



The Urgency of Protecting Refugees with Special Needs in Indonesia: A Human Rights-Based Legal Policy

Chalik Mawardi*

Department of Law, Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia

[*Corresponding author]

Hartiwiningsih

Department of Law, Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia

Sunny Ummul Firdaus

Department of Law, Faculty of Law, Universitas Sebelas Maret, Surakarta, Indonesia

Abstract

This research discusses the urgency of protecting refugees with special needs in Indonesia in the context of human rights-based legal policy. Indonesia serves as a major transit point for refugees from various countries, such as Afghanistan, Myanmar, and Somalia, with many refugees having stayed for more than a decade and facing various challenges in meeting their basic needs. This research uses a qualitative method with a socio-legal approach to evaluate the compatibility of Presidential Regulation No. 125/2016 with international standards, including the 1967 Protocol and the 1951 Geneva Conventions. The results show that while the Presidential Regulation provides a legal framework for handling refugees, its implementation is still not aligned with international standards. More inclusive and sustainable policies, as well as closer collaboration with international organizations, are needed to ensure a response that complies with global humanitarian principles. Protection for refugees with special needs is not only the responsibility of governments, but also part of international commitments to human rights and global solidarity. Better policies will increase security, provide proper support, and reduce the stigma and disinformation often experienced by refugees.

Keywords

Legal protection, Human rights, Inclusive policy, Special needs

INTRODUCTION

The past decade has witnessed a rapid increase in global forced displacement as people flee conflict, violence and persecution. (Angela C. Lyons, 2023). The consequences of war are undoubtedly more than just displacement, untimely death, economic downturn, and seeking refuge in safer environments (Ojakorotu, 2024). Around the world, refugees and asylum seekers are faced with tragic and unfortunate circumstances and experiences that force them to flee their home countries (IOM Indonesia).

Meanwhile, issues related to refugees are usually seen as humanitarian problems (Omata, 2023). The issue of refugees is often perceived as an urgent humanitarian problem, but behind it there are many interrelated issues that cover legal, social, political and economic aspects. The protection of human rights is important in this context. Therefore, as a natural right, the state is obliged to provide respect for the existence of human rights (*to respect*) (Jufri, 2023). Such protection can also be provided for refugees with special needs who require more attention. Because given the traumatic events experienced prior to migration may be related to exposure to war, persecution, or economic hardship and reflect the reasons why refugees decide to leave their homes (Domenico Giacco, 2018). As global forced migration increases, and also by combining economic, forced, and irregular migration flows, migration has increased in scope and complexity. Forcibly displaced and stateless persons may face a range of security and safety threats and hazards, including disasters, fires, climate change-related risks such as flooding or high winds, physical injuries, child protection risks, and gender-based violence (GBV) (UNHCR, 2024). UNHCR reports that by the end of 2023, around 117.3 million people will be

forced to flee due to persecution, conflict and human rights violations. This number is predicted to continue to grow, and is expected to surpass 120 million by the end of April 2024 (UNHCR , 2024).

Recipient countries are affected by refugees, especially developing countries, which host 85 percent of all refugees. The vulnerability of refugees has been a subject of conversation in the field of human rights and humanitarian practice in recent decades. Unfortunately, refugees in Indonesia still face limited fulfillment of basic rights, reflecting the lack of a human rights perspective and the lack of political will from the government to provide adequate protection (SUAKA, 2024).

The majority of refugees in Indonesia come from Afghanistan (48%), Myanmar (16%), and Somalia (9%) with the rest coming from several other countries. Despite being a host country since the 1970s, Indonesia has not ratified the 1951 Geneva Convention and 1967 Protocol. However, Indonesia still has a long history of providing protection. Currently, of the 3,555 children registered with UNHCR, 227 are unaccompanied by parents or other adult relatives and 106 are separated from their parents (UNHCR Indonesia, 2023). The impact of forced migration has been considered a global threat to mental health and refugee children are considered particularly vulnerable, as the context of displacement affects all aspects of their lives and occurs at a crucial time in their physical, emotional, social and cognitive development (Scharpf F, 2021).

