

Indonesia's Accountability as a State That Did Not Ratify the 1951 Refugee Convention on the Rohingya Ethnic Group in the Perspective of International Human Rights

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Abstract

The responsibility or role of the state in international law is related to the protection of Rohingya ethnic refugees who come to Indonesia where Indonesia has not ratified the 1951 Refugee Convention so that it poses its own challenges in dealing with Rohingya refugees, so human rights aspects and various moral and empathetic efforts are still needed. The study uses a normative legal approach to analyze legal frameworks relevant to the Rohingya ethnic situation, highlighting the human rights protections provided by international legal instruments such as the UN Universal Declaration of Human Rights. The ongoing conflict in Myanmar shows the allegations/assumptions of systematic human rights violations, showing the need for joint action in upholding human rights principles. Although Indonesia has not ratified the 1951 Refugee Convention, the state has a moral and legal obligation to respect human rights, including in



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addressing the problem of the arrival of the Rohingya in terms of seeking asylum and shelter. The protection of refugees, including the Rohingya, is a fundamental moral and legal responsibility of the international community, which includes the Indonesian government. The Indonesian government has also taken steps to provide protection to refugees, including working with UNHCR in finding solutions for Rohingya refugees in Aceh. In the absence of Indonesia ratifying the refugee convention, moral and legal efforts are still needed to ensure proper protection for Rohingya refugees and uphold human rights principles at the international level.

KEYWORDS *Responsibility, Rohingya, Convention, Human Rights, State.*

I. INTRODUCTION

The state's obligations in the context of Human Rights (HAM) in the international arena are through various human rights legal instruments. These instruments include the *Universal Declaration of Human Rights* (UDHR), the *International Covenant on Civil and Political Rights* (ICCPR), and the *International Covenant on Economic, Social and Cultural Rights* (ICCPR) or ICESCR). Each country has the responsibility to comply with and implement the provisions contained in these documents to ensure the respect, protection, and fulfillment of human rights for all individuals without discrimination.¹

Human rights are explained in Article 1 of Law of the Republic of Indonesia Number 39 of 1999 concerning Human Rights. This law affirms that human rights are a set of rights inherent in the essence of human existence as creatures of God Almighty. These rights are God's grace that must be respected, upheld, and protected by the state of law, the government, and everyone. The purpose of this respect and protection is to maintain the honor and dignity of human beings. Although various rules have been established in various countries to protect human rights, human rights violations continue to occur around the world. These

¹ Andrey Sujatmoko, *Hukum HAM Dan Hukum Humaniter* (Rajawali Pers, 2016).

violations take many forms, from violations of civil and political rights to economic, social, and cultural rights.²

A striking example of human rights violations that has received sustained international attention is the case of the oppression of the Rohingya ethnic group in Myanmar. The Rohingya have experienced various forms of serious human rights violations since 1978. They face severe restrictions on freedom of movement, which prevents them from traveling freely both within and outside Myanmar. In addition, they are not recognized as Myanmar citizens, which leads them to become stateless.³

This condition makes them very vulnerable to various forms of discrimination and violence. In addition to restrictions on freedom of movement, ethnic Rohingya have also experienced physical violence, murder, rape, and the burning of their villages. All of these actions can be categorized as genocide according to various international reports. The international community has sought to pressure the Myanmar government to stop the violence and provide adequate protection for the Rohingya.⁴

Recently, the rise of news about the mobility of Rohingya refugees has been in the spotlight, especially regarding Rohingya refugees from Myanmar. Refugees usually come from ethnic minorities in their countries who often experience discrimination and mistreatment in their home regions.

The arrival of refugees to other countries usually does not occur individually, but with relatives, including children. Host countries and the international community have a great responsibility to provide adequate protection for child refugees, including providing access to education, health services, and protection from exploitation and violence.⁶

² Enju Juanda, "Eksistensi Hak Asasi Manusia Dan Alternatif Penyelesaian Atas Pelanggarannya Dalam Negara Hukum Republik Indonesia," *Jurnal Ilmiah Galuh Justisi* 8, no. 1 (2020): 98–108.

