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The Government Policy as an Effort to Provide Protection for Foreign Refugees

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Abstract

As part of its responsibility to address refugee-related issues, Indonesia enacted Presidential Regulation No. 125 of 2016 concerning the Handling of Refugees from Abroad. This study is more in-depth than previous studies because it focuses on more specific legal regulations at the presidential regulation level. This provides the legal basis for the protection of foreign refugees in Indonesia and serves as the official guideline for managing asylum seekers and international refugees. This regulation is more operational, for example, shelter mechanisms such as shelter, accommodation and health and education, as well as basic services, and coordination with UNHCR/IOM, but does not provide formal legal status for refugees. One implementation is the relocation of asylum seekers from Immigration Detention Centers (Rudenim) to temporary shelters, thus enabling the provision of basic needs, which is facilitated and funded by the International Organization for Migration (IOM). The main differences between the international obligations of ratifying conventions and domestic authority through Presidential Regulations lie in their source, binding nature, and implications for the legal status and rights of refugees specifically. This regulation is seen as an alternative to ratifying the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees, which Indonesia has not yet ratified. Presidential Regulation Number 125 of 2016 outlines several important provisions, including key definitions, detention mechanisms, shelter procedures, and protection measures for asylum seekers and refugees. This regulation consists of 45 articles detailing the coordination mechanism between government agencies in managing refugees. Based on Article 2 paragraph (1), the handling of asylum seekers and refugees is carried out through cooperation between the central government and the United Nations (UN).

1. Introduction

The influx of refugees coming to Indonesia has become a significant issue for decades. As a geographically strategic transit country, Indonesia receives refugees from various countries affected by conflict and violence. Data from 2023 showed a total of 12,295 refugees in Indonesia's territory, dominated by Afghan, Myanmar, and Somali. This number continues to grow. From November 2023 to March 2024, UNHCR recorded an increase of 1,964 Rohingya refugees, dominated by children (45%). This figure does not include refugees from other countries. Their existence requires serious attention from the Indonesian government, especially in the context of protecting human rights.[1]

A refugee leaves their home country since they feel the country can no longer provide a sense of security and protection for them. One of the efforts to save themselves is to evacuate to another country that is considered safer and considered to provides a decent living. The legal rules regarding

1 Syeda Naushin Parnini, "The Crisis of the Rohingya as a Muslim Minority in Myanmar and Bilateral Relations with Bangladesh," *Journal of Muslim Minority Affairs* 33, no. 2 (2013): 281.

refugee status are stated in the 1951 Convention on the Status of Refugees. To complement the shortcomings of the 1951 Convention, the 1967 Protocol was formed. This legal instrument is considered a basic norm that mandates the provision of protection for international refugee individuals.[2] Indonesia adheres to international principles voluntarily, but the legal status of refugees and their handling is regulated by national regulations, particularly Presidential Regulation (Perpres) Number 125 of 2016. Although it has not ratified the 1951 Refugee Convention, Indonesia applies basic principles such as non-refoulement (prohibition of forced eviction) through the Perpres and other mechanisms, which serve as the legal basis for handling refugees domestically.

The 1951 Convention contains minimum standards on the treatment of countries towards asylum seekers and refugees, including their basic rights. As a supporting instrument, the 1967 Protocol contains provisions on granting refugee status to asylum seekers; regulating the rights and obligations of asylum seekers and refugees, as well as rules of cooperation and agreements between countries and institutions or organizations members of the UN, such as UNHCR and IOM.[3] Although Indonesia does not have a legal responsibility to fulfill the basic needs of refugees when asylum seekers and refugees are in Indonesian territory, Indonesia still provides assistance to refugees who come to Indonesia for humanitarian reasons.[4]

Asylum seekers and refugees in Indonesia face long waiting times for permanent resettlement in other countries. They have few legal rights, coupled with very limited financial resources and no access to government-provided services. The problem of refugees and population displacement in Indonesia has been faced for a long ago. It is inseparable from the consideration that someone chooses to flee to another place since there are many issues in their home country. The issues include conditions that are unsafe for a person or group of people if they remain in their home territory; for their security and safety, they choose to move from their home country to another safer place for them. This large-scale population displacement was initially only a domestic problem for a country; then it did not attract much attention from others. Then the refugee problem spread to become a problem for countries in a certain region, only and was ultimately considered a common problem for humanity. The refugees who cross national borders and enter a territory that has sovereignty deserve attention because this is a global problem.

