JOURNAL OF LAW AND POLICY TRANSFORMATION
29
Vol. 11 Issue 1, 2026, 29-60

# The Right to Work for Refugees in Indonesia: Between State Sovereignty and Human Rights Obligations

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**History of Article**
Submitted : 2026-06-11
Revised : 2026-06-25
Accepted : 2026-07-30
DOI ` : https://doi.org/10.37253/jlpt.v11i1.12243

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## Abstract

The employment rights of Rohingya refugees in Indonesia remain uncertain because national legislation lacks a comprehensive framework governing refugees' access to employment. Although Indonesia is not a party to the 1951 Refugee Convention, its humanitarian policies provide temporary protection without expressly recognizing refugees' right to work. This study examines the legal framework governing Rohingya refugees' employment rights, identifies legal and institutional barriers to labor market access, and evaluates policy options that balance refugee protection with national legal certainty. Employing normative legal research with a qualitative doctrinal approach, the study analyzes Indonesian legislation, particularly Presidential Regulation No. 125 of 2016 concerning the Handling of Refugees from Overseas, alongside relevant international human rights instruments. Scholarly literature, policy reports, and publications of international organizations supplement these primary materials. Legal materials are examined through statutory, conceptual, and comparative approaches. The findings reveal that Indonesian law does not expressly authorize refugees to enter the formal labor market, creating legal uncertainty and restricting access to decent work. Consequently, Rohingya refugees depend largely on informal employment and humanitarian assistance, exposing them to heightened socioeconomic vulnerability. A substantial gap persists between international human rights standards concerning the right to work and Indonesia's domestic regulatory framework. This study concludes that greater legal certainty requires regulatory reform providing limited, clearly regulated employment opportunities through coordination among government institutions, international organizations, and local stakeholders. It contributes to refugee law scholarship by proposing a balanced framework integrating humanitarian protection, labor market participation, and Indonesia's national legal interests.

**Keywords:** Rohingya Refugees; Employment Rights; Legal Certainty; Refugee Protection; Indonesian Labor Law.

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

# INTRODUCTION

Forced displacement has become one of the most pressing global humanitarian and legal challenges of the twenty-first century. According to the United Nations High Commissioner for Refugees (UNHCR), the number of forcibly displaced persons worldwide has exceeded 120 million due to armed conflicts, persecution, political instability, and human rights violations. Beyond ensuring physical safety, contemporary refugee protection increasingly emphasizes the realization of socio-economic rights, particularly the right to work, as an essential element of human dignity, self-reliance, and long-term integration. International legal instruments, including the 1951 Convention Relating to the Status of Refugees, the 1967 Protocol, the Universal Declaration of Human Rights, and the International Covenant on Economic, Social and Cultural Rights, recognize employment as a fundamental human right. Nevertheless, implementation varies considerably among host countries, particularly in developing states that function primarily as transit countries rather than countries of permanent asylum (UNHCR, 2024; Hathaway, 2021).

A Rohingya refugees are one of the groups facing a prolonged humanitarian crisis due to conflict and discrimination in their home country (Hermawan, 2017), Myanmar (Steinberg, 2013). Many of them seek refuge in neighboring countries (Kingston, 2018), including Indonesia (Syahrin, 2018b), which is known as a transit country for refugees (Dedi, 2024). Although Indonesia has signed various international instruments related to refugee rights, legal protection for economic rights, particularly the right to work, remains limited and unclear in terms of regulations.

As of early 2025, more than 400 new Rohingya refugees had reportedly arrived in Indonesia, adding to the existing population. Data as of January 2025 showed at least 264 new refugees landed in Aceh (Havez, M., Ernawati, N., Pitaloka, D.,

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

Rosidi, A., & Jumadi, 2024). The total number of Rohingya refugees accommodated in Aceh since 2009 has reached more than 6,150, with the arrival trend continuing to increase.

Aceh, serves as a key transit point for Rohingya refugees in Southeast Asia (Adwani et al., 2021). This situation puts pressure on shelter capacity and basic services, including access to education, healthcare, and employment. While refugees are legally entitled to international protection, their right to work remains severely limited, leaving many refugees facing economic hardship and dependence on humanitarian assistance. This situation highlights the discrepancy between the protection guaranteed by international law and practices on the ground, particularly regarding the economic integration of refugees into local communities.

The increasing arrival of Rohingya refugees has generated complex legal and policy debates in Indonesia (Soeryabrata, 2020). While humanitarian considerations require the provision of temporary protection, concerns regarding labour market competition, national security, immigration control, and the limited capacity of local governments often influence policy responses. Consequently, refugee employment has become one of the most controversial issues within Indonesian refugee governance. Recent public discussions surrounding refugee self-reliance programs promoted by international organizations have further highlighted the absence of a comprehensive legal framework regulating refugees' participation in economic activities. This situation illustrates the tension between humanitarian obligations and state sovereignty, making refugee labour rights an increasingly relevant subject for legal scholarship.

