



LEGAL GAP IN REFUGEE PROTECTION IN NON-SIGNATORY COUNTRIES: AN EVIDENCE FROM INDONESIA

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Abstract

As of December 2021, about 13.399 asylum seekers had entered Indonesian territory. As a non-signatory party to the 1951 Refugee Convention and the 1967 Protocol, refugee protection is becoming ambiguous and uncertain; specifically, about the treatment of asylum seekers and refugees who are in transit in Indonesia. This study used a sociolegal technique to answer that question, using data from the UNHCR High Frequency Survey: Communication with Communities 2022, which included 400 respondents from the Jakarta Metropolitan Area, collected between 15 December 2022 and 09 January 2023. The finding stated that detention is still utilized to treat asylum seekers, sexual and verbal abuse is still happening in detention centres, also illegal deportation is still common. The legal analysis found that it happens because the asylum seeker does not belong to the subject of protection and categorized as illegal migrant by the current legal framework.

Keywords

Refugee, Asylum Seeker, UNHCR, Indonesia, 1951 Refugee Convention

I. Introduction

Migration concerns continue to be major challenges for many countries across the world. The Arab Spring movement, which began in 2011 and prompted regional conflicts in more than five Middle Eastern nations, resulted in the largest refugee crisis in modern history, placing destination countries' refugee policies, notably the European Union's (EU) immigration policy, under scrutiny (Araźna, 2020). Furthermore, since Russia's invasion of Ukraine, over 4 million people have been displaced and seeking asylum in neighbouring EU nations such as Poland, Hungary, and Germany, pushing the EU's

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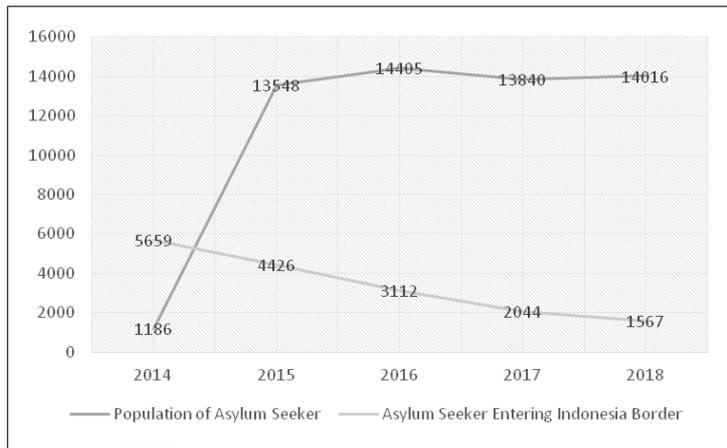
common European asylum system (CEAS) and leaving some legal challenges in refugee reception procedures (Bahri, 2023). The year 2022 marked an unparalleled escalation of the worldwide displacement crisis, with over 86 million people forced to evacuate their homes due to a combination of circumstances ranging from armed conflicts and persecution to environmental degradation and economic insecurity (IOM, 2021). Among this enormous figure, the global refugee population was at 26 million, reflecting people who had crossed international borders in search of protection, with an additional 4.6 million seeking asylum (EUAA, 2022). This increasing humanitarian crisis highlighted the critical need for effective and fair refugee protection measures, which necessitate the collaboration of international legal frameworks, state obligations, and humanitarian principles.

In regard to the preceding statement, the majority of asylum seekers travel to the EU because of the promise of international protection, and to South East Asia because of religious similarities in some countries, such as Malaysia, Indonesia, and Thailand (Bahri, 2021). However, Indonesia is a noticeable destination country for asylum seekers in Southeast Asia, known for its special cultural tapestry, is at the core of this delicate interplay. In the past, Indonesia hosted millions of Vietnam War victims from 1975 to 1979 in the Galang Island, until its voluntary repatriation process ended in 1999 (Putri and Ar-Rasyid, 2020). Recently, for humanitarian reasons, many Indonesians living on Aceh Island have assisted thousands of Rohingya asylum seekers who have become stranded on Indonesian territory (Tobing, 2021). The fact that Indonesia is a non-signatory to the 1951 Refugee Convention and its following 1967 Protocol puts a legal doubt over its obligations to refugees (Prabandari and Adiputera, 2019). These international treaties, which have been ratified by a majority of nations, provide the legal criteria for protecting refugee rights and the duties of host countries (Janmyr, 2019). This sets Indonesia in a difficult situation, since a non-binding promise calls into question the effectiveness and scope of refugee protection within its borders.

Furthermore, with over 14,000 asylum seekers and refugees arriving in Indonesia by the end of 2019, largely from Afghanistan, Somalia, and Myanmar, the country has seen an inflow of people fleeing conflict and persecution in their home countries (Mixed Migration Center, 2021). Following the implementation of Presidential Law No. 21/2016, which gives visa-free access to 169 countries, a large number of asylum seekers entered Indonesia as tourists and announced their status as asylum seekers inside the Indonesia territory (Syahrin, 2019). The passage of that legislation has resulted in a new phenomenon in which the number of asylum seekers entering Indonesian territory is rapidly increasing, as seen by the massive number of asylum seekers declaring their status on Indonesian soil. The significant increase in the number of asylum seekers in Indonesia continues, with no effective solution in sight, particularly in terms of the availability of legal frameworks for handling the asylum seekers and refugees. Legally, the refugee handling legal system in Indonesia is guided by Law No. 37/1999 on Foreign Relations, Law No. 6/2011 on Immigration, and Minister of Justice and Human Rights Regulation No. M.HH-01.GR.01.06 of 2012 on Procedures for Handling Refugees, which recognizes the principles of *non-refoulement* and *non-penalization* of asylum seekers and provides for temporary protection for refugees (Missbach, 2019). Moreover, On December 30, 2016,

Indonesia passed Presidential Regulation No. 125/2016, which established a legislative framework for the treatment of international refugees within the country’s borders. Despite Indonesia’s non-signatory status to the 1951 Refugee Convention and its 1967 Protocol, this legislation recognizes the importance of dealing with refugee issues. It establishes Refugee Detention Centers and provides procedures for refugee identification, registration, and access to necessary services. However, concerns have been expressed about its effectiveness and comprehensiveness, notably in the absence of a formal Refugee Status Determination process (Kneebone et al., 2021).

