a right to know what those rights are.

Learning about human rights and learning for human rights are the two main goals of effective human rights education. Learning about human rights is cognitive and related to information about those rights, such as the history of those rights, relevant legal documents, and methods for obtaining justice when those rights are violated. Meanwhile, learning for human rights is a form of internalizing human rights principles which is translated into action. The combination of these two objectives will contribute to increasing knowledge and capacity regarding human rights and creating a culture of tolerance, respect for rights and a sense of solidarity which is manifested in the form of actions to protect the rights of oneself and others (Nola, 2021). In addition to imparting knowledge about human rights and the safeguards for them, effective human rights education also develops the abilities to defend and uphold human rights in daily life.

Furthermore, the United Nations Declaration on Human Rights Education and Training categorizes education through human rights as one part of human rights education which aims to build a learning and teaching atmosphere that respects the rights of teachers and students, thereby creating a conducive space to grow for both. Effective human rights education can contribute to preventing human rights violations, increasing public participation from communities receiving education, and strengthening their capacity to use a human rights framework in advocacy.

The issue of refugees in Indonesia continues to be a non-priority issue, this can be seen from the slow development of laws and regulations related to refugee issues in general, as well as the lack of initiatives by stakeholders such as the government, the business sector, and even civil society organizations. The lack of attention from stakeholders related to refugee issues has contributed to the stagnation in the development of protection of refugee rights due to weak public pressure to bring about structural changes. The lack of attention to refugee issues can also be seen from the limited access to human rights education for refugees in Indonesia (Brown, 2018).

Refugees face major challenges in accessing formal education, especially one that has a human rights curriculum in Indonesia. This causes non-formal human rights education to be crucial to develop in order to overcome the narrow access to increase awareness of the rights of refugees in Indonesia (Missbach and Cameron, 2022). Until now, efforts to increase awareness of rights specifically aimed at refugees have only been carried out by a handful of civil society organizations in Indonesia, including through Legal and Human Rights Training for Refugee Paralegals conducted by Suaka, advocacy and human rights training by Jesuit Refugee Service Indonesia, and Sexual and Gender Based Violence (SGBV) training by The Sisterhood in 2021. Trainings carried out by civil society organizations certainly have limited reach and resources, so not all refugees in Indonesia have the same opportunity to involved in human rights education.

Several organizations led by refugees (Refugee Led Organizations or RLOs) have established learning centers aimed at responding to situations of limited fulfillment of the right to education for refugee children in Indonesia. Until now, RLOs and refugee-led initiatives (Refugee Led Initiatives or RLIs) are growing, demonstrating an increase in the capacity of refugees to empower themselves and their communities in Indonesia. However, the majority of education offered by RLOs and RLIs is targeted so that refugees can survive (training in basic science, language and technology), be vocational and have a more meaningful life by engaging in productive activities.

In 2020-2021, there has been an increase in the involvement of refugees in carrying out advocacy related to the situation of unclear fate in Indonesia for many years. In these two years, there has been an increase in the frequency of demonstrations carried out by refugees to accelerate resettlement to third countries, improve performance services from UNHCR Indonesia, and protect their rights in Indonesia. However, it is not uncommon for disputes to occur between demonstrators and security forces and law enforcement officials as a result of demonstrations, especially during a pandemic.

Apart from that, the refugees also carried out unreasonable actions which were suspected as a result of the deteriorating mental health of refugees who lived without clarity. Since 2018, at least thirteen Afghans in Indonesia have committed suicide due to the long settlement process, financial problems, fears for the future and anxiety. Several evacuees carried out the act of setting themselves on fire, one of them in the city of Medan in 2021 due to depression and stress. In the city of Pekanbaru in December 2021, several refugees held a demonstration of sewing their mouths as a form of protest against UNHCR Indonesia (Adhaniah, et.al., 2021).

Various advocacy efforts carried out by refugees show an increase in advocacy knowledge, but it is also a form of despair from a situation that has not changed. Currently, the majority of refugees still rely on demonstrations as their main advocacy method. However, the involvement of refugees to sit down with stakeholders and decide on the desired changes is still far from materializing. For example, refugees have not been actively involved or involved in policy advocacy related to the handling of Covid-19, which should place refugees as a priority group due to their vulnerability. However, advocacy was carried out by other actors such as UNHCR Indonesia, the International Organization for Migration (IOM) and civil society organizations, without substantively and meaningfully involving refugees. The refugees are placed as mere beneficiaries, not part of the decision makers.

