



## PROVIDING EMPLOYMENT OPPORTUNITIES FOR REFUGEES IN INDONESIA : POSITIVE AND NEGATIVE EFFECTS

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### Abstract

*International refugee cases have always been a relevant topic for discussion because this topic still needs a solution. Indonesia, as a transit country, has optimally assisted refugees. However, refugees living in Indonesia still often complain that IOM's assistance has been inadequate and insufficient to meet family needs. This research discusses what the Indonesian government is doing to protect refugees. Furthermore, can the right to work for refugees be granted in Indonesia. This research concludes that the Indonesian government builds residences and provides educational, religious, and other facilities to asylum seekers. Granting the right to work for refugees can be given to asylum seekers, but they can only be given the right to work in the government sector as laborers. A concrete example is being a laborer on government tea plantations. They may be paid by the Indonesian government but are managed by the government and cannot freely determine the job they want.*

**Keywords:** *Indonesia, Protection, Refugees, Right to work.*

### A. INTRODUCTION

Indonesia is a country located between the continents of Australia and the continents of Asia and between the Indian Ocean and the Pacific Ocean. This condition made many refugees come to Indonesia and ask for protection in Indonesia before continuing their journey to a member state of The 1951 Refugee Convention. Refugees come to Indonesia because Indonesia does not yet have specific regulation regarding refugee issues. The Indonesian government only uses Presidential Regulation No. 125 of 2016 concerning Handling of Refugees from Abroad and Law No. 6 of 2011 concerning Immigration. This presidential regulation regulates the mechanism that should be carried out by the Indonesian government when finding refugees.



Figure 1 : Indonesia’s geographic location

This Indonesian region’s geographical location makes Indonesia a transit point for foreign traders. The same goes for refugees. They have no intention of coming to Indonesia because they know that Indonesia is not a member of the refugee convention. The protection the Indonesian government provides will certainly not be as good as the protection provided by the recipient country, which is a state party to the 1951 refugee convention. This geographical location makes the number of asylum seekers entering Indonesian territory grow. Every year UNHCR and the Indonesian government continue to receive reports that the number of refugees is scattered in several regions of Indonesia.

The number of refugees who come every year is always increasing in Indonesia. This amount can be seen in the graph below.

Table 1: The Number of Refugees in Indonesia

No	Year	Total
1	2012	1,811
2	2013	3,195
3	2014	4,267
4	2015	5,954
5	2016	7,824
6	2017	9,782
7	2018	10,786
8	2019	10,287
9	2020	10,114
10	2021	9,982
11	2022	13.700

Source: Analysed from The official website of UNHCR

Based on the table above, the number of refugees in Indonesia has always increased from 2012 to 2018. From 2018 to 2021, the number of refugees in Indonesia decreased but little. Based on data from the United Nations High Commissioner for Refugees, in May 2022, the number of refugees in Indonesia reached 13,700 people. The increase

in the number of refugees has made the Indonesian government rethink what actions should be taken to reduce the number of refugees entering Indonesia. Indonesia is not a member of the 1951 refugee convention.<sup>1</sup>

The obligation of a country not to return refugees to their country has been regulated in article 33 (1) of the 1951 refugee convention.<sup>2</sup>

“No Contracting State shall expel or return (‘refouler’) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”.

Even though Indonesia is not a participant in the 1951 refugee convention, Indonesia still must participate in solving several world problems, including refugee problems.<sup>3</sup> These refugee problems are not only problems that must be addressed by member states of the 1951 refugee convention but by all states in the world which unite in the United Nations.<sup>4</sup>

The protection provided by the Indonesian government is very beneficial for the refugees. Refugees live out of the country, but no state wants to guarantee their lives. State parties of refugee convention limit the number of refugees that may enter their territory. The Indonesian government assists UNHCR in organizing asylum seekers entering Indonesia. UNHCR will cooperate to help refugee. Asylum seekers can get protection while waiting to be sent to the recipient country. Asylum seekers spend a lot of time in Indonesia waiting for the clarity of their fate to be sent to the recipient country. Some asylum seekers say that some of them have spent ten years, 12 years, or even 14 years. They are still waiting to receive clarity from the UNHCR. UNHCR also always tries its best to find quotas from recipient countries. However, receiving countries such as Australia, America, and other countries have begun to limit the number of asylum seekers entering their territory.