Figure 1: Trends of Asylum Seeker who Declare Their Refugee Status in the Indonesia territory from 2011 to 2022



Source: Susan Kneebone, 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> Kneebone, Missbach and Jones, (2021)

Furthermore, seen if the legal system for asylum seeker and refugees handling in Indonesia does not yet comply with the 1951 Refugee Convention or the 1967 Protocols. Because Indonesia is not a member to such international treaties, it does not have the right to give refugee status (Liliansa and Jayadi, 2015). As a result, Indonesia is heavily reliant on UNHCR refugee status determination; nevertheless, the acceptance rate of UNHCR refugee determination for third-country resettlement from Indonesia as transit nations to refugee accepting countries is extremely low, at less than 5 percent per year (ECRE, 2015). Politically, Indonesia has rejected the UNHCR’s suggestion to ratify the 1951 Refugee Convention at an official meeting of the House of Representatives (Sihaloho, 2019). This phenomenon will spread like a snowball, causing worse problems in the future. This paradoxical situation raises a pertinent research question: How are refugees treated in Indonesia, a non-signatory country to the 1951 Refugee Convention and the 1967 Protocol? Addressing this question necessitates a comprehensive exploration of prevailing practices, policy frameworks, and the lived experiences of refugees within the Indonesian context. This research seeks to bridge an existing gap in the understanding of refugee protection in

non-signatory countries, particularly within the Indonesian landscape. By utilizing a qualitative sociolegal analysis methodology, this study will dissect the intricate interplay of legal norms, state practices, and humanitarian obligations. Through the lens of the UNHCR High Frequency Survey: Communication with Communities 2022, encompassing 400 respondents residing in the Jakarta Metropolitan Area, collected between December 15, 2022, and January 9, 2023, this research endeavours to unravel the complexities and nuances of refugee protection in a non-signatory nation.

This study aims to fill a knowledge vacuum in refugee protection in non-signatory countries, with a special focus on Indonesia. The research intends to provide insights into the complexity of refugee protection in a non-signatory nation by analyzing prevalent practices, policy frameworks, and the lived experiences of refugees in the Indonesian setting. Based on the explanation above, this study addresses the following research questions in order to attain the stated goal: First, as a non-signatory to the 1951 Refugee Convention and the 1967 Protocol, what are the fundamental policy frameworks and legal conventions guiding the treatment of refugees in Indonesia? Second, what are the practical obstacles and experiences of refugees in Indonesia, and how do these experiences correspond with or deviate from international refugee protection standards? Finally, what is the proposed solution to address the refugee problem in Indonesia? These study topics drive the analysis and investigation of refugee protection in Indonesia, providing to a better knowledge of the dynamics influencing refugee treatment in non-signatory nations and informing international responses to displacement.

II. Literature Review

Understanding the Refugee and Asylum Seeker

This review of the literature dives into the varied understanding of refugees and asylum seekers, providing insights into their distinct legal and humanitarian settings within the backdrop of global displacement. Refugees, as opposed to migrants, are people who have been forced to from their homes due to persecution, conflict, or violence (Lister, 2013). Scholars such as Goodwin-Gill and McAdam (2007) underline the significance of distinguishing this distinction, emphasizing the special rights and vulnerabilities associated with refugee status (Goodwin-Gill and McAdam, 2007). Loescher (2011) investigates the dynamic nature of refugee travel, demonstrating how the phenomena is evolving in the modern world (Loescher and Milner, 2011).

The legal foundation for refugee protection, grounded in the 1951 Refugee Convention and its 1967 Protocol, is central to this conversation. Hathaway's (2007) research digs into the fundamental concepts of refugee law, focusing on *non-refoulement* and shifting conceptions of *protection*, whereas this framework includes regional documents like the African Union Convention and the Cartagena Declaration, which reflect regional efforts to address the complexity of displacement (Hathaway, 2007). A fundamental area of consideration is the distinct position of asylum seekers, people seeking protection but not yet granted formal refugee status. Scholars such as Crock and Berg (2017) deconstruct the complex legal ambiguities surrounding asylum seekers, underscoring the difficulties

they confront in obtaining protection and aid (Crock, 2019). Lambert and Sigona (2013) investigated the topic of legal ambiguity exposing asylum applicants to risky situations (Sigona, Gamlen, Liberatore and Kringelbach, 2015).

Refugees and asylum seekers encounter a variety of challenges, including bigotry, limited access to basic services, and the psychological toll of displacement. Fiddian-Qasmiyeh et al. (2018) investigate the complex vulnerabilities that refugees face in a variety of settings, offering insight on the intersections of age, gender, and displacement (Fiddian-qasmiyeh, Loescher, Long and Sigona, 2020). Finally, understanding refugees and asylum seekers needs an investigation into their legal position, experiences, and vulnerabilities. This literature study contributes to the larger conversation on humanitarian and legal responses to the complex issues provided by global displacement by providing a foundational grasp of the intricacies surrounding their lives.

Understanding the Global Phenomenon of Refugees and Asylum Seekers

Secondly, it's important to conduct an examination of the complicated and multidimensional global topic of refugees and asylum seekers. These people, who have been forcibly displaced owing to persecution, conflict, or violence, represent a grave humanitarian problem. Scholars such as Betts and Collier (2017) emphasize the importance of understanding refugees' motives and experiences in order to shed light on their struggles and goals (Hamlin, 2019). Because of the various legal and ethical obligations inherent in their statuses, Hathaway (2015) draws a critical distinction between refugees and migrants (Hathaway and Foster, 2014).