Despite Indonesia's strategic position, many people seek refuge there. There are several ways refugees and asylum seekers enter Indonesia. For example, they travel by plane with passports and tourist visas but stay in Indonesia without wanting to return to their home countries, while there are also refugees who hope to get resettlement in a third country as refugees, and there are also victims of human trafficking and human smuggling, last but not least, there are also refugees who enter Indonesia by other means (Susetyo, 2022).

Indonesia's vast coasts make it easy for smugglers, illegal immigrants, and refugees to use sea routes to enter Indonesia (Chalik Mawardi, 2024). The perilous sea journey in search of safety has left refugees vulnerable to life-safety and other risks. Compared to other refugee groups, refugees in Indonesia, most of whom come from conflict-torn countries, face major challenges in securing their basic rights and special needs. Refugees with special needs, such as people with disabilities, pregnant women, children, and the elderly, are often the most vulnerable. This problem is not only limited to the inability to obtain basic services; it also includes discrimination, social exclusion, and the inability to participate fairly in economic and social life.

Vulnerable populations are broadly defined as people who face exclusion and discrimination based on age, disability, race, ethnicity, gender, income level, migration status, and those caught up in conflict and statelessness (Barron, 2022). Therefore, the author tries to see and analyze the rights of refugees with special needs in Indonesia by using a policy-based approach to fulfilling human rights.

MATERIALS AND METHODS

To understand the importance of protecting refugees with special needs in Indonesia in the context of human rights-based legal policy. The author uses a qualitative research method with a socio-legal approach (Firdaus, 2024). By looking at literature and research documents, this research is to evaluate the conformity of Presidential Regulation No. 125/2016 with international regulations such as the 1967 Protocol and the 1951 Geneva Convention.

Indonesia's policy becomes more inclusive and sustainable as the focus is on demonstrating the government's commitment to protecting refugees with special needs, incorporating human rights into the policy, and finding weaknesses and opportunities for improvement using data from government and UNHCR reports..

RESULTS

The research found many important things about the conditions of refugees in Indonesia, especially those with special needs. Indonesia is currently a transit point for refugees from around 50 countries and more than half of that population comes from Afghanistan (UNHCR Indonesia). Refugees are scattered in various regions across Indonesia, including Medan, Pekanbaru, Tanjung Pinang, the Greater Jakarta area, Semarang, Surabaya, Bali, Makassar, Kupang and Aceh. Many of them have lived in Indonesia for ten years or more, either with registered status or as independent individuals. However, they face many difficulties in meeting their basic needs, such as obtaining medical care and protection from gender-based violence.

Indonesia is an important transit point for Asian refugees wishing to go to third countries such as Australia and Malaysia due to its strategic location. Although Indonesia is only used as a transit point, it is important to point out that for the short period of time that refugees are in Indonesia, adequate shelter and security can be ensured. Due to the above reasons and Indonesia's geographical location, Indonesia receives many refugees (Kadarudin, 2018). As of April 2024, there were 12,772 people registered as refugees in Indonesia, according to UNHCR data. The following table shows the number of refugees and asylum seekers in Indonesia as of April 2024:

Table 1 Number of Refugees and Asylum Seekers in Indonesia in April 2024

Country of Origin	Refugees/Asylum Seekers
Afghanistan	5,732
Myanmar	2,811
Somalia	1,171

Yaman	485
Irak	483
Sudan	449
Sri Lanka	412
Pakistan	226
Others	1,003

Of the 12,772 people registered in Indonesia, 8,502 are refugees and 4,270 are asylum seekers, according to UNHCR data. The majority of displaced people come from the three most notorious countries: Afghanistan, Myanmar and Somalia. The number of refugees entering Indonesia shows that the world is currently full of instability, including crises caused by conflict, forced displacement, and serious economic problems. Due to its favorable geographical location and relatively stable socio-political conditions, Indonesia is considered an ideal transit point for refugees who need protection during the resettlement process in third countries.

The Urgency of Protecting Refugees with Special Needs in Indonesia

Along with the implementation of human rights-based legal policies, protection for refugees with special needs in Indonesia has become increasingly urgent. As a state of law, Indonesia has a responsibility to promote human rights. Thus, the recognition and inauguration of the rule of law, one of its objectives is to protect human rights, meaning that the rights and freedoms of individuals are recognized, respected and upheld (Efendi, 1993). In this regard, the protection of refugees is part of a broader discussion on human rights, which includes the right of everyone to care and assistance according to their needs.