³ Rona Nada Nisrina and Fatma Ulfatun Najicha, "Analisis Hukum Status Kewarganegaraan Rohingya: Implikasi Kebijakan Dan Tantangan Global," *Antropocene: Jurnal Penelitian Ilmu Humaniora* 4, no. 2 (2024): 37–41, <https://doi.org/https://doi.org/10.56393/antropocene.v4i2.2443>.

⁴ Karel Neju Hayer, Josina Augustina Yvonne Wattimena, and Wilshen Leatemia, "Pelindungan Hak Asasi Manusia Dalam Konflik Bersenjata Non Internasional Di Myanmar," *PATTIMURA Law Study Review* 2, no. 1 (2024): 43–61, <https://doi.org/https://doi.org/10.47268/palasrev.v2i1.13693>.

⁵ Joko Widodo, "Kebijakan Luar Negeri Indonesia Di Bawah Pemerintahan," n.d.

⁶ Ananta Aqiel Thariq, "Dilema Kejahatan Internasional Dalam Krisis Pengungsi: Tantangan Bagi Keamanan Global," *Organized Crime*, 2023, 47.

This effort not only helps them overcome the trauma and difficulties they face, but also prepares them for a better future. Additionally, it is important to ensure that policies and assistance programs for refugees take into account the specific needs of children. This approach must be comprehensive and inclusive, including psychosocial support, education, health, and legal protection. Only in this way can we ensure that the human rights of refugee children are protected and that they can thrive despite the very difficult situation.⁷

Looking at the phenomenon related to human rights and Rohingya ethnic refugees, it can be seen that with Indonesia's non-accession to the 1951 Convention and the 1967 Protocol, the Indonesian government does not have the authority to assess the status of refugees, which is often referred to as "*Refugee Status Determination*" (RSD).⁸

Therefore, refugee issues are regulated by UNHCR (the United Nations Agency responsible for refugee issues) in accordance with its mandate stipulated in the UNHCR Statute of 1950. Nonetheless, all States, including those that have not ratified the Refugee Convention, are obliged to respect the standards of protection that have been set forth in general international law, as the Convention has become part of the "*jus cogens*", i.e. a universally recognized and non-negligible principle of law. Therefore, no refugee should be returned to an area where his life or liberty is threatened.⁹

Based on this, currently Indonesia has not ratified the 1951 Refugee Convention, resulting in regulatory obstacles in optimally protecting Rohingya refugees. This convention is an important international legal instrument to provide protection and basic rights for refugees, especially the Rohingya refugees.

⁷ Alghifari Ichsono et al., "Bahasa Indonesia dan Resiliensi Psikologis: Peran Bahasa Meningkatkan Ketahanan Mental Individu dalam Menghadapi Tantangan Hidup," *PAEDAGOGY: Jurnal Ilmu Pendidikan dan Psikologi* 4, no. 2 (2024): 206-218, <https://doi.org/https://doi.org/10.51878/paedagogy.v4i2.3138>.

⁸ Wuri Sumampouw et al., "Keberlakuan Non-Refoulement Principle dikaitkan dengan Sovereignty Principle: Tinjauan Terhadap Pengungsi Rohingya di Indonesia," *JURNAL USM LAW REVIEW* 7, no. 3 (2024): 1111-1133, <https://doi.org/http://dx.doi.org/10.26623/julr.v7i3.9441>.

⁹ B Lora Christyanti, "Jus Cogens Sebagai Dasar Mengikatnya Hukum Internasional," *Yurispruden: Jurnal Fakultas Hukum Universitas Islam Malang* 5, no. 2 (2022): 196-210, <https://doi.org/https://doi.org/10.33474/yur.v5i2.14611>.

