



BETWEEN LEGALITIES AND HUMANITIES IN REFUGEE POLICY: A COMPARATIVE ANALYSIS OF INDONESIA AND HUNGARY EXIT STRATEGY REFUGEE CRISIS

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Abstract

This study compares Indonesia's and Hungary's legal and humanitarian approaches to managing the 2015–2022 refugee crisis and proposes an exit strategy for Indonesia's refugee handling. Indonesia faces challenges due to the maximum detention duration stipulated in its Immigration Law No. 6/2011, which lacks further legal basis for prolonged detention. Employing a qualitative approach with comparative literature analysis, the study reveals Hungary's emphasis on legal solutions, leading to potential human rights violations but a decrease in asylum seekers, contrasting with Indonesia's humanitarian approach, resulting in positive impacts on refugees but a surge in asylum seekers. It concludes by recommending Indonesia to conduct comparative legal research with Hungarian asylum law to develop more effective refugee policies addressing legal and political concerns. This research enhances understanding of refugee management in Indonesia and Hungary, offering insights for nations grappling with similar crises.

Keywords

Refugee Handling, Indonesia, Hungary, Comparative Policy, Exit Strategy

I. Introduction

In 2015, there was a major surge in the migration of refugees and migrants into Europe, and Southeast Asia with 1.3 million people seeking asylum, the largest in a single year since World War II (Sola, 2018). Recorded, more than 2 million new asylum requests were registered between 2015 and 2016 only, with Germany receiving more than 22 percent (441,900), Hungary receiving 3.6 percent (74,200), and other countries receiving 30 percent, including Indonesia, Malaysia, and Thailand (European Stability Initiative, 2017). The situation is escalating, with 32.5 million people expected to be displaced by 2023, with

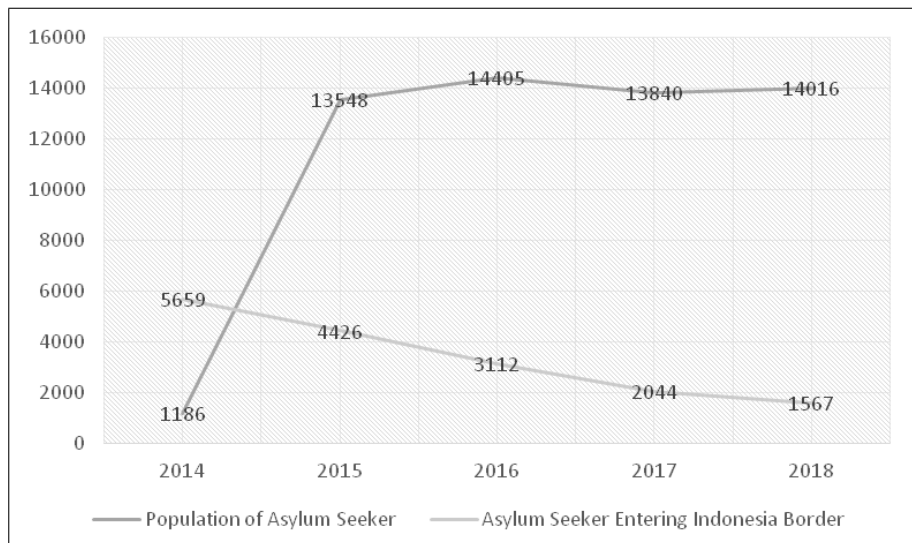
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4.9 million of them seeking asylum, resulting in more than 1.1 million new asylum seeker status claims (EUAA, 2022). Among the countries affected were Indonesia and Hungary, both of which experienced their own distinct obstacles in dealing with the crisis; in short, both countries are stuck in the same position but in different boats in terms of asylum seeker handling approach (Rahmat, 2020). However, in terms of legal standing, those countries are in opposition (Prabaningtyas, 2019).

Indonesia, which serves as a transit country, has seen an influx of refugees escaping conflict and persecution in their origin countries, with over 14,000 asylum seekers and refugees arriving in the country by the end of 2019, mostly originated from Afghanistan, Somalia, and Myanmar (Mixed Migration Center, 2021). The majority of them chose Indonesia because of religious similarities (M. T. Bahri, 2021). Since the 2015 refugee crisis, more over 13,500 asylum seekers have entered Indonesia (Missbach, 2019). Additionally, a large number of asylum seekers from Myanmar (Rohingya) also continuing to enter Indonesian territory; by the end of 2022, more than 100 Rohingya asylum seekers have been captured in Aceh Provinces, Indonesia (C. Indonesia, 2022). After the implementation of Presidential Law No. 21/2016, which grants 169 countries visa-free access, numerous asylum seekers have entered Indonesia as tourists and declared their status as asylum seekers on Indonesian territory (M. Alvi Syahrin, 2019). The adoption of that legislation has created a new phenomenon in which the number of asylum seekers entering Indonesian territory is increasing rapidly, as indicated by the enormous number of asylum seekers declaring their status on Indonesian territory.

Figure 1: Comparison Between Population of Asylum Seeker and Asylum Seeker Who Officially Entering Indonesia as Asylum Seeker



Source: *Bijdragen tot de taal-, land- en volkenkunde / Journal of the Humanities and Social Sciences of Southeast Asia* 175, 4 (2019); 10.1163/22134379-17504006

The rapid increase in the number of asylum seekers in Indonesia continues, with no proper solution, particularly in terms of the availability of legal frameworks in the processing of asylum seekers and refugees. Legally, Indonesia's refugee handling legal system is guided by Law No. 37/1999 on Foreign Relations, Law No. 6/2011 on Immigration, and Minister of Justice and Human Rights Regulation No. M.HH-01.GR.01.06 of 2012 on Procedures for Handling Refugees, which recognizes the principles of *non-refoulement* and non-penalization of asylum seekers, and provides for temporary protection for refugees (Missbach, 2017a).

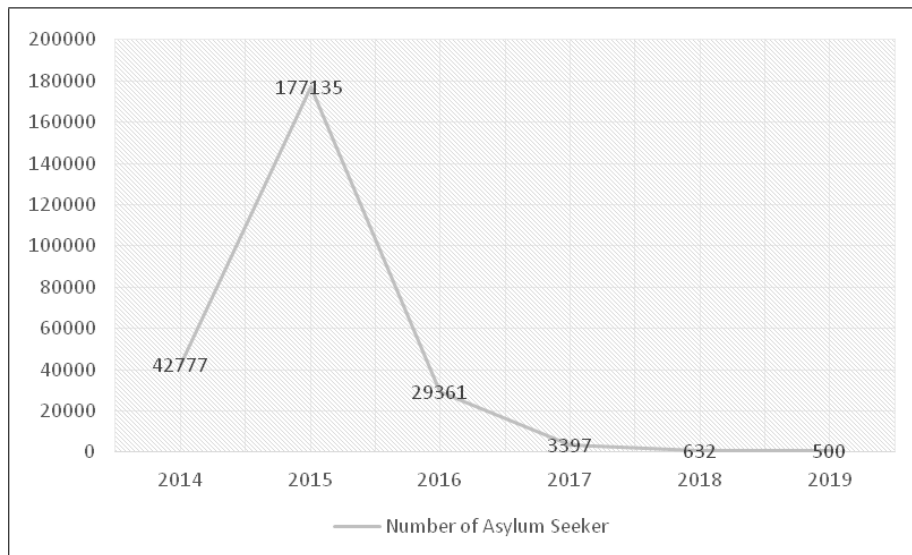
However, the legal system for the refugee itself is not conform yet with the 1951 refugee convention and 1967 protocols. Because Indonesia is a non-signatory country to those international agreements, it has no authority to grant refugee status (Liliansa and Jayadi, 2015). As a result, Indonesia is highly reliant on UNHCR refugee status determination; however, the acceptance rate of UNHCR refugee determination for third-country resettlement from Indonesia as transit countries to refugee receiving countries is very low, less than 5% yearly (ECRE, 2018). Politically, Indonesia has refused the UNHCR recommendation to ratify the 1951 refugee convention, through the House of Representatives official meeting (Sihaloho, 2019). This phenomenon, will run just like snowball, and create bigger problem in the future.

