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Reforming Social Rights for International Refugees in Indonesia: Towards Enhanced Welfare and Legal Protection

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Abstract

Refugees constitute a highly vulnerable population, frequently exposed to severe human rights violations or neglect. Refugees are often undergone variable restrictions like on speech, travel, education, and economic activities. Particularly at risk are their rights to decent work, livelihoods, and access to education for children. The inability to secure dignified work profoundly exacerbates the challenges in fulfilling educational rights within refugee communities. This article investigates the systemic vulnerabilities leading to the potential violation of these critical social rights for international refugees in Indonesia. This study was a social legal research applied as an interdisciplinary study, using normative doctrinal and enforcement implementation analysis. As a nation that has not ratified the 1951 Convention on the Status of Refugees, Indonesia operates without a comprehensive domestic legal framework explicitly governing refugee social rights. Nevertheless, its responsibilities as a member of the global community, coupled with inherent humanitarian principles, morally and ethically obligate the protection of these fundamental rights. Drawing on comparative legal analysis and good practices from other nations, this paper aims to identify specific areas for legal and policy reform in

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Indonesia. These reforms are crucial for providing adequate protection for refugees' rights to work and education, within the practical capabilities of the state, and without compromising the security and public order rights of its citizens. Ultimately, this research underscores the urgent need for domestic legal reform to enhance refugee welfare and ensure their human dignity in Indonesia.

Keywords

Rights to Decent Work, Rights to Education for Children, International Refugees, Legal Reform, Indonesia.

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Introduction

The global phenomenon of forced displacement presents a formidable challenge that demands a coordinated response from the entire international community[1]. Indonesia, in its capacity as a transit country and as a non-signatory to the 1951 Refugee Convention, does not possess the authority to grant permanent status to asylum seekers or international refugees. Consequently, it bears no direct legal obligation under international treaty law to provide permanent settlement.[2] However, Indonesia's commitment to fundamental humanitarian principles and the universally recognized principle of non-refoulement – which prohibits expelling or returning a refugee to a territory where their life or freedom would be threatened (Article 33 of the 1951 Refugee Convention)[3] – establishes a compelling moral and ethical imperative to protect their basic human rights while within its borders.

A person or group of people who seek protection from a country, but have not yet been determined as refugees, are referred to as asylum seekers. In the case of an asylum application to a country that is not a party to the 1951 Refugee Convention, in order to be recognised as a refugee, the asylum seekers must undergo a Refugee Status Determination (RSD) process by the agency mandated to handle refugees, namely the United Nations High Commissioner for Refugees (UNHCR). Refugee status is granted to a person or group of people who have met the criteria for refugees based on the 1951 Refugee Convention and the 1967 Protocol on the Status of Refugees, namely those who fled

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1 Sebastien Moretti, "Between Refugee Protection and Migration Management: The Quest for Coordination between UNHCR and IOM in the Asia-Pacific Region," *Third World Quarterly* 42, no. 1 (2020): 1–18, https://doi.org/10.1080/01436597.2020.1780910.

2 Andrew Riley et al., "Systematic Human Rights Violations, Traumatic Events, Daily Stressors and Mental Health of Rohingya Refugees in Bangladesh," *Conflict and Health* 14 (2020): 1–14; Lamis Abdelaaty, "The Relationship between Human Rights and Refugee Protection: An Empirical Analysis," *The International Journal of Human Rights* 25, no. 10 (November 26, 2021): 1704–23, https://doi.org/10.1080/13642987.2021.1874358.

3 Sebastien Moretti, "Keeping up Appearances: State Sovereignty and the Protection of Refugees in Southeast Asia," *European Journal of East Asian Studies* 17, no. 1 (2018): 3–30, https://doi.org/10.1163/15700615-01701001.

their country due to persecution because of race, religion, citizenship, membership of a group, or differences in political views. After being determined as a refugee, they receive assistance and protection from the host country or agency mandated to handle refugees until they receive a solution for resettlement, voluntary repatriation, or local integration (naturalization).[4] The process of determining refugee status can be lengthy, often involving significant delays and uncertainty.

Asylum seekers who arrive in Indonesia must wait for the UNHCR to process their status without any certainty of the time period before they can be transferred to a third country or returned to their home country. While in Indonesia, asylum seekers are under the responsibility of the International Organization for Migration (IOM), UNHCR, and are placed in the Immigration Detention Center (Rudenim). While waiting for clarity on refugee status and this follow-up process, these asylum seekers certainly have basic needs that must be met such as food, clothing, health services and socialization. In terms of fulfilling these basic needs, asylum seekers receive assistance from IOM or non-governmental organizations engaged in the field of refugee protection.[5]. However, this assistance is still considered insufficient and poses resource challenges for supporting organizations due to the increasing number of asylum seekers accommodated in Indonesia. Furthermore, asylum seekers also expect a better life with increasing needs, especially if they later have families or children. This is a problem because in Indonesia there is a ban on work for refugees and asylum seekers. This work ban is written in the Attachment to the Regulation of the Director General of Immigration Number IMI-1489.UM.08.05 of 2010 concerning Handling of Illegal Immigrants, "While refugees are in Indonesia, they are not allowed to work." In the national policy in the handling of foreign refugees in Indonesia, namely Presidential Regulation Number 125 of 2016 on the Handling of Refugees from Abroad (hereafter referred to as Perpres 125/2016), it also does not

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[4] Volker Türk, "Prospects for Responsibility Sharing in the Refugee Context," Journal on Migration and Human Security 4, no. 3 (2016): 45–59, https://doi.org/10.1177/233150241600400301; Savitri Taylor and Brynna Rafferty-Brown, "Difficult Journeys: Accessing Refugee Protection in Indonesia," Monash University Law Review 36, no. 3 (2011): 138–61.

[5] UNHCR, "Working with Partners," no. January (2020): 1–2, www.unhcr.org2.

accommodate asylum seekers to be able to work while in Indonesia and waiting for the determination of refugee status. The condition of zero income for refugees pushed them to rely on the limited amount they received monthly to make ends meet. With the increasing daily needs, it is needed to have more income to live on basic daily needs.[6] This condition, added to the prohibition on work, has forced them to work secretly, involved in income-generating activities in order to meet their needs at the risk of being detained by the authorities. As happened at Rudenim Makasar in early 2021, which detained two refugees who were caught working secretly as construction workers.[7]

The rights of refugees to work and earn a living are recognized and guaranteed in international law. The guarantee of protection of refugees' right to work is specifically regulated in Article 17, Article 18, Article 19 of the 1951 Refugee Convention, which recognises the rights of refugees to undertake work that generates wages, entrepreneurship, or liberal professions. However, Indonesia's status as a non-state party to the 1951 Refugee Convention and the 1967 Protocol means that Indonesia is not obliged to comply with these regulations. However, in respect and protection for human rights, it is not appropriate for refugees in transit countries to simply be prohibited from working. Fulfilment of human rights, including for refugees and asylum seekers, is a principle that must be upheld by all members of the international community, whether as parties to the 1951 Refugee Convention and the 1967 Protocol or not.[8]

Refugee restrictions on working in transit countries have various consequences, including on the fulfilment of family welfare, including children. The right to work and earn a living becomes increasingly important for asylum seekers, especially if they are displaced with family

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[6] Marupa Hasudungan Sianturi and Nino Viartasiwi, "Advocating the Temporary Rights to Work for Refugees and Asylum Seekers in Transit in Indonesia," *Indon. L. Rev.* 11 (2021): 249.