Indonesia is a transit country and has not ratified the 1951 Refugee Convention or its Protocol (Sudrajat, T., Jati, B. K. H., & Gupta, 2024). Therefore, refugees arriving in Indonesia lack formal refugee status under national law. In practice, refugees

receive only temporary protection through the United Nations High Commissioner for Refugees (UNHCR) and government and non-governmental organization resettlement programs. This unclear legal status directly impacts their access to basic rights, including the right to work, education, and healthcare.

Limited access to employment for Rohingya refugees in Indonesia creates an unstable and vulnerable economic situation. Many refugees are restricted to low-wage informal work, without social security or legal protection against exploitation. This situation not only impacts the well-being of refugees but also poses challenges for the government and local communities in managing their sustainable economic integration. Previous research has shown that refugees in transit countries often face a gap between their internationally guaranteed rights and the realities on the ground. The lack of formal work permits forces refugees to rely on humanitarian assistance, while limiting their ability to contribute economically. These studies emphasize the need for a clearer policy framework to regulate refugees' access to the labor market, without compromising national interests.

In this context, it is important to analyze Indonesian regulations and policies related to the right to work for Rohingya refugees and identify the obstacles and opportunities they face. By understanding the gap between international law and local practices, this research can provide a deeper understanding of the dynamics of refugees' economic access in Indonesia. This analysis is also crucial for formulating more inclusive and sustainable policy recommendations. This article aims to provide a comprehensive overview of Rohingya refugees' access to the labor market in Indonesia, focusing on legal aspects, policies, and practices on the ground. This approach is expected to strengthen the argument that legal protection alone is not enough; mechanisms are needed to enable refugees to participate productively in economic activities, thereby supporting their socio-economic integration into host communities.

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Previous studies have extensively examined refugee protection in Indonesia from various legal and policy perspectives. Syahrin (2018) analyzed Indonesia's refugee governance despite the country's non-ratification of the 1951 Refugee Convention, emphasizing the dominant role of humanitarian considerations (Syahrin, 2018a). Kingston (2018) discussed Indonesia's position as a transit country and the limitations of regional responsibility-sharing mechanisms (Kingston, 2018). Sudrajat et al. (2024) highlighted the legal uncertainty arising from Indonesia's reliance on Presidential Regulation No. 125 of 2016 rather than a comprehensive refugee law (Sudrajat, T., Jati, B. K. H., & Gupta, 2024). Other studies have examined humanitarian assistance, refugee protection, and international cooperation involving UNHCR and the International Organization for Migration. However, these studies generally focus on refugee status determination, immigration policy, or humanitarian protection, while providing limited discussion of refugees' economic rights, particularly access to employment from the perspective of the interaction between international refugee law, international human rights law, and Indonesian domestic regulations.

Furthermore, existing scholarship rarely examines how Indonesia's fragmented regulatory framework affects the practical realization of refugees' right to work. Most studies treat employment merely as one component of humanitarian assistance rather than as a legal entitlement requiring systematic analysis. Little attention has been devoted to identifying inconsistencies between Indonesia's international human rights commitments, domestic immigration policies, labour regulations, and administrative practices. Consequently, the legal implications of denying formal employment opportunities for Rohingya refugees remain insufficiently explored, particularly regarding legal certainty, state responsibility, and sustainable refugee governance.

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

This research addresses these gaps by providing an integrated legal analysis of Rohingya refugees' right to work in Indonesia through the combined perspectives of international refugee law, international human rights law, Indonesian immigration law, and labour law. Unlike previous studies that primarily discuss refugee protection in general, this article specifically evaluates the legal compatibility between Indonesia's regulatory framework and internationally recognized labour rights while examining practical challenges faced by Rohingya refugees in accessing employment. Accordingly, the study contributes a more comprehensive understanding of refugee labour rights within a non-signatory state and offers policy recommendations for balancing humanitarian protection with national legal interests.

The findings of this research are expected to contribute both theoretically and practically. From a theoretical perspective, the study enriches legal scholarship concerning the relationship between refugee protection, socio-economic rights, and domestic legal systems in transit countries. Practically, the research provides recommendations for policymakers, legislators, and relevant international organizations regarding the development of a clearer legal framework governing refugee employment in Indonesia. Such recommendations may assist in promoting refugee self-reliance while reducing long-term dependence on humanitarian assistance and supporting more sustainable refugee management.

This research is limited to the legal analysis of Rohingya refugees residing in Indonesia, with particular attention to the Indonesian regulatory framework and its implementation in major refugee-hosting areas such as Aceh. The study employs normative legal research supported by secondary data and selected policy reports; therefore, it does not empirically evaluate the socio-economic conditions of refugees through field surveys or interviews. These limitations are necessary to ensure an in-

depth examination of the legal framework governing refugee employment while maintaining a focused analysis of Indonesia's role as a transit country.

# RESEARCH METHOD

This study employs normative legal research (doctrinal legal research), which examines law as a system of norms through legislation, legal principles, doctrines, and authoritative legal documents (Taekema, 2018; Disemadi, 2022). This method is appropriate because the study focuses on examining the legal framework governing the right to work of Rohingya refugees in Indonesia, assessing its conformity with international legal standards, and identifying normative inconsistencies affecting the realization of refugees' socio-economic rights. The research applies three complementary approaches. First, the statutory approach examines Indonesian legislation concerning immigration, employment, human rights, and refugee protection, particularly Presidential Regulation No. 125 of 2016 concerning the Handling of Refugees from Overseas. Second, the conceptual approach analyzes legal concepts related to refugee protection, the right to work, state sovereignty, and socio-economic rights. Third, the comparative approach compares Indonesian law with international refugee and human rights standards, particularly the 1951 Refugee Convention, the 1967 Protocol, the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and relevant International Labour Organization (ILO) instruments.