The role of international law, as shown by the 1951 Refugee Convention and its 1967 Protocol, is central to this discussion. Zetter's (2021) examination of evolving refugee legislation emphasizes its dynamic nature in the modern global setting (Zetter, 2021). As stated by Guild et al. (2019), the establishment of regional institutions, such as the EU's Common European Asylum System, represents region-specific efforts to resolve displacement complications (Perry, 2005). The unusual situation of asylum seekers, people seeking refuge without formal status, is a focus of investigation. Scholars such as Crock and Berg (2016) handle the complex legal complexities of asylum seekers, underlining the risks that stem from their ambiguous status (Crock, 2019).

Refugees and asylum seekers confront a variety of problems, including limited access to essential services such as education, healthcare, and job prospects. Caress (2020) takes a critical look at the image of migrants as victims, advocating for a more nuanced understanding of their agency and resilience (Schenk, 2020). Koser (2017) investigates the concept of "refugee economies", revealing refugees' inventiveness and resourcefulness inside host countries (Koser, 2017). In simple terms, understanding the global phenomena of refugees and asylum seekers demands a thorough understanding of their many reasons, legal frameworks, tribulations, and natural resilience. This literature review provides a foundational understanding of the complexities within this realm, enhancing the broader conversation about how nations, international organizations, and societies navigate the complex terrain of displacement and asylum, thereby shaping the destinies of millions around the world.

Understanding the Indonesia Refugee and Asylum Seeker Legal Framework

Thirdly, the examination of Indonesia's legal approach to refugee management, delving into the complex interaction of laws, practices, and issues in the context of worldwide displacement. Indonesia's approach is significant in the broader conversation since it is located at a strategic intersection of refugee movements and is distinguished by its non-signatory status to the 1951 Refugee Convention. Scholars like Denaro (2022) note the country's efforts to deal with the presence of refugees, as seen by the adoption of domestic rules such as Presidential Regulation No. 125/2016 (Denaro and Giuffre, 2022). This law demonstrates Indonesia's acknowledgment of the necessity for a legal framework, especially in the context of a non-binding international commitment.

The assessment of Presidential Regulation No. 125/2016 and its repercussions is central to this analysis. The investigation by Kneebone (2017) reveals the complexity involved in providing adequate protection and aid to refugees and asylum seekers within this statutory framework (Kneebone et al., 2021). A noteworthy worry is the lack of a formal Refugee Status Determination procedure, which De Bruycker et al. (2018) elaborate on (Nordin, Nor and Rofiee, 2021). Human rights are critical in navigating Indonesia's approach to refugee management. Missbach (2017) investigate detention centre conditions, emphasizing Indonesian procedures' compliance with international human rights norms (Missbach, 2017). The possibility of abuse and exploitation within these centres emerges as a painful worry in this scenario.

The integration of refugees into Indonesian society creates complex dynamics. Martin (2019) investigation delves at the intersection of refugee presence and local dynamics, as well as the repercussions for social cohesion (Ratcovich, 2019). Despite certain regulatory changes, refugees' limited employment rights exacerbate the barriers to self-sufficiency. In a nutshell, comprehending Indonesia's legal approach to refugee management needs a thorough examination of policies, their consequences, and the larger dynamics with which they interact. This examination not only provides a basic awareness of legal intricacies, but it also illustrates the intersections between legal frameworks, human rights considerations, and local dynamics. This assessment reveals prospective paths for greater protection and support within Indonesia's approach to refugee management, particularly within the context of a non-signatory country.

III. Method

The research utilizes a qualitative socio-legal research methodology. Socio-legal studies is an interdisciplinary research area that investigates law as a social phenomenon. The goal of this research is to understand how cultural, economic, historical, political, and social contexts impact or function in legal ideas, practices, and institutions (M.D., 2019). This study followed the guidelines for socio-legal research written by Banakar (2005), which are as follows: Social data analysis, the field data will be evaluated descriptively to understand the social problems that occur in refugee communities as a result of a legal condition, and then the descriptive results will be analyzed using a doctrinal legal approach to comprehend the refugee protection impact and develop the appropriate solution for

non-signatory countries (Banakar and Travers, 2005). In details, the methodology will be explained as follows:

- * **Data Analysis:** The survey data will be studied using a descriptive qualitative technique, and the impact of non-signatory countries to the refugee protection like Indonesia will be comprehended. The UNHCR High Frequency Survey: Communication with Communities 2022, which included 400 respondents from the Jakarta Metropolitan Area and was gathered between 15 December 2022 and 09 January 2023, was used in this study. The following elements are utilized to understand probable unlawful action in Jakarta's refugee populations based on the 1951 Refugee Convention: arrest/detention, deportation, sexual or verbal abuse.
- * **Doctrinal Analysis:** Doctrinal legal analysis is a methodical examination of legal principles, statutes, and regulations to determine their legal implications. This analytical perspective is contextualized by Indonesia's status as a non-signatory to existing refugee protection conventions. The research study intends to shed light on the implications of this status for the treatment of refugees. The study attempts to identify any potential violations or shortcomings in the protection of refugee rights by analyzing aspects such as apprehension, custody, expulsion, and maltreatment in relation to the paradigm of the 1951 Refugee Convention. Thus, this holistic investigation provides insights to identify the legal gap in refugee protection.
- * **Case Studies:** Elements such as arrest or detention, deportation, and incidents of sexual or verbal abuse are methodically studied in this case study to find potential illegal conduct. The investigation, which is guided by the principles of the 1951 Refugee Convention, reveals any disparities or flaws in refugee care in Jakarta. This specific legal case study adds complexity to the discourse on refugee law implementation by contributing to a better understanding of the practical features of refugee protection in non-signatory situations.