The basic problem is that without the ratification of the convention, Indonesia faces the challenge of providing a clear and comprehensive legal framework to deal with refugee issues. However, on the other hand, Indonesia is also faced with moral encouragement and a sense of empathy on the basis of Human Rights (HAM). After all, the Rohingya ethnic group is a human being who naturally has the same rights as us, including the right to life and get a decent place to live, just like the human rights of people or people from other countries in general.¹⁰

As a country that upholds human values in accordance with the 2nd Precept of Pancasila which reads "Just and civilized humanity", Indonesia must consider its responsibility to provide protection to those who are forced to flee violence and persecution. Rohingya refugees, who have experienced various forms of human rights violations in Myanmar, are in dire need of protection and assistance.

Based on this, this study aims to determine the legal protection of the Rohingya ethnic group from the perspective of human rights law and the accountability of the Indonesian government as a country that did not ratify the 1951 refugee convention against the Rohingya ethnic group in the perspective of international human rights. As we know, this case has become an international issue involving many countries and international organizations in an effort to protect the basic rights of the Rohingya ethnic group.

Although Indonesia did not ratify the 1951 Refugee Convention, Indonesia's position in handling the case of Rohingya refugees is very important, both in terms of humanity and moral responsibility as a member state of the United Nations (UN). This study will analyze how policies and measures taken by the Indonesian government are in line with international human rights principles, identifying efforts made in providing protection to Rohingya refugees in Indonesia.

The research is a normative legal research with a normative juridical approach. Legal sources that are accessed and processed in normative legal research are generally secondary data obtained from literature. This secondary data consists of primary legal materials, in the form of laws and

¹⁰ Evlyn Martha Julianthy, *Kebijakan Kriminal Terhadap Penyelundupan Manusia* (Penerbit Enam Media, 2020).

regulations, declarations, and international conventions. Meanwhile, secondary legal materials include books, related research results, expert opinions, and writings relevant to the subject discussed. In addition, tertiary legal materials are materials that provide additional clues or explanations to the primary and secondary legal materials used in research. The technique of collecting legal materials is carried out by exploring a normative framework using legal materials that discuss legal theories, especially related to the protection of human rights against the Rohingya ethnic group and are classified according to the hierarchy of sources to allow for comprehensive analysis.

II. Legal Protection for the Rohingya Ethnic Group from a Human Rights Perspective

Human rights are considered to have universal value, which means that their value is not limited by the limitations of space and time. These values are interpreted and adopted in various national legal systems around the world to protect and strengthen humanitarian principles. In fact, these values are affirmed in various international agreements in the field of human rights, such as *the International Covenant on Civil and Political Rights*, *the International Covenant on Economic, Social and Cultural Rights*, and a number of other agreements. However, the reality shows that the application of universal human rights values is often inconsistent and uniform in different countries. Countries have different standards of application in upholding human rights. These differences can be caused by a variety of factors, including cultural, political, and social differences in each country. This highlights the complexity of safeguarding and protecting human rights at the global level, as well as the importance of concerted efforts to address these challenges in order to realize consistent respect for human rights around the world.¹¹

¹¹ Muhammad Kurnia Zaetama, "Peran Hukum dalam Mewujudkan Keadilan Sosial dan Hak Asasi Manusia," *Jurnal Kajian Hukum Dan Kebijakan Publik* | E-ISSN: 3031-8882 2, no. 1 (2024): 450–457, <https://doi.org/https://doi.org/10.62379/k6skmp76>.

The ongoing conflict against the Rohingya, in which the Myanmar government is deemed to be a human rights violation in its handling of the Rohingya, has raised a series of serious problems such as neglect of acts of violence, killings, deportations, and forced displacement that continue without a clear resolution. This raises serious questions regarding the Myanmar government's compliance and alignment with human rights principles, including those stipulated in the Universal Declaration of Human Rights (DUHAM).¹²

Article 2 of the Human Rights Act expressly states that every individual has the same right to all the rights and freedoms recognized in the declaration, without discrimination on the basis of race, color, sex, religion, language, political beliefs, or other beliefs, national origin, social status, property rights, birth, or other status. The article then emphasizes that there should be no discrimination based on the political, legal, or international status of the country or region of origin of an individual, including from an independent state, a guardianship area, a territory without self-government, or a territory under the sovereignty of another country.¹³