[7] Directorate General of Immigration, "Rudenim Makassar Secures 2 Refugees Caught Working as Construction Workers," News, 2021, https://www.imigrasi.go.id/berita/detail/rudenim-makassar-amankan-2-pengungsi yang-kedapatan-bekerja-sebagai-kuli-bangunan.

[8] Debby Kristin and Chloryne Trie Isana Dewi, "The Rights of Children Refugee in Transit Country Under The CRC, A Case of Indonesia: An Intended Negligence?," Padjadjaran Journal of International Law 5, no. 1 (2021): 114–36.

or children, considering that the assistance provided by donors is often unable to meet their needs. Additionally, refugees must endure a long time to obtain refugee status while continuing their lives. Some of the refugees are married, have families, or even have children. The rights of these children are often neglected due to limited facilities and funding. One of the most important rights to children in refugee settings is the right to education. The main difficulties faced are the fulfilment of livelihoods and financial difficulties, health, security and safety, lack of legal rights, mental health, and education for children[9]. A serious obstacle faced by refugees and asylum seekers, especially child refugees, is the fulfilment of the right to receive a decent education. It cannot be denied that while waiting for the process of determining refugee status, children in refugee environments lose their right to receive an education, play and learn with their peers, and grow and develop healthily[10]

Indonesia, which is a member state of the 1989 Convention on the Rights of the Child, is obliged to comply with the articles stipulated in the convention, where one of the rights of children in the convention is the right to receive a decent education. This is no exception for children in refugee or asylum-seeking environments. Indonesia is obligated to ensure the right to education for refugee children while they await the determination of their refugee status and follow-up actions after their status is confirmed.

The existence of regulations prohibiting restrictions on the right to work for refugees results in limited space for asylum seekers and refugees to move. This limitation also affects the lives of refugees who are married or have children. The rights of children in refugee camps are also neglected, especially the right to education. This clearly violates the basic rights that should be received by everyone. This study aims to examine

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[9] Muzafar Ali, Linda Briskman, and Lucy Fiske, "Asylum Seekers and Refugees in Indonesia: Problems and Potentials," Cosmopolitan Civil Societies: An Interdisciplinary Journal 8, no. 2 (2016): 22–43.

[10] United Nations High Commissioner for Refugees, "Born into a Refugee Life," Refugee Data Finder, 2023, https://www.unhcr.org/refugee-statistics/insights/explainers/children-born-into-refugee-life.html ; F Aghajafari et al., "Academic Achievement and Psychosocial Adjustment in Child Refugees: A Systematic Review," Journal of Traumatic..., 2020, https://doi.org/10.1002/jts.22582.

alternative solutions and policy recommendations as a form of Indonesia's efforts to fulfil the right to work for asylum seekers and refugees and the right to education for children in refugee camps in the territory of the Republic of Indonesia.

This article will discuss the rights to work and a decent life for refugees in the first part, which begins with the reality in the field, especially in some places in Indonesia where the refugees temporarily reside. The description of reality will be followed by the existing regulations regarding the refugees' rights to work and decent life, from international to national ones. This discussion will proceed to the discussion of the possibilities of neglected rights to education for refugee children due to the inability to obtain a decent life. This part will also present relevant regulations about children's rights to education, both in general and in refugee settings. The discussion proceeds with the possible solutions to fulfil those rights for refugees and their children, with particular considerations related to Indonesia condition.

This study applied a social legal research method with a statutory approach, which is used to examine various regulations related to international refugees, the right to work, the right to education for children in refugee camps, as human rights. This study also applies an interdisciplinary conceptual approach derived from the views and doctrines that have developed in relation to international refugees. The implementation of regulation enforcement was also examined in this study to complement this research. The materials for this study were obtained from primary legal materials, namely legislation and international agreements related to the study objectives. The legal materials among others the Universal Declaration of Human Rights, the 1951 Convention, the 1967 Protocol, the ICESCR, the 1989 Convention, Presidential Decree of the Republic of Indonesia Number 125 Year 2016, and other relevant legal materials. Secondary legal materials are in the form of scientific articles, books, and official websites of agencies involved in the treatment of refugees. Data collection techniques with library research, both physically and electronically. The collected materials are then analyzed systematically using the deductive method to synthesize knowledge to be able to answer research questions.

A. The Right to Work and a Decent Life for Refugees

Currently, based on UNHCR data, by the end of 2023 there was 117.3 million people forced to leave their country, including 68.3 million people categorized as Internally Displaced Persons (IDPs), 37.6 million refugees, 6.9 million asylum seekers, and 5.8 million people in need of international protection[11]. And this number was believed to continue to grow over time. With the large number of people waiting for the determination of status by UNHCR, the waiting time underwent by these asylum seekers was getting longer, even to the point of being almost unlimited. From the listing of incoming refugees, several interviews, and a time-consuming verification process, the refugees were living in uncertainty, waiting for their refugee status. The longer the process of determining refugee status by UNHCR, the longer the process of resettlement to a third country. Even after the refugees had gained their refugee status, the resettlement to the destination country may also take some time. Refugees and asylum seekers wait for the resettlement process in Indonesia by UNHCR for 1-2 years and often more, even up to 25 years, before being transferred to the destination country[12]. This is very unfortunate, especially since the basis for determining the resettlement process for international refugees from transit countries is not based on the length of time the refugees have been staying, but rather UNHCR will prioritise more vulnerable refugee groups first[13].

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[11] United Nations High Commissioner for Refugees, "Refugee Statistics," June 2024, 2024, https://www.unhcr.org/refugee-statistics/.

[12] Savitri Taylor and Brynna Rafferty-brown, "DIFFICULT JOURNEYS : ACCESSING REFUGEE PROTECTION IN INDONESIA Australia Engages in Extensive Bilateral Border Management Cooperation With," no. 1 (2010); Sebastien Moretti, "Between Refugee Protection and Migration Management: The Quest for Coordination between UNHCR and IOM in the Asia-Pacific Region," *Third World Quarterly* 42, no. 1 (2021): 34–51.

[13] Moretti, "Between Refugee Protection and Migration Management: The Quest for Coordination between UNHCR and IOM in the Asia-Pacific Region," 2020; Atikah Rahmi, Ummi Salamah, and Faradila Umaya Nasution, "The UNHCR Roles for Increasing Refugees Tenacity in the Pandemic Covid-19 Era," Proceedings International Seminar on Islamic Studies 2, no. 1 (2021): 747–52.