International refugee law is part of international law as a new object of study. However, some experts also consider that international refugee law is a derivative subject of Humanitarian Law study, or commonly referred to as International Human Rights.[5] The emergence of refugees is caused by the worsening political, economic, and social conditions in a country, forcing its people to leave the country and seek safer shelter in another country, on the grounds of seeking protection and saving themselves from physical dangers.

Indonesia is one of the countries that often becomes a transit point for refugees who want to seek asylum in other countries. They not only come to one region but also to several regions, such as Aceh, Medan, Riau, Batam, West Nusa Tenggara, and others. Meanwhile, refugees who transit to Indonesia are usually refugees who go to Australia as their destination. Indonesia as a transit point, inseparable from Indonesia's strategic geographical location that is flanked by two continents, namely the Asian and the Australian/Oceania continent. Indonesia's geographical location is between two oceans, namely the Indian Ocean and the Pacific Ocean. On the other hand, Indonesia's geographical position has the potential to be an illegal trade route and a transit location for refugees or asylum seekers who want to go to Australia. Based on its strategic location and the increasing number of refugees entering, Indonesia is required to provide protection and assistance to these refugees when they have entered Indonesian jurisdiction.[6]

Refugee management in Malaysia is based on humanitarian principles, as the country is not a signatory to the 1951 Refugee Convention and lacks a formal legal framework for refugees. Refugees are registered under the UNHCR and live in legal limbo, although they are generally protected from forced repatriation and can apply for temporary work permits (IMM13). Meanwhile, refugee management in Thailand varies, including shelter in border camps (primarily for Myanmar refugees) and legal status for urban refugees. The refugee status

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2 Aryan Torido, "Proses Repatriasi Pengungsi International Global Ke Negara Asal Di Asia Dan Afrika," *Jurnal Media Informasi Penelitian Kesejahteraan Sosial* 39, no. 1 (2015): 92.

3 Adrianus A. V. Ramon, "Demi Kemanusiaan: Pengalaman Indonesia Dalam Menangani Arus Pengungsi Internasional," *Jurnal Hukum Humaniter Dan Ham* 1, no. 1 (2019): 29.

4 Rohmad Adi Yulianto, "Kebijakan Penanganan Pengungsi Di Indonesia Perspektif Maqāṣid Al-Syariah," *Al-ManāHij: Jurnal Kajian Hukum Islam* 13, no. 2 (2019): 70.

5 Iin Karita Sakharina and Kadaruddin, *Hukum Pengungsi Internasional* (Makassar: Pustaka Pena Press, 2016).

6 Riadussyah, "Tanggung Jawab Indonesia Sebagai Negara Transit Bagi Pengungsi Anak Berdasarkan Hukum Internasional," *Jurnal Hukum Ius Quia Iustum* 23, no. 2 (2016): 250.

determination process is conducted with the assistance of the UNHCR, and Thailand has recently implemented its own asylum process and granted legal status to some refugees to work.

The initial handling of asylum seeker and refugee problems in Indonesia refers to Law Number 6 of 2011 concerning Immigration. Because asylum seekers and refugees both come from abroad who enter Indonesian territory, the provisions are the same as other people from abroad who enter Indonesia either legally (tourists, students from abroad) or illegally (human smuggling). Article 83 paragraph (1) letter b of Law Number 6 of 2011 states that immigration officials have the authority to place people from abroad in the Migration Detention Center (Rudenim) if the person from abroad is in Indonesian territory without having valid travel documents. However, the Immigration Law only provides the basis for administrative immigration actions, not refugee protection, the basic rights of refugees in Indonesia depend on Presidential Decree 125/2016 and UNHCR/IOM policies.