Three separate techniques merge in this comprehensive study to examine the various dynamics of refugee protection in the context of non-signatory nations, with an emphasis on Indonesia. In addition, the doctrinal analysis technique dissects legal principles, laws, and statutes in relation to Indonesia's non-signatory attitude, highlighting potential inadequacies in refugee protection. Furthermore, the research evaluates potential unlawful activities, framed within the concepts of the 1951 Refugee Convention, using systematic case studies that investigate components such as arrest, imprisonment, deportation, and instances of abuse. This comprehensive approach not only provides a sophisticated understanding of non-signatory refugee protection, but it also contributes to a broader discussion of the practical application of refugee law in many settings.

IV. Data Description Results

Access to the UNHCR Official Assistance

The study focused on registered refugees in the greater Jakarta area of Indonesia, where in-person assistance had been discontinued for a significantly longer period of time than elsewhere in the country. The responses were gathered via IVR (Interactive Voice Response). The sample only included refugees who had a registered phone number. Furthermore, the bulk of respondents (326 males and 100 females) were between the ages of 18 and 34 (214), between the ages of 35 and 49 (159 respondents), and over 50 (52 respondents). The interview is performed in Dari or Persian languages (279 respondents), Arabic languages (118 respondents), and Somali languages (29 respondents). A total of 426 refugees are asked qualitative questions over the phone. A random sample of 1071 phone numbers from the *ProGres* database produced 400 responses (response rate = 39, 81 percent). The detailed population characteristics are shown in table 1.

Table 1: Detailed Respondents Characteristics

No	Category	Parameters	Number of Respondents
1	Sex of the Respondents	Female	100
		Male	326
2	Age of the Respondents	Between 18–34 years old	214
		Between 35–49 years old	159
		50 years old or more	52
3	Languages of Interview	Dari	279
		Arabic	118
		Somali	29

Source: Author Analysis

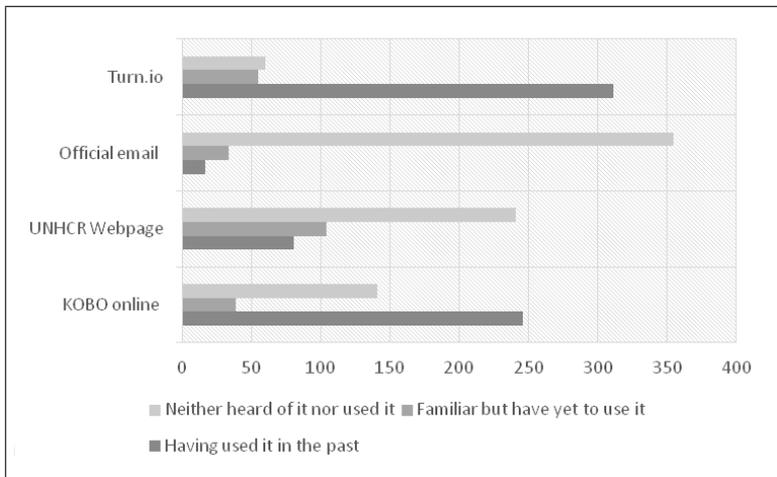
To begin, the UNHCR High Frequency Survey: Communication with Communities 2022 may have limitations, including sampling and response bias, language and cultural challenges, difficulties in reaching remote populations, recall bias, question wording issues, practical data collection challenges, and cross-cultural differences. Acknowledging these constraints and using rigorous methodologies is essential when interpreting the survey findings for policy decisions or recommendations.

Furthermore, found if the relationship between refugees and the UNHCR Indonesia office appears to be diverse in the context of involvement with the UNHCR Indonesia office, as evidenced by their use of multiple contact channels. The survey data reveals varied patterns of interaction across various mediums. Notably, a sizable proportion of refugees have kept in touch with the UNHCR via the KOBO online inquiry/appointment request system, with 246 respondents having used it in the past. Surprisingly, a minority of respondents (39 people) are familiar with the system but have yet to use it, while 141 people are unaware of its existence. Another aspect of this involvement is the UNHCR Indonesia

webpage, which has previously been visited by 81 respondents. Similarly, 104 respondents express familiarity with the website but have not used it, reflecting the preceding category. Surprisingly, an even bigger fraction (241 respondents) is unaware of the presence of the webpage, highlighting a discrepancy in awareness.

Furthermore, only 17 respondents used the UNHCR’s official email communication channel, indicating a rather low uptake of this strategy. In keeping with the previous categories, 54 respondents exhibit familiarity with this channel without prior usage, while a large cohort of 355 respondents is unaware of or has never used this communication channel. Notably, with 311 respondents having previously interacted with the Turn.io UNHCR WhatsApp official Chatbot system, it emerges as a key route of contact. Concurrently, 55 respondents recognize familiarity but lack usage experience, while another 60 are completely unfamiliar with this platform. Finally, the data show a varied landscape of engagement between refugees and the UNHCR Indonesia office, with differing degrees of awareness and utilization across various communication channels. The findings highlight the need to understand refugees’ preferences and familiarity with different channels in order to drive measures for enhancing access to critical services and information.

Figure 2: Summary of the Refugee Access to the UNHCR assistance platform, in DKI Jakarta Area