Referring to Arnstein's Ladder of Participation theory, the involvement of refugee groups in decision-making in Indonesia is still far from the highest level. Some of the efforts made by stakeholders stop at the informing stage (third step) or consultation (fourth step). As a practitioner in refugee issues, the author observes that the involvement of refugees in the policy advocacy process is still lacking. Some of the biggest challenges in involving the refugee community in the policy-making process are the language limitations of both refugees and stakeholders (including the government), as well as the limited knowledge of refugees regarding the process of forming policies/legislation.

In this situation, it is important to expand access to human rights education for refugees in Indonesia to help refugees be able to carry out advocacy more effectively, safely, and contribute to realizing structural change. Human rights education can strengthen the bargaining power of the refugee community to be able to increase their participation in decision making. Rather than that, the impact of human rights education for refugees can contribute to strengthening community activism and increasing the ability to articulate their condition in Indonesia to strengthen public support (Dewansyah, et.al., 2017). Empowering refugees through human rights education can enable them to carry out advocacy directly without having to be represented by another party, become part of the decision makers and increase the sensitivity of the Indonesian people and stakeholders to their unprotected rights.

Regarding the issue of refugee children's education, there have been concrete actions to make this happen based on the International Organization for Migration Letter Number 119/TNG/VII-2017 of 2019. Through this letter, IOM asks the government to provide educational facilities for refugee children. Then, the government issued Decree

of the Ministry of Education and Culture of the Republic of Indonesia Number 75253/A. A4/HKI of 2019. Based on this letter, the Government has approved the provision of educational facilities for refugee children.

For example, in 2016, the Government provided scholarships for 100 Syrian refugee students to continue their education at university. Providing this scholarship is Indonesia's effort to be actively involved in helping ensure the educational rights of refugees affected by the Syrian conflict. Educational assistance is provided through a scholarship scheme from the Education Fund Management Institute, Ministry of Finance.

Another example, the International Program of Communication Study (IPCOS) Muhammadiyah University of Yogyakarta also helps overseas refugees to obtain the right to education through the 2022 Summer Course program which will be held from 11 July to 15 August 2022. The 2022 Summer Course program for overseas refugees is the result of collaboration between IPCOS UMY and the International Organization for Migration (IOM) in Indonesia which was attended by 33 participants from Bangladesh, Sri Lanka, Myanmar and Somalia.

3.5.1. Human Rights and Advocacy Training for Refugees

This training is an alternative form of human rights education that can be carried out by the government, the business sector, international organizations, and civil society organizations in Indonesia. However, it is important to ensure that the information submitted is ideal rights information and generally complies with international standards. Given the position of the Indonesian government which often states that it has no obligation to fulfill refugee rights, this form of human rights education can be optimized by international organizations and civil society organizations.

Expansion of human rights and advocacy training needs to be done not only to provide human rights theories, history, available mechanisms and related documents, but also to build a culture of human rights in refugee communities, increase the ability to think critically to act to protect their rights and that of others. Human rights educators need to conduct a needs assessment of the displaced community in order to determine the most effective facilitation methods to maximize limited resources. In addition, community involvement in training planning and during implementation is an important element in empowerment work that must always be considered. Currently, the National Research and Innovation Agency of Indonesia is working with stakeholders to develop a legal framework for empowering refugees during the waiting period in Indonesia, such as informal education and skills training.

3.5.2. Human Rights Learning Communities

Refugees are the ones who know the situation of themselves and their communities best, so they know the best way to solve the problems they face in Indonesia. In empowering oneself, forming a community to learn human rights is important because it can create an open environment for every refugee, making them feel safe to exchange ideas and relate to one another.

This community can take the form of RLOs - RLIs with specific goals, as well as book clubs or debates related to human rights issues. The nature of this community is very fluid and needs to be adapted to the interests of each community. The formation of this community can overcome the language barrier because it is assumed that the refugees can communicate well with each other. In its activities, the community can invite human rights practitioners to discuss and exchange views regarding the situation of refugees in Indonesia. The development of human rights values and the creation of a culture of human rights in the refugee community are outcomes of the construction of this community. A human rights learning community's presence can also help the refugee community develop its leaders.