This research shows that although Presidential Regulation No. 125/2016 on Handling Refugees from Abroad has established a legal framework for handling refugees, its implementation is still not fully in accordance with international standards, as stipulated in the 1951 Geneva Convention and 1967 Protocol. This refugee regulation as a national technical regulation, but it is still weak at the implementation stage due to budget constraints and lack of understanding of the apparatus in regional units, in the Presidential Regulation has regulated the rights of refugees, including persons with disabilities and basic needs, but does not regulate livelihoods (Wardanti, 2022). Therefore, the government's commitment to protecting refugees with special needs needs to be strengthened, especially in integrating human rights principles.

Data from UNHCR and government reports show that approximately 30% of refugees are children, many of whom are unaccompanied, while 68% are adults, with 35% of them women and 65% men. The traumatic experiences that refugees endure, such as conflict, persecution, loss of loved ones, and precarious living conditions, often contribute to mental health issues, including depression, anxiety, Post-Traumatic Stress Disorder (PTSD), and suicide risk.

This can be seen from the case of a refugee from Afghanistan found dead on the tracks near the platform of Sudirman Station, Central Jakarta. The refugee died after jumping from the platform (Fadilah, 2024). Suicide among refugees is often triggered by a variety of factors, including depression, uncertainty about staying in transit countries, and difficult access to basic needs services. These factors form the basis of the highest refugee stress according to research conducted by the University of New South Wales (UNSW) together with SUAKA, HOST International, and Universitas Gadjah Mada (UGM) in 2023. (Hoffman, 2023).

Rohingya refugees are a very vulnerable group, often victimized by disinformation and hateful narratives on social media. According to Drone Emprit's analysis on December 2-8, 2023, negative sentiment towards the Rohingya increased sharply, with mentions on platform X reaching 47,672, much higher than online media coverage of 4,421. This increase has occurred since December 6, driven by the spread of false information and hate speech from fanbase accounts or anonymous forums that have many followers (BBC News Indonesia, 2023). Widespread negative accusations, such as claims that they will "colonize Indonesia" or deliberately biased portrayals of bad behavior, further exacerbate public stigma. This not only reinforces negative sentiments in society, but also hinders the protection efforts that should be provided to them, exacerbating an already vulnerable situation.

Despite this, Rohingya refugees arriving in Indonesia are not simply seeking refuge in this country. The majority of them have fled violence and oppression, and obtained refugee status in countries such as Bangladesh (>960,000), Malaysia (>107,000), and India (>22,000) (UNHCR Indonesia, 2023). Stateless, Rohingya refugees have no access to safe legal routes between countries, so many are forced to take high-risk sea journeys, often facilitated by people smugglers. Between 2020 and 2024, refugees arriving in Indonesia are dominated by vulnerable groups, such as children, women, the elderly, and those with mental disorders. These sea journeys last weeks in poor conditions on unseaworthy vessels, lacking food, clean water and sanitation facilities.

UNHCR reports that physical and sexual violence is common, exacerbating the suffering of women and children. Although aware of the risks, Rohingya refugees continue to risk their lives on the sea journey in search of safety. The year 2022 will be one of the most tragic years for them in Southeast Asia. According to the UN Refugee Agency (UNHCR), at least 348 Rohingya refugees were killed or went missing, while more than 3,500 people from this persecuted ethnic group attempted the perilous journey across the Andaman Sea and Bay of Bengal during the year (ANTARA, 2023). This illustrates the urgent need for more effective protection and humanitarian response, especially for refugee groups who are particularly vulnerable and require special attention.

These results suggest that policymakers should take special needs refugees in Indonesia seriously. To meet the unique needs of this vulnerable group, more inclusive and sustainable policies are needed. This means finding and incorporating best practices from other countries is an important step towards improving protection and creating better policies. A human rights-based legal policy framework is needed as the urgency of protecting refugees with special needs is clear. According to this research, policies that consider the needs of refugees should be created and the government should collaborate more with international organizations. This common working method is used to ensure a response that complies with international standards and humanitarian principles.