For comparison, a previous study that correlates with this research will be described. Herlina Yosepina Sihombing's journal, entitled "Indonesia's Policy on the Protection of Asylum Seekers and Refugees Post-Tony Abbott's Turn Back the Boat Policy," concludes that Indonesia's policy of protecting asylum seekers and refugees is driven by the role of non-state actors. This is evident in the presence of interest groups, such as humanitarian NGOs, that influence Indonesian policy regarding the handling of asylum seekers and refugees in Indonesia. The involvement of regional and international interest groups has an influence on policymakers in addressing asylum seeker and refugee issues. This influence is demonstrated by interest groups through campaign actions, discussion forums, opinion polls, and providing input to policymakers. Although interest groups do not have the legal authority to decide on public policy, the President, as policymaker, considers the important role of interest groups as interest influencers in issuing policies related to the protection of asylum seekers and refugees.

Indonesia does not formally recognize refugee status, but it does have administrative mechanisms and basic protections in place under Presidential Regulation 125/2016. To date, Indonesia has not implemented or created such a policy. Furthermore, Indonesia must strictly implement selective immigration principles for foreigners who use Indonesia solely as a transit/destination country for those claiming to be asylum seekers or refugees. The impact of Indonesia's transit-only status results in limited assistance for basic needs, such as the right to housing, health care, education, and employment for refugees and asylum seekers. Therefore, efforts must be made to provide adequate facilities to accommodate basic needs, including health services. This policy must not overlap with international agreements ratified by the Indonesian government and must not harm the country's sovereignty.

2. Research Method

This study is a normative legal study. It is also called doctrinal legal research. In doctrinal research, law is conceptualized as what is written in laws and regulations. (law in books).[7] This study is descriptive analysis research. Descriptive research is a research method that attempts to describe and interpret objects as they are, with the aim of providing research data on a condition or fact that exists in society, that will be described clearly so that it can be accepted and understood by the reader, and can describe the research problem.

The approach method in this study used a legislative approach; namely, "a research approach to legal products, where this study will analyze and examine legal products that exist in society".

In accordance with the research method adopted, that is, normative legal research, this study is carried out in response to issues involving the violation of legal norms. The analysis is conducted through the examination and synthesis of relevant legal literature, with the objective of formulating appropriate legal solutions or conclusions to the problem under study. The data utilized in this study are derived from secondary legal sources.

3. Findings And Discussion

3.1. Protection of Refugee Rights Under International Law

The study of international politics focuses on the international system, deterrence, and the behavior of decision makers in conflict situations. The problem of asylum seekers and refugees is a phenomenon that has received special attention from policymakers in international politics. The presence of asylum seekers and refugees from abroad has a significant impact on state policy. The Indonesian government, as a decision maker within the scope of the state, has made various efforts and policies in handling and regulating refugee problems. The President, as the determining party in policy making in Indonesia, is the most determining party at the final

7 Amarudin dan Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Jakarta: Rajawali Pers, 2013).

level regarding the policy of protecting asylum seekers and refugees. According to William D. Coplin's thinking, in deciding a policy, a significant role is needed for policy actors.[8]

The Indonesian government's policy of accommodating and protecting asylum seekers and refugees from abroad—despite not having ratified the 1951 Refugee Convention and its 1967 Protocol—is based on specific national considerations and rationales. Indonesia voluntarily adheres to international principles, and refugee protection is implemented through Presidential Regulation No. 125 of 2016, which is national and humanitarian in nature. From a liberalist perspective, Indonesia's decision not to become a party to these international instruments reflects its prioritization of domestic conditions.