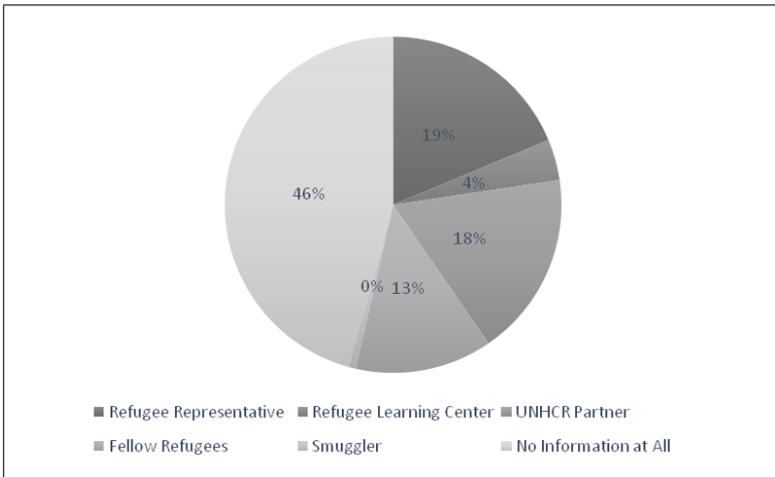
Source: Author Analysis

Rights Awareness Among the Refugees

Secondly, data research on Indonesian refugees’ comprehension of their inherent rights as asylum seekers reveals a startling and possibly disturbing trend, revealing a considerable lack of awareness among Indonesian refugees regarding their inherent rights as asylum seekers. Surprisingly, a sizable proportion of respondents, 198 in total, appear to be unaware of the precise rights provided to them as refugees in the Indonesian context. This lack of knowledge about their legal rights raises concerns about the accessibility

and dissemination of important information to this vulnerable community. Surprisingly, the engagement of refugee representatives provides an additional source of information about refugee rights. Notably, 81 respondents say they learned about their rights via these individuals, reflecting a more localized approach to communicating critical information. This implies that these intermediaries play a critical role in bridging the gap between refugees and their legal entitlements, as well as functioning as conduits for critical knowledge transmission.

Figure 3: the level of information distribution about the rights among the refugee about their rights as refugees in Indonesia



Source: Data Analysis

Another significant route for informing refugees about their rights is the UNHCR’s collaboration. 77 respondents attribute their awareness of refugee rights to the UNHCR’s engagement with other groups, which is impressive. This highlights the critical role of international organizations in campaigning for and educating refugees about their legal rights, emphasizing the importance of these collaborations beyond immediate humanitarian supply. Furthermore, the communal dynamics within the refugee population appear to serve as a channel for information dissemination. An intriguing finding is that 57 respondents say they learned about their rights through other refugees. This highlights the importance of peer-to-peer connections as a source of mutual support and the sharing of critical insights, which could lead to a more informed and empowered refugee population. The evidence, on the other hand, emphasizes the comparably minor role of formal education centres. Only 17 respondents credit their knowledge of refugee rights to their involvement with refugee learning centres. This could point to a potential area for development in terms of improving educational programs focused at informing refugees about their legal status and rights.

Equally intriguing is the finding that a small percentage of respondents, only three people, admit to receiving information about their rights from smugglers. This stands in stark contrast to other sources and raises questions about the truth and motivation behind such information transmission, potentially necessitating additional research into the mechanics of this interaction. In conclusion, the data emphasizes the crucial necessity for targeted initiatives to disseminate information regarding refugee rights among Indonesia's displaced population. The investigation uncovered a complex network of interactions impacting refugees' awareness of their rights, spanning from official channels like refugee representation and UNHCR partnerships to informal routes within the refugee community. Addressing the information gap through diverse, inclusive, and accurate educational initiatives is critical to providing refugees with the knowledge they need to navigate their difficult situations while remaining within the confines of legal entitlements.

Identified issues which experienced by the refugees

The UNHCR High Frequency Survey: Communication with Communities 2022 highlighted a troubling array of concerns faced by refugees, highlighting the major challenges they face. The survey revealed some deeply concerning issues. Detention became a major issue, with refugees frequently being detained in unfamiliar and sometimes insufficient conditions, compounding their sense of vulnerability and isolation. The poll identified upsetting incidences of sexual abuse, physical violence, and verbal harassment experienced by migrants, exacerbating their trauma and hampering their efforts to reconstruct their lives. These findings highlight the critical need for improved protection procedures, better awareness, and targeted assistance to address the significant difficulties confronting refugees in the Jakarta Metropolitan Area.

Arrest or Detention

The survey findings highlight a serious and concerning issue that requires immediate attention: the arrest and detention issues faced by refugees in Jakarta. An affecting 18 people reported dealing with this upsetting issue out of the total 426 respondents. It's worth noting that 7 of the affected patients were female, whereas 11 were male. Furthermore, the age distribution of those facing arrest or detention revealed that 7 people were between the ages of 18 and 34, underscoring the vulnerability of younger immigrants to this tragedy. Furthermore, 4 persons were aged 35–49 years, highlighting the difficulties faced by those in the middle age group, and 5 individuals were over 50 years old, indicating that even senior refugees face the prospect of arrest or detention. These data highlight the issue's indiscriminate character, as it affects refugees of varying ages and genders, emphasizing the necessity for comprehensive and personalized interventions to address the individual vulnerabilities encountered by each group.

Threats of Deportation

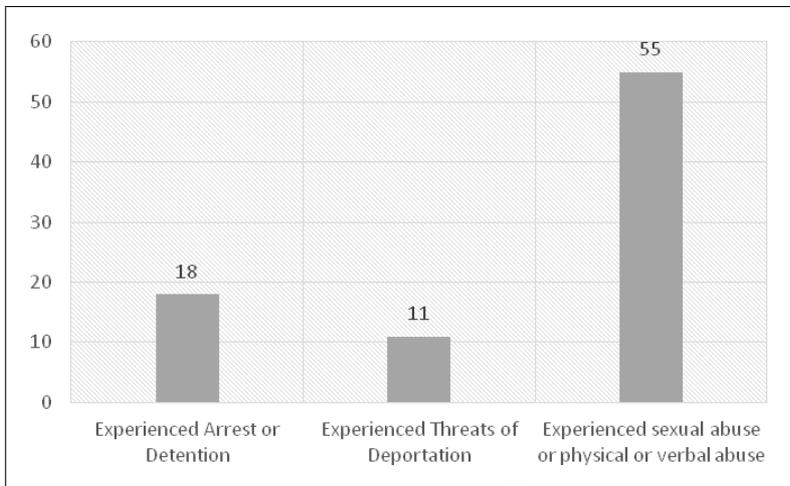
The survey's findings also include the ongoing danger of deportation that continues to remain over the refugee population. Concerned 11 individuals said that they are still dealing with the looming threat of deportation within the entire sample of 426 respondents.