Refugees residing in Indonesia receive a monthly allowance from UNHCR or IOM that is equal to Rp. 1.3 million[14]. Meanwhile, asylum seekers are not given monthly allowances, except in limited cases and situations. The provision of these allowances is carried out by Non-Governmental Organisations (NGOs) such as the Jesuit Refugee Service (JRS) Indonesia[15]. The allowance was intended to support the daily needs of the refugees in a standard of decent life, while the average living cost in cities in Indonesia was about Rp 1.7 million.[16] However, due to different tastes, cultures, and habits, sometimes the provided goods were not suitable for them. It takes time to get accustomed to, and sometimes it makes the refugees find something else more similar to their previous daily life. Thus, the amount received from the allowance is quite far from the average income of Indonesian people, making it difficult to meet basic daily needs[17].

In an interview conducted by Ellen Kristy at Rudenim Pekanbaru with three refugees from Palestine, it was revealed that they received funds from IOM equal to Rp1,250,000/month and Rp500,000/child. However, the amount seemed cannot cover their basic expenses, so several refugees received additional money from their families in other countries to make ends meet[18]. Based on the actual interview findings, the right to work holds profound significance for refugees, particularly for those who are responsible for supporting families. In today's socioeconomic landscape, where basic living costs—such as food, housing, healthcare, and education—are steadily

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[14] Antje Missbach, "Accommodating Asylum Seekers and Refugees in Indonesia: From Immigration Detention to Containment in 'Alternatives to Detention,'" Refuge 33, no. 2 (2017): 32–44.

[15] Ali, Briskman, and Fiske, "Asylum Seekers and Refugees in Indonesia: Problems and Potentials."

[16] Susiana SUSIANA, Chairunisah CHAIRUNISAH, and Nice REJOICE REFISIS, "Descriptive Analysis of the Cost of Living in Urban Areas in Indonesia," in *Proceeding of The 10th Annual International Seminar on Trends in Science and Science Education (AISTSSE)* (Medan: Sciendo, 2024), 515–22, https://doi.org/https://10.2478/9788367405782-064.

[17] Sianturi and Viartasiwi, "Advocating the Temporary Rights to Work for Refugees and Asylum Seekers in Transit in Indonesia."

[18] Ellen Kristy, "Legal Review of the Granting of Work Rights to Refugees from Abroad in Indonesia: Case Study of Refugees in Pekanbaru City," 2019.

increasing, the ability to earn a livelihood becomes not just a matter of economic independence, but a necessity for survival and dignity. For refugee families, the absence of work rights exacerbates existing vulnerabilities, as they are unable to contribute financially or gain a sense of purpose and agency. The prohibition of labor rights effectively confines refugees to a state of economic inactivity and dependency, which can lead to psychological distress, social marginalization, and a profound sense of helplessness. As revealed in the interviews, without legal access to employment, many refugees are restricted to limited daily activities—such as visiting the gym, walking within the confines of the Rudenim (refugee detention center), or remaining in their assigned accommodation units. This severely restricts their personal freedom, social interaction, and opportunities for personal development. The lack of productive engagement not only impacts their financial stability but also undermines their long-term integration potential. Furthermore, the restriction prevents them from utilizing their skills, education, or professional experience, leading to a form of "human capital waste" that disadvantages both individuals and host communities. From a human rights perspective, denying the right to work contradicts fundamental principles of dignity, autonomy, and non-discrimination, particularly when such restrictions are applied without due process or reasonable justification. The findings underscore the urgent need for policy reforms that recognize the rights of refugees not just as recipients of humanitarian assistance, but as capable, contributing members of society, even during transitional periods.

National regulations on the handling of refugees in Indonesia are regulated in Presidential Decree Number 125 of 2016. This Presidential Decree shows that there has been a change in Indonesian policy, which initially paid little attention to the safety of refugees, towards a security approach that respects the obligations of members of the international community not to expel or return the incoming refugees[19]. However, the regulation is limited to protecting incoming refugees and does not accommodate the rights of refugees to work or engage in activities that can generate income. This Presidential Regulation only regulates the

[19] Dio Herdiawan Tobing, "Indonesia Refugee Policy Is on Right Track," The Jakarta Post, January 24, 2019.

mechanism for handling asylum seekers and refugees who enter Indonesia, especially in emergencies,[20] such as related to the discovery, shelter provision, security, supervision, and funding, but does not mention particularly about refugees engaging in income-generating activities.

The Indonesian government's policy regarding the prohibition of work for refugees is explicitly articulated in the Attachment to the Regulation of the Director General of Immigration No. IMI-0352.GR.02.07 of 2016. This regulation was not clearly states that refugees are not permitted to seek employment or engage in any activities related to earning wages during their stay in Indonesia while awaiting refugee status determination or resettlement to a third country, however in the written statement signed by the refugees before entering the shelter there is a point inferring prohibition to work.[21] This prohibition is formalized through a signed statement that refugees must agree to before entering shelters during the status determination process. The policy reflects Indonesia's firm stance on restricting refugees' participation in the labor market, underscoring the legal and administrative framework that governs refugee rights and obligations within the country.

The prohibition on refugee employment is grounded in Indonesia's immigration and refugee management policies, which prioritize maintaining control over the labor market and ensuring compliance with national laws. The signed statement serves as a binding agreement that refugees must adhere to, reinforcing the government's position that refugees are temporary residents with limited rights, particularly concerning economic activities. This regulatory approach aligns with Indonesia's broader immigration policies, which do not currently provide refugees with formal work permits or legal avenues for employment.[22] The policy aims to prevent unauthorized labor market

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[20] Bilal Dewansyah and Irawati Handayani, "Reconciling Refugee Protection and Sovereignty in ASEAN Member States Law and Policy Related to Refugee in Indonesia, Malaysia and Thailand," Central European Journal of International and Security Studies 12, no. 4 (2018): 473–85.

[21] Director General of Immigration, "Regulation of Director General of Immigration Number IMI-0352.GR.02.07" (2016).

[22] Rizky Maulana, Hasdiana Juwita Bintang, and Mhd Azhali Siregar, "Legal Review of Working Refugees in Indonesia (Research Study: Afghanistan Refugees in

participation, which could potentially disrupt local employment dynamics and complicate immigration enforcement.

The prohibition on work has significant social and economic implications for refugees residing in Indonesia. Given the lengthy duration of refugee status determination and resettlement processes, refugees may remain in Indonesia for extended periods without the ability to legally support themselves through employment. This restriction exacerbates vulnerabilities by limiting refugees' financial independence and increasing their reliance on humanitarian aid and support from non-governmental organizations.[23] The inability to work also affects refugees' dignity, mental health, and social integration prospects, as productive engagement in work is a key factor in fostering self-reliance and community participation.

Balancing the prohibition on refugee work with humanitarian considerations presents a complex policy challenge for Indonesia. On one hand, the government seeks to regulate labor market participation to protect local workers and maintain immigration control. On the other hand, the extended duration of refugee stays necessitates policies that address refugees' basic needs and rights, including economic participation. To reconcile these objectives, Indonesia could consider adopting more flexible policies that allow refugees to engage in apprenticeships, vocational training, or limited formal employment under regulated conditions. Such measures would enhance refugees' skills, reduce economic dependency, and facilitate smoother integration upon resettlement or local integration.[24] Collaboration with international organizations like UNHCR could support the development of frameworks that balance regulatory concerns with humanitarian imperatives.