The study relies exclusively on secondary data, classified into primary, secondary, and tertiary legal materials. Primary legal materials include Indonesian legislation, constitutional provisions, regulations, international treaties, refugee law instruments, and official legal documents. Secondary materials comprise scholarly books, peer-reviewed journal articles, legal

commentaries, policy papers, UNHCR and IOM publications, institutional reports, and previous studies (Antony et al., 2026). Tertiary materials include legal dictionaries, encyclopedias, indexes, and other reference sources. Legal materials were collected through systematic library research using academic databases, official government repositories, and publications of international organizations. Sources were selected based on relevance and credibility and organized thematically around refugee status, employment rights, domestic regulations, and international legal obligations. The materials were analyzed through qualitative legal analysis and doctrinal reasoning. Relevant norms were identified and classified, while Indonesian legal provisions were interpreted using grammatical, systematic, and teleological methods. These provisions were subsequently compared with international legal standards to identify conformity, inconsistencies, and legal uncertainty. The findings were then synthesized to assess the adequacy of Indonesia's regulatory framework and formulate recommendations for legal and policy reform. The study is limited to a normative examination of Rohingya refugees' employment rights in Indonesia and does not employ interviews, surveys, participant observation, or quantitative analysis. This limitation enables an in-depth doctrinal assessment while providing a legal foundation for future empirical research and policy reform (Tan, 2021).

# RESULT AND DISCUSSION

## Legal Status of Rohingya Refugees under Indonesian Law

The legal status of Rohingya refugees in Indonesia is characterized by normative ambiguity arising from the absence of comprehensive national legislation specifically regulating refugees. Unlike States Parties to the 1951 Convention Relating to the Status of Refugees and the 1967 Protocol, Indonesia has

not incorporated refugee status into its domestic legal system through a dedicated refugee law. Consequently, Rohingya refugees are not legally recognized as a distinct category of protected persons under Indonesian law but are instead treated within the broader framework governing foreign nationals. This legal position creates uncertainty regarding the scope of refugees' rights and obligations, particularly their access to socio-economic rights such as employment, education, and social security. From a legal perspective, the absence of explicit statutory recognition does not merely represent an administrative gap but reflects a broader normative challenge in reconciling immigration control with humanitarian protection.

The primary legal instrument governing the presence of foreign nationals in Indonesia is Law Number 6 of 2011 concerning Immigration. A grammatical interpretation of the law demonstrates that its provisions classify foreigners according to immigration status, such as holders of visas, residence permits, or permanent stay permits, without recognizing refugees as a separate legal category. The law primarily regulates matters concerning entry, exit, residence permits, immigration supervision, detention, and deportation. Refugees are therefore legally positioned within a regulatory framework originally designed for migration management rather than humanitarian protection. This legislative construction creates a normative vacuum because refugees, who are compelled to flee persecution rather than voluntarily migrate, possess legal characteristics fundamentally different from ordinary migrants. Consequently, the Immigration Law is unable to comprehensively regulate the legal relationship between the Indonesian State and refugees residing within its territory.

A systematic interpretation of Law Number 6 of 2011 further reveals inconsistencies between Indonesia's immigration regime and internationally recognized refugee protection principles.

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

The Immigration Law emphasizes state sovereignty in regulating the movement of foreigners and grants broad discretionary powers to immigration authorities to supervise, detain, and remove foreign nationals who do not possess valid immigration documents. However, refugees frequently enter Indonesia without passports or visas due to the circumstances of forced displacement. If interpreted solely through the framework of immigration law, such individuals may be considered illegal immigrants despite their internationally recognized need for protection. This interpretation demonstrates that immigration legislation alone cannot adequately address refugee issues because the objectives of immigration law differ fundamentally from those of international refugee protection. Immigration law prioritizes border management and national security, whereas refugee law is founded upon humanitarian protection and the principle of safeguarding individuals fleeing persecution.

The legal uncertainty created by this normative gap becomes more apparent when examined through Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Overseas. This regulation represents Indonesia's first comprehensive administrative framework specifically addressing refugee management. It establishes procedures for the discovery, rescue, accommodation, security, and supervision of refugees while assigning responsibilities to central and local government institutions in coordination with the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). The issuance of this regulation demonstrates the Indonesian government's recognition of the practical necessity of refugee protection despite the absence of formal treaty obligations under the 1951 Refugee Convention.

Nevertheless, a systematic interpretation of Presidential Regulation Number 125 of 2016 indicates that the regulation

primarily functions as an administrative instrument rather than a substantive source of refugee rights. Most of its provisions regulate institutional coordination, temporary shelter, humanitarian assistance, and the distribution of responsibilities among government agencies. Significantly, the regulation remains silent regarding refugees' right to work, access to formal employment, business activities, or vocational integration. Such legislative silence should not automatically be interpreted as an express prohibition of refugee employment. Instead, it reflects an incomplete regulatory framework that fails to establish legal mechanisms through which refugees may exercise socio-economic rights while residing in Indonesia. This omission has significant legal consequences because, in practice, refugees are unable to obtain work permits, enter formal employment relationships, or enjoy labour protections available under Indonesian labour legislation.