3.5.3. Strengthening Rlos - Rlis and Learning Centers to Add Refugee Human Rights Issues as a Priority Agenda

In providing education, RLOs - RLIs and Learning Centers can include human rights subjects. Refugees have been in Indonesia for a long time, so it is important that human rights education is instilled in young people from an early age. The introduction of human rights from the beginning is a step to prevent human rights violations and the establishment of a culture of human rights. In practice, RLOs - RLIs and Learning Centers can work together with other stakeholders to design curricula and present resource persons who understand the context of refugees and human rights. When refugees in Indonesia are more empowered, they can advocate for the protection of their rights to the Indonesian government and return the obligation to respect, protect and fulfill their rights to the state.

3.6. Moderate Solutions to Fulfilling Refugee Rights During the Resettlement Process In Indonesia

The following options can be taken into consideration by the Indonesian government to improve the welfare of refugees there. First, relaunch the National Action Plan for International Human Rights. NAPHR is a document that contains goals, strategies, and a focus on priority activities for Indonesia's human rights agenda. It is used as a reference for ministries, institutions, and local governments in implementing respect, protection, fulfillment, enforcement, and promotion of human rights in Indonesia, according to Article 1 Paragraph 2 of Presidential Regulation Number 75 of 2015. The focus of NAPHR issues is updated every five years. In the period 2021-2025, NAPHR focuses on four vulnerable groups, namely women, children, persons with disabilities, and indigenous peoples. This latest NAPHR does not include refugee groups.

In fact, Indonesia once included the 1951 Convention and 1967 Protocol in the list of priority international agreements in the 2010-2014 NAPHR. However, the ratification of the two international refugee law instruments was hampered because there were pros and cons. The government is of the view that the mandate of the convention which obliges the fulfillment of refugee rights is too burdensome for the Indonesian economy. This long debate has resulted in the two documents not being ratified until now. In this way, Indonesia's 2010-2014 NAPHR, which should be able to deal with refugee welfare issues, has failed to be achieved.

Reflecting on Indonesia's failures in the previous period, this country still has to re-launch the refugee issue to be included as the focus of the next NAPHR period. Based on Article 3 of Presidential Regulation Number 75 of 2015, the inclusion of refugee issues as the focus of NAPHR is expected to integrate the central and regional governments to commit to handling refugees, especially with increasingly widespread demonstrations of refugees in the regions. Not only that, the NAPHR is also expected to be able to encourage the revision of the national legal framework that can allow refugees to work and access education.

The second is to immediately amend Presidential Regulation 125 of 2016. Indonesia's support for international refugees has been demonstrated through Presidential law Number 125 of 2016, yet this law still needs to be updated. Part two has explained that this Perpres has indeed clarified the flow of government coordination in responding to refugees coming to Indonesia. However, the rights to education and work which are the main problems of refugees in Indonesia are not regulated in this Presidential Decree (Soesilowati, 2020). Furthermore, part four of this article has described the social reality of refugees and the failure of this Presidential Decree in resolving these problems. In fact, if Presidential Regulation Number 125 of 2016 is perfected by adding points to the right to education and work, this regulation can become a middle way in the polemic on the ratification of the 1951 Convention and the 1967 Protocol.

Revision of Presidential Regulation Number 125 of 2016 can be a solution to fulfilling refugee rights, but this cannot be done so easily with the political background of making this regulation. The making of this Presidential Decree was motivated by pressure from the international community on Indonesia as a country affected by refugee flows and had not ratified the 1951 Convention and 1967 Protocol. By passing this Presidential Decree, Indonesia is trying to maintain its image as a human rights defender country (Syahrin, et al., 2022). As a transit country, this Presidential Regulation is sufficient for Indonesia to gain international recognition. However, when examined more deeply, Indonesia has not been able to provide what refugees need. Instead of providing welfare, it is as if this Presidential Regulation was only passed for the benefit of Indonesia's foreign policy.