Therefore, providing better protection for refugees with special needs in Indonesia is not only a government responsibility but also part of a global commitment to human rights and solidarity. Better policies will not only make refugees feel safer and supported in their new homes, but will also help reduce the stigma and disinformation that often surrounds them.

DISCUSSION

The Rights of Refugees with Special Needs

Although Indonesia has not ratified the 1951 UN Convention on Refugees, the country has national legal instruments that touch on refugee issues (LBH Makassar, 2018), including those with special needs. The definition of vulnerable groups has not been explicitly formulated in the laws and regulations (Suryasaputra, 2006). However, in the explanation of Article 5 paragraph (3) of Law No.39 of 1999 on Human Rights, it is stated that vulnerable groups include the elderly, children, the poor, pregnant women, and people with disabilities. (Irda, 2021).

Human Rights Reference also covers vulnerable groups such as refugees, IDPs, minorities, migrant workers, indigenous peoples, children, and women, while coverage in Indonesia is still limited and does not include many other vulnerable groups (Pusat Studi Hukum dan Kebijakan Indonesia (PSHK), 2022). Then in Article 28G of the 1945 Constitution regulates the right to protection, as stated in Article 28G paragraph 1, everyone has the right to protection of self, family, honor, dignity, and property under their control, and is entitled to security and protection from threats of fear to do or not do something that is a human right. Furthermore, in Article 28G paragraph 2, every person has the right to be free from torture or degrading treatment and the right to obtain political asylum from another country (Hukum Online, 2023).

The regulation of refugees with special needs as a vulnerable group is reflected in Presidential Regulation No. 125/2016 which regulates refugees with special needs in Indonesia as a whole. This shows the government's commitment to helping humanitarian issues, especially those related to vulnerable groups. Refugees with special needs are entitled to protection and assistance in accordance with human rights. They can be placed outside international shelters with the permission of the minister of law and human rights, demonstrating responsibility for urgent needs in a state of crisis, as stipulated in Article 27 Paragraph (2) Invites the issuance of emergency permits, which allow placement in the district or city area. Article 27 paragraph (3) also categorizes refugees with special needs, which includes the sick, pregnant, disabled, children, and elderly, taking into account their various needs.

Then in Paragraph (4) it emphasizes the importance of specialized care appropriate to individual needs, which includes medical attention and referral for communicable diseases. In addition, Article 28 regulates the right of refugees to be resettled to form a new family, receive medical care, and settle in a third country. The entire Perpres demonstrates the Indonesian government's efforts to protect the rights of refugees with their safety in mind.

As a temporary host country, the Indonesian government has done a lot to help refugees. For example, during the pandemic, the Ministry of Health issued a Circular Letter dated June 10, 2020 on how to provide COVID-19-related services to registered refugees. As of September 2021, 5,262 refugees received COVID-19 funds, and since June 2020, 1,155 vulnerable refugees received monthly assistance (Dwijayanti, 2022).

While these measures demonstrate a strong commitment, refugees with special needs still lack optimal protection due to the absence of laws that specifically address their rights. This suggests that the country's legal framework must be further improved to provide broader and more effective protection. As the country adheres to the humanitarian Pancasila, Indonesia has great potential to enhance peace by protecting refugees with special needs.

Implementation of Special Treatment and Non-Discrimination Principles

Special attention is needed to protect refugees with special needs, especially in terms of applying the principle of non-discrimination. This principle emphasizes that all refugees should receive equal protection and access to appropriate services, regardless of origin, physical, mental, age, gender, or other status. Often, refugees with special needs, such as persons with disabilities, unaccompanied children, the elderly, or psychologically traumatized, face additional problems that require specialized interventions. To protect these groups, easier access to health services, psychosocial support, suitable accommodation, and facilities that aid mobility and independence.

To prevent discrimination, policies and procedures should be based on individual needs assessment, diversity-sensitive officer training, and increased knowledge of refugee rights. Decisions should be based on the principle of non-discrimination to ensure that every refugee will be granted justice and forgiveness in accordance with international legal standards.