The absence of explicit regulation concerning refugee employment also generates legal uncertainty in administrative practice. Refugees who engage in informal economic activities often operate without legal recognition, making them vulnerable to exploitation, unfair wages, unsafe working conditions, and arbitrary dismissal. At the same time, employers face legal uncertainty because no statutory provisions clearly regulate whether refugees may lawfully participate in the Indonesian labour market. Consequently, both refugees and employers remain exposed to administrative risks arising from the absence of a clear legal framework. This situation illustrates that legal uncertainty affects not only refugees as rights holders but also state institutions responsible for implementing refugee policies.

From the perspective of Gustav Radbruch's theory of legal certainty (Rechtssicherheit), the Indonesian regulatory framework demonstrates several fundamental deficiencies. Radbruch argues that legal certainty requires legal norms to be clear, predictable, consistent, and capable of guiding human

behaviour. Individuals must be able to determine their legal position with reasonable certainty so that rights and obligations can be exercised effectively. In the Indonesian refugee context, these requirements remain unmet because neither the Immigration Law nor Presidential Regulation Number 125 of 2016 explicitly defines refugees' legal capacity to participate in economic activities. Refugees therefore occupy an uncertain legal position where employment is neither expressly permitted nor expressly prohibited. Such ambiguity undermines one of the essential functions of law, namely providing predictability and stability in legal relations.

Radbruch further emphasizes that legal certainty should be balanced with justice and legal utility. Excessive emphasis on rigid legal formalism may produce outcomes that conflict with substantive justice. This theoretical perspective is particularly relevant to the Indonesian refugee regime. Although strict immigration enforcement may be justified from the standpoint of state sovereignty, denying refugees any lawful opportunity to achieve economic self-reliance potentially contradicts broader principles of justice and human dignity. Refugees often remain in Indonesia for many years while awaiting resettlement, during which prolonged dependence on humanitarian assistance may undermine both their dignity and their capacity to contribute positively to host communities. Therefore, a legal framework that accommodates limited and regulated access to employment would better reconcile legal certainty with humanitarian objectives.

The constitutional framework of Indonesia further supports a broader interpretation of refugee protection. Although the 1945 Constitution of the Republic of Indonesia does not explicitly regulate refugee rights, several constitutional provisions recognize the protection of fundamental human rights regardless of nationality. Article 28D paragraph (1) guarantees the right to legal certainty and equal treatment before the law,

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

while Article 28G recognizes every person's right to personal security and protection from threats. Furthermore, Article 28I affirms that the protection, promotion, enforcement, and fulfilment of human rights constitute the responsibility of the State. A teleological interpretation of these constitutional provisions suggests that constitutional human rights should not be interpreted narrowly as applying exclusively to Indonesian citizens when fundamental questions of human dignity are involved. Instead, constitutional principles provide normative guidance for interpreting legislation consistently with Indonesia's commitment to protecting universally recognized human rights.

This constitutional interpretation is reinforced by Indonesia's ratification of the International Covenant on Economic, Social and Cultural Rights (ICESCR) through Law Number 11 of 2005. Although Indonesia has not ratified the 1951 Refugee Convention, it remains legally bound by international human rights obligations recognizing the right to work as a fundamental socio-economic right. Consequently, the legal debate surrounding refugee employment should not be viewed solely through the lens of immigration law but also through Indonesia's broader constitutional and international human rights commitments. A harmonious interpretation of domestic legislation therefore requires balancing immigration control with the protection of basic human rights, particularly where prolonged refugee presence creates long-term humanitarian challenges.

The findings of this study indicate that Indonesia's current refugee regulatory framework remains fragmented because refugee protection is dispersed across immigration law, administrative regulations, constitutional principles, and international human rights obligations without comprehensive legislative integration. This fragmentation generates legal uncertainty that limits refugees' ability to achieve economic

independence while simultaneously creating implementation challenges for government agencies. Accordingly, the principal legal issue is not merely Indonesia's non-ratification of the 1951 Refugee Convention, but the absence of a coherent domestic legal framework capable of translating humanitarian commitments into enforceable legal rights. Establishing greater legal certainty through comprehensive refugee legislation or amendments to existing regulations would therefore represent an important step toward harmonizing Indonesia's constitutional values, international human rights obligations, and national immigration policy.

## The Right to Work under International Refugee Law and International Human Rights Law

The right to work constitutes a fundamental socio-economic right under international law and an essential component of human dignity, autonomy, and social inclusion. For refugees, employment extends beyond income generation by enabling self-reliance, social participation, and the rebuilding of lives after forced displacement. International refugee and human rights law therefore increasingly recognize access to employment as an element of effective refugee protection rather than merely an economic privilege. This is particularly relevant to Rohingya refugees in Indonesia, many of whom experience prolonged uncertainty while awaiting resettlement. Their inability to work lawfully creates dependency on humanitarian assistance and increases their vulnerability to informal employment, exploitation, discrimination, and legal insecurity.