The right to work for refugees is specifically regulated in Articles 17, 18, and 19 of the 1951 Refugee Convention. All three articles recognize the right of refugees to engage in wage-earning work,

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Medan City)," in *1St International Conference Epicentrum of Economic Global Framework*, vol. 1, 2024, 550–59.

[23] Cathryn Costello and Colm O'Cinnéide, "The Right to Work of Asylum Seekers and Refugees," *ASILE Project*, 2021.

[24] Agnieszka Kosny et al., "Safe Employment Integration of Recent Immigrants and Refugees," *Journal of International Migration and Integration* 21 (2020): 807–27.

entrepreneurship, or liberal professions. The 1951 Convention has recognized the need for refugees to earn a living for a long time. It is likely that the cost of living is much higher nowadays, placing refugees in a difficult situation and adding to the many uncertainties in their lives. However, Indonesia is not a member state of the 1951 Refugee Convention, meaning that it is not bound by the Convention. Nevertheless, based on humanitarian principles and the responsibility to provide human rights protection to refugees, Indonesia is still obliged to consider a minimum decent life for them. Generally, to fill the legal vacuum in countries that are not parties to the 1951 Refugee Convention and the 1967 Protocol, international human rights legal instruments are used to protect refugees. Furthermore, Indonesia has ratified international human rights instruments, which require the country to comply with these international laws by providing the right to work for everyone, including international refugees in Indonesia. The human rights instruments in question include:

a) Universal Declaration of Human Rights (UDHR) 1948

The right to work is a right stated in Article 23 Paragraph (1) of the Universal Declaration of Human Rights, which states that:

> *"Everyone has the right to work, the right to free choice of employment, the right to just and favorable conditions of work, and the right to protection against unemployment."*

Based on this article, the right to work is a universally recognized human right under international law.[25] This means that refugees are included as individuals who have the same human rights as other citizens. The only differentiating factor is their circumstances and status; refugees are a group of people or individuals who flee their country to avoid conflict and persecution in their country.

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[25] Roger Zetter and Héloïse Ruaudel, "Refugees' Right to Work and Access to Labor Markets–An Assessment," World Bank Global Program on Forced Displacement (GPFD) and the Global Knowledge Partnership on Migration and Development (KNOMAD) Thematic Working Group on Forced Migration . KNOMAD Working Paper. Washington, DC: World Bank Group, 2016.

b) International Covenant on Economic, Social, and Cultural Rights (ICESCR)

The right of everyone to work is regulated in the ICESCR in Article 6:

(1) The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain their living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

(2) The steps to be taken by the States Parties to the present Covenant to achieve the full realisation of this right shall include programmes of technical and vocational guidance and training, policies and techniques to achieve steady economic, social, and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

So, in general terms, Article 6 of the ICESCR states that the right to work is the right of every person to the opportunity to earn a living by work that he or she freely chooses or accepts.

c) International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).

Article 5 paragraph (e) point (i) of the convention states:

"The right to work, free choice of employment, just and favourable conditions of work, protection against unemployment, equal pay for equal work, just and favourable remuneration."

As a country that has ratified the Convention through Act Number 29 Year 1999, Indonesia should be able to eliminate or prohibit all forms of racial discrimination by individuals, groups, and organisations. In this case, Indonesia is obliged to guarantee social, economic, cultural, and other rights to refugees and asylum seekers on its territory, including access to employment.

d) ILO Declaration of Philadelphia

The opportunity to work can be obtained by everyone as stated in Chapter II letter (a) of the ILO Declaration of Philadelphia, which states that:

"(a) all human beings, regardless of race, creed, or sex, have the right to pursue their material well-being and spiritual development in conditions of freedom and dignity, economic security, and equal opportunity"

Thus, a refugee has the right to get equal opportunities to work to fulfil their material or spiritual well-being[26].

Not limited to international regulation, Indonesia also protects basic rights in its national regulations, a refugee's right to work is guaranteed as in:

a) 1945 Constitution

Indonesia upholds human rights as stipulated in the Constitution. Article 28A Chapter XA of the Constitution regulates provisions regarding the right to a decent living, namely that everyone has the right to defend their life and livelihood. Moreover, Article 28C of the Constitution states that everyone has the right to work, free choice of work, fair and favourable working conditions, and protection.

Based on the explanation above, the Indonesian Constitution uses the nomenclature "every person" for human rights provisions, not "citizen" as in the provisions in Chapter X on Citizens and Residents. Therefore, according to the provisions of Article 28A, Article 28C, paragraph 1, asylum seekers and refugees in Indonesia are included in the protection arrangements of the Indonesian Constitution, which should be protected by gaining access to employment.

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[26] Adalberto Perulli, "The Declaration of Philadelphia (DoP)," in International and European Labor Law (Nomos Verlagsgesellschaft mbH & Co. KG, 2018), 361–75; Jenny Hahs, "The ILO beyond Philadelphia," in International Impacts on Social Policy: Short Histories in Global Perspective (Springer International Publishing Cham, 2022), 171–88.

b) Law No. 39 of 1999 concerning Human Rights

Article 9 paragraph 1 of Law Number 39 of 1999 concerning Human Rights regulates the right to life. The article states that everyone has the right to live, maintain life, and improve their standard of living. Article 38 paragraph (3) of Law Number 39 of 1999 concerning Human Rights, everyone has the right to obtain decent work in accordance with their talents, skills, and abilities. This provision is related to the right to work for everyone, which is also guaranteed by national human rights law. Furthermore, provisions regarding asylum seekers or refugees are regulated in Article 28 paragraph 1, stating that everyone has the right to seek and receive political asylum from other countries.

The important point of Law Number 39 of 1999 concerning Human Rights is that Indonesia recognises people who seek asylum to get protection from other countries. Indonesia also respects the right of everyone to get access to work as an effort to meet basic needs to improve their standard of living. Those two provisions open the opportunity to allow refugees to engage in wage-earning activities, albeit limited, under supervision, or bound to particular conditions. However, it is understood that opening job opportunities for refugees brings about several consequences and may threaten the opportunity for Indonesian citizens themselves. The competition seems to be tighter and harder amidst the increasing need for daily necessities.[27]

From the above explanation, Indonesia actually should protect the refugees' rights, not to mention providing legal certainty for refugees to be able to work or engage in wage-earning activities, although it may be limited to a certain extent. Indonesia, as a member of the International Human Rights Convention and a country that has national regulations on refugee management, is expected to be able to guarantee the

[27] Sapto Aji Pratomo, Suhardi Darmawan, and Wahyu Saputra Sinaga, "Tinjauan Yuridis Terhadap Pengungsi Di Indonesia Yang Bekerja: Studi Kasus Pengungsi Afghanistah," *IBLAM LAW REVIEW* 4, no. 1 (2024): 183–94.

fulfillment of a person's right to be able to access work for refugees. The opportunity to work for refugees may be similar or under certain arrangements to protect the rights and welfare of Indonesian citizens themselves. As a developing country, Indonesia still has obstacles to overcome, especially in the field of economy, therefore, the welfare of its own citizens should always be the priority.