Nevertheless, given the existence of international legal frameworks governing refugee protection, and in response to ongoing human rights advocacy—particularly by humanitarian non-governmental organizations (NGOs)—Indonesia has adopted a policy of temporarily receiving and accommodating refugees within its territory. The policy taken by the Indonesian government is also influenced by the role of humanitarian Non-Governmental Organizations (NGOs) through campaign actions, discussion forums, opinion polls, and so on.[9] There are at least 3 (three) main principles that are directly related to international refugees; namely, the principle of non-refoulement,[10]

Every state bears the responsibility to protect all individuals within its territory, including both its own citizens and foreign nationals residing under its sovereignty. One form of such protection is legal protection, whereby the state is obligated to uphold and fulfill the legal rights inherently attached to each legal subject. When a country of origin is no longer capable of safeguarding the fundamental rights of its citizens. The international community undertakes necessary measures to guarantee and ensure that an individual's fundamental rights are protected and respected. Within the framework of international protection.[11]

The foundation of state responsibility lies in the concept of a state's obligation toward foreigners within its jurisdiction. In the context of modern international law, this responsibility is marked by the recognition and protection of individuals regardless of their nationality. Every person is entitled to a set of fundamental rights that must be upheld wherever they may be. Consequently, states are required to respect core norms of human rights, and violations of these norms may constitute grounds for international legal claims.

In line with this principle, the rights and obligations of foreigners are reflected in Article 22 of the Draft Articles on State Responsibility, which affirms the right of foreign nationals to receive protection from the host state.

The International Human Rights Law approach may serve as a legitimate foundation for justifying legal protection for individuals displaced by environmental changes - commonly referred to as environmental refugees. Legal safeguards for such individuals, when viewed through the lens of human rights, can draw upon key international legal instruments such as the 1948 Universal Declaration of Human Rights (UDHR), the 1966 International Covenant on Civil and Political Rights (ICCPR), and the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR).

There are principles are broadly concerned with the recognition, respect, and protection of human dignity, and include as following:

1. Principle of inviolability; affirms that every individual has inherent rights to have his soul respected; his integrity, both physical and moral, and all other attributes that cannot be separated from his personality as a human being;
2. Principle of non-discrimination; affirms that every individual has the right to receive equal treatment regardless of differences in gender, race, ethnicity, religion, nation, social status, and others;
3. Principle of Security; affirms that every individual has the right to security and protection, and that no person shall be held accountable for an act they did not commit.;
4. The principle of liberty affirms that everyone has the right to enjoy individual freedom;
5. The principle of social well-being affirms that everyone has the right to enjoy pleasant living conditions according to what they want.

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8 Coplin, *Pengantar Politik Internasional: Suatu Telaah Teoritis* (Bandung: Sinar Baru, 1992).

9 Herlina Yosepina Sihombing, "Kebijakan Indonesia Dalam Perlindungan Pencari Suaka Dan Pengungsi Pasca Kebijakan Turn Back the Boat Pemerintahan Tony Abbott," *Journal of International Relations* 5, no. 4 (2019): 599.

10 Iin Karita Sakharin, *Pengantar Hukum Internasional (Perbedaan Istilah Pencari Suaka, Pengungsi Internasional Dan Pengungsi Dalam Negeri)* (Yogyakarta: Deepublish, 2017).

11 Wagiman, *Hukum Pengungsi Internasional* (Jakarta: Sinar Grafika, 2012).

Within the framework of International Refugee Law, the principle of *non-refoulement* serves as a legal foundation for the obligation of states to provide protection to environmental refugees. Article 33 of the 1951 Refugee Convention stipulates:

> *"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."*

In addition, there are four basic principles that must be implemented by the state towards refugees. First, the prohibition on returning refugees to their country of origin. If a return occurs, the state party is considered to have violated the provisions of articles 32 and 33 of the Refugee Convention. Second, the destination country or transit country must be able to provide security protection (security of refugees). Third, the destination country or transit country may not arrest refugees (prohibition against detention of refugees). The arrest of refugees who are in refugee camps is contrary to Article 31 of the Refugee Convention, unless proven to have committed a crime in that country. Fourth, recognition and granting of status (gainful employment of refugees), where granting status to refugees is only an initial stage, so that refugees can obtain other rights.[12] **Presidential Regulation (Perpres) Number 125 of 2016 concerning the Handling of Refugees from Abroad, which is a manifestation of Indonesia's commitment to implementing international principles at the domestic level, even though Indonesia has not ratified the 1951 Refugee Convention and the 1967 Protocol. This Perpres emphasizes that the handling of refugees must pay attention to generally applicable international provisions, including the principle of non-refoulement (not returning refugees to their country of origin where they face threats)**.

The principle of non-refoulement, as stated in this article, is a prohibition against a country from refusing refugees to enter its territory and expelling them back to a country where their lives would be threatened for reasons of race, religion, nationality, membership in a particular social group, or because they have political views that are at odds with the authorities in that country. All UN General Assembly resolutions relating to refugee issues contain this principle. This principle, which is the foundation of international refugee law, prohibits a state from expelling or returning ("refouler") a refugee to a territory where his or her life or freedom would be threatened for reasons of race, religion, nationality, membership of a particular social group, or political opinion. This principle is widely recognized as part of customary international law and must be observed by all states, regardless of whether they have ratified the 1951 Refugee Convention or the 1967 Protocol that explicitly regulates it. In the UN Convention on Refugees, it is even stated that the article regulating non-refoulement is an article that cannot be reserved as stated in Article 42, namely "At the time of signature, ratification or accession, any state may make reservations to articles of the Convention other than Articles 1,3,4,16 (1), 33,36-46 inclusive.

The application of the non-refoulement principle is generally manageable when the number of refugees entering a country is relatively small. However, significant challenges emerge in situations involving a large-scale influx of refugees, particularly when these individuals seek refuge in states that have not ratified the 1951 Refugee Convention and where the receiving state is simultaneously grappling with severe socio-economic difficulties. In such circumstances, the principle of international solidarity becomes particularly relevant. States are encouraged to provide temporary shelter and cooperate with the United Nations High Commissioner for Refugees (UNHCR), that will process the asylum claims and facilitate the resettlement of refugees in third countries. Under this framework. Such a precedent can be observed in the responses of Malaysia and Hong Kong to the influx of Vietnamese refugees. Nonetheless, states retain the right to prioritize national interests, as explicitly acknowledged in Article 32 of the 1951 Refugee Convention.

Without the proactive role of the state, human rights protection will only be an unrealized ideal. As a duty bearer, the state not only has a moral responsibility but also a firm legal responsibility to carry out three main obligations: to respect, to protect, and to fulfill individual rights. These obligations cannot be viewed as abstract principles; rather, they are a solid foundation that measures the extent to that a state is committed to human rights. Olivier de Schutter, in his book International Human Rights Law, explains in detail how each of these obligations must be implemented by the state, emphasizing that a violation of one obligation can damage the entire existing human rights protection system. Thus, the role of the state as a duty bearer is not merely symbolic, but essential to realizing justice and prosperity for every individual under its jurisdiction. The obligation to respect requires the state not to take actions that harm or violate internationally recognized human rights. The state must ensure that the policies, regulations, and actions taken do not violate the basic rights of individuals, such as the right to life, the right to liberty, and the right to be free from torture. In the context of refugees, this obligation means that States must not take actions that directly or indirectly endanger them, such as pushbacks that could result in refugees

12 Wagiman.

returning to places where they face serious threats. Olivier de Schuter associated this obligation with absolute rights, that must be respected in all situations without being subject to restrictions. One of them is related to the prohibition of torture or cruel, inhumane, and degrading treatment. In this case, every state must respect these rights. On the other hand, some rights can be limited based on three factors, namely the legal factor (must be based on legal provisions), the legitimacy factor (must have a legitimate purpose and objective), and the proportional factor (according to need, objective, and not excessive in achieving the intended purpose).