Based on the facts mentioned, researchers are interested in seeing how the Indonesian government handles refugees transiting in Indonesia. Moreover, asylum seekers do not only live in one area in Indonesia. However, they are spread across several areas, such as Pekanbaru, Makassar, Riau, Aceh, Tanjung Pinang, Jakarta, West Java, and many others. The researcher wants to assess whether all the protections provided by the Indonesian government follow the regulations in international law. Many researchers researched refugees in Indonesia. This topic is still relevant to be discussed because some countries, such as Indonesia, Thailand, and Malaysia, as non-state parties, still need to find good solutions to resolve the refugee problems.

Asylum seekers have several rights that they must obtain. One of them is the right to access work.<sup>5</sup> However, these rights can only be obtained when these refugees are

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- 1 Dita Liliansa, Dita Liliansa, and Anbar Jayadi, “Should Indonesia Accede To The 1951 Refugee Convention And Its 1967 Protocol ?” 5, no. 3 (2015), <https://doi.org/10.15742/ilrev.v5n3.161>.
  - 2 Ellen F. D’Angelo, “Non-Refoulement : The Search for a Consistent Interpretation of Article 33,” *Vanderbilt Journal of Transnational Law* 42, no. 1 (2009): 279–316.
  - 3 Asep Setiawan and Hamka Hamka, “Role of Indonesian Humanitarian Diplomacy toward Rohingya Crisis in Myanmar,” no. August 2017 (2020), <https://doi.org/10.4108/eai.5-11-2019.2292481>.
  - 4 Karen Elizabeth McNamara, “Conceptualizing Discourses on Environmental Refugees at the United Nations,” *Population and Environment* 29, no. 1 (2007): 12–24, <https://doi.org/10.1007/s11111-007-0058-1>.
  - 5 Feyzi Baban, Suzan Ilcan, and Kim Rygiel, “Syrian Refugees in Turkey: Pathways to Precarity, Differential Inclusion, and Negotiated Citizenship Rights,” *Journal of Ethnic and Migration Studies* 43, no. 1 (2017): 41–57, <https://doi.org/10.1080/1369183X.2016.1192996>.

in a country that accepts them as legal refugees. Indonesia is only a transit country and not a receiving country. So asylum seekers cannot obtain rights in Indonesia other than the right to obtain protection only.<sup>6</sup> However, here the author wants to see if it is possible when the Indonesian government grants the right to access jobs to asylum seekers. This consideration was formed because the number of refugees continues to grow in Indonesia, and they sit in refugee camps, and some even roam and sleep on the side of the road.

The author here wants to look more deeply into the positive and negative impacts if the Indonesian government gives refugees the right to access work.

We conduct a systematic literature review about the protection of refugees in Indonesia. Many scholars discuss this topic, and those who write this topic come from many countries and institutions. Here is the data from the website Lens.org which reveals the work of researchers worldwide.