Another challenge in revising Presidential Regulation is the community's stigma towards refugees. By accommodating the right to work and education for refugees in the recommendations for the revision of this Perpres, the government also needs to convince the public that this policy will not disturb them. Generally, local people think that refugees will take their jobs. In fact, refugees will not take jobs from indigenous people. World of Labor research states that refugees who are also included in the migrant category actually open new job opportunities with their competencies that are more inclined to the field of entrepreneurship. Indigenous people are also more likely to find high-paying jobs that refugees cannot replace, for example jobs that require advanced Indonesian language skills (Dewansyah, et.al., 2018). Meanwhile, providing access to education also expands opportunities for intercultural knowledge transfer in Indonesia.

UNHCR is a key player in addressing the issue of refugees and asylum seekers in Indonesia. In order to fulfil its mandate, UNHCR has made a number of handling attempts to provide refugees or asylum seekers with international protection, including:

(a) By seeking placement in third countries or assisting the process of a voluntary return to the country of origin, seek long-term solutions for the future of refugees by providing guarantees for those who are identified as refugees who are protected from refoulment or forced repatriation to their countries of origin where their lives and freedoms are threatened and abused; (b) In the process of waiting for a final decision on the realization of a long-term solution, UNHCR guarantees refugees and asylum seekers by facilitating all their basic needs, as well as education services, language courses, counseling services, health services, and others; (c) In addition to performing its duties in Indonesia, UNHCR continues to work on refugee rights by offering input, including a step-by-step procedure, supporting the government in developing mechanisms to effectively address issues with refugee protection and mixed migration in the context of accession to the 1951 Convention and the 1967 Protocol, where up to this point Indonesia has not ratified the two legal instruments regarding the determination of whether or not to grant asylum; (d) UNHCR cooperates with the Indonesian government in handling refugees, by socializing the government's handling guidelines when finding refugees and asylum seekers at the border, before finally being handed over to UNHCR in the form of training for immigration officers and the National Police; (e) In addition to the efforts made by UNHCR to handle refugees and asylum seekers in Indonesia, there are other factors that hinder the handling mechanism, such as the fact that Indonesia did not participate in ratifying the 1951 Convention and the 1967 Protocol and that there is insufficient national legal framework to carry it out at an operational level, such as the absence of specific immigration administration procedures and provisions regarding temporary stay permits. As a result, there exist disparities between how UNHCR personnel and Indonesian government authorities handle and manage refugees and asylum seekers (Syahrin, 2017).

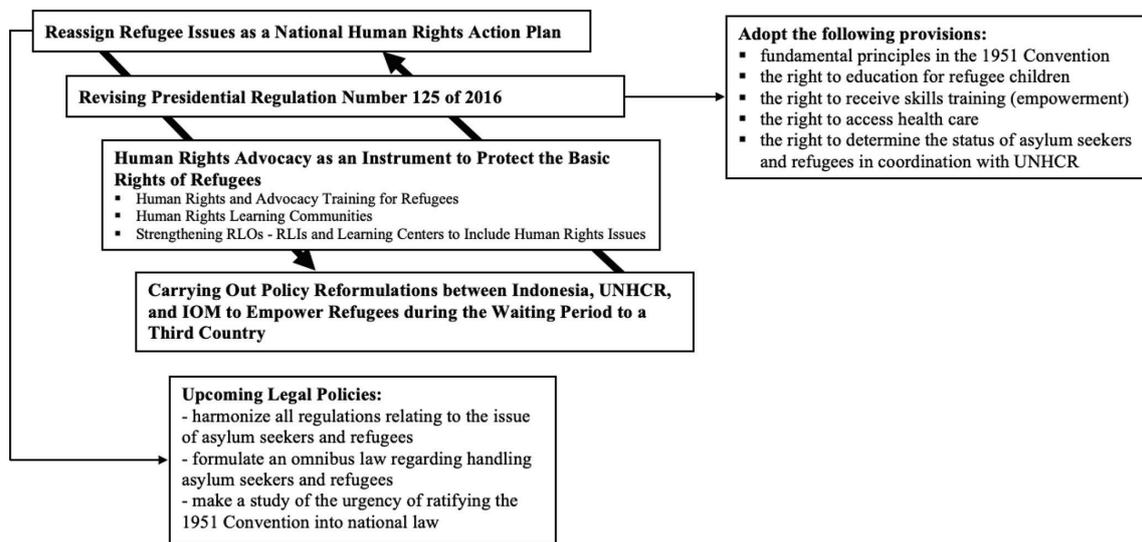
As a country that upholds respect for and upholds human rights, there should be a legal arrangement for refugees and asylum seekers in this country, both the legal and institutional mechanisms. So that the 1951 Convention and the 1967 Protocol became an urgent matter for ratification, bearing in mind the increasing rate of entry of international refugees into Indonesia. This can also reduce the government's dependence on UNHCR in dealing with refugee problems in Indonesia. Thus the process of handling refugees can be more efficient, given the limitations that UNHCR has in terms of human resources and costs. For example, if ratification has been carried out, the Indonesian government can make a regulation that places the process of determining refugee status at Immigration offices and implementing obligations that must be obeyed by refugees while in Indonesia. In order to achieve efficiency, which is obviously advantageous for refugees to obtain their rights under the 1951 Convention, including the right not to be punished for entering the territory of a country, the right not to be sent back to their country of origin, the right to file a lawsuit, the right to receive an education, the right to marry, the right to obtain an identity, and the duty of a refugee to obey the law.