The distribution of this upsetting reality is noteworthy: 5 of these individuals are between the ages of 18 and 34, demonstrating the persistent vulnerability of younger refugees to this pervasive worry. Similarly, another 5 people are between the ages of 35 and 49, demonstrating that even those in their prime are vulnerable to these hazards.

Sexual, Physical or Verbal Abuse

The study results reflect a highly alarming and challenging reality: the frequency of sexual, physical, or verbal abuse as the principal violation experienced by refugees in Jakarta. Surprisingly, out of a total of 55 respondents, a large proportion of people – 36 to be exact – between the ages of 18 and 34 have reported experiencing these types of abuse. This troubling figure highlights the vulnerability of the younger refugee population to such atrocities. Equally troubling is the fact that 16 people aged 35–49 years revealed incidences of abuse, demonstrating the worrying continuance of this problem into maturity. Furthermore, three people above the age of 50 have been victims of these offenses, highlighting the extremely disturbing reality that abuse has no age limit. It is critical to recognize that these figures represent the heartbreaking stories of people who have endured unspeakable suffering, emphasizing the critical need for comprehensive protection measures, awareness campaigns, and support services to address and prevent such abuses within the refugee community.

Figure 4: Number of threats which experienced by the refugees in Jakarta Area



Source: Data Analysis

Finally, the findings of the UNHCR High Frequency Survey: Communication with Communities 2022 highlight the enormous problems and vulnerabilities that refugees in the Jakarta Metropolitan Area face. The poll finds a depressing pattern of difficulties, ranging from incarceration to deportation threats, as well as the worrisome prevalence of sexual, physical, and verbal abuse. These extremely troubling circumstances underline the critical

need for swift and comprehensive response. It is clear that refugees of all ages and genders face a complicated web of violations that imperil their safety, dignity, and well-being.

V. Discussion

After comprehending the situation in Indonesia as a non-signatory country to the 1951 Refugee Convention and the 1967 Protocol, it is necessary to comprehend the legal architecture of refugee protection and devise a future alternative solution. On the other hand, before delving into the Indonesian context of refugee protection, it's crucial to understand the history of refugee protection from the end of World War II, which recorded as the monumental era which increase the world awareness in terms of refugee protection (Yacoub, 2022). Refugee protection in the aftermath of WWII was a watershed event in global attempts to ameliorate the plight of the displaced. As a result of the war's tremendous damage, millions of people were displaced, spurring a global recognition of the need for a united effort to defend their rights and well-being (Karina Weller, 2017).

The foundation of the United Nations High Commissioner for Refugees (UNHCR) in 1950 shaped post-World War II refugee protection. The UNHCR's mandate was to aid and protect refugees while also finding long-term solutions to their plight. The 1951 Convention Relating to the Status of Refugees became a cornerstone treaty, defining the legal rights and responsibilities of both refugees and host countries (Kuwert, Brähler, Glaesmer, Freyberger and Decker, 2009). The Convention defined *a person who qualifies as a refugee as having a well-founded fear of persecution because of factors such as race, religion, nationality, membership in a specific social group, or political opinion* (UNHCR, 1950). Furthermore, to ensure that protective measures remained relevant beyond the immediate postwar environment, the Convention incorporated the 1967 Protocol Relating to the Status of Refugees, which lifted the original document's chronological and geographic constraints (UNSW, 2018). This permitted the Convention's protections to go beyond its original signatories and apply to refugees all across the world.

However, not all of the countries in the world are willing to ratify this convention, because of many reasons. First, is concerned regarding national sovereignty, because many countries presently prefer to have their own regulations and security considerations in managing their borders, as many new risks in border security require a self-tailored strategy (Benhabib, 2020). Secondly, the risks to security associated with transnational crime and terrorism, the securitization of migration policies has been ongoing for some time, but the events of September 11th highlighted the "security-migration-nexus". According to this viewpoint, the right to collective security becomes increasingly important, while individual freedom rights are constrained (Fauser, 2006). Third, the drain on resources required for refugee assistance; while many countries around the world, including Jordan, which has become one of the main destinations for refugees in the Middle East, refuse to ratify the convention for economic reasons, many others, including Egypt, Thailand, and Indonesia, may have similar reasons (Al Qaralleh, 2022). Finally, the convention is no longer relevant in light of recent events and conditions, as many types of situations, such as climate refugees (Hoffman, Zimmerman, Castelyn and Kaikini, 2022), are not covered by this legal statute, and many of the articles on this convention refer to European values, which do not always align with other

nations' international law (Avraamidou and Eftychiou, 2022). These elements, together with domestic political constraints and cultural considerations, contribute to the complicated landscape of international refugee duties.

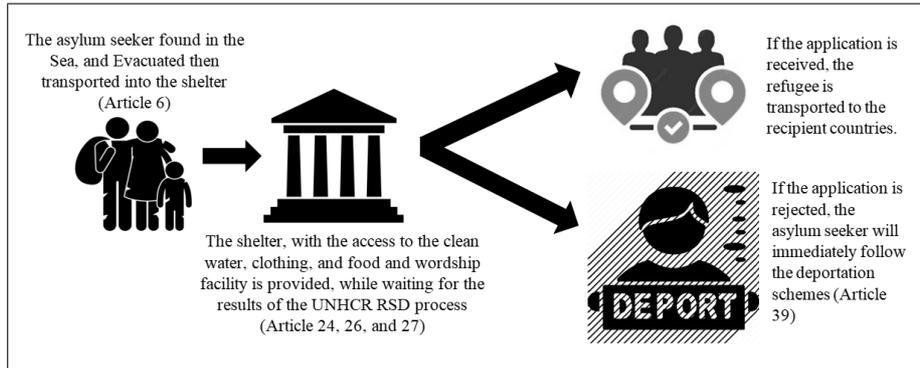
Specifically, the Indonesian government's refusal to sign the 1951 Refugee Convention can be linked to several considerations, the most important of which are the rights to labour, and freedom of movement within the state. First, it's because of the high unemployment rates in Indonesia, which are expected to reach 4.5 percent by 2021, have prompted policies that prioritize work prospects for its population, particularly for medium to low-skilled professions who protected by social security systems (Nola, 2021). Secondly, security concerns and cultural differences have created barriers to unrestricted mobility, resulting in local rejection and concerns about cultural misunderstandings and security dangers (Kartikasari, 2020). These considerations all contribute to Indonesia's cautious attitude to refugee integration and unwillingness to fully embrace the 1951 Refugee Convention's obligations. Balancing humanitarian principles with practical challenges continues to be a difficult issue for the Indonesian administration.