B. Failure to fulfil the right to work may lead to neglect of the right to education for children of refugees

It is only natural that the Indonesian government cares and is obliged to protect children's rights, as stated in the 1989 Convention on the Rights of the Child. Children's rights stated in the 1989 Convention on the Rights of the Child are categorised into 4 (four) categories, one of which is the right to education[28]. The urgency of fulfilling the right to education for children classified as refugees in Indonesia is also related to determining the status of refugees. Refugee status affects the handling, protection, and rights that can be received by refugees based on the national legal instruments of the transit country. In Indonesia, a non-State-party of the 1951 Refugee Convention and the 1967 Protocol, UNHCR plays an important role in determining the status of refugees. A refugee who has not received UNHCR status is referred to as an asylum seeker. Often the terminology between asylum seekers and refugees is confusing because, until now, asylum seekers do not have provisions in national instruments that determine the standard discussion of asylum seekers.[29]

The determination of the status by UNHCR has been known to take a long time and is often not known for sure. This process is through consideration of the refugee protection request, which will then go

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[28] Purwanto Purwanto, "Legal Protection for Children as Victims of Criminal Acts in the Perspective of Indonesian Positive Law," Jurnal Idea Hukum 6, no. 1 (2020).

[29] Muhammad Azzam Alfarizi, Asto Yudho Kartiko, and Dwi Nuryani, "Handling of Refugees and Asylum Seekers at Immigration Detention Houses in Indonesia Based on International Refuge Law Provisions," Journal of Law and Border Protection 4, no. 1 (2022): 1–21.

through an evaluation process with the Refugee Status Determination (RSD) procedure. Aside from the waiting period for the status determination process, the resettlement process after the refugees obtain their status will also take some time. The refugees still need to reside in the transit country until the resettlement process takes place. The period of waiting was always uncertain. It can be shorter than a year or two, but it can also be more than several years. During that time, it will be devastating to depend on the allowance only, especially for those who bring family or part of their family with them. The increasing living cost and the greater variability of their needs are pushing their life to the brink without the opportunity to earn some wages from job activities. Other than difficulties in obtaining basic daily needs from the allowance only, refugees are also hindered from obtaining education for their children since they cannot join school because of the absence of legal documentation or have no resources to join school.[30]

The long-term nature of the refugee status determination and resettlement process has a major impact on the educational experience of children living in Indonesia. Refugees often face longer waiting times before their status is officially recognised and they are transferred to third countries.[31] These delays may take several years, leading to long stays within Indonesia, which effectively turns the country into a transit centre rather than a final destination. During this transition period, refugee children encounter difficulties in their educational pathways as uncertainty about their legal status complicates access to consistent education. Lack of formal recognition often excludes them from the national education system, thereby preventing their right to education and preventing their academic development. This time dimension underlines the need for policies to address education continuity despite uncertain time of migration.[32]

In order to maintain the right to education of refugee children in the midst of these systemic delays, Indonesia must develop and

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[30] Kristin and Dewi, "The Rights of Children Refugee in Transit Country Under The CRC, A Case of Indonesia: An Intended Negligence?"

[31] Costello and O'Cinnéide, "The Right to Work of Asylum Seekers and Refugees."

[32] M Mahruf C Shohel, "Education in Emergencies: Challenges of Providing Education for Rohingya Children Living in Refugee Camps in Bangladesh," *Education Inquiry* 13, no. 1 (2022): 104–26.

implement a comprehensive policy framework to facilitate formal education. Such frameworks could include the integration of refugee children into the public school system, adapted to the appropriate curriculum to account for linguistic and cultural diversity. Furthermore, it is essential to establish certification mechanisms that recognise learning achievements achieved during displacement to ensure that educational progress is officially recognised and transferable after resettlement.[33] Collaboration with international organisations such as the United Nations High Commissioner for Refugees (UNHCR) can help develop customized education programmes that are consistent with Indonesian national standards and international educational guidelines. These policies will not only promote education, but also provide refugee children with the skills and qualifications needed to be integrated into host or resettlement countries in the future.[34]

Access to education for refugee children is a fundamental human right enshrined in international instruments, including the 1951 Refugee Convention and the Convention on the Rights of the Child, to which Indonesia is a signatory. Ensuring educational opportunities during displacement is critical for the cognitive, emotional, and social development of refugee children, fostering resilience and a sense of normalcy amid instability. Moreover, education serves as a vital tool for social integration, enabling refugee children to acquire language proficiency, cultural understanding, and social networks that facilitate their inclusion within host communities. By fulfilling its obligations to provide education, Indonesia not only upholds international human rights standards but also contributes to the long-term well-being and integration prospects of refugee populations. This commitment reflects a broader humanitarian responsibility and reinforces Indonesia's role as a key actor in regional refugee protection frameworks.

The 1989 Convention on the Rights of the Child affirms that all children have equal dignity and that states parties to the Convention are

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[33] P Nugroho Adhi, I Gst Putu Agung, and Bernadette Gitareja, "Challenge and Opportunity to Implement the Right to Education for Child Refugees in Indonesia," in *1st International Conference on Law and Human Rights 2020 (ICLHR 2020)* (Atlantis Press, 2021), 54–62.

[34] Linda Morrice, "The Promise of Refugee Lifelong Education: A Critical Review of the Field," *International Review of Education* 67, no. 6 (2021): 851–69.

obliged to treat every child without discrimination on any element or factor regulated in Article 2 Paragraph 1 of the Convention on the Rights of the Child. Then, the 1989 Convention on the Rights of the Child also specifically mentions the fulfilment of rights and protection for refugee children and the responsibilities of a country towards refugee children. Article 22 Paragraph 1 of the 1989 Convention on the Rights of the Child indicates that the responsibility for fulfilling the rights of all refugee children in the jurisdiction of the country that is part of the Convention is imposed on the country to be able to fulfil the regulations by complying with the principle of nondiscrimination as regulated in Article 2. Then the articles that regulate the right to education in the Convention include Article 19, Article 23, Article 24, Article 28, Article 29, Article 32, and Article 40.

Article 28 of the 1989 Convention on the Rights of the Child affirms that every child has the right to education and that the right to education is universal and also means that it can be enjoyed by all children, regardless of race, gender, or disability, whether they are in detention or they are refugees. Article 28 Paragraph 1 explains in detail the form of the right to education that must be implemented by a country that is part of the 1989 Convention on the Rights of the Child, namely that every country has the responsibility to provide every child in its jurisdiction with basic education in the country free of charge. Then, Article 28 Paragraph 1 Letter B regulates that Indonesia's obligations as a state do not stop at elementary school, but also provide fulfillment of the right to education in the form of secondary education, both general and vocational education to refugee children. Indonesia must ensure that these continuing educations are available and accessible to refugee children.