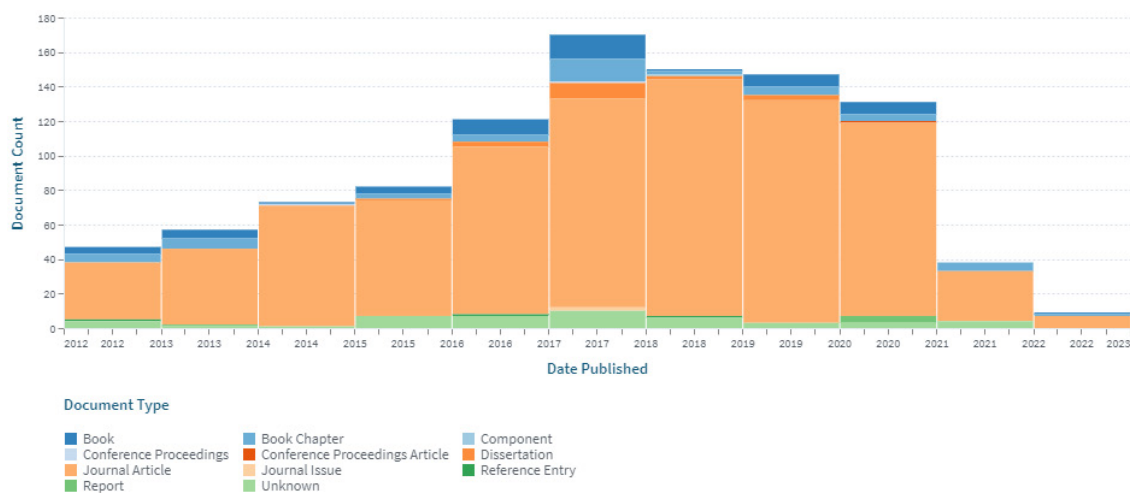


Figure 1: Scholarly works about the protection of refugees in Indonesia.

The bar chart shows an increasing trend in researchers writing about refugee protection in Indonesia. Researchers have been writing more and more on this theme from 2016 to 2018. Researchers are writing this year because, at this time, the number of refugees continues to increase entering Indonesian territory. Nurul Adhaniah, Dudy Heryadi, and Deasy Silvyva Sari wrote the first article. The title is *The Cooperation of UNHCR and Indonesia on Afghan Refugee Handling in Indonesia*. This article concludes that the Indonesian government cooperates with UNHCR in solving refugee problems. The policies are taken from coordination between the Indonesian government and UNHCR. This collaboration resulted in the protection of the human rights of refugees, where they have to obtain the right to education, access to work, and be placed in a shelter.

Fithriatus Salihah, Muhammad Nur, wrote the second article. The title of this second article is *Observations on the Protection of Refugees in Indonesia*. This paper concludes that many refugees come to the areas of Pekanbaru and Makassar. This research focuses on examining how the government of the new week and the government of Makassar

6 Debby Kristin, Chloryne Trie, and Isana Dewi, "The Rights of Children Refugee in Transit Country under the CRC, A Case of Indonesia: An Intended Negligence on the Implementation of Non-Discrimination Principle?," *Padjadjaran Journal of International Law* 5, no. 1 (2021): 2549–1296, <https://doi.org/https://doi.org/10.23920/pjil.v5i1.349>.

in dealing with refugees. The local governments of Makassar and Pekanbaru have fulfilled their obligations under international law and have protected refugees following international legal standards.

Melina Tri Asmara and M Alvi Syahrin wrote the third article. The title is Actualization of Indonesian Immigration Policy Related To Human Rights For Refugees In Indonesia. This paper looks at how Sri Lankan refugees seek refuge in nearby countries such as Thailand, Malaysia, and Indonesia. These three countries met to determine the framework for dealing with Sri Lankan refugees. This meeting resulted in an agreement that Indonesia, Thailand, and Malaysia would protect 7000 refugees from Sri Lanka to stay for one year in their country.

M Alvi Syahrin wrote the fourth article as a solo writer. The title is The Implementation of Non-Refoulement Principles to The Asylum Seekers And Refugees In Indonesia. This article looks at how important it is for a country to apply the principle of non-refoulement in protecting asylum seekers. However, in the opinion of the author in this article, the application of the non-refoulement principle is only absolute for some countries because Article 33 (2) of the 1951 refugee convention states that a refugee can be expelled from a country when they endanger that country.

“The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having been convicted by a final judgment of a particularly serious crime, constitutes a danger to the community of that country”.

Non-refoulement principle, discussed by the writer, is essential in international refugee law. This principle forbids all states from expelling refugees back to their home countries. All countries must obey this principle because this principle is jus cogens in international law. Regulations that are considered jus cogens in international law cannot be deviated by any country. An exception to the non-refoulement principle is contained in article 33 (2) of the 1951 refugee convention. The exception states that any refugee proven guilty of committing an act deemed to threaten state sovereignty can be returned to their country of origin.

## **B. METHOD**

The method is written descriptively and should provide a statement about the methodology of the study. This method as much as possible provides ideas to the reader through the method used. This method is optional, only for original research articles.