Conformance to International Standards and Challenges in the Field

Although this presidential regulation is in line with international standards such as the Convention on the Rights of the Child (CRC) and the Convention on the Rights of Persons with Disabilities (CRPD), its implementation faces many problems. The main problems faced by refugees are inadequate fulfillment of basic needs, uncertainty in obtaining resettlement in third countries, and difficulty in accessing public services such as health and education (Wiwik Sulistyaningsih, 2023). This includes specialized support for vulnerable refugee groups. For example, refugees suffering from serious illnesses should be referred to specialized hospitals or facilities, but capacity and resource shortages often hamper the referral and treatment process.

Ensuring Welfare and Safety: Helpful Implementation

The aim of these policies, although inconsistent, is to safeguard the welfare and safety of refugees with special needs. For example, while there are rules about moving from one shelter to another for medical treatment or family reunification, the reality on the ground shows that this process is often slow and inefficient. The case of the Afghan refugee who committed suicide at Sudirman Station in 2024 shows how important psychological support and care is for refugees and their mental well-being.

Social Protection and Specialized Support for Refugees

Adapted infrastructure and adequate accompaniment support are needed for elderly refugees, children, and people with disabilities. Unfortunately, many refugees who have settled in Indonesia for more than ten years still face major problems in meeting their basic needs, such as getting less medical care and being protected from gender-based violence.

Camp Management Agencies or temporary shelters, Immigration Detention Centers (RDIs), should support persons with disabilities throughout the camp lifecycle to create an environment that supports their protection and inclusion. Protection of Persons with Specific Needs (PWSN) such as persons with disabilities should be mainstreamed in coordination, information management, service monitoring, infrastructure maintenance, and upon camp closure (CM TOOLKIT).

While there are policies that allow refugees to receive specialized care outside of shelters, implementation is often hampered by logistical issues and poor inter-agency coordination. As a result, more systematic efforts are needed to ensure that refugees with special needs receive the assistance they need to live safely and securely in Indonesia.

Solutions to Improve the Protection of Refugees with Special Needs

To provide better protection for refugees with special needs, several strategic actions can be taken:

1. The drafting of regulations higher than the existing Perpres on Refugees, such as (Government Regulation (PP) or even higher in the form of Law (UU)) governing refugees to provide a clear legal framework and stronger protection, especially regarding refugees with special needs;
2. Provision of health personnel and training of medical personnel and volunteers involved in refugee management: Specialized training in psychological care and support for refugees helps medical personnel and volunteers improve their skills;
3. Infrastructure Improvement: Improving health and social services to make them more refugee-friendly, with special emphasis on accessibility for children and people with disabilities;
4. Public Awareness Campaigns: Conduct campaigns to reduce stigma and raise public awareness about refugee rights;
5. International Cooperation: Increase Government collaboration with international organizations such as UNHCR, IOM and other Agencies to increase support and resources in dealing with refugees.

This protection is not only about fulfilling the human rights of refugees, but also reflects Indonesia's humanitarian responsibility in protecting the most vulnerable groups and strengthening Indonesia's image as a country that cares about global humanitarian issues.

CONCLUSION

This research emphasizes the importance of protecting refugees with special needs in Indonesia in the context of human rights-based legal policies. Although Indonesia has been a transit point for refugees from various countries for decades, the implementation of existing policies, such as Presidential Regulation No. 125/2016, still falls short of international standards. Refugees, especially those with special needs such as children, people with disabilities, and the elderly, continue to face significant challenges in accessing basic services and adequate protection. The results of this study indicate the need for more inclusive and sustainable policies, which not only focus on meeting basic needs, but also pay attention to aspects of livelihoods, mental health, and social integration.

A stronger commitment from the government and close collaboration with international organizations is needed to integrate human rights principles in every policy step. More responsive and inclusive policy reforms will not only strengthen refugee protection, but also enhance Indonesia's image internationally as a country that cares about global humanitarian issues. The protection of refugees with special needs is a shared responsibility that requires cross-sector synergy to realize solidarity and justice for the most vulnerable groups.

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DECLARATION OF CONFLICT

The authors declare that they have no personal relationships or financial interests that could influence the work discussed in this paper.

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