Hungary, on the other hand, faced a significant inflow of migrants entering its borders as a final destination, with over 400,000 asylum seekers entering the country in 2015 alone, far beyond the country's capacity to manage a major influx of people at one time (WHO Regional Office for Europe, 2016). Most of the asylum seeker is going into the EU through Hungary, because its position, which included in the "*Balkan route*", which connects the Middle East, and Mediterranean region to the EU territory, where people tend to migrate from the Middle East to Greece via Macedonia and Turkey entering through Bulgaria and continue to Hungary as the directly bordered EU member states (Weber, 2017). Legally, Hungary is a signatory to the 1951 Refugee Convention and the 1967 Protocols, which implies that Hungary is "compelled" to handle the influx of people and give human rights protection to asylum seekers by granting them refugee status.

Notwithstanding Hungary's legal framework for dealing with refugees, the government is using a "one-of-a-kind" strategy to dealing with asylum seekers. In Hungary, the refugee handling legal system is guided by the CEAS as its supranational framework, Constitution of Hungary, the Law on Asylum (LXXX. of 2007), and the Aliens Act (II. of 2007). Under those legal systems, Hungary is required to offer international protection for asylum seekers, including lodging, education, health care, and access to the labour market when their refugee status is recognized (Hoffmann and Gárdos-Orosz, 2022). However, politically, under the Orban administration, Hungary has the very unique approach to manage the refugee who entering the country. The Hungarian response to migration consists of three components: selective border closure, a number of deterrents, and governmental racist discourse and propaganda efforts in order to minimize the number of refugee in the Hungary territory (Kallius, 2017). With that approach, which led to the populism perspective, according to UNHCR, Hungary's asylum system has become "virtually non-functional", with a rejection

rate of over 90% of asylum applications in 2019, making it one of the most restrictive asylum systems in Europe (Juhász and Hunyadi, 2015).

Figure 2: Number of Asylum Seekers Who Entering Hungary During 2014 to 2019



Source: UNHCR, 2019. <https://www.unhcr.org/ceu/hungary-facts-on-refugees>

Despite their different legal frameworks, both countries faced similar challenges in managing the exit strategy for refugees. As the refugee crisis continued, both Indonesia and Hungary were forced to find ways to manage the outflow of refugees from their borders. Indonesia's approach focused on providing humanitarian assistance and support to refugees (Widyawati, 2017), while Hungary's approach prioritized border control and legal compliance (AIDA, 2020). Hungary's focus on legal compliance led to significant human rights violations, including the detention of refugees in overcrowded and inhumane conditions, the use of excessive force by authorities, and the rejection of most asylum claims, which successfully managed the refugee status claim, from more than 100,000 claims in 2016, to only 5860 claims in 2020 (Senada, 2017). In contrast, Indonesia focuses on humanitarian aid. Despite facing its own challenges in managing the refugee crisis, such as limited resources and a lack of international support, Indonesia took a more flexible approach to refugee management and provided basic services to refugees, such as health care and education, but the non-legal approach taken by Indonesia will not last forever. Furthermore, Indonesia and Hungary share a similar approach to refugees, prioritizing state sovereignty and restricting asylum. Neither country offers a clear path to refugee status or permanent settlement. Indonesia, despite being a key transit point for asylum seekers, has not ratified the 1951 Refugee Convention or the 1967 Protocol, treating refugees as undocumented migrants under its selective immigration policy (M. T. Bahri, 2021). Similarly, Hungary's policy of "organized disintegration" discourages refugee integration, aiming to

protect national sovereignty (Kiss, 2016). Both countries serve primarily as transit points, offering only temporary humanitarian aid without granting full refugee rights, leaving asylum seekers in legal limbo.

To provide a deeper understanding of the legal and humanitarian realities of refugee handling in Indonesia and Hungary, this paper conducts a comparative analysis of the two countries' approaches to managing the 2015–2022 refugee crisis exit strategy. By examining the experiences of Indonesia and Hungary in managing the refugee crisis, this paper seeks to contribute to a deeper understanding of the legal and humanitarian realities of refugee handling, and provide the most relevant exit strategies, especially to providing Indonesia with the proper legal framework to address the refugee problem in the future.

II. Method

This research is conducted by using the qualitative framework, with the comparative law method. The comparative law is an important method for evaluating and comparing the system of law and practices of different countries, based on their classification of legal families (Oderkerk, 2015). Furthermore, in comparing the refugee handling policies of Hungary and Indonesia, a literature analysis and doctrinal method can be used to identify similarities and differences between the two countries. Literature analysis involves a comprehensive review of relevant literature on refugee handling policies of Hungary and Indonesia. This can include academic articles, government reports, policy documents, and news articles.

For instance, research shows that Hungary has adopted a restrictive refugee policy, and has been criticized by international organizations for its harsh treatment of refugees (Crawley, Duvell, Jones, MCMahon and Sigona, 2018). On the other hand, Indonesia has been commended for its relatively liberal refugee policy, which provides refugees with access to basic services (Missbach, 2017a). Doctrinal analysis, on the other hand, involves examining the legal and policy frameworks guiding the refugee handling policies of both countries. This can involve analysing relevant national laws, international treaties, and agreements. For instance, the Hungarian government passed a law in 2018 that criminalizes aiding undocumented immigrants, including refugees (OMCT, 2018). In contrast, Indonesia has ratified the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, which obligates the country to provide protection and assistance to refugees (UNHCR, 2020).

After understand the legal context between both countries, the comparative analysis will be conducted. Comparative analysis involves comparing the findings from the literature and doctrinal analysis to identify similarities and differences between the policies of Hungary and Indonesia. The comparative analysis reveals that while Hungary has a more restrictive policy towards refugees, Indonesia provides refugees with more access to basic services such as healthcare and education (Crawley et al., 2016; Adelman, 2019). Synthesis involves synthesizing the findings from the comparative analysis to draw conclusions about the similarities and differences between the refugee handling policies of Hungary and Indonesia. The synthesis should highlight areas of convergence and divergence between the policies, identify strengths and weaknesses of each policy, and suggest potential areas

for improvement. For instance, based on the comparative analysis, it can be concluded that Hungary's restrictive refugee policy has led to numerous human rights violations, while Indonesia's liberal policy could be strengthened by providing refugees with greater access to legal protections (Crawley et al., 2016; Adelman, 2019). Then, the questions which answered by this research are:

- 1) What legal and policy frameworks guide the refugee handling policies of both countries?
- 2) What are the differences in the treatment of refugees in both countries?
- 3) What challenges do both countries face in implementing their refugee handling policies?