## **C. ANALYSIS AND RESULT**

### **1. Handling of asylum seekers in several regions in Indonesia**

UNHCR and The Government of Indonesia established temporary shelters for asylum seekers transiting Indonesia in several areas, such as Galang Island or Anambas Island, Aceh, Riau Islands, and Banten. The Indonesian government gave a land area of 8 thousand hectares to build a refugee camp. Refugees from Vietnam spent their time from 1974 to 1996 on Jemaja Island, Anambas. The number of refugees from Vietnam is estimated to be around twenty-four thousand.



The first form of treatment provided by the Indonesian government in collaboration with UNHCR was to build various facilities such as refugee barracks, places of worship, hospitals, and schools which were used to facilitate around 250,000 refugees. Various places of worship, such as the Quan Am Tu monastery, the Catholic church Nha Tho Duc Me Von Nhiem, the Protestant church, and the prayer room, still exist today. Cemeteries of Vietnamese refugees also still exist on Galang Island. This shows that Vietnamese citizens who come to Indonesia to seek protection are accommodated with all their needs and given their own village as if they were living in their own country.

In addition, the Indonesian government also protects refugees from Sri Lanka. These refugees came because of a war between the central government and an organization called the Liberation Tigers of Tamil Eelam (LTTE). This war resulted in many civilians who died miserably and were injured. Based on data obtained from several sources, the number of civilians who died was around 100,000, but other data also stated that the number of civilians who died was around 70,000. The author found many differences in figures regarding the number of residents who died.

Sri Lankan citizens who felt their lives were being threatened immediately fled and sought refuge in nearby countries. They did not think about the impact of the danger when they boarded the small boats they boarded to escape. Many ships carrying the refugees were stranded in the middle of the sea for months. They did not have food stocks, and some refugees died on board because of illness and hunger. The Indonesian government received news of this and immediately asked all parties from the navy and immigration to save the refugees. The rescue workers are assisted by fishermen who work around the beach. These Sri Lankan refugees are mostly found in Aceh, Riau Islands, and Banten.

The Indonesian government received news of this and immediately asked all parties from the navy and immigration to save the refugees. The rescue workers are assisted by fishermen who work around the beach. These Sri Lankan refugees are mostly found in Aceh, Riau Islands, and Banten. The unique case of asylum seekers from Sri Lanka is that they did not want to get off the ship when they entered Indonesian waters using an Australian-flagged ship. They demanded and asked to be sent directly to Australia. Responding to this, the Indonesian government firmly told all asylum seekers that Indonesia has sovereignty and, therefore, all foreign nationals who enter the territory of the Indonesian state must be examined first. After confirming this, the Indonesian government, specifically the Indonesian Ministry of Foreign Affairs, in cooperation with UNHCR and IOM, was finally able to send the asylum seekers on board the ship to their new country, namely Australia.

The swift actions of the Indonesian government in handling cases of refugees following international legal standards. As a transit country, Indonesia should have a smaller responsibility than the government, such as forming its village for refugees, for example, on Galang Island. Moreover, the Indonesian government participated in helping UNHCR immediately send refugees from Sri Lanka to Australia.

## **2. Granting the right to get a job to refugees**

Refugees complain about their right not to be allowed to work in transit countries like Indonesia. The refugees began to complain because they felt that the allowances

provided by the government and assistance from international organizations were still insufficient to meet their daily needs, which they felt were increasingly expensive. Article 23 of the Universal Declaration of Human Rights states that everyone has the right to get a job, to be free to choose a job and to be equated with other workers. The definition of everyone here is every Indonesian citizen or foreign citizen who has legal residence in Indonesia.

Thus, refugees living in Indonesia legally have the right to get a job and earn the same wages as Indonesian citizens. This definition of the word legal means that the Indonesian government has permitted asylum seekers to stay in Indonesia as long as they have not yet found a destination country. Therefore, the Indonesian government should permit asylum seekers to work.

Suppose we look at the grammatical interpretation of articles 17, 18, and 19 of the 1951 refugee convention. So, a country obliged to grant access to work is only a receiving country such as Australia, New Zealand, America, Turkey, and all participating countries of the refugee convention. Article 17, paragraph 1 states that:

The Contracting States shall accord to refugees lawfully staying in their territory the most favourable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment

Participating countries must provide work opportunities for refugees who have legally resided in their countries. The negative effect of Indonesia permitting the refugees to get work is that the Indonesian population will lack the number of jobs because refugees take them. As we know, the number of unemployed in Indonesia in 2022 will be approximately 8,42 million souls. In addition, the government is more concerned with foreign citizens than its citizens. The government must prioritize its citizens over foreign nationals, especially refugees transiting Indonesia. Indonesia's law does not exist if it is necessary to provide jobs to refugees.