The normative foundation of the right to work is established in Article 23(1) of the Universal Declaration of Human Rights (UDHR), which recognizes everyone's right to work, freely choose employment, enjoy just and favourable working conditions, and receive protection against unemployment. Although the UDHR is not legally binding as a treaty, it provides

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

a foundational framework for contemporary international human rights law. A teleological interpretation of Article 23 indicates that the right to work serves not only economic productivity but also human dignity through meaningful social participation. Consequently, prolonged denial of lawful employment opportunities to refugees may conflict with the humanitarian objectives of international human rights law, irrespective of whether the host State has ratified the Refugee Convention.

This protection is strengthened by the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Indonesia through Law Number 11 of 2005. Article 6 recognizes everyone's right to gain a living through freely chosen or accepted work, while Article 7 guarantees just and favourable working conditions. Unlike the Refugee Convention, the ICESCR uses the universal term "everyone." A grammatical interpretation therefore indicates that its protection encompasses individuals within State jurisdiction, including refugees, subject to lawful and proportionate restrictions. Indonesia's obligations regarding refugees' right to work thus arise not only from refugee law but also from its binding international human rights commitments.

A systematic interpretation further demonstrates that the right to work is interconnected with the rights to an adequate standard of living, health, education, and social security. Denial of lawful employment may consequently affect refugees' broader welfare because prolonged dependency on humanitarian assistance limits their economic independence and social participation. Labour exclusion should therefore be regarded as a structural human rights concern rather than solely an immigration policy issue.

More specifically, Articles 17, 18, and 19 of the 1951 Convention Relating to the Status of Refugees address wage-earning employment, self-employment, and liberal professions.

These provisions reflect the principle that refugees should progressively achieve self-reliance rather than remain indefinitely dependent on humanitarian assistance. Although Indonesia has not ratified the 1951 Convention or its 1967 Protocol, these instruments remain principal international standards for refugee protection and important interpretative references for assessing domestic policies. Indonesia's non-ratification does not eliminate its broader international human rights obligations. States retain sovereign authority to regulate labour-market access, but such discretion should be exercised consistently with human dignity, proportionality, and non-discrimination.

International Labour Organization (ILO) standards reinforce this approach. Although no single ILO Convention exclusively regulates refugee employment, fundamental principles concerning non-discrimination, equality of opportunity, prohibition of forced labour, and decent work are relevant regardless of nationality or migration status. The ILO's Decent Work Agenda further emphasizes fair remuneration, occupational safety, social protection, and fundamental rights at work. Refugee employment should therefore be regulated through legal mechanisms rather than left entirely within informal labour markets. In Indonesia, the absence of a formal legal basis for refugee employment may leave working refugees outside effective labour protection and increase their exposure to exploitation.

The principle of non-refoulement further illustrates the relationship between physical protection and socio-economic rights. Traditionally, non-refoulement prohibits returning individuals to territories where they face persecution, torture, or serious threats to life or freedom. However, a teleological interpretation suggests that effective refugee protection cannot be limited to preventing forced return while denying the minimum conditions necessary for a dignified existence.

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

Protection from persecution should therefore be accompanied by access to basic socio-economic rights that enable refugees to survive lawfully and independently during displacement.

Indonesia has generally respected non-refoulement through administrative practice and cooperation with the United Nations High Commissioner for Refugees despite its non-party status to the Refugee Convention. Nevertheless, protection remains incomplete because safeguards against return are not accompanied by a comprehensive framework governing refugees' socio-economic rights. Rohingya refugees may consequently receive protection from persecution abroad while continuing to experience economic insecurity in Indonesia. Refugee protection should therefore be understood as a continuum encompassing both physical safety and the effective realization of fundamental human rights.From the perspective of teleological legal interpretation, the objective of international refugee law extends beyond ensuring mere physical survival. The underlying purpose of refugee protection is to preserve human dignity until durable solutions—whether voluntary repatriation, local integration, or third-country resettlement—can be achieved. For refugees who remain in transit countries for several years, lawful access to employment constitutes an essential element of this protective framework because it enables self-reliance, reduces dependence on humanitarian assistance, and facilitates peaceful coexistence with host communities. Accordingly, interpreting refugee protection solely through the lens of immigration control risks undermining the humanitarian objectives that international refugee law seeks to achieve.

The findings of this study indicate that Indonesia's existing legal framework remains disproportionately focused on temporary humanitarian assistance while providing limited attention to refugees' economic rights. Although Indonesia has fulfilled important humanitarian responsibilities by respecting non-refoulement and facilitating cooperation with international

organizations, the absence of legal mechanisms regulating refugee employment creates a significant normative gap between international human rights standards and domestic legal practice.

This gap is particularly evident when Indonesia's obligations under the ICESCR, constitutional guarantees of human dignity, and internationally recognized labour standards are considered collectively. Therefore, the principal legal challenge is not solely Indonesia's decision not to ratify the 1951 Refugee Convention but the absence of domestic regulations capable of harmonizing immigration policy with binding international human rights commitments. Strengthening the legal framework governing refugee employment would therefore represent an important step toward achieving a more coherent balance between state sovereignty, humanitarian protection, and socio-economic justice for Rohingya refugees residing in Indonesia.