Article 29 of the 1989 Convention on the Rights of the Child regulates in detail the purpose of providing access to education provided by the state to children, where the purpose is considered best for the child, the state, and those around the child. Then, in addition to the main article that regulates education directly, there are several other articles that regulate matters that are indirectly related to education. One example is Article 19 Paragraph 1 which states that states must take educational steps in their efforts to protect children from all forms of physical and mental violence, abuse and injury, neglect, exploitation or

ill-treatment, and sexual harassment while in the care of parents, legal guardians, or anyone else who cares for the child. Furthermore, paragraphs 3 and 4 emphasize the availability of access and information about education for children with disabilities and children who need help. Article 24 Paragraph 2 gives the state the responsibility to be able to provide access for children to education and knowledge about child health and nutrition, the benefits of breastfeeding, environmental hygiene and sanitation, and accident prevention. Article 32 Paragraphs 1 and 2 give the state the responsibility to protect children from economic exploitation and work that is considered dangerous and disruptive to children's education. Finally, in Article 33, it is stated that the state has the responsibility to utilise education in order to protect children from the dangers of using narcotics and psychotropic substances.

What has been explained above is Indonesia's responsibility as a participating country of the 1989 Convention on the Rights of the Child to be able to harmonize with national provisions. It should be noted that there are several national laws in Indonesia that are not in accordance with the regulations on education regulated in the 1989 Convention on the Rights of the Child.

The inconsistency was found in the existing regulations in the Republic of Indonesia Law Number 20 of 2003 concerning the National Education System, where the law limits the obligation to follow basic education and the exemption of education fees only applies to Indonesian citizens. On the other hand, the 1989 Convention on the Rights of the Child does not differentiate between every child, including child refugees, in accessing their rights. This is clearly stated in Law Number 20 of 2003 concerning the National Education System in Article 5 Paragraph (1). Furthermore, it is stated in Article 6 Paragraph (1), which shows the meaning that education, especially basic education, is only mandatory for those who are Indonesian citizens and does not apply to children who have foreign citizenship, including child refugees.

From the examples above, it appears that there is a discrepancy in the regulations in Law Number 20 of 2003 concerning the National Education System as an instrument of ratification of the 1989 Convention on the Rights of the Child based on the decision of Presidential Decree Number 26 of 1990. In short, the comparison between the national instrument and the 1989 Convention on the Rights

of the Child includes Article 29 Paragraph 1 of the 1989 Convention on the Rights of the Child, which states that basic education is a mandatory right that must be fulfilled by member states for every child without exception, and all member states must ensure that education is provided free of charge to every child. What is stated in Law Number 20 of 2003 is not in accordance with one of the basic principles of the 1989 Convention on the Rights of the Child, namely the principle of nondiscrimination, where this principle stipulates that all rights and obligations in the Convention must be given to every child without any differences or exceptions. In the case of a violation of the principle of nondiscrimination by what is stated in Law Number 20 of 2003, this constitutes discrimination based on citizenship status.[35].

In addition, there are also national legal instruments that are not in accordance with the lack of support for child refugees to be able to access primary and secondary education and are not in accordance with one of the basic principles of the 1989 Convention on the Rights of the Child, namely the principle of what is best for the child. The national regulation is the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 1 of 2021 concerning the Admission of New Students to Kindergartens, Elementary Schools, Middle Schools, High Schools, and Vocational Schools. This national instrument has provisions that are considered burdensome for child refugees to be able to access their right to education properly, namely, requiring children to have complete documents. Whereas in reality, even identity document alone is difficult for refugees in general to fulfil as happened in Pekanbaru, Riau as stated elsewhere in this paper. Indonesia is a member state of the 1989 Convention on the Rights of the Child which has an obligation to take the necessary actions to be able to guarantee and provide convenience for children in accessing various levels of education with the basic principle of what is best for children, but requiring complete documents makes it difficult for child refugees to access education. The burdensome regulation is in Article 7 Paragraph 1, where in this article child refugees are required to have a birth certificate or birth certificate issued by the authorities to access formal education in

[35] Antje Ellermann, "Discrimination in Migration and Citizenship," Journal of Ethnic and Migration Studies 46, no. 12 (2020): 2463–79.

Indonesia. Not only that, Article 9 Paragraphs 1 and 2, where in this regulation children who come from overseas schools must attach a letter of recommendation for study permits from previous overseas schools. Then Article 39 regulates that children who come from overseas schools must submit a diploma, a statement letter from the principal of the original school, and a letter of recommendation for study permits from the director general in charge of child education. It makes an education for children refugees almost like an impossible one.

The disharmony of Indonesian national law with the 1989 Convention on the Rights of the Child is also evident from the absence of a national law that specifically regulates the fulfilment of the right to education for refugee children, which has provisions ranging from the mechanism for fulfilling the right to education for refugee children, a special curriculum for refugee children, cultural education in their country of origin and the new country of refugee children, both transit countries and destination countries, and other efforts that support access to the right to education for refugee children. Those disharmonies have led to negligence of the 1989 Convention on the Rights of the Child, which Indonesia is a party.[36] To prevent further negligence, Indonesia should take a step to consider fulfilling the education rights of child refugees, whether by its own resources or by collaborating with third parties.

Child refugees in Indonesia can access formal education in several ways, namely through initiatives given by schools, where schools permit child refugees to be able to study at the school, and through cooperation made between nongovernmental organisations or international organizations with local governments, for example, as done by the International Organisation for Migration (IOM) with several elementary schools in Medan. Although policies have been implemented in several areas, there are still areas where child refugees have difficulty accessing education, especially in areas with high refugee populations such as Pekanbaru, Riau. The obstacles that occur often arise due to four factors that prevent child refugees in Indonesia from accessing the right to

[36] Kristin and Dewi, "The Rights of Children Refugee in Transit Country Under The CRC, A Case of Indonesia: An Intended Negligence?"

education, namely[37]: (a) Refugee children who are classified as unaccompanied or separated from their parents (Unaccompanied and Separated Children); (b) Financial limitations for refugee children to access the right to education; (c) Administrative requirements in accessing education that burden refugee children; and (d) Internal problems experienced by refugee children.

The four above factors are generally the main obstacles that make it difficult for children of refugees to access their right to education. The four inhibiting factors, especially the administrative requirements that are difficult for refugees to fulfil, are specifically proven in the Rudenim in Pekanbaru City, where child refugees in the Rudenim in Pekanbaru City do not receive education because to access education in Indonesia, children must meet administrative requirements.[38].

Children who are refugees in Indonesia face a complex array of structural, linguistic, and socio-cultural challenges that impede their educational continuity beyond the four primary barriers commonly recognized in refugee education discourse. A significant hurdle is the language barrier, as many refugee children lack proficiency in Bahasa Indonesia, the official medium of instruction, thereby compromising their comprehension of curriculum materials and meaningful participation in classroom discourse. Additionally, prolonged disruptions in formal education due to displacement often result in substantial academic deficits, placing these children at a considerable disadvantage relative to their host-country peers. Furthermore, socio-cultural differences—including divergent norms, religious practices, and behavioral expectations—can foster social exclusion, prejudice, and difficulties in peer integration. These factors collectively contribute to an environment that is often inhospitable to inclusive learning. Without targeted interventions—such as language acquisition programs, remedial academic support, and culturally responsive pedagogies—refugee children are at heightened risk of educational marginalization, which may

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[37] Katharine Williamson et al., "The Impact of Protective Interventions on Unaccompanied and Separated Children in Humanitarian Crises," 2017.