Indonesia Identified Legal Gap in Refugee Protection

Indonesia, as non-ratify countries has no standard of protection, and access for the refugees who transiting in the countries (Sianturi and Viartasiwi, 2021). Indonesia's approach to refugee management and protection is anchored by a complex legal framework that incorporates local rules, international agreements, customary international law, and collaborations with international organizations. While there is no formal national refugee law in Indonesia, its policies are affected by a variety of legal instruments and ideas. Furthermore, the Indonesian Constitution, specifically Article 11, recognizes the adoption of international law ideas into its legal system (Republic of Indonesia, 1945). This constitutional article serves as the foundation for the country's refugee protection policy to be aligned with internationally recognized norms. Due to the lack of a specific national refugee legislation, Indonesia has relied on a combination of existing laws, such as the legislation on Immigration (Law No. 6/2011), and different government regulations to address refugee and asylum seeker issues.

The fact that Indonesia is not a signatory to the 1951 Refugee Convention has substantial legal ramifications. While the country has not ratified the 1967 Protocol, its adherence to the principles of the Refugee Convention, particularly the prohibition on *non-refoulement*, establishes a clear legal obligation to refrain from returning refugees to situations where their lives or freedoms would be jeopardized. This idea is also recognized as a customary rule of international law, cementing Indonesia's commitment to refugee protection under international legal standards. Presidential Regulation No. 125/2016, for instance, outlines procedures for the temporary deployment of refugees and asylum seekers in Indonesia. These regulations reflect the country's efforts to provide a framework for managing and protecting displaced people while their cases are being handled. However, the lack of a comprehensive national refugee law can create gaps and obstacles in addressing refugees' rights and needs holistically.

Figure 5: Summary of the Indonesia Asylum Seeker Handling Based on Presidential Regulation No. 125/2016



Sources: Author from Presidential Regulation No. 125/2016

The Law on Immigration (Law No. 6/2011) of Indonesia is particularly relevant, as it governs the entry, stay, and movement of foreigners inside its boundaries. Article 3(2) of Law No. 6/2011 gives the government the right to grant or deny entry permits, affecting the legal status of refugees seeking protection (Republic of Indonesia, 2011). Furthermore, Article 45(1) enables the Minister of Justice and Human Rights to impose detention measures on foreigners who lack legal documentation, which may harm refugees and asylum seekers inadvertently (Republic of Indonesia, 2011). While Indonesia has not joined the 1967 Protocol, it conforms to the Refugee Convention’s principles, particularly *non-refoulement*, which prohibits the return of refugees to unsafe environments. Despite this agreement, several elements of Indonesia’s Immigration Law (Law No. 6/2011) classify refugees as irregular migrants. Individuals without proper travel documents are designated as “irregular migrants” under Article 77(1)(b), a classification that, while not limited to refugees, may have an impact on their treatment within the country (Republic of Indonesia, 2011).

These legal gaps affect refugees’ access to basic human rights like healthcare, education, and work. Without legal recognition and sufficient documents, refugees frequently confront barriers to critical services, impacting on their economic and social rights. Furthermore, the lack of clear legal safeguards makes them more vulnerable to exploitation and abuse, raising worries about human trafficking, child labour, and other forms of human rights breaches.

Global Refugee Initiatives as Proposed Legal Solution

The UN General Assembly endorsed the Global Compact on Refugees (GCR) in December 2018, with the goal of encouraging responsibility-sharing among host governments and communities to better serve refugees. It focuses on four goals: reducing host-country pressures, increasing refugee self-sufficiency, making third-country solutions more accessible, and improving conditions in countries of origin for safe refugee returns (UNHCR,

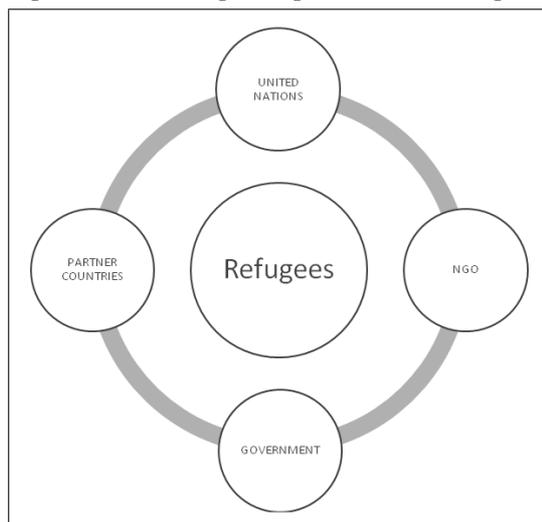
2018). The principle of non-refoulement is central to the GCR, guaranteeing that refugees are not returned to persecution. The Global Compact for Refugees reflects a consensus among governments, international organizations, and activists on the necessity of donor support for refugee-hosting countries, encouraging refugee self-sufficiency, enhancing resettlement, and preserving non-refoulement.