The legal framework governing Rohingya refugees in Indonesia demonstrates a significant normative gap when compared with international refugee law and international human rights standards. This gap is not solely attributable to Indonesia's decision not to ratify the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol, but also to the absence of comprehensive domestic legislation regulating refugees' legal status and socio-economic rights. Although Presidential Regulation No. 125 of 2016 establishes an administrative mechanism for handling refugees, it does not provide substantive legal rights, particularly regarding access to employment. As a result, refugee protection in Indonesia remains largely humanitarian and administrative rather than rights-based. This fragmented legal framework creates uncertainty regarding the extent of refugees' legal entitlements and limits the realization of internationally recognized socio-economic rights.

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

From a doctrinal legal perspective, the principal issue concerns the inconsistency between Indonesia's international human rights obligations and its domestic legal framework. Indonesia has ratified several core international human rights instruments, including the International Covenant on Economic, Social and Cultural Rights (ICESCR) through Law Number 11 of 2005 and the International Covenant on Civil and Political Rights (ICCPR) through Law Number 12 of 2005. These treaties impose binding obligations to respect, protect, and progressively fulfil fundamental human rights, including the right to work, equality before the law, and protection against discrimination. However, Indonesian legislation continues to regulate refugees primarily through immigration law, which emphasizes border control and immigration administration rather than the protection of vulnerable individuals forced to flee persecution. Consequently, there exists a doctrinal inconsistency between Indonesia's commitment to universal human rights and the limited legal protection afforded to refugees under domestic legislation.

This inconsistency becomes more evident through statutory interpretation of Presidential Regulation No. 125 of 2016. The regulation establishes procedures for the rescue, accommodation, supervision, and coordination of refugees but remains silent regarding refugees' participation in economic activities. Such legislative silence creates what legal scholars commonly describe as a normative vacuum, where an important legal issue remains unregulated despite its practical significance. Refugees residing in Indonesia for prolonged periods are therefore unable to obtain legal work permits or participate in the formal labour market, even though many possess professional skills and remain economically active through informal employment. The absence of explicit legal regulation does not merely create administrative difficulties but also undermines legal certainty and exposes refugees to labour

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

exploitation, unequal bargaining power, and exclusion from labour protection mechanisms.

A comparative analysis with other jurisdictions illustrates that alternative legal approaches are available, even among countries facing similar migration pressures. Malaysia, like Indonesia, has not ratified the 1951 Refugee Convention or its 1967 Protocol. Refugees in Malaysia are therefore not formally recognized under domestic refugee legislation and remain subject to immigration laws. Nevertheless, Malaysia has developed limited administrative practices that permit certain categories of refugees registered with the United Nations High Commissioner for Refugees (UNHCR) to participate in pilot employment programmes, particularly in sectors experiencing labour shortages. Although these initiatives remain limited and do not constitute a comprehensive legal right to work, they demonstrate that administrative flexibility can be exercised without fundamentally compromising state sovereignty. The Malaysian experience suggests that non-ratification of the Refugee Convention does not necessarily preclude the adoption of pragmatic labour policies aimed at reducing refugee dependence on humanitarian assistance.

The Philippines presents a different legal model. As a State Party to the 1951 Refugee Convention and its 1967 Protocol, the Philippines has incorporated refugee protection within its domestic legal framework and recognizes refugees through formal refugee status determination procedures. Refugees lawfully recognized by the government may obtain access to employment subject to domestic labour regulations applicable to foreign nationals. Although administrative challenges remain, the Philippine approach reflects greater harmonization between international legal obligations and domestic legislation. This legal certainty enables refugees to participate more effectively in economic and social life while allowing government authorities to regulate refugee employment through transparent

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

administrative procedures. The Philippine model demonstrates that recognizing refugees' employment rights does not eliminate governmental control over migration but rather strengthens regulatory certainty for both refugees and employers.

Comparative experience from Uganda further illustrates a rights-based approach to refugee governance. Uganda has frequently been cited as one of the most progressive refugee-hosting countries because its refugee legislation grants recognized refugees the right to work, establish businesses, move freely within the country, and access public services. These rights are accompanied by policies promoting refugee self-reliance and local economic integration. Numerous international assessments indicate that allowing refugees to participate in economic activities has contributed to local development, reduced long-term dependence on humanitarian assistance, and strengthened relations between refugee and host communities. While Indonesia's socio-political context differs significantly from Uganda's, the Ugandan experience demonstrates that refugee employment may generate economic benefits rather than constituting solely a financial burden on the host State. Consequently, refugee labour policies should be evaluated not only through security considerations but also through their potential contribution to sustainable economic development.

The comparative analysis indicates that the principal difference between Indonesia and these jurisdictions lies not merely in treaty ratification but in the existence of domestic legal mechanisms capable of translating humanitarian protection into enforceable rights. Malaysia relies upon administrative flexibility despite remaining outside the Refugee Convention framework, the Philippines provides legal certainty through treaty implementation, and Uganda adopts comprehensive refugee legislation emphasizing self-reliance. Indonesia, by contrast, remains positioned between these approaches. While humanitarian protection is provided through Presidential

Regulation No. 125 of 2016 and cooperation with UNHCR, no legal mechanism exists to regulate refugees' lawful participation in economic activities. This situation creates prolonged dependency and increases the likelihood that refugees will seek employment through informal and unregulated labour markets (Mukhlis et al, 2023).