The obligation to protect requires states to take proactive steps to prevent human rights violations by third parties, whether individuals, groups, or other entities. States must enact and enforce laws and policies that protect individuals from the threat of violence, exploitation, and discrimination. In the context of refugees, this includes protection from the threat of violence or abuse, whether by authorities or by local populations or other groups. States must also provide access to an effective justice system for refugees who experience human rights violations. In Henry Sue's dichotomy of obligations, the obligation to protect falls under positive obligations. Unlike the obligation to respect that does not require an active action, positive obligations require states to take specific actions. These actions include steps to prevent violations, intervention if there is an indication that someone's rights are threatened, and providing remedies if violations occur.

Indonesia has demonstrated a strong commitment to protecting human rights by ratifying various international human rights instruments. This ratification is not just a formality, but a firm statement about Indonesia's position on the international stage as a country that respects and protects the fundamental rights of every individual. Among the important instruments that have been ratified are the International Covenant on Civil and Political Rights (ICCPR) through Law Number 12 of 2005, and the International Covenant on Economic, Social, and Cultural Rights (ICESCR) through Law Number 11 of 2005.

In addition, various international human rights instruments have been ratified, namely the Convention on the Rights of the Child (CRC) ratified through Presidential Decree Number 36 of 1990, the Convention on the Elimination of All Forms of Racial Discrimination (ICERD) ratified through Law Number 29 of 1999, the Convention on the Rights of All Migrant Workers and Members of Their Families ratified through Law Number 6 of 2012, the Convention on the Rights of Persons with Disabilities (CRPD) ratified through Law Number 19 of 2011, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment Human Dignity (ICRC) through Law Number 5 of 1998, and the Convention of the Elimination of All Forms of Discrimination Against Women (CEDAW) through Law Number 7 of 1984.

The mechanism for protecting refugee rights in Indonesia is based on a combination of the national legal framework and international human rights norms. Indonesia is a party to several international human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which provide the normative basis for the protection of fundamental rights for all persons within Indonesia, including refugees.

Through this ratification, Indonesia not only declares its willingness to carry out international obligations but also strengthens its commitment to protect human rights within its jurisdiction, including vulnerable groups such as refugees. Although Indonesia has not ratified several important instruments related to refugee protection, such as the 1951 Refugee Convention and the 1967 Protocol, this does not mean that Indonesia is free from the obligation to protect refugees in its territory. On the contrary, as a country that has ratified various human rights instruments, Indonesia remains bound by the basic principles of human rights protection that apply universally.

Handling the influx of Rohingya refugees in Indonesia involves government coordination, humanitarian assistance, and international diplomacy. Local governments (such as in Aceh) have taken measures such as welcoming refugee boats, providing health facilities and temporary shelters, and collaborating with the UNHCR and IOM. Internationally, Indonesia is pushing for a resolution of the root causes of the conflict in Myanmar through diplomacy and utilizing multilateral mechanisms such as the Bali Process.

Indonesia's steps in dealing with the influx of Rohingya include Provision of temporary shelter: Local governments, especially in Aceh, provide temporary shelter and basic facilities such as housing, places of worship, and health facilities, Humanitarian aid: The government and local communities provide direct aid in the form of food, drink and clothing, Multi-actor coordination: The government works with international organizations such as UNHCR and IOM to manage refugees and provide necessary services, and Law enforcement: Law enforcement officers arrested human involved in facilitating the arrival of illegal refugees.