However, in the context of handling the Rohingya conflict, human rights violations appear to occur systematically and violate the principles described in the Human Rights Convention. It demonstrates the importance of decisive and concerted action from the international community to uphold human rights principles and ensure equitable protection for all individuals, regardless of ethnic origin or other backgrounds described earlier. In this regard, international cooperation and diplomatic pressure may be necessary to ensure that the Myanmar government adheres to their commitments to human rights, as well as to resolve the conflict in a manner that respects the dignity and justice of all parties involved.¹⁴

¹² Ahmat Reza Fahlefi Pattihua, "Efektivitas Asean Intergovernmental Commission on Human Rights (AICHR) dalam Mengatasi HAM di Asia Tenggara," *URECOL*, 2017, 513–530.

¹³ Indri Yulia Sahad, Popi Tuhulele, and Welly Angela Riry, "Penegakan Hukum Terhadap Pelanggaran Hak Asasi Manusia ditinjau dari Hukum Internasional," *PATTIMURA Law Study Review* 2, no. 1 (2024): 24–31, <https://doi.org/https://doi.org/10.47268/palasrev.v2i1.13691>.

¹⁴ Revina Putri Setiani et al., "Peran Organisasi Kerjasama Islam (OKI) Dalam Menangani Konflik Rohingya Di Myanmar Tahun 2016–2017," *Journal of Comprehensive Science (JCS)* 3, no. 9 (2024): 4233–4250, <https://doi.org/https://doi.org/10.59188/jcs.v3i9.832>.

Of course, human rights reasons are an argument that is considered very appropriate for the recipient country to provide protection to refugees and asylum seekers, in this case the Rohingya ethnicity, even if the country is not among the countries that have ratified the Convention on Refugees. In this context, human rights are a very strong moral and legal foundation for countries in the world to provide protection to those who face serious threats to their lives, freedoms, or dignity, regardless of legal status or ratification of certain conventions.¹⁵

Thus, protecting the human rights of refugees and asylum seekers, in this case the Rohingya ethni, is a fundamental moral and legal responsibility for the international community as a whole, including the Indonesian government. In the Charter of the United Nations, human rights issues are given the main attention, which is reflected in the second paragraph of the Preamble to the Charter which states:¹⁶

“to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small”

Asylum applications and/or refugee applications are an integral part of human rights (HAM) because they are inseparable from humanitarian conflicts. Of course, Indonesia has a strong enough reason to provide protection in this context. This is supported by Article 28 of Law No. 39 of 1999 concerning Human Rights which affirms that every individual has the right to seek asylum in an effort to obtain political protection from other countries. In the context of freedom to change residence or country, Article 13, Paragraph 2 of the 1948 UN Declaration of Human Rights states that "everyone has the right to leave every country, including his own country, and to return to his country". This right affirms the basic principle of individual freedom in choosing a place of residence or country that suits their needs and desires. The 1967 Declaration of Territorial Asylum affirmed this right by stating:¹⁷

¹⁵ Nuchraha Alhuda Hasnda, "Krisis Pengungsi: Normatif Dan Praktis Penanganan Pengungsi Masyarakat Etnis Rohingya Myanmar Di Indonesia," *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia* 5, no. 3 (2023): 1–13.

¹⁶ Sri Muliana Azhari and Heru Susetyo, "Perbandingan Kebijakan Indonesia Dan Malaysia Mengenai Pemberian Hak Untuk Bekerja," *UNES Law Review* 6, no. 3 (2024):8743–8755, <https://doi.org/https://doi.org/10.31933/unesrev.v6i3.1761>.

¹⁷ Husnatul Mahmudah et al., *Pengantar Kewarganegaraan: Membentuk Warga Negara Yang Berkualitas* (PT. Sonpedia Publishing Indonesia, 2023).