III. Literature Analysis

Before delving into the issues of refugee handling policy between those two countries, it's important to grasp the legal contexts of Indonesia and Hungary. The analysis in this study will focus on how both nations determine the refugee itself, the protection and human rights access that both countries provide, and how the social and political situations in both countries influence government decisions on refugee handling policy. Before start, the definition of the refugee which used in this research is based on the 1951 refugee convention, which stated as follows:

Paragraph 6A (ii): Any person who, as a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, or political opinion, is outside the country of his [or her] nationality and is unable or, owing to such fear, or for reasons other than personal convenience, is unwilling to avail him [or her]self of the protection of that country; or who, not having a nationality and being outside the country of his [or her] former habitual residence, is unable or, owing to such fear or for reasons other than personal convenience, is unwilling to return to it.

Paragraph 6B: Any other person who is outside the country of his [or her] nationality or, if he [or she] has no nationality, the country of his [or her] former habitual residence, because he [or she] has or had well-founded fear of persecution by reason of his [or her] race, religion, nationality or political opinion and is unable or, because of such fear, is unwilling to avail him [or her]self of the protection of the government of the country of his [or her] nationality, or, if he [or she] has no nationality, to return to the country of his [or her] former habitual residence.

The definition of "refugee" in the UNHCR Statute of 1950 appears to be nearly identical to the one selected by the drafters of the Refugee Convention (UNHCR, 1950). The variations in the definition of "refugee" contained in UNHCR law are applicable without regard to time or location, because of the ratification of the 1967 protocols (UNSW, 2018). According to the those legal basis, the membership of a state in a certain social group as a ground for persecution is no longer relevant (M. T. Bahri, 2021). Based on that legal basis, the refugee handling legal framework will be compared between Indonesia and Hungary.

Indonesia Refugee Handling Policy

How Indonesia Determine Refugee?

First discussion is how Indonesia, as a transiting countries, determining the refugee itself. Based on the Article 1, section A, Article 1, of the 1951 Convention, refugee can be defined as the person who is unable or unwilling to return to his place of origin, because of owing a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political viewpoint (Moldovan, 2016). On the other hand, asylum seeker can be determined as person who's their status of refugee is not granted yet, or in process to be granted by the relevant authorities (Moldovan, 2016). However, Indonesia is not a signatory to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, which establishes the legal framework for determining refugee status and the rights and obligations of states towards refugees, then there have been several challenges and concerns related to the refugee determination process in Indonesia.

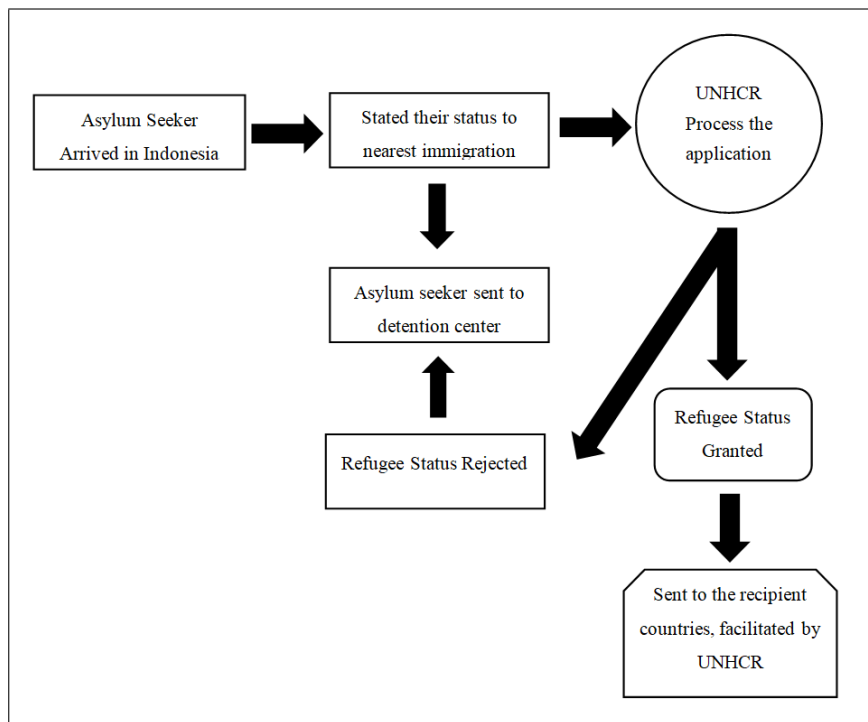
The fundamental challenge for Indonesia is the lack of a defined legislative framework for determining refugee status. Although in the Constitution of Republic of Indonesia, the 1945 Constitution, and the Fourth Amendment of 2000 in Article 28 G, paragraph 2, stated:

“Every person shall have the right to be free from torture or inhumane and degrading treatment, and shall have the right to obtain political asylum from another country”

That constitution is confirmed the right to be free from torture or degrading treatment of human dignity and to seek asylum (Republic of Indonesia, 1945), however, there is no further law framework to cover this matter. The first Indonesian law that mentions refugees is the Foreign Relations Law No. 37/1999, which states in article 25 (1) that the President has the authority to grant refugee status with the approval of the relevant ministry Republik Indonesia, “Indonesia Law No. 37/1999 about Foreign Affairs”, Pub. L. No. 37/1999, Lembaran Negara RI 1 (1999), Article 25. The problem with this law is there no specific procedures and criteria to determinate the refugee status, which created the confusion on the ground (Missbach, 2017b). The phrases “refugees” and “asylum seekers” are not used in Indonesian immigration law (Republic of Indonesia, 2011) (though “refugees” is now specified in the 2016 Presidential Regulation), and they are frequently confused with other transitory migrants or “economic” migrants who lack proper travel documents or overstay. Related to that matters, the Director-General of Immigration issued Regulation No. IMI-1489.UM.08.05 of 2010 about the Handling of Illegal Immigrants in 2010, in Article 2 and 3, stated several points, which are: (1) an irregular migrant who is discovered to be in Indonesian territory is subject to immigration proceedings. (2) If the irregular migrant referred to in paragraph (1) expresses its desire to seek asylum and/or cannot be deported for various reasons, the situation shall be coordinated with the international agency in charge of refugee problems and/or UNHCR to assess their status Directorate General of Immigration, “Regulation of the Directorate General of Immigration Number: IMI-1489.UM.08.05/2010”, Pub. L. No. IMI-1489.UM.08.05/2010, 1 (2010), Article 2 and 3. From this points, concluded if Indonesia has no own authorities to determine the status

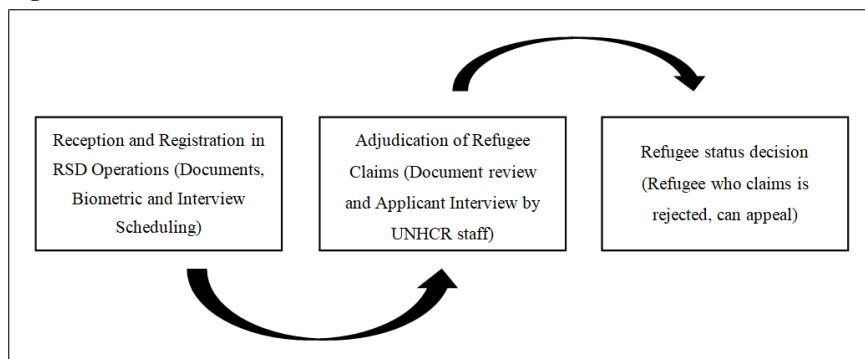
of refugee, thus, the person who declared their status as asylum seeker inside Indonesia territory. Furthermore, to fill the legal gap, about how the procedure to obtain the refugee status, the Directorate General of Immigration is issued the regulation no. IMI-3052.GR.02.07/2016, in the article 3, stated if every person who stated their status as asylum seeker, is cannot be sent back to their origin country (*non-refoulement* principle), and summarized from the article 4, the procedure on refugee determination status in Indonesia can be drawn as follows:

Figure 3: Refugee Status Process Determination in Indonesia



Source: Author from the regulation of directorate General of immigration no. IMI-3052.GR.02.07/2016

According to the Indonesian refugee determination law, each asylum claimant must follow the Refugee Status Determination (RSD), which is handled by the UNHCR Office in Jakarta, before being given refugee status in Indonesian territory. In 2016, UNHCR identifies 2445 asylum seekers in Indonesia with special needs, conducted 3114 interview, with 3216 refugees status granted, and 636 refugees are resettled to the third country, most of them are sent to Canada, Australia and United States (UNHCR, 2016). Based on the UNHCR regulation, the process for the RSD procedure consists of three main steps, which summarized as follows:

Figure 4: UNHCR RSD Procedure Schemes

Source: Author from the UNHCR Procedural Standard for Refugee Status Determination under UNHCR Mandate, 2016

Under the RSD process, the asylum applicant who is awaiting the RSD decision is placed in an immigration detention centre. Furthermore, those who have been given UNHCR status will be assisted by the UNHCR in collaboration with the Indonesian government (M. T. Bahri, 2021). As of December 31, 2016, the President of the Republic of Indonesia, Joko Widodo, signed Presidential Regulation Number 125 of 2016 concerning the treatment of refugees from abroad in order to raise the standard of protection for asylum seekers who have received refugee status, and to comply with the international humanitarian standard, however, many of the basic access to the human rights is not regulated yet in this regulation (Kneebone, Missbach and Jones, 2021). This Presidential Order also takes into account the implementation of Article 27 paragraph (2) of Law Number 37 of 1999 Concerning Foreign Relations (R. Indonesia, 1999). According to Presidential Regulation Number 125 of 2016 on Refugee Handling Overseas, the management of refugees is managed by the Minister, who in this case is the Ministry in charge of government affairs in politics, law, and security. One of these requires coordination in terms of immigration supervision. The authority of immigration supervision for refugees are carried out by detention house officers Immigration and immigration supervision include: departure to the recipient country when found, both within and outside the shelter, voluntary repatriation, and expulsion (Muhammad Alvi Syahrin, Wiraputra and Aji, 2022).

The main problem in the legal schemes of Indonesia refugee determination is only less than 10 percent of the asylum seeker, who entering Indonesia territory got their status as refugees under the RSD program which conducted by the UNHCR (Muhammad Alvi Syahrin et al., 2022). On the other hand, according to Law No. 6/2011, article 85, paragraph 2, a refugee who is waiting to be moved to the receiving nation might be kept for up to ten years (Republic of Indonesia, 2011). Following that, the current legal system will be unable to address the issue that may arise after ten years of captivity.

Furthermore, based on the previous research, the absence of Refugee Status Determination (RSD) procedures in Indonesia creates significant legal and human rights challenges.

Without a clear legal framework, Indonesia lacks a formal mechanism to assess whether an asylum seeker qualifies for protection, potentially leading to arbitrary detentions, deportations, or violations of international human rights standards (M. Bahri, 2023). This legal gap has also resulted in refugees becoming vulnerable to exploitation, with many reported cases of sexual abuse and violence perpetrated by law enforcement officers, highlighting the dire consequences of the lack of oversight and protection (Suyastri, Bahri and Marhadi, 2023). In contrast, Hungary’s RSD procedures, established under the Asylum Law of 2007, serve as a legal tool to manage and control migration effectively. The Hungarian government uses RSD procedures as a “*legal border*”, ensuring that only those asylum seekers who meet specific criteria are granted protection, while those who do not are legally rejected. This process not only helps Hungary safeguard its borders but also reduces the number of migrants entering the country (M. Bahri, 2023). The absence of such procedures in Indonesia underscores the urgent need for a structured legal framework to manage asylum claims, prevent human rights violations, and protect refugees from abuse and violence.

Human Rights Protection for Refugees in Indonesia

The absence of a legal foundation for determining refugees has a significant impact on the international protection that refugees can seek. Despite this, Indonesia has ratified the 1948 Universal Declaration of Human Rights (UDHR), which states that “*everyone has the right to life, liberty, and the security of one’s person*” (Article 3) and “*no one shall be subjected to arbitrary arrest, detention, or exile*” (Article 4) (Nations, 1948). Thus, Indonesia is legally obliged by this international agreement and must respect the rights of the refugee itself; yet, to comply with that legal basis, Indonesia has chosen the so-called “humanitarian approach” to address the refugee (Tobing, 2021). Because Indonesia has not ratified the 1951 Refugee Convention or the 1967 Protocols, access to human rights protection will not conform to international standards, and potentially violating the human rights (Dewansyah, Dramanda and Mulyana, 2017). Furthermore, based on the 1951 refugee convention, the right of refugee can be categorized as follows:

Table 1: The Rights of Refugee Based of the 1951 Refugee Convention

Stated rights	Legal Basis of the 1951 Refugee Convention
Personal Rights	
Non-refoulement principles, meaning refugees cannot be sent back to their country of origin	Article 33
Rights of association for refugees	Article 15
Access to courts	Article 16
Wage earning employment for refugees	Article 17
Self-employment for refugees	Article 18

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Stated rights	Legal Basis of the 1951 Refugee Convention
Rights provided by the government	
Rights to temporary housing	Article 21
Access to public education	Article 22
Equality in public relief	Article 23
Rights to labour legislation and social security	Article 24
Administrative assistance	Article 25
Freedom of movement	Article 26
Identity papers	Article 27
Travel documents	Article 28
Fiscal charges	Article 29
Transfer of assets	Article 30
Refugees unlawfully in the country of refugees	Article 31
Naturalization	Article 34

Source: Author from the 1951 refugee convention

However, as the non-signatory country, Indonesia has unable to provide the rights based on the mandate of that legal basis. The first rights which cannot be implemented by Indonesia is the right for work, by join the job market and self-employment for refugees, as stated on the 1951 refugee convention, on article 17 and 18. In terms of a legal norm, as regulated in Government Regulation No. 34/2021, Article 2.1, states, “*Every Employer, must prioritize the Indonesian Nationals as an employee in any kind of position*”, also in Article 5.1, states if “*The employer only can recruit foreign nationals, for this kind of position only: (1) Director or Commissioner, (2) Foreigner who work in the fields of education, digital economy, and oil and gas sector*”. If a foreigner works in Indonesia lawfully, he or she must be an investor, owner, or director of an established company, or be sent by his or her nation due to specific competence in the fields of education, digital economy, and oil and gas. After achieving those standards, international workers in Indonesia must be assured. Burden for refugees to enter the job market also emphasized by the demographical position, which stated if many Indonesian are belong to the workforces, and must be involved as employee in the foreign company, and there is no legal basis which allow the refugees to enter the job market (Eggenhofer-Rehart et al., 2018).