3.2. Government Policy in Providing Protection for Foreign Refugees

As stated in the Great Dictionary of the Indonesian Language, the root word of the term refugee is Ungsi, and the verb is mengungsi, that means to flee (get rid) of danger or save oneself (to a place that provides a sense of security). While refugee is a noun that means a person who flees.[13] Refugees are people who, due to a well-founded fear of persecution, due to race, religion, nationality, membership of a particular social group, or membership of a particular political party, are outside their country of nationality and do not want protection from that country. In simple terms, it can be interpreted as people who are forced to sever ties with their country of origin due to well-founded fear and experience persecution. Refugees or large-scale population movements were initially only a domestic problem of a country, then because population movements also crossed the borders of one country to another, the refugee problem eventually spread to become a problem for certain countries and was finally considered a common problem for humanity.[14]

There were no specific regulations previously to handle the issue of refugees and asylum seekers coming to Indonesia. However, the regulation was equated with illegal immigrants coming to Indonesia, as regulated in the Regulation of the Director General of Immigration Number IMI-1489.UM.08.05 of 2010 concerning Handling of Illegal Immigrants. Indonesia also has no obligation or authority to take international action against refugees and asylum seekers entering Indonesia. Initially, handling problems related to asylum seekers and refugees in Indonesia referred to Law Number 6 of 2011 concerning Immigration. It is because asylum seekers and refugees are foreigners who enter Indonesia's territory, so the provisions are the same as other foreigners who enter Indonesia either legally, such as tourists, foreign students, or illegally, such as people smuggling. Article 83 paragraph (1) letter b of Law Number 6 of 2011 states that immigration officials have the authority to place foreigners in the Migration Detention Center (*Rudenim*) if the foreigner is in Indonesian territory without having valid travel documents. Travel documents are official documents issued by authorized officials of a country, the United Nations, or other international organizations for travel between countries that contain the identity of the holder.

One of the policies made by Indonesia related to refugee protection is Presidential Regulation Number 125 Concerning Handling of Refugees from Abroad. The Presidential Regulation provides a legal basis for the protection of foreign refugees in Indonesia. This Presidential Regulation provides Indonesia with guidelines for handling asylum seekers and refugees from abroad. It can be seen from the fact that after the Presidential Regulation Number 125 of 2016, asylum seekers who were initially placed in the Immigration Detention Center (Rudenim) were moved to shelters, so that they could be facilitated and financed by IOM. This Presidential Regulation is considered an alternative to ratifying the 1951 Convention and the 1967 Protocol. A key gap is that the 1951 Refugee Convention establishes internationally binding legal obligations for ratifying states, while Presidential Regulation No. 125/2016 serves only as domestic guidance in Indonesia, which has not ratified the Convention. Therefore, it does not create full obligations and is often limited by derivative regulations that do not fully protect refugee rights. While the Convention guarantees refugee rights such as the right to work and education, Presidential Regulation 125/2016 does not fully cover these rights and even includes derivative regulations that prohibit refugees from working and earning wages.

Presidential Regulation No. 125 of 2016 establishes the key definitions and legal framework governing the detention, accommodation, and protection of asylum seekers and refugees in Indonesia. Comprising 45 articles, the regulation sets out mechanisms for coordination among governmental institutions in the management of refugee affairs. Article 2, paragraph (1) of the Regulation affirms that the handling of asylum seekers and refugees shall be conducted through cooperation between the central government and the United Nations. This cooperation is implemented via the United Nations High Commissioner for Refugees (UNHCR) Indonesia and other international organizations engaged in migration or humanitarian affairs that have formal agreements with the Indonesian government.

In addition to procedural and institutional provisions, the Regulation outlines the rights accorded to asylum seekers and refugees. These include, among others, the freedom of religion, as stipulated in Article 26, paragraph (2), and the right to basic welfare, as set out in Article 26, paragraph (12), that encompasses access to clean water, adequate food and drink, health care, and hygiene. Furthermore, Article 27, paragraph (1) provides that asylum seekers and refugees with special needs may be accommodated outside designated shelters, with facilitation provided by relevant international organizations.

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13 W.J.S. Poerwadarminta, *Kamus Umum Bahasa Indonesia* (Jakarta: Balai Pustaka, 1984).