- a) *Everyone has the right to seek and enjoy in other countries asylum from prosecution;*
- b) *This right may not be involved in the case of prosecutions genuinely arising from nton political crimes or acts contrary to the purposes and principle of the United Nations.*

This shows that Indonesia, as a member of the international community, has a moral and legal obligation to respect and protect the human rights of every individual, including the right to seek asylum and protection from political repression or other serious threats, in this case in response to the arrival of the Rohingya. Therefore, Indonesia is expected to abide by its international commitments in providing protection for refugees and asylum seekers in accordance with universally recognized human rights principles. Although it is known that in the national positive law, it needs to be clearly regulated regarding the regulation of the acceptance of the arrival of the Rohingya ethnicity.

In the context of international law, Indonesia's rights and obligations as an independent country are indeed important to consider in dealing with the problem of refugees entering its territory. Indonesia also has absolute sovereignty to determine whether or not to accept refugees entering its territory, as stipulated in the provisions of international law.¹⁸

These actions can be considered as preventive measures or as an effort to defend the country from potential foreign interference, which aims to protect and maintain the country's economic and political stability, especially considering that Indonesia is a developing country. Then on the other hand, from a humanitarian perspective, the right of refugees to protection is a fundamental principle.¹⁹ Every individual, regardless of nationality, has the right to be protected if their life is threatened. This is an important aspect of the humanitarian principle recognized in international law.²⁰

¹⁸ M Alvi Syahrin and Setiawan Saputra, "Tindakan Hukum Terhadap Orang Asing Mantan Narapidana yang Memiliki Kartu Pengungsi UNHCR Dalam Perspektif Keimigrasian," *Jurnal Ilmiah Kebijakan Hukum* 13, no. 2 (2019): 139–164.

¹⁹ Denise Maureen Rebecca Aling, "Analisis Yuridis Krisis Pengungsi Rohingya di Aceh dan Peran UNHCR di Indonesia Berdasarkan Hukum Organisasi Internasional," *Lex Privatum* 14, no. 3 (2024): 1–12.

²⁰ Nurma Chrismawantika Herlambang and Rizqullah Rafif Ananda, "Diskriminasi Kebebasan Beragama Kasus Perusakan Masjid Ahmadiyah di Sintang," in *Seminar Nasional-Kota Ramah Hak Asasi Manusia*, vol. 3, 2023, 9–19.

In the study of International Refugee Law, these two opinions are often contradictory or tug-of-war. However, the principles of refugee law should try to find the right balance between the two perspectives. This means that while recognizing the sovereign right of states to determine policies related to refugee issues, it must also be remembered that states have a moral and legal obligation to provide protection to those in need, in accordance with the humanitarian principles underlying international law. So in handling refugee cases, it is important to pay attention to these two aspects and find solutions that pay attention to both the rights of state sovereignty and humanitarian protection that should be given to refugees.²¹

III. Accountability of the Government of the Republic of Indonesia as a country that did not ratify the 1951 refugee convention against the Rohingya in the Perspective of International Human Rights

Before further related to the Accountability of the Government of the Republic of Indonesia as a country that did not ratify the 1951 refugee convention against the Rohingya in the International Human Rights Perspective, of course, it is necessary to first look at the background or reason why Indonesia did not ratify the convention. The reason stated by the Government of Indonesia related to not ratifying the International Convention on Refugees is because of the difficulty of fulfilling the obligations imposed by the countries parties to the convention. Ratifying the convention can open up opportunities for *transnational crime* and social friction.²²

One of the main reasons is the difficulty in fulfilling the rights of refugees stipulated in the convention, such as the right to worship, education, and income in the country concerned. The Indonesian government is faced with major obstacles in fulfilling these rights, especially considering that there are still many Indonesian citizens

²¹ *Loc.Cit.*

²² Shania Regina Tampilang, Devy K G Sondakh, and Natalia Lengkong, "Perekrutan Tentara Anak dalam Konflik Bersenjata sebagai Kejahatan Perang Menurut Hukum Humaniter Internasional," *Lex Privatum* 13, no. 1 (2024).

themselves who need help. In addition, the government must also provide shelters and refugee processing centers, which of course require a large budget from the State Budget (APBN).²³