The second set of rights that cannot yet be granted, particularly to refugee children, is due to the legal requirements for entering formal education, which require a birth certificate and other documentation that those refugees do not have (Nugroho Adhi, Agung and Gitareja, 2021). Legally, Indonesia is not a ratified country that is responsible for providing refugees with access to education. Unfortunately, it is not that straightforward. Because Indonesia joined the United Nations Convention on the Rights of the Child in 1989, Indonesia should allow asylum seekers to participate in formal education. The Convention on

the Rights of the Child establishes particular international legal obligations for children and establishes various guiding principles for child protection, which can be stated as follows: (a) In all actions taken against children, including asylum seekers and refugee children, the best interests of the child shall be a primary priority, (b) There should be no discrimination based on race, colour, gender, language, religion, politics, or other opinions, origin, national, ethnic, or social status, property, disability, birth, or other status, or on a status basis, activities, opinions expressed, or beliefs of the child's parents, guardians, or family members. (c) Every child has the basic right to live, survive, and develop to the fullest extent possible; (d) Children must be granted the freedom to freely express their opinions; and (e) Children have the right to family unity and the right not to be separated from their parents against their will.

The last human rights access who cannot be provided by Indonesia is the right to freedom of movement within the country. According to Article 26 of the 1951 Refugee Convention, states must allow asylum seekers and refugees to move freely within their borders. Although Indonesia did not sign the 1951 Refugee Convention, it did ratify the 1948 Universal Declaration of Human Rights (UDHR), which stated that *"everyone has the right to life, liberty, and the security of one's person"* (Article 3) and *"no one shall be subjected to arbitrary arrest, detention, or exile"* (Article 4). These were then integrated into Article 9 of the International Covenant on Civil and Political Rights (ICCPR), which protects personal liberty and security and prohibits arbitrary deprivation of such rights, and was ratified by Indonesia. Article 12 of the same law, which covers restrictions on free expression, even though Indonesia does not join the refugee convention, freedom of movement is already being implemented under the UDHR and ICCPR frameworks by developing Alternative Detention (ATC) schemes rather than the usual detainee system, the Immigration Detention Center (IDC).

However, in the year of 2016, Indonesia has issued the Presidential Regulation No. 125/2016 on Handling of Foreign Refugees. This regulation is becoming the first legal basis for handling the refugees, based on the "humanitarian approach" (M. Alvi Syahrin, 2019). The humanitarian approach based on the relevant regulation is broadened over the process of person rescuing, document check, and provide the shelter (Missbach, 2017a). Then, based on that regulation, the rights which must be provided by the government of Indonesia to the refugees can be summarized as follows:

Table 2: Rights Provided to the Asylum Seeker and Refugee Based on Presidential Regulation 125/2016

Rights	Stated on
The government of Indonesia, coordinated by the responsible minister, is responsible for the: 1. Finding; 2. Placement; 3. Safeguarding; and 4. Immigration supervision	Article 4

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Rights	Stated on
After the person is secure, the immigration officer is responsible to collect data by way of examining: 1. Travel documents; 2. Immigration status; and 3. Identity	Article 13, Paragraph 2
If a foreigner declares himself/herself to be a refugee based on the examination by the immigration officer at the Immigration Detention Center, the Immigration authorities shall coordinate with the United Nations through the United Nations High Commissioner for Refugees (UNHCR).	Article 13, Paragraph 3
The Immigration Detention Center shall coordinate with the local regency/municipal authority to transfer and relocate refugees from their place of finding to a shelter.	Article 24
Provision of basic necessities in the shelter shall comprise at least the following: 1. Supply of clean water; 2. Provision of food, drinks, and clothing; 3. Healthcare and hygiene; and 4. Religious facilities.	Article 27
Funds for refugee management can be obtained from: a. the state budget via the relevant ministry/agency; and/or b. other legal and non-binding sources in accordance with the applicable laws and regulations.	Article 40

Source: Author from the Presidential regulation 125/2016

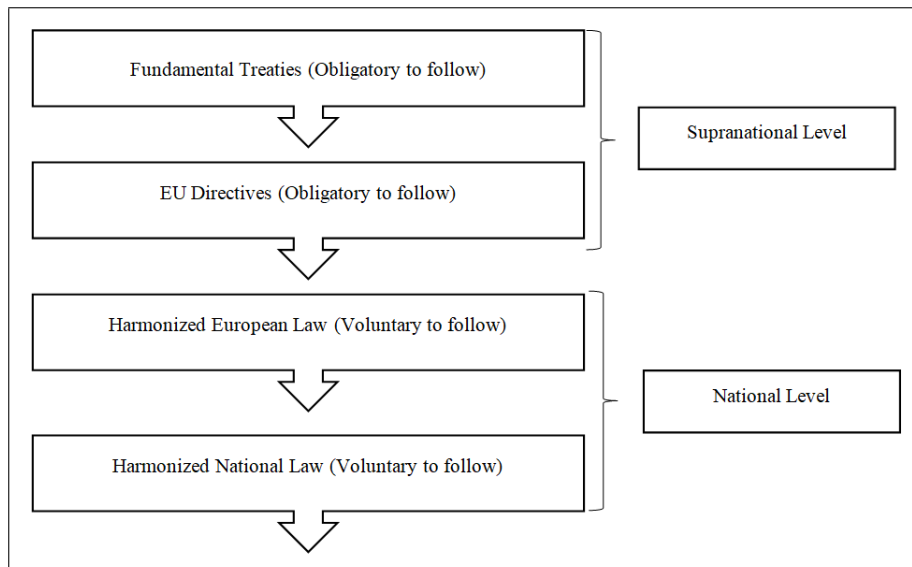
Based on the literature analysis above, the rights which can be provided by the Government of Indonesia are only the basic rights, such as shelter with the supply of clean water, food, drinks and clothing, healthcare, and religious facilities. The further facilities must be coordinated with the UNHCR as the agency who has authority to determine the status of the refugee.

Hungary Refugee Handling Policy

How Hungary Determine Refugees?

On the other way, Hungary is the refugee recipient country. Hungary is a signatory to the 1951 Refugee Convention and its 1967 Protocol, which define the legal status and protection of refugees as the mandatory requirements in joining EU in 2007 and to contribute to the development and interpretation of international refugee law (Janmyr, 2019). As signatories to the 1951 Refugee Convention and 1967 Protocols, as well as EU member states, the integrated instrument of EU integrated refugee management must be followed. The system is called the European Common Asylum System (CEAS), which is the supranational legislative regulation, by following this structure:

Figure 5: EU Legal Structure



Source: Author from many resources

The Common European Asylum System (CEAS) is a set of rules and procedures established by the EU to ensure that asylum seekers receive equal treatment and protection across all EU member states (Kaufmann, 2021). The CEAS was created to address the challenges of asylum seekers moving from one EU country to another in search of protection, and to ensure that asylum seekers are treated fairly and with dignity. The CEAS is composed of a number of different legal instruments, including directives and regulations that set out the rights and obligations of asylum seekers and member states (Mathew and Harley, 2016). The key components of the CEAS include:

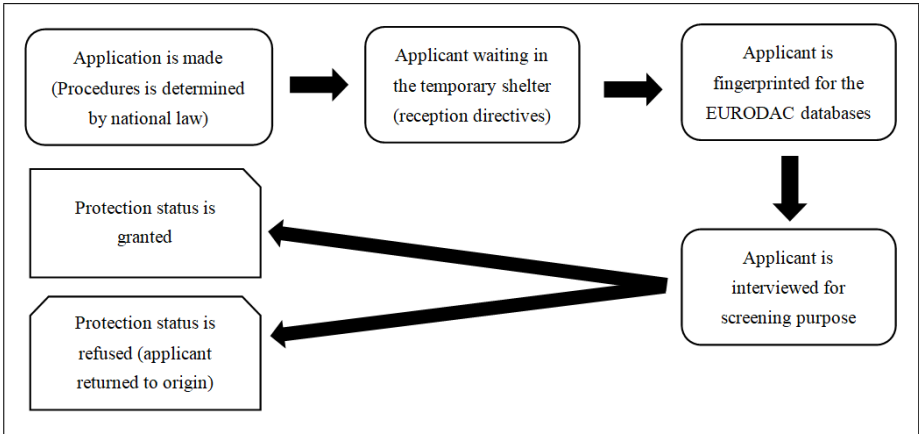
- a) **The Dublin Regulation:** This regulation determines which EU member state is responsible for examining an asylum application. The regulation is based on the principle that the member state where an asylum seeker first enters the EU is responsible for examining their application, and give the asylum temporary stay permit in their territory (European Parliament, 2020).
- b) **The Qualification Directive:** This directive establishes the criteria for determining who qualifies for refugee status or subsidiary protection. It sets out the definition of a refugee and the grounds for granting subsidiary protection (Convention, 2016).
- c) **The Asylum Procedures Directive:** This directive sets out the minimum standards for the procedures that EU member states must follow when examining asylum applications. It covers issues such as the right to legal assistance, the right to an interpreter, and the right to appeal (Council of the European Union, 2016).
- d) **The Reception Conditions Directive:** This directive establishes the minimum standards for the reception conditions that must be provided to asylum seekers in EU

member states. It covers issues such as accommodation, food, and healthcare (Parliament, Council, The and Union, 2016).

e) EURODAC regulation, it creates a European Union asylum fingerprint database. When someone requests for asylum in the EU, their fingerprints are sent to the EURODAC central system (European Parliament, 2015).

The CEAS is designed to ensure that asylum seekers receive fair and humane treatment throughout the asylum process, regardless of which EU member state they are in. However, the system has faced criticism for being overly complex and bureaucratic, and for failing to adequately address the challenges of asylum seekers moving from one EU country to another (Kaufmann, 2021). In summary, the process of the CEAS can be shown as follows:

Figure 6: The CEAS Procedures on Refugee Status Claim for International Protection



Source: Author from the CEAS handbook

Hungary as the member of EU, must follow the CEAS system as the supranational law background. However, as the member states, Hungary also have the legal basic as national laws to address the problem of asylum seeker in their territory, those legal basics are:

Table 3: Law on Asylum Seeker and Refugee Management of Hungary

Title	In Hungarian Language	View link
Act LXXX of 2007 on Asylum	2007. évi LXXX Törvény a menedékjogról	http://bit.ly/1IFdMk2
Act II of 2007 on the Entry and Stay of Third Country Nationals	2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról	http://bit.ly/1S4bdd1
Act LXXX of 2003 on Legal Aid	2003. évi LXXX. törvény a jogi segítségnyújtásról	http://bit.ly/1QqHj5c

Source: Authors, from many sources

In the implementation of those legal basic, Hungary also have several regulations, which used to address the problem in the field, which are:

Table 4: Principal Implementing Decrees, Administrative Guidelines, and Rules Governing Asylum Procedures, Reception Conditions, and Detention

Title	In Hungarian Language	View link
Government Decree no. 301/2007 (XI. 9.) on the implementation of Act LXXX of 2007 on asylum	301/2007. (XI. 9.) Korm. rendelet a menedékjogról szóló 2007. évi LXXX. törvény végrehajtásáról	http://bit.ly/1QLMdem
Government Decree no. 114/2007 (V. 24.) on the Implementation of Act II of 2007 on the Entry and Stay of Third-Country Nationals	2007. évi II. törvény a harmadik országbeli állampolgárok beutazásáról és tartózkodásáról, egységes szerkezetben a végrehajtásról szóló 114/2007 (V. 24.) Korm. rendelete	http://bit.ly/1Gs2a1D
Government Decree no. 9/2013 (VI.28.) on the rules of execution of asylum detention and bail	29/2013. (VI. 28.) BM rendelet a menekültügyi őrizet végrehajtásának szabályairól és a menekültügyi óvadékról	http://bit.ly/1I1uvbJ
Government Decree no. 191/2015 (VII. 21.) on safe countries of origin and safe third countries	191/2015 (VII. 21.) A nemzeti szinten biztonságosnak nyilvánított származási országok és biztonságos harmadik országok meghatározásáról	http://bit.ly/1PNamgZ

Source: Authors, from many sources

Under this law, a person can apply for asylum in Hungary if they have a well-founded fear of persecution in their home country due to their race, religion, nationality, membership in a particular social group, or political opinion (Government of Hungary, 2019). The asylum seeker must apply for asylum in person at a border crossing point or a designated asylum office. The application can be submitted in the Hungarian language or any other language that is widely spoken in the asylum seeker's country of origin. The asylum seeker's application will be assessed by the Hungarian authorities, and if it is deemed admissible, the asylum seeker will be given access to the asylum procedure. The Hungarian authorities will conduct a preliminary investigation to determine whether the asylum seeker has a well-founded fear of persecution in their home country.

During the investigation, the asylum seeker will be interviewed by the authorities to determine the veracity of their claim and whether they meet the criteria for refugee status. The authorities will also examine any evidence that supports the asylum seeker's claim, including documents, photographs, and witness statements. If the asylum seeker is granted refugee status, they will be given the right to remain in Hungary for an initial period of three years and will have access to social services and the labour market. They will also be provided with legal and administrative assistance to help them integrate into Hungarian society.

However, if the application is rejected, the asylum seeker may be subject to deportation. The law provides for the possibility of appealing the decision, but the appeals process can be lengthy and complicated. Asylum seekers who are rejected may be detained pending deportation, and there have been reports of poor conditions in some detention facilities.

Rights of Refugees in Hungary

The Hungarian Asylum Act of 2007 governs the process of granting asylum in Hungary. The act provides the legal framework for asylum procedures in the country and sets out the criteria for granting refugee status. According to the act, a person is considered a refugee if they have a well-founded fear of persecution in their country of origin due to their race, religion, nationality, political opinion, or membership in a particular social group. Hungary is a signatory to the 1951 United Nations Convention relating to the Status of Refugees and its 1967 Protocol. As a signatory to the convention, Hungary is obliged to provide refugees with basic rights and protections, including the right to seek asylum, freedom from expulsion or forced return, and access to basic necessities such as food, water, shelter, and medical care.

Table 5: The Rights Must Be Provided by the Government of Hungary to Refugee

Stated rights	Legal Basis of the 1951 Refugee Convention
Personal Rights	
<i>Non-refoulement</i> principles, meaning refugees cannot be sent back to their country of origin	Article 33
Rights of association for refugees	Article 15
Access to courts	Article 16
Wage earning employment for refugees	Article 17
Self-employment for refugees	Article 18
Rights provided by the government	
Rights to temporary housing	Article 21
Access to public education	Article 22
Equality in public relief	Article 23
Rights to labour legislation and social security	Article 24
Administrative assistance	Article 25
Freedom of movement	Article 26
Identity papers	Article 27
Travel documents	Article 28
Fiscal charges	Article 29

Continued on next page

Stated rights	Legal Basis of the 1951 Refugee Convention
Transfer of assets	Article 30
Refugees unlawfully in the country of refugees	Article 31
Naturalization	Article 34

Source: Authors from 1951 refugee convention

However, Hungary's treatment of refugees and asylum seekers has been widely criticized. In 2015, Hungary erected a border fence along its border with Serbia to prevent refugees from entering the country. The Hungarian government argued that the fence was necessary to protect the country's borders and prevent illegal migration. However, human rights organizations criticized the move, arguing that it violated the rights of refugees and asylum seekers to seek protection and asylum.