14 Acmad Romsan, *Pengantar Hukum Pengungsi Internasional : Hukum Internasional Dan Prinsip-Prinsip Perlindungan Internasional, UNHCR Perwakilan Regional Jakarta, Republik Indonesia* (Bandung: Sanit Offset, 2003).

In response to Circular Letters of the Minister of Home Affairs No. 300/2307/SJ and No. 300/2308/SJ concerning the establishment of a Task Force for the Handling of Refugees from Abroad, several regions in Indonesia have established such task forces (Satgas PPLN). The primary objective of these regional task forces is to enhance inter-agency coordination and ensure a more integrated and unified approach to managing the presence of foreign refugees within Indonesian territory. The effective implementation of the provisions outlined in Presidential Regulation No. 125 of 2016 is anticipated through the work of these task forces. Given the continuous increase in the number of refugees arriving in Indonesia each year, the possibility of revising the existing regulatory framework to make it more comprehensive and responsive remains open and necessary. It will make the Indonesian Government and UNHCR work more closely, including in the field of joint registration for asylum seekers. Thus, the Indonesian government has played a role in helping to address the problems faced by asylum seekers and refugees.[15]

To strengthen refugee protection in the future, domestic legal frameworks need to be improved to ensure basic rights such as education and health are met. Furthermore, increased coordination between central and regional governments and international organizations, as well as economic empowerment of refugees through skills training and cash assistance, can enhance their dignity and independence.

a. Update regulations: Update and strengthen regulations on refugee management, such as Presidential Decree No. 125 of 2016, to explicitly regulate the fulfillment of basic refugee rights, including the right to education and health.
b. Consistency in the application of the law: Ensure that international and national laws protecting human rights are applied consistently to all refugees, including those who do not yet have official refugee status.
c. Understand legal status: Map the number of refugees, their distribution, and the treatment of asylum seekers who do not yet have refugee status or are independent refugees.
d. Clarify the division of roles: Clarify the division of authority and roles between the central government, regional governments, and international organizations (such as UNHCR and IOM) to avoid overlap.
e. Safe environment: Manage refugee camps or settlements to be safe environments free from violence and exploitation through effective site management and coordination of community activities.

4. Conclusion

One of the principal policy instruments adopted by the Government of Indonesia concerning the protection of refugees is Presidential Regulation No. 125 of 2016 on the Handling of Refugees from Abroad. This regulation provides a formal legal basis for the protection and management of foreign refugees within the territory of Indonesia, and serves as a comprehensive guideline for addressing the presence of asylum seekers and refugees originating from outside the country. Following the promulgation of this regulation, a significant shift in policy was observed wherein asylum seekers, who were previously placed in Immigration Detention Centers (*Rumah Detensi Imigrasi* or *Rudenim*), were relocated to community shelters. This transition was intended to ensure that their basic needs—such as housing, food, and healthcare. It sets forth key legal definitions and regulates crucial aspects of refugee protection, including detention, accommodation, and inter-agency coordination. Consisting of 45 articles, the regulation mandates coordinated efforts among relevant government agencies in the implementation of refugee-related policies. Notably, Article 2, paragraph (1) stipulates that the management of asylum seekers and refugees shall be carried out through cooperative arrangements between the central government and the United Nations, particularly through the involvement of the United Nations High Commissioner for Refugees (UNHCR) and other international humanitarian and migration-related organizations operating under formal agreements with the Indonesian government.

To strengthen refugee protection in the future, domestic legal frameworks need to be improved to ensure basic rights such as education and health are met. Furthermore, increased coordination between central and regional governments and international organizations, as well as economic empowerment of refugees through skills training and cash assistance, can enhance their dignity and independence.

15 Hasti Wahyuni et al., "Kebijakan Pemerintahan Presiden Joko Widodo Menangani Masalah Pencari Suaka Dan Pengungsi Luar Negeri Di Indonesia," *Journal of Diplomacy and International Studies* 5, no. 2 (2022): 23–32.

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