Given that Indonesia is still facing various domestic problems that require a large budget, becoming a transit country for refugees is considered a wiser solution. By becoming a transit country, Indonesia can still help refugees without bearing too much burden. In addition, with the status of a transit country, Indonesia can still get assistance from the United Nations Refugee Agency (UNHCR) and the International Organization for Migration (IOM) in handling refugee problems.²⁴

In addition to these reasons, the Indonesian government is also concerned that ratifying the convention could open the door to transnational crimes, such as human smuggling, and trigger social friction between refugees and local communities. Therefore, the government considers that not ratifying the convention is a wiser step in dealing with complex challenges related to refugees.²⁵

The non/non-ratification of the 1951 refugee convention does not mean that Indonesia is exempt from all obligations to be indifferent and apathetic to the Rohingya problem. The reason is that in Indonesia itself, human rights issues can be viewed universally with several human rights dimension devices such as:²⁶

1. MPR Decree No. XVII/MPR/1998 which contains the Charter of Human Rights.
2. Article 28 G paragraph (2) in the 1945 Constitution Amendment affirms the right of every individual to be free from torture or treatment that degrades human dignity, as well as the right to seek political asylum from other countries. Law No. 39 of 1999 affirms that everyone has the right to

²³ Intan Nurkumalawati, "Pemeriksaan Keimigrasian: Pelayanan Publik Yang Bukan Sekadar Melayani," *Dinamika Keimigrasian di Indonesia*, 2020, 97.

²⁴ Cipta Primadasa Primadasa, Mahendra Putra Kurnia, and Rika Erawaty, "Problematisa Penanganan Pengungsi di Indonesia dari Perspektif Hukum Pengungsi Internasional," *Risalah Hukum*, 2021, 44–51, <https://doi.org/https://doi.org/10.30872/risalah.v17i1.380>.

²⁵ Icha Rachma Mutiara Fitri, Jehan Irianti Bektu Yepese, and Mochamad Gozzi Arofah, "Prinsip Non-Refoulement Penanganan Pengungsi dan Relevansinya dalam Perspektif Kebijakan Selektif Keimigrasian," *Jurnal Ilmiah Universitas Batanghari Jambi* 24, no. 1 (2024): 143–149, <https://doi.org/http://dx.doi.org/10.33087/jiubj.v24i1.4609>.

²⁶ A Widiada Gunakaya, *Hukum Hak Asasi Manusia* (Penerbit Andi, 2019).

seek asylum for political protection from other countries; however, this right does not apply to those who commit non-political crimes or acts contrary to UN principles.

3. According to Law No. 37 of 1999 on Foreign Relations, the President has the authority to grant asylum to foreigners, which is implemented through a Presidential Decree. The granting of asylum to foreigners is carried out in accordance with national laws and regulations and takes into account international laws, customs, and practices.
4. With the ratification of the Convention Against Torture and Other Cruel, In Human or Degrading Treatment or Punishment through Law No. 5 of 1998, the state is prohibited from carrying out non-refoulment actions such as expulsion, repatriation, or extradition of a person to another country. Therefore, every asylum seeker must be accepted by the country in which the individual is applying for asylum.
5. Law No. 1 of 1979 on Extradition states that extradition does not apply to political crimes. Article 14 stipulates that an extradition request may be refused if there is a strong suspicion that the individual requested for extradition will be prosecuted because of his religion, political beliefs, nationality, or because he belongs to a particular ethnic or population group.²⁷

So it can be concluded in general that human rights themselves can be pursued as a basis for how to respond to the problem of the arrival of the Rohingya in Indonesia without the ratification of the 1951 convention, including Indonesia which has not ratified the convention.