The persistence of this normative gap reflects the broader legal tension between state sovereignty and international human rights obligations. Under international law, States possess sovereign authority to regulate immigration, determine conditions for entry and residence, and control access to domestic labour markets. This sovereign prerogative constitutes an essential element of territorial integrity and national security. Consequently, Indonesia retains the legal authority to determine whether refugees may participate in formal employment and under what conditions such participation may occur. The principle of sovereignty therefore remains a legitimate consideration in formulating national refugee policy.

However, contemporary international law no longer regards sovereignty as an absolute or unlimited power. The development of international human rights law has established that sovereign authority must be exercised consistently with internationally recognized standards protecting fundamental human rights. By ratifying the ICESCR, the ICCPR, and other international human rights treaties, Indonesia has accepted legal obligations that extend to all individuals within its jurisdiction, including non-citizens in appropriate circumstances. Therefore, restrictions imposed upon refugees' socio-economic rights must satisfy the principles of legality, proportionality, necessity, and non-discrimination. Blanket or indefinite restrictions that effectively deny refugees any opportunity to achieve economic self-reliance may be difficult to reconcile with these principles, particularly where refugees remain in the country for prolonged periods while awaiting resettlement.

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

From a doctrinal perspective, this study argues that the relationship between sovereignty and human rights should not be understood as inherently antagonistic. Instead, these principles should be interpreted harmoniously through the doctrine of proportionality, whereby States retain the authority to regulate refugee employment while simultaneously ensuring the protection of minimum human rights standards. A proportionate legal framework could permit refugees to engage in limited sectors of the labour market, subject to work permits, labour inspections, and regulatory oversight, without undermining immigration control or national security. Such an approach would preserve Indonesia's sovereign authority while reducing legal uncertainty and strengthening compliance with international human rights obligations.

The findings of this comparative and doctrinal analysis therefore demonstrate that the principal weakness of Indonesia's refugee regime lies not in its humanitarian commitment but in the absence of comprehensive legal mechanisms capable of balancing immigration governance with refugee protection. Existing regulations prioritize temporary humanitarian assistance while overlooking the socio-economic dimensions of prolonged displacement. Consequently, Rohingya refugees remain protected from refoulement yet excluded from lawful economic participation, producing a legal paradox in which humanitarian protection is provided without corresponding legal empowerment. Bridging this normative gap requires legal reform that integrates constitutional human rights principles, international human rights obligations, and pragmatic migration governance into a coherent refugee protection framework. Such reform would not diminish Indonesia's sovereign authority but rather strengthen the legitimacy, predictability, and effectiveness of its refugee governance in accordance with contemporary developments in international law.

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

## Legal Reform toward Refugee Labour Protection in Indonesia

Indonesia's refugee governance framework provides humanitarian protection but lacks comprehensive regulations governing refugees' employment rights. Although Presidential Regulation No. 125 of 2016 has strengthened administrative coordination, its provisions primarily address rescue operations, accommodation, security, and refugee management rather than lawful employment. Consequently, Rohingya refugees experiencing prolonged displacement face legal uncertainty, restricted economic opportunities, and continued dependence on humanitarian assistance. This regulatory gap highlights the need for a rights-based framework that balances humanitarian protection, state sovereignty, and national economic interests.

Legal reform should prioritize the establishment of a comprehensive regulatory framework governing refugees' legal status, rights, and obligations. Although accession to the 1951 Refugee Convention could strengthen refugee protection, Indonesia may pursue domestic legal reforms without immediate ratification. Enacting dedicated refugee legislation or amending existing regulations would clarify institutional responsibilities, documentation requirements, and procedures for lawful employment. In particular, revising Presidential Regulation No. 125 of 2016 could provide a clearer legal foundation for temporary work authorization, vocational training, and skills recognition under government supervision.

Effective implementation requires stronger institutional coordination among central and local governments, immigration authorities, the Ministry of Manpower, UNHCR, IOM, and other relevant stakeholders. Clearly defined responsibilities would prevent overlapping authority, strengthen administrative accountability, and ensure consistent enforcement of employment regulations. Local governments should also participate in developing employment programmes that reflect

**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam

regional economic conditions and community needs. International cooperation, including technical assistance from the ILO, could further support compliance with labour standards and prevent exploitation.

Regulated employment opportunities may also strengthen refugees' economic independence while reducing reliance on humanitarian assistance. Temporary work permits, access to sectors experiencing labour shortages, vocational education, and public-private partnerships could facilitate gradual economic participation. Nevertheless, these measures must incorporate safeguards protecting domestic workers, including registration requirements, transparent employment procedures, labour supervision, and compliance with national regulations. Such arrangements would help ensure that refugee employment remains compatible with Indonesia's labour market priorities.