The GCR is held accountable through the quadrennial Global Refugee Forum (GRF), which includes high-level official meetings and annual UN General Assembly reporting (Koser, 2017). A Comprehensive Refugee Response Framework (CRRF), incorporating multiple stakeholders, guides implementation. The execution of the GCR is dependent on national ownership and leadership. To foster collaborations among host countries, support platforms and initiatives are being developed. The Three-Year Resettlement Strategy and Complementary Pathways attempts to increase countries' acceptance of refugees seeking international protection.

The GCR has the ability to remove the most common barrier that many local governments encounter, which has been identified as a financial limitation, including Indonesia, which has become one of the main reasons why many countries refuse asylum seekers and refugees on their territory (EUAA, 2022). Several governments and organizations, like Uganda's steering group, Rwanda's support for refugee entrepreneurs, and Colombia's statelessness prevention, have launched initiatives in line with the GCR, as result, the GCR is successfully helping the refugee from the neighbouring countries who experienced the local conflict, to have their temporary job, settlement, and access to basic needs without financial support from the local government (Carciotto and Ferraro, 2020).

Furthermore, Indonesia's refugee policies are governed by a mix of domestic laws and international accords. While the country lacks a formal national refugee law, the Law on Immigration (Law No. 6/2011), which includes measures impacting refugees' legal status and treatment, influences its policies. Articles 3(2) and 45(1) of this statute, which provide the government discretionary jurisdiction over entrance permits and the imprisonment of foreigners without legal paperwork, accidentally affect refugees and asylum seekers. This highlights the legal gap that the GCR principles can help to close. Indonesia may address these difficulties in a comprehensive manner by adopting the GCR. The GCR's emphasis on complete solutions is consistent with Indonesia's diverse and community-oriented culture, encouraging interaction with both refugees and host communities. Article 77(1)(b) of the Immigration Law, which classifies refugees as "irregular migrants", can be reduced by the GCR's community-focused strategy, which fosters social inclusion and reduces possible disputes (Republic of Indonesia, 2011).

The GCR's global responsibility-sharing principle provides an opportunity for Indonesia to reduce the financial and logistical costs of hosting migrants. Collaboration with international organizations, such as the United Nations High Commissioner for Refugees (UNHCR), can help with money and technical assistance, increasing Indonesia's capacity to meet the needs of refugees while guaranteeing a more equitable division of responsibility.

Figure 6: GCR Refugee Responsibilities Sharing Framework

Source: Author

Furthermore, the GCR's emphasis on empowering refugees to become self-sufficient is consistent with Indonesia's efforts to give access to education, healthcare, and employment opportunities. The GCR's framework for long-term solutions mirrors Indonesian policies, as the country has promoted voluntary repatriation and local integration, indicating compliance with international norms. Indonesia can improve the protection of refugees' rights and well-being while boosting socioeconomic growth by incorporating the GCR's principles into its refugee handling policy. While the GCR is not legally obligatory, its adoption can help Indonesia align its legal and policy frameworks in order to solve the issues and gaps identified in its current refugee management policies. As a result, Indonesia may use the GCR's potential as a problem-solving instrument to enhance the rights, dignity, and well-being of refugees within its borders.

VI. Conclusion

Finally, the research illuminates crucial aspects of refugee experiences and challenges in Indonesia. The findings highlight the importance of targeted interventions to address concerns including incarceration, deportation threats, and instances of abuse experienced by refugees in the Jakarta Metropolitan Area. The study also identifies limitations in refugees' access to UNHCR support and their understanding of their legal rights. In Indonesia, the lack of a comprehensive national refugee law creates legal difficulties and gaps in the protection of refugees' rights. Existing legislation, such as the Immigration Law (Law No. 6/2011), erroneously designate refugees as irregular migrants, possibly subjecting them to vulnerabilities and rights breaches.

The Global Compact on Refugees (GCR) offers a possible answer to these issues. By accepting the GCR principles, Indonesia can take a more comprehensive and collaborative approach to refugee protection. The GCR's emphasis on comprehensive solutions, global responsibility sharing, and refugee empowerment is consistent with Indonesia's adherence to international conventions and humanitarian ideals. Indonesia should solve the legal gaps and protection issues encountered by refugees by incorporating the GCR's principles into its policies, protecting their rights, dignity, and well-being. Further collaboration between the Indonesian government, international organizations such as UNHCR, civic society, and the commercial sector is critical in addressing these concerns and implementing solutions. Stakeholders may work together to establish a more secure and friendly environment for refugees, supporting social inclusion, empowerment, and the achievement of their fundamental human rights.

The research on refugee experiences in Indonesia provides important insights into their difficulties and conditions. However, it is critical to realize the study's limitations and explore future research opportunities. To begin, the study may have limitations due to sample size and scope. A larger and more diversified sample of refugees from various regions of Indonesia could provide a more complete picture of their experiences and challenges. Second, reliance on particular data gathering methods, such as surveys and interviews, may bring biases or limits into the data. To improve the study's robustness, future research should investigate different approaches or triangulate data from many sources.

In the future, there will be various intriguing routes for research. Longitudinal studies could provide a dynamic picture of refugee problems and adaptations by tracking changes in refugee experiences across time. Comparative research across different host countries, particularly those that have accepted the principles of the Global Compact on Refugees (GCR), could provide insights into how national policies and settings influence refugee experiences. Furthermore, performing policy assessments, particularly on the legal framework governing refugees in Indonesia, could provide a more in-depth examination of the challenges and prospects for legal reform. Another potential area of research is the effectiveness of empowerment programs for refugees and their impact on self-reliance and integration. Furthermore, researching host community perspectives and attitudes toward refugees may provide insights into social cohesion and potential obstacles in refugee-host relationships.

While the research has shed light on critical issues confronting refugees in Indonesia and the GCR's ability to address them, recognizing research limitations and identifying future research prospects are critical for a more comprehensive understanding of refugee experiences and the effectiveness of policy interventions.

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