In its implementation, the Government of the Republic of Indonesia has actually maximized several efforts related to this matter as a form of accountability even though it has not ratified the 1951 convention. Of course, these efforts can be seen with several efforts/steps, such as coordinating with UNHCR in finding countries that

²⁷ David Hardiogo, Rani Fadila Syafrinaldi, and Nunung Rahmania, "Money Politic Dan Delik Politik: Studi Relasi Serta Pengaruhnya Terhadap Ekstradisi Dalam Hukum Pidana Indonesia," *Unizar Law Review* 7, no. 1 (2024): 77–89, <https://doi.org/https://doi.org/10.36679/ulr.v7i1.69>.

are ready to receive Rohingya refugees in Aceh even though it is a complicated task. Today, many countries that normally receive refugees, including those in Europe, face the same challenges. The flood of refugees in Europe has become a serious problem for the continent itself, making it even more difficult to find a destination country. The problem of irregular displacement is increasing, especially in Europe and the Middle East.²⁸

Even so, the government through UNHCR is determined to continue to try to find countries that are willing to accept Rohingya refugees, even though it is a big challenge. In overcoming this situation, cooperation between countries and well-planned solutions are needed to provide proper protection for refugees. In addition, it can also be seen several efforts, for example:²⁹

1. Efforts through the Aceh Provincial Government which aims to provide clean water facilities in temporary shelters before the month of Ramadan. The target is for Rohingya and Bangladeshi refugee shelters to be inhabited before the holy month, with complete facilities including clean water facilities. The main principle is to place refugee shelters as far away from residential areas as possible, with the main goal of facilitating supervision. This is because many refugees arrive undocumented, and some of them are found to be infected with the disease. Thus, this step also aims to protect the local community from the risk of spreading the disease.
2. The government in North Aceh is also facilitating the repatriation process, which is voluntary repatriation, for Rohingya and Bangladeshi refugees who are there. Currently, there are 329 Rohingya refugees and 246 Bangladeshi refugees. The refugees from Bangladesh are in the process of processing documents to be returned to their home countries.
3. Indonesia also collaborates with ASEAN countries to overcome the refugee problem. Several countries in ASEAN

²⁸ Ahmad Ali Fikri and Jihan Mayola, "Respon Indonesia Terhadap Krisis Pengungsi Rohingya Periode 2022-2023," *Emerald: Journal of Economics and Social Sciences* 3, no. 2 (2024): 51–64.

²⁹ Pande Made Handika Riady, "Penanganan Pengungsi Dalam Perspektif Hukum Keimigrasian di Provinsi Kepulauan Riau," *Journal of Law and Policy Transformation* 3, no. 1 (2018): 121-160.

have expressed their readiness to assist Indonesia in providing shelter for Rohingya refugees from Myanmar. The Philippines is one of those countries. Until now, the Philippines and Cambodia are ASEAN countries that have been willing to help. In addition, Australia, as our neighbor to the south, also helped. Informally, the Indonesian government has received commitments from the Philippine government to help reduce the burden of handling refugee problems, especially from the Rohingya ethnic group. This cooperation is part of the Indonesian government's efforts to cooperate with partner countries that have expressed their readiness.

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Informally, the Indonesian government has received commitments from the Philippine government to help reduce the burden of handling refugee problems, especially from the Rohingya ethnic group. This cooperation is part of the Indonesian government's efforts to cooperate with partner countries that have expressed their readiness.

In the context of nature theory, although Indonesia has not ratified the 1951 Refugee Convention, the country remains committed to respecting and implementing values that are in line with the principles of the theory. One important aspect of natural rights is that they are universal, possessed by each individual inherently, regardless of background, such as race, religion, class, or gender. As such, Indonesia seeks to recognize and protect these rights as part of its moral and ethical responsibility towards all human beings, including those from vulnerable groups such as Rohingya refugees.

So that it can be seen that the various efforts being made by the Government of Indonesia in dealing with the problem of the arrival of the Rohingya ethnicity also consider the human rights aspect no less important. Although we all know that Indonesia itself did not ratify the 1951 refugees. However, attitudes and efforts to this problem still more or less consider the human rights aspect.