Indonesia has a more comprehensive legal framework for refugees and asylum seekers in immigration laws and regulations which are adopted from humanitarian principles in handling refugees and asylum seekers based on international law, even though Indonesia has not ratified the Convention and Protocol in the national interest. Indonesia can adopt several basic principles set out in conventions and protocols to be adapted into national law as long as they do not burden the state (Sumarlan, 2019).

Providing temporary immigration status will facilitate the control and supervision of refugees during the waiting period in Indonesia. Currently immigration officers (Ministry of Law and Human Rights) are having difficulty obtaining data on refugees in Indonesian territory. Accurate data is only owned by UNHCR and can be provided on a limited basis. They only provide data access to the Ministry of Foreign Affairs as their working partner. This fact is an obstacle for immigration officers to carry out supervision of refugees as mandated by Presidential Regulation Number 125 of 2016. Likewise, there is a need to increase cooperation between UNHCR and the Indonesian government, as well as resettlement countries in handling refugees and asylum seekers, because the refugee problem is very complex and cannot be solved by one institution.

There is a need to repair or renew and increase temporary accommodation facilities for refugees who are no longer adequate, because they are not criminals, but victims of human rights violations that occurred in their country of origin. Increasing security guarantees safety and protection for refugees and asylum seekers, by initiating a legal framework or international agreement between source countries, transit countries, destination or resettlement countries and with international organizations and NGOs, to prevent and anticipate practices that harm refugees and seekers asylum from actors who deliberately seek profit by mobilizing migrant movements, such as acts of people smuggling and trafficking in persons.

Figure 1. The Policy Models of Durable Solutions for Refugees in Indonesia



Source: own elaboration

4. CONCLUSION

To uphold respect and uphold human rights, Indonesia must consider long-term solutions for refugees with a humanitarian approach. Ratification of the 1951 Convention and the 1967 Protocol is currently a top priority due to the increasing number of

foreign migrants entering Indonesia. Apart from that, this can reduce the government's dependence on UNHCR in handling refugee problems in Indonesia. Apart from placing the humanitarian component as a top priority, handling migrants is often considered a threat to national security. Legal policies are needed that balance these interests. Formally, Presidential Regulation Number 125 of 2016 has not been able to provide a solution to the challenge of the refugee problem in Indonesia. This aspect may make it difficult for institutions to coordinate. There are several long-term solutions to this problem that can be put into practice, including: encouraging human rights instruments to implement the basic rights of refugees, re-determining the refugee problem as part of the National Human Rights Action Plan, revision of Presidential Regulation Number 125 of 2016, and implementing policy revisions between Indonesia, UNHCR, and IOM to provide more autonomy to refugees as they wait to enter a third country.

ACKNOWLEDGMENTS

We would like to express our gratitude to the Immigration Polytechnic, Sriwijaya University, and other organizations for their attention. Without their assistance, this research would not have been possible. We also understand that there are still issues and restrictions with the analysis and findings used in this study. We expect input and suggestions from all parties to further refine this research.

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Received: 1st September 2023

Accepted: 16th February 2024