[38] Ramazan Dwi Marta, "Legal Analysis of the Fulfillment of Children's Education Rights to Refugees and Asylum Seekers Reviewed from the 1951 Refugee Convention at the Pekanbaru City Immigration Detention Center" (Riau Islamic University, 2022).

have long-term implications for their psychological well-being, social integration, and future economic prospects. Addressing these multifaceted challenges requires coordinated, evidence-based policy and institutional collaboration.

In this case, the Indonesian government cannot ignore these factors and obstacles and become the status quo. The Indonesian government must strive for access to education for refugee children based on the factors and obstacles that have been mentioned for refugee children as the Indonesian government has a responsibility and is bound by international law as a state party to the 1989 Convention on the Rights of the Child.

Thailand is one of the countries that is not a party to the 1951 Refugee Convention, but is a party to the 1989 Convention on the Rights of the Child, which makes Thailand have almost the same obligations as Indonesia in handling refugees, especially child refugees. However, Thailand's national law on child refugees is more accommodating through the National Education Act, stating that everyone has the same rights and opportunities to access basic quality education, including child refugees. It is so much different from the regulations owned by Indonesia, where the Indonesian government only provides education up to the elementary level, Thailand in its regulations gives permission for all children in Thailand, including child refugees, to be able to get quality education up to secondary level.[39] Not only allowing child refugees to have education, but also later, the Thai government in 2005 passed the 2005 Royal Thai Government Cabinet Resolution for Unregistered Persons, where the Thai Ministry of Education proposed a resolution so that child refugees, both registered and unregistered, could enter state education. Not only registration for domestic education, this resolution also concerns the provision of subsidies for school fees, stationery, uniforms, and other learning needs as part of the 15-year free education policy.[40].

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[39] Thithimadee Arphattananon, "Education of Migrant Children from Myanmar in Thai Government Schools," Manusya: Journal of Humanities 24, no. 3 (2022): 409–25.

[40] Titiporn Tuangratananon et al., "Education Policy for Migrant Children in Thailand and How It Really Happens; A Case Study of Ranong Province,

In contrast to the conditions for the fulfilment of the right to education for refugee children in Thailand, in Malaysia the issue of fulfilment of the right to education for refugee children is still unresolved. Malaysia has a national legal instrument called the Immigration Act 1959 which regulates immigration in Malaysia, where the regulation stipulates that refugees are illegal immigrants who violate the provisions of the national regulation Immigrant Act 1959/63 and Regulation 39 of The Immigration Regulation 1963 parts 5, 6, 7, 8, 9, and 15. This is what makes Malaysia not yet have a specific law regarding refugee children and the fulfilment of their rights, including the right to education in Malaysia[41].

From the above description, it can be concluded that Thailand's national law is more accommodating and has come closer to conforming to the regulations and principles of the 1989 Convention on the Rights of the Child when compared to the national regulations of Indonesia and Malaysia, so that Thailand's national law is worthy of being used as good practice for the Indonesian government in its efforts to improve national provisions regarding the fulfilment of the education rights of refugee children.

C. Temporary working permit to fulfil refugees' rights to work and children's rights to education

The main factor that has not been realised is that Indonesia has not ratified the 1951 Refugee Convention. Additionally, the Indonesian government is considering the positive and negative impacts of work permits for refugees in Indonesia. The assumption that refugee access to work will be a threat to the jobs and economic security of the local communities and refugees is unfounded. By combining the adult refugee population data from UNHCR in December 2023 with the working age population of Indonesia in February 2023, it was only 0.000006% of the workforce population in Indonesia. And as long as refugees are entrepreneurs and have unique skills or working experience, and as long

Thailand," International Journal of Environmental Research and Public Health 16, no. 3 (2019): 430.

41 Dina Imam Supaat, "Refugee Children under the Malaysian Legal Framework," UUM Journal of Legal Studies 4 (2014): 118–48.

as they do not become government employees, it is believed that such unfair and disadvantageous competition will not occur. Actually, with a proper regulation, refugees access to working environment will enable economic sector improvement although it maybe less significant.

Based on the explanation of the national instruments (the 1945 Constitution, Indonesia's commitment to refugee protection, International Instruments ratified by Indonesia, human rights principles, and provisions on asylum seekers and refugees), Indonesia needs to review and evaluate its regulatory system in dealing with asylum seekers and refugees related to the regulation of the right to work for refugees. There is a need for renewal and a new legal umbrella regarding the regulation of access to work for refugees, because so far the national regulations that prohibit refugees from working are not in accordance with human rights instruments. The government must strengthen national legal instruments according to Indonesia's capabilities so that they can allow refugees to access work without having to ratify the 1951 Convention and the 1967 Protocol.

In filling the legal vacuum, especially in countries that are not parties to the 1951 Refugee Convention, a legal reform is needed. Where there is no adequate legal umbrella to protect the rights of asylum seekers and refugees, the concept of temporary protection can be applied. Temporary protection provides limited, interim rights for refugees, including access to work. So far, Indonesia has implemented a form of protection for asylum seekers and refugees categorised into the concept of temporary protection and can be assessed for its compliance with the UNHCR guidelines, namely the Guidelines on Temporary Protection and/or Stay Arrangements. However, it is limited to temporary accommodation, the minimum treatment standards related to socioeconomic rights have not been met. In fact, according to the TPSAS Guidelines, although the presence of refugees in Indonesia is only temporary, they must still receive minimum treatment standards that uphold their human rights. Because refugees in Indonesia are still not allowed to work, therefore, Indonesia can take constructive steps to protect the economic rights of asylum seekers and refugees by providing temporary work permits, using the concept of temporary protection. This is supported by the UNHCR, which has proposed a solution for

Indonesia to overcome the problem of asylum seekers and refugees with a temporary protection mechanism focusing on refugee work permits[42].

The Indonesian government possesses the institutional capacity to regulate and strategically limit refugee employment opportunities, particularly by directing them toward apprenticeships, cooperative partnerships, and specific informal sectors. These targeted employment pathways are designed to ensure that refugees' labor market participation does not negatively affect job prospects for Indonesian citizens. From an academic perspective, integrating refugees into the labor market is a complex process that demands both economic inclusion and the protection of local workers' interests. By channeling refugee labor into non-competitive, skill-developing, and community-based roles—such as vocational training, small-scale crafts, or agriculture—Indonesia can foster inclusive economic participation while minimizing displacement effects on domestic workers. Furthermore, targeted programs should include capacity-building initiatives, language training, and formal recognition of foreign qualifications to enhance refugees' employability. A well-designed regulatory framework can help mitigate potential labor market disruptions, promote social harmony, and align with international best practices in refugee integration. Importantly, such policies should be evidence-based, regularly evaluated, and adaptable to changing demographic and economic conditions. This approach enables Indonesia to fulfill its humanitarian commitments while safeguarding domestic workforce stability. Ultimately, strategic labor market integration is not merely an economic necessity but a foundational element of sustainable and equitable refugee protection. It transforms displacement from a burden into an opportunity for mutual growth, innovation, and national resilience.