National Security Theory according to Kim R. Holmes says that "National security is the safekeeping of the nation as a whole. Its highest order of business is the protection of the nation and its people from attack and other external dangers by maintaining armed forces and guarding state secrets".³⁰ In the context of Rohingya refugees, Indonesia faces the challenge of balancing maintaining national security and fulfilling its humanitarian obligations towards refugees fleeing violence in Myanmar. The 1951 Convention on the Status of Refugees affirms that refugees, including Rohingya fleeing violence, are entitled to international protection. Although Indonesia is not a party to the convention, humanitarian principles still apply, encouraging states to provide

³⁰Kim R. Holmes, "What Is National Security?", Index of U.S. Military Strength, The Heritage Foundation, 2015, 23.

protection to refugees seeking asylum. National security theory also includes the state's responsibility to protect individual rights.

National security includes not only military threats, but also political, social, and economic aspects. Rohingya refugees can be considered a potential threat to Indonesia's social and economic stability, especially if they do not receive adequate protection. This could trigger tensions in local communities and create new challenges for the government in maintaining public order. Within the framework of national security, Indonesia's immigration policy should consider the need to protect refugees as well as maintain domestic security. Thus, defensive and offensive strategies are essential in maintaining national security. In the context of Rohingya refugees, defensive strategies could include increasing the government's capacity to handle the influx of refugees and provide the necessary protection. While offensive strategies can involve international diplomacy to push for a long-term solution to the Rohingya problem in Myanmar. By linking national security theory with the Rohingya refugee issue in Indonesia, it can be seen that the state has a dual responsibility of maintaining national security as well as fulfilling humanitarian obligations. A balanced approach is needed so that Indonesia can protect the basic rights of refugees without compromising social stability and domestic security.

IV. Conclusion

The protection of the Rohingya ethnic group illustrates the complexity of safeguarding human rights principles amid the challenges of conflict and dissent at the national and international levels. Although human rights values are considered universal values that should be upheld by all countries, in reality, their application is often inconsistent and diverse, influenced by factors such as culture, politics, and society in each country. The prolonged conflict against the Rohingya in Myanmar is a vivid example of how human rights principles are often systematically violated, with allegations involving acts of violence, killings, deportations, and forced displacement by the Myanmar government. This issue raises serious questions regarding the Myanmar government's compliance with human rights principles, especially those stipulated in the Universal

Declaration of Human Rights (DUHAM). Article 2 of the Human Rights Act expressly states that every individual has the same right to all the rights and freedoms recognized in the declaration, without discrimination based on various criteria such as race, color, religion, or political status. However, in handling the Rohingya conflict, violations of human rights principles appear to occur on a regular basis and violate the principles described in the Human Rights Council.

Although Indonesia has not ratified the 1951 Refugee Convention, the country has a moral and legal responsibility to respect and protect human rights, including the right to seek asylum and protection for Rohingya refugees who face serious threats to their lives and dignity. The Indonesian government has taken concrete steps to provide assistance to Rohingya refugees, including in terms of coordination with UNHCR, provision of shelter facilities, and finding solutions with other countries to address this problem.

The importance of international cooperation in dealing with conflicts and providing equitable protection for Rohingya refugees cannot be overlooked. The role of the international community, through diplomatic pressure, cooperation in finding solutions, and assistance to the countries involved, is key to consistently upholding human rights principles around the world. Thus, concrete steps taken by the Indonesian government and other countries in dealing with the Rohingya refugee problem must be based on the underlying human rights principles and prioritize justice, human dignity, and individual freedom.

Indonesia faces the challenge of striking a balance between maintaining national security and fulfilling its humanitarian obligations towards refugees fleeing violence in Myanmar. While Rohingya refugees can be considered a potential threat to social and economic stability, a balanced approach is needed for Indonesia to protect the basic rights of refugees without compromising social stability and domestic security. Therefore, both defensive and offensive strategies are important to implement in addressing this issue, focusing on refugee protection and international diplomacy for a long-term solution.

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DECLARATION OF CONFLICTING INTERESTS

The author state that there is no conflict of intersets in the publication this article.

FUNDING INFORMATION

None

ACKNOWLEDGMENT

None

HISTORY OF ARTICLE

Submitted : June 6, 2024

Revised : November 5, 2024

Accepted : November 8, 2024

Published : November 30, 2024