In addition to the border fence, Hungary has passed several laws that restrict the rights of refugees and asylum seekers. In 2015, Hungary adopted a law that allows police to detain refugees who enter the country illegally and keep them in detention centres for up to six months. This law has been criticized by human rights organizations, which argue that it violates refugees' right to liberty and security. In 2018, Hungary passed another law that criminalizes individuals and organizations that provide assistance to refugees and asylum seekers who enter the country illegally. The law has been criticized as a violation of the rights to freedom of expression and association.

Furthermore, Hungary has been accused of denying refugees access to basic necessities such as food, water, and medical care. The European Court of Human Rights has issued several judgments against Hungary for its treatment of refugees, including cases involving the detention and expulsion of refugees, and the use of violence by police and border guards. In July 2020, Hungary passed a new law that effectively ended the possibility of asylum seekers receiving protection in Hungary. The new law requires all asylum seekers to wait in transit zones along the Hungarian border until their asylum applications are processed. However, Hungary has not been processing any asylum applications since March 2020, citing the COVID-19 pandemic as the reason for the halt.

The new law has been criticized by human rights organizations and the international community as a violation of international law and the right to seek asylum. The United Nations High Commissioner for Refugees (UNHCR) called on Hungary to suspend the law, stating that it effectively blocked access to asylum and violated the principle of non-refoulement. In conclusion, Hungary has a legal obligation to provide basic rights and protections to refugees under international law. However, its treatment of refugees and asylum seekers has been widely criticized, with several laws being passed that restrict their rights and access to basic necessities. Hungary's policies towards refugees have been a topic of controversy and debate, with human rights organizations and the international community calling on Hungary to improve its treatment of refugees and abide by its legal obligations.

IV. Discussion

The comparative study will be carried out after examining the legal and social situations in Indonesia and Hungary in terms of refugee handling. The analysis will be focused on determining the most reasonable exit strategy for Indonesia, because the maximum detainee will be reached in 2025 for the majority of refugees, because the maximum detention is only 10 years under Immigration Law No. 6/2011, article 85, paragraph 2. Yet, according to the literature study above, Indonesia is focused on the humanitarian aspects approach, whilst Hungary is utilizing a legal-based method as the exit strategy on their nations' refugee handling policies.

The Humanitarian Approach's Consequences in Indonesia

From its independence in 1945, Indonesia always rely on the humanitarian approach to address the asylum seeker and refugee related problem. The Prime Minister Circular Letter No. 11/R.I./1956 on Political Fugitive Protection, as mentioned in the Introduction to this Special Issue, was the first administrative legislation on asylum seekers after Indonesian independence in 1945. This instrument defined asylum as a personal entitlement for political refugees (Aquinas and Susinto, 2021). The circular linked this right to the guarantee of several fundamental freedoms enshrined in the Temporary Constitution of 1950 and the Universal Declaration of Human Rights, such as freedom of religion, expression, and assembly, as well as the right to seek and enjoy asylum. This history demonstrates that, while the right to asylum was not specifically stated in the Constitution at the time, the Indonesian government saw it as inextricably linked to other nationally and internationally recognized human rights. This is also consistent with Indonesia's participation in the Asian African Legal Consultative Organisation (AALCO), which was founded as a result of the 1955 Bandung Conference. The organisation adopted the Principles Concerning the Handling of Refugees (Bangkok Principles) in 1966, which deals with asylum in Article II, paragraph 3: "*The grant of asylum to refugees is a humanitarian, peaceful, and non-political act.*" (AALCO, 2001). Indonesia reaffirmed its commitment to the Bangkok Principles in 2001; while this instrument is classified as an "advisory document" and thus non-binding, it does provide guidance on how the principles should be construed.

In practice, Indonesia's significant involvement with the refugee issue began with the Indochinese refugee crisis in 1975 (Casella, 2016). From 1979 to 1982, Indonesia gave temporary shelter to about 122,000 to 145,000 Indochinese refugees held in the Galang Island Refugee Camp under the Comprehensive Plan of Action (CPA) (Missbach, 2013). With the closure of the camp in 1996, in the late 1990s and early 2000s, Indonesia began to receive a new wave of asylum seekers with a distinct character as a result of the Middle East conflict. Continuing with the government's approach under the CPA, the government took a passive stance once more, with asylum applicants being handled directly by the UNHCR when asking for refugee status. Surprisingly, this movement coincided with the passage of human rights laws, including the constitutional provision for refuge in 2000. From its independence, Indonesia has no legal background in refugee determination; as a refugee transit country, Indonesia "accepts" asylum seekers and refugees who arrive to

its territory using a humanitarian approach. There is no precise definition of a refugee in immigration law, which is why Indonesia continues to rely on the UNHCR RSD program to identify refugees who enter Indonesian territory (Mixed Migration Center, 2021). Generally, the humanitarian approach is making the access of the asylum seeker is unclear, and potentially violating the human rights. Despite the existence of a constitutional right to asylum in Indonesia, which reflects the sovereign right to grant asylum, the above developments indicate that the government chose to delegate the refugee-status-determination (RSD) procedure to a non-state entity, in this case, the UNHCR, rather than carrying out its obligations under its own laws. The continuous allocation of RSD to UNHCR under the PR shows that the constitutional right to asylum is still being ignored. There is also a significant legal gap between the separation of asylum seekers and refugees who enter Indonesia and declare their refugee status. In the legal basis which already mentioned in the previous chapter, whether in the 1945 Constitution, and the Fourth Amendment of 2000 in Article 28 G, paragraph 2, the Indonesia Law No. 37/1999 about Foreign Affair, Indonesia Law No. 6 /2011 on Immigration, and the Directorate General of Immigration regulation no. IMI-3052.GR.02.07/2016 are not mentioning the definition, criteria or procedure of the refugee handling policy. Meanwhile, in the Presidential Regulation (PR) no. 125/2016, without determining the refugees, the regulation is imposing the responsibilities and the basic rights which have to fulfil by the local government when the refugee is found inside the territory of Indonesia. The rights which are including the evacuation, shelter and basic access (Oktaviana and Faraswacyen, 2020). However, the very big question is still arises in the Indonesia refugee handling regime, who are refugees? Furthermore, the PR has failed to uphold the spirit of human rights on which the constitutional right to asylum is based. As Sadjad explains in this Special Issue, the PR's institutional architecture regards refugees as passive receivers of basic needs rather than rights bearers. Sadjad explains that previous iterations of the PR included references to refugee human rights, but they are no longer included in the current PR. The PR expressly mentions that "international organizations[s]" will offer basic needs such as clean water, food, clothing, health and sanitary services, and religious facilities. In practice, this relates to the IOM's function, and the PR formalizes the practice that was already in place under the RCA and the Protocol. This method reinforces the "humanitarian" approach because meeting fundamental requirements is based on the funding of international organizations rather than the state's lawful constitutional obligation.

In terms of housing, the PR gives local governments a new mandate to facilitate decent refugee housing. Nevertheless, as others in this Special Issue have highlighted, such a mandate is impossible to fulfil due to a lack of institutional and budget capacity at the local-government level. Furthermore, the PR is quiet on socioeconomic rights that are critical for refugees, such as the right to work and the right to education, supporting the idea that refugees are viewed as "humanitarian entrants" who passively accept a few basic necessities without a set of rights. The freedom to work is especially vital for refugees because it gives them liberty and dignity, allowing them to be self-sufficient and follow their dreams.