The implementation of such policies may include the establishment of regulatory frameworks for defining the categories of jobs of refugees, as well as monitoring mechanisms for compliance. For example, apprenticeships and partner schemes can function as structured

[42] United Nations High Commissioner for Refugees, "Guidelines on Temporary Protection or Stay Arrangements" (Geneva: United Nations High Commissioner for Refugees, 2014), https://www.unhcr.org/media/guidelines-temporary-protection-or-stay -arrangements.

pathways for training and integrating labour markets, allowing refugees to gain experience without competing directly with local workers for permanent positions. In addition, allowing refugees to undertake jobs in the informal sector, which are complementary to domestic labour rather than replacing it, can further minimise economic tensions.

The expected results of these policy measures extend beyond the stability of the labour market. By identifying the scope of refugee employment, the Government can improve protection against exploitation, discrimination, low wages and workplace violence, which are common hazards for vulnerable groups in unregulated employment environments. These protections are essential to maintain human rights standards and promote social cohesion.[43] Furthermore, such policies can contribute to broad socio-economic benefits, including reducing abuses of the informal labour market and promoting equitable labour practices. In short, the deliberate limitation and structure of refugee employment opportunities represents a pragmatic approach to balancing economic demands and humanitarian considerations and strengthening the integrity of the labour market and the well-being of refugee workers.

In its implementation, the State of Colombia has demonstrated good practice in granting the right to work to refugees. The State of Colombia is a non-ratifying country of the 1951 Refugee Convention, and is the second largest refugee-hosting country in the world, after Turkey. According to the UNHCR fact sheet as of December 2023, the State of Colombia has accommodated 2,477,588 refugees[44]. Although Colombia is a developing country with an unstable economy, Colombia has taken steps to help Venezuelan refugees. Colombia has gradually been integrating Venezuelan migrants into its economy since 2019 by issuing residency permits and then issuing special permits for foreigners to work regardless of their immigration status. The Colombian government issued Temporary Protection Status (TPS) to Venezuelan migrants by granting Venezuelans legal immigration status for 10 years with access to Education, Health, Housing, and most importantly, equal employment opportunities with Colombian citizens.

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[43] Kosny et al., "Safe Employment Integration of Recent Immigrants and Refugees."

[44] United Nations High Commissioner for Refugees, "Refugee Statistics," Refugee Data Finder, 2023, https://www.unhcr.org/refugee-statistics/.

As a transit country, Indonesia hosts refugees temporarily, awaiting resettlement or repatriation. This temporary nature provides a strong basis for introducing time-limited work rights that balance humanitarian needs with national concerns. A regulated system of temporary work permits—tied to refugee or asylum seeker status—can serve as a practical compromise. Such permits would allow access to employment, enabling refugees to achieve economic self-reliance, support their families, and contribute to the local economy. At the same time, they address government concerns about labor market stability, national security, and immigration control. By linking permits to clear criteria—such as status verification, sectoral restrictions, and periodic renewal—Indonesia can ensure accountability and oversight. Introducing a taxable income threshold would further enhance mutual benefits: refugees gain formal economic participation and financial dignity, while the state collects tax revenue, strengthens fiscal monitoring, and promotes integration. This approach aligns with international standards promoted by UNHCR, which emphasize equitable livelihood access for displaced persons. A legal and transparent framework, rather than ad-hoc decisions, would reinforce Indonesia's commitment to human rights, regional leadership, and sustainable refugee protection. This model also sets a precedent for inclusive policies that recognize refugees not as burdens, but as contributors to social and economic development. In this way, Indonesia can uphold its humanitarian obligations while enhancing national governance and social cohesion[45].

Conclusion

Based on legal and policy analysis, the fulfillment of the right to work for refugees in Indonesia during the prolonged period of awaiting refugee status determination and resettlement must be actively pursued and institutionalized. This is particularly crucial given the extended administrative timelines—often spanning several years—during which refugees remain in a state of legal and economic limbo. Without access to formal employment, refugees are unable to achieve financial self-reliance,

[45] Sianturi and Viartasiwi, "Advocating the Temporary Rights to Work for Refugees and Asylum Seekers in Transit in Indonesia."

which not only undermines their dignity and psychological well-being but also places growing pressure on state resources and humanitarian aid systems. Prolonged dependency can trigger secondary challenges, including increased risk of poverty, mental health issues, social isolation, and potential security or environmental concerns in refugee-hosting communities. Therefore, granting a limited, regulated right to work is not merely a humanitarian gesture, but a pragmatic and rights-based necessity. However, this right should not be unconditional. Appropriate limitations must be established to safeguard the interests and labor market stability of Indonesian citizens. These limitations could be implemented through a temporary work permit system, issued and monitored by authorized government agencies, with clear conditions such as sectoral restrictions, time limits, and periodic re-evaluation. Such a framework ensures accountability while enabling refugees to contribute meaningfully to society. Importantly, the denial of work rights also has cascading effects on other fundamental rights—most notably, the right to education for refugee children. Without household income, families face extreme difficulty in covering school fees, uniforms, transportation, and learning materials, which may lead to school dropout or non-enrollment. Hence, recognizing the right to work is not only a matter of economic fairness but a strategic investment in the long-term social inclusion, stability, and human capital development of refugee populations in Indonesia.

In fulfilling the right to education for refugee children, Indonesia continues to face significant challenges stemming from a lack of alignment between national legislation and international human rights obligations—particularly the 1989 Convention on the Rights of the Child (CRC). While Indonesia has ratified the CRC, the domestic legal framework does not yet fully reflect its principles, especially concerning the access to education for refugee and migrant children. Many existing regulations lack clarity on the legal status of refugee children, their entitlement to public schooling, and the mechanisms for enrolment, documentation, and support services. This legal gap creates administrative barriers, institutional resistance, and unequal treatment, which undermine the principle of non-discrimination enshrined in the CRC. To address this inconsistency, a comprehensive comparative legal analysis of national policies from other countries—particularly those

with robust frameworks for refugee education—is highly recommended. These nations demonstrate effective models, including inclusive admission policies, temporary legal status for education access, government-supported language programs, and integration into mainstream systems. By studying these best practices, Indonesia can identify adaptable strategies that fit its socio-legal context. Such insights could inform the development of targeted regulations, inter-agency cooperation mechanisms, teacher training, and community outreach programs. Ultimately, the goal is to transition from a reactive, ad-hoc approach to a preventive and systematic policy that ensures every refugee child, regardless of status, can exercise their right to free, inclusive, and quality education. This not only strengthens Indonesia's compliance with international law but also contributes to long-term social cohesion, national development, and the realization of human dignity for all children in the country.

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