The positive effect for Indonesian government is having a good attitude among international society. Human rights should indeed be upheld both for Indonesian citizens and foreign nationals. When the Indonesian government provides jobs to refugees, it will also help the Indonesian government. However, limitations must still be given as previously described. This is intended to minimize the social jealousy of the Indonesian people toward refugees. Many people think that refugees living in Indonesia are lucky because they do not need to work and are still given food and pocket money by the government.

Society, in general, does not see through the other side that the refugees feel tortured living in detention centers alone for years because they do not have freedoms such as the right to work and walk around. Their space for movement is still very limited because the Indonesian government does not permit it. This is done to maintain the country's security and stability.

#### **D. CONCLUSION**

The government of Indonesia has conducted the obligation as an international society. The Indonesian government cooperated with UNHCR to build detention centers for refugees. In this place, refugees spend the whole of their time. The government of

Indonesia has built a mosque, a church, a vihara, and a school for refugees. Moreover, the Indonesian government has helped refugees from many states, such as Myanmar, Thailand, Afghanistan, Iraq, and Sri Lanka. A concrete example is the development of Galang island for refugees.

The right to work should be given to the refugees. This is because the refugees need activities to spend the whole of their time. Many refugees feel that they are depressed if they stay in detention centers. The refugees also complain that the government's money cannot satisfy their needs. The government also limits the movement of refugees to maintain national security.

There is also some positives effect of the government of Indonesia giving employment to refugees. First, refugees can help the government finish working as laborers in a government company. Second, the government can reduce the amount of money spent on salaries. Refugees are not given freely to choose their jobs but are determined by the government. Refugees here are still given salaries according to the regional minimum wage, so they are not impressed with the exploitation of refugees.

## BIBLIOGRAPHY

- Adhaniah, Nurul, Dudy Heryadi, and Deasy Sylvia Sari. "The Cooperation of UNHCR and Indonesia on Afghan Refugee Handling in Indonesia." *Andalas Journal of International Studies* X, no. 1 (2021): 51–65. <https://doi.org/DOI>: <https://doi.org/10.25077/ajis.10.1.51-65.2021>.
- Adwani, Adwani, Rosmawati Rosmawati, and M. Ya'kub Aiyub Kadir. "The Responsibility in Protecting the Rohingya Refugees in Aceh Province, Indonesia: An International Refugees Law Perspective." *IIUM Law Journal* 29, no. (S2) (2021): 1–21. [https://doi.org/10.31436/iiumlj.v29i\(s2\).677](https://doi.org/10.31436/iiumlj.v29i(s2).677).
- Afriansyah, Arie, Hadi Rahmat Purnama, and Akbar Kurnia Putra. "Asylum Seekers and Refugee Management: (Im)Balance Burden Sharing Case between Indonesia and Australia." *Sriwijaya Law Review* 6, no. 1 (2022): 70–100. <https://doi.org/10.28946/slrev.Vol6.Iss1.1145.pp70-100>.
- Anker, Deborah E. "Refugee Law, Gender, and the Human Rights Paradigm." *International Refugee Law* 25 (2017): 237–58. <https://doi.org/10.4324/9781315092478-11>.
- Ariadno, Melda Kamil. "Indonesian Case on Illegal Migrant." *Indonesian Journal of International Law* 9, no. 2 (2012). <https://doi.org/10.17304/ijil.vol9.2.346>.
- Asmara, Melina Tri, and Alvi Syahrin. "Aktualisasi Kebijakan Imigrasi Indonesia Terkait Hak Asasi Manusia Bagi Pengungsi Rohingya Di Indonesia." *Journal of Law and Border Protection* 1, no. 2 (2021): 73–84.
- Baban, Feyzi, Suzan Ilcan, and Kim Rygiel. "Syrian Refugees in Turkey: Pathways to Precarity, Differential Inclusion, and Negotiated Citizenship Rights." *Journal of Ethnic and Migration Studies* 43, no. 1 (2017): 41–57. <https://doi.org/10.1080/1369183X.2016.1192996>.
- D'Angelo, Ellen F. "Non-Refoulement : The Search for a Consistent Interpretation of Article 33." *Vanderbilt Journal of Transnational Law* 42, no. 1 (2009): 279–316.
- Harrell-Bond, Barbara. "Can Humanitarian Work with Refugees Be Humane?"