Comparative experiences from Uganda and the Philippines suggest that regulated refugee employment can support economic participation and social inclusion when accompanied by clear legal standards and effective institutional oversight. However, these approaches must be adapted to Indonesia's distinct legal, political, and economic circumstances. Accordingly, this study proposes a rights-based yet sovereignty-sensitive framework emphasizing conditional employment access, institutional accountability, and labour protection. Such reforms would strengthen legal certainty, promote refugee self-reliance, reduce socioeconomic vulnerability, and establish more sustainable refugee governance without undermining national interests. Forms of Handling and Solutions for International Refugees: (1) Voluntary repatriation, is a durable solution that enables refugees to return voluntarily to their country of origin when conditions allow safe and dignified reintegration. This process must respect refugees' free and informed consent, remain free from coercion, and comply with the principle of *non-refoulement*. Its implementation generally requires improved

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Published by Universitas Internasional Batam

security, political stability, and guarantees of fundamental rights in the country of origin. UNHCR plays an important role in assessing conditions, facilitating repatriation, and supporting the protection of returning refugees. Experiences involving Afghan, Rwandan, and East Timorese refugees demonstrate that repatriation can restore displaced populations to their communities but may also involve considerable challenges. Political instability, inadequate infrastructure, loss of property, and limited economic opportunities can undermine reintegration and increase the risk of renewed displacement. Therefore, successful voluntary repatriation requires sustained security, effective legal protection, economic recovery, and cooperation among countries of origin, host states, and international organizations.

(2) Local integration enables refugees to establish stable and independent lives within host communities through access to legal protection, essential public services, employment, and social participation. This approach encompasses legal, economic, social, and cultural dimensions, requiring cooperation between refugees, governments, local communities, and international organizations. UNHCR supports integration through education, vocational training, livelihood programmes, and institutional cooperation aimed at strengthening refugees' self-reliance. Experiences in Canada and Uganda illustrate how inclusive refugee policies can facilitate economic participation and social integration. Nevertheless, local integration may face obstacles involving employment competition, cultural differences, discrimination, and pressure on public services. In Indonesia, the absence of comprehensive regulations governing refugee employment and permanent residence continues to limit integration opportunities. Therefore, effective local integration requires a balanced regulatory framework that accommodates humanitarian protection while considering national economic capacity, community acceptance, and legal certainty.

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Published by Universitas Internasional Batam

(3) Third-country resettlement involves transferring refugees from their initial host country to another state willing to provide long-term protection and appropriate legal status. This mechanism is particularly relevant when voluntary repatriation remains unsafe and local integration is unavailable. Coordinated through cooperation between UNHCR and receiving governments, resettlement generally prioritizes refugees facing heightened protection risks. Receiving countries may provide access to housing, education, healthcare, employment, and pathways toward permanent residence or citizenship, depending on their domestic legal systems.

Experiences involving Syrian and Vietnamese refugees demonstrate the importance of resettlement in providing sustainable protection and opportunities for rebuilding lives. Indonesia has similarly functioned as a transit country for refugees from Myanmar, Afghanistan, and Somalia awaiting admission to third countries. However, limited resettlement quotas, lengthy procedures, and social adaptation challenges often prolong displacement and humanitarian dependence. Consequently, effective resettlement requires stronger international responsibility-sharing, transparent admission procedures, and adequate integration support to ensure refugees can rebuild their lives safely and with dignity.

## CONCLUSION

The issue of Rohingya refugees' access to the Indonesian labor market reflects a significant gap between international human rights principles and national legal implementation. Although Indonesia has demonstrated a humanitarian commitment by accommodating Rohingya refugees, the absence of explicit legal provisions granting refugees the right to work has created persistent legal uncertainty and limited their participation in the formal employment sector. As a result, most Rohingya refugees remain dependent on humanitarian

assistance or engage in informal employment characterized by low wages, insecurity, and vulnerability to exploitation.

This study finds that existing Indonesian regulations prioritize immigration control and temporary protection rather than long-term socio-economic integration. Consequently, the theoretical recognition of refugees' human rights, particularly the right to work, has not been effectively translated into practical access within the Indonesian labor market. At the same time, several initiatives conducted by NGOs and local communities indicate that limited forms of economic participation are still possible and can contribute positively to social stability and refugee self-reliance.

Therefore, Indonesia requires more adaptive legal and policy reforms that balance humanitarian obligations, national interests, and labor market concerns. Clear regulatory mechanisms regarding refugee employment, vocational training, and supervised work opportunities could reduce refugees' dependency while minimizing social tensions within host communities. Ultimately, improving access to decent work for Rohingya refugees is not only a matter of human rights protection but also a strategic step toward strengthening economic inclusion, social cohesion, and sustainable refugee management in Indonesia.

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## ACKNOWLEDGMENTS

The authors would like to thank everyone involved in this research. The authors also extend their gratitude to the editor responsible for this manuscript and to the anonymous peer reviewers for their insightful and valuable feedback.

## DECLARATION OF GENERATIVE AI USE

The authors declare that no generative artificial intelligence tools were used in the preparation of this manuscript.

## COMPETING INTERESTS

The authors have declared that no competing interests exist.

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**ISSN (Online):** 3025-7387
Published by Universitas Internasional Batam