- Human Rights Quarterly* 24, no. 1 (2002): 51–85. <https://doi.org/10.1353/hrq.2002.0011>.
- Howie, Emily. “Sri Lankan Boat Migration to Australia: Motivations and Dilemmas.” *Economic and Political Weekly* 48, no. 35 (2013): 97–104. <https://doi.org/http://www.jstor.org/stable/23528760>.
- Kneebone, Susan, Antje Missbach, and Balawyn Jones. “The False Promise of Presidential Regulation No. 125 of 2016?” *Asian Journal of Law and Society* 8, no. 3 (2021): 431–50. <https://doi.org/10.1017/als.2021.2>.
- Kristin, Debby, Chloryne Trie, and Isana Dewi. “The Rights of Children Refugee in Transit Country under the CRC, A Case of Indonesia: An Intended Negligence on the Implementation of Non-Discrimination Principle?” *Padjadjaran Journal of International Law* 5, no. 1 (2021): 2549–1296. <https://doi.org/https://doi.org/10.23920/pjil.v5i1.349>.
- Laksmmana, Evan A. “Journal of the Indian Ocean Region The Enduring Strategic Trinity : Explaining Indonesia ’ s Geopolitical Architecture.” *Journal of the Indian Ocean Region* 7, no. 1 (2011): 37–41. <https://doi.org/10.1080/19480881.2011.587333>.
- Liliansa, Dita, Dita Liliansa, and Anbar Jayadi. “Should Indonesia Accede To The 1951 Refugee Convention And Its 1967 Protocol ?” 5, no. 3 (2015). <https://doi.org/10.15742/ilrev.v5n3.161>.
- McNamara, Karen Elizabeth. “Conceptualizing Discourses on Environmental Refugees at the United Nations.” *Population and Environment* 29, no. 1 (2007): 12–24. <https://doi.org/10.1007/s11111-007-0058-1>.
- Missbach, Antje. “Waiting on the Islands of ‘Stuckedness’ Managing Asylum Seekers in Island Detention Camps in Indonesia from the Late 1970s to the Early 2000s.” *ASEAS - Austrian Journal of South-East Asian Studies* 6, no. 2 (2013): 281–306. <https://doi.org/https://doi.org/10.4232/10.ASEAS-6.2-4>.
- Missbach, Antje, and Frieda Sinanu. “‘The Scum of the Earth’? Foreign People Smugglers and Their Local Counterparts in Indonesia.” *Journal of Current Southeast Asian Affairs* 30, no. 4 (2011): 57–87. <https://doi.org/10.1177/186810341103000403>.
- Sadjad, Mahardhika Sjamsoe oed. “What Are Refugees Represented to Be? A Frame Analysis of the Presidential Regulation No. 125 of 2016 Concerning the Treatment of Refugees ‘from Abroad.’” *Asian Journal of Law and Society* 8, no. 3 (2021): 451–66. <https://doi.org/10.1017/als.2021.3>.
- Setiawan, Asep, and Hamka Hamka. “Role of Indonesian Humanitarian Diplomacy toward Rohingya Crisis in Myanmar,” no. August 2017 (2020). <https://doi.org/10.4108/eai.5-11-2019.2292481>.
- Shalihah, Fithriatus, and Muhammad Nur. “Observations on the Protection of Refugees in Indonesia.” *Fiat Justisia: Jurnal Ilmu Hukum* 15, no. 4 (2021): 361–84. <https://doi.org/10.25041/fiatjustisia.v15no4.2143>.
- Soeryabrata, Titi Herwati. “Juridical Review of the Refugees in Indonesia from the Human Rights Side and the Private Protection” 140, no. Icleh (2020): 271–76. <https://doi.org/10.2991/aebmr.k.200513.055>.