Furthermore, one of the biggest challenges facing refugees and asylum seekers in Indonesia are limited access to legal and human rights protection, as already explained in the previous chapter. Indonesia has not ratified the 1954 Convention relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. This means that stateless refugees in Indonesia may face additional challenges in accessing legal and human rights protections. The further consequences which can be faced by the asylum seeker and refugee in Indonesia is the stuckedness, and potentially they can be a stateless person who has no any protection at all in the Indonesia society (Missbach, 2013).

Another social challenge is that Indonesia does not allow refugees and asylum seekers to work or attend formal education. This creates a situation where many refugees and asylum seekers are unable to support themselves or their families and may be forced to live in precarious situations. Furthermore, refugees and asylum seekers in Indonesia are often subject to arbitrary detention and deportation. Indonesian authorities may detain refugees and asylum seekers for extended periods without charge or trial. Additionally, refugees and asylum seekers may be deported to their home countries or a third country where they may face persecution or danger. Overall, the legal and human rights access problem for refugee handling in Indonesia is significant. Indonesia must work to develop a more robust legal framework for handling refugees and asylum seekers and provide greater access to legal and human rights protections.

The comparative study of refugee handling between Indonesia and Hungary highlights significant differences rooted in their legal frameworks and societal responses. Indonesia's humanitarian approach, entrenched in historical practices and Presidential Regulation 125/2016, lacks a precise legal definition or procedure for refugees, relying heavily on UNHCR for status determination. This has led to gaps in refugee rights and socioeconomic limitations, as refugees face restricted access to work and education, and arbitrary detention. In contrast, Hungary employs a structured legal framework that clearly defines refugee processes but prioritizes national security and public order, resulting in a more restrictive but legally defined approach. As Indonesia approaches the 10-year maximum detention limit set by Immigration Law No. 6/2011 in 2025, it faces a potential humanitarian crisis due to its lack of a concrete exit strategy. In comparison, Hungary's approach, while strict, ensures clarity and adherence to legal processes, suggesting that Indonesia could benefit from integrating a more structured legal system while maintaining its humanitarian focus to better manage refugee situations.

Legal Based Approach in Hungary

Hungary is can be defined as the country which more experienced in the refugee handling. The first mass movement influx to Hungary, via the Balkan route was happened in 1251, when King Bela IV Issued the royal charter, called the "*Golden Bull of Hungarian Jews*", which determining the status of the Jews refugee from the German, Italian and other European Countries which experienced the Tartar Invasion in 1241 (Frank, 2016). Furthermore, in the During the nineteenth century, the greatest immigrant group to Hungary was Jews, some of whom came from the Habsburg Empire's western areas, notably Germany, Bohemia, and Moravia, while others escaped Russian pogroms through Polish borders to

Galicia, from where they went to Hungary. Following the persecution of Russian Jews initiated by Tsar Alexander II's assassination in 1881, many Jews sought refuge in two of the most liberal countries of the time, the United States and the Austro-Hungarian Monarchy. By the commencement of World War I, roughly one million Jews were living in Hungary's territory (Csíki, 2022). In the World War I and World War II, Hungary also experiencing the mass influx of people, who looking for the international protection (Frank, 2012).

Hungary, on the other hand, as a member of the European Union (EU), has a legal-based approach to refugee management. As the member of EU, Hungary ratified the 1951 refugee convention and 1967 protocols as their legal basis in refugee management. Supranational, Hungary following the CEAS system which consist of several directives and regulation in the EU level, such as the Dublin regulation, Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on Standards for the Qualification of Third-Country Nationals or Stateless Persons as Beneficiaries of International Protection, Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying down Standards for the Reception of Applicants for International Protection, Directive 2013/33/EU of the European Parliament and of the Council of 26 June 2013 Laying down Standards for the Reception of Applicants for International Protection, and Regulation (EU) No. 603/2013 of the European Parliament and of The Council of 26 June, 2015. Also, nationally Hungary has the very strong legal basis, which is the Act LXXX of 2007 on Asylum, which harmonized with the CEAS as its supranational basis.

In summary, Hungary has the legal basis in the determining the refugee status in their territory. In the refugee reception, the Hungarian immigration officer has the authorities to conduct the interview and biometric obtaining process to determine whether a person is meet the requirements as refugee as stated in the Act LXXX of 2007 on Asylum, Chapter III and Chapter VII. Also, in the refugee management, in the Hungarian asylum act, is clearly stated the minimum standard which has to be followed by the Hungarian authorities in managing the refugees, and in the refugee handling and even the data management policy to protect the personal and interview data of the asylum seeker. The legal basis of Hungary gives Hungary the authority to regulate asylum seekers and refugees who enter Hungarian territory. Furthermore, Hungary is using the legal standard to reduce the number of asylum seekers who entering Hungary (Nagy, 2016).

First, the Hungary legal strategy is to secure its international border with Serbia, and making a cooperation with Turkey. In the European refugee crisis 2015, the Visegrad four member states (Hungary, Poland, Republic of Ceko, and Slovakia) are rejected the Quota system proposes by the EU, as agenda to securitizing irregular migration (Stepper, 2016). Hungary, together with the EU, is signing the EU-Turkey deal, and boldening the border control between the Hungary and Serbia to send back the refugee who detected in the Hungary border to Turkey refugee camp, then it will reduce the number of refugee who entering the Hungary via the land border (Bettina Jakobsen, 2018). Hungarian Border Police are legally authorized to push irregularly staying migrants who intend to seek asylum in Hungary from any region of the nation across the border barrier, with no legal procedure or option to resist this measure (Government of Hungary, 2020). The deadlines for seeking judicial review of inadmissibility rulings and denials of asylum applications

decided in fast procedures have been reduced to three days, and the asylum seeker who not granted their refugee status in three day will send back to the origin country or to Turkey refugee camp (Senada, 2017).

Secondly, Hungary is using their legal basis to rule how the asylum seeker applying for the refugee status, and securing its border. Unless the petitioner is already legitimately residing in Hungary, asylum petitions can only be made in transit zones at the border (Government of Hungary, 2019). Asylum seekers will be detained in transit zones for the duration of the asylum proceedings, with no legal basis for detention or judicial remedies (Government of Hungary, 2020). All vulnerable people and unaccompanied asylum seekers above the age of 14 are automatically detained in transit zones. The asylum procedure is a single mechanism that considers all requests for international protection. There are two occasions in the technique. The NDGAP (National Directorate-General for Aliens Policing) conducts an administrative procedure in the first instance (Government of Hungary, 2019). The second instance is a judicial review procedure carried out by Regional Courts that are not asylum experts. In addition to the conventional method, an inadmissibility procedure and an accelerated procedure are available. Finally, Hungary's legal framework allows it to build a "legal fortress" in order to decrease the number of asylum seekers and refugees on its territory.

Seeking the Exit Strategy: From GCR as the Pathway, to Refugee Law

Based on the previous analysis, Indonesia's refusal to sign the 1951 Refugee Convention and 1967 Protocols can be inferred if the "hard law", which is the convention, is put under too much pressure in comparison to the national relevance, and is irrelevant to the Indonesian situation. Indonesia is a large country with over 13,000 islands, 170 international airports and seaports, and thousands of kilometres of land border, which is in stark contrast to several European countries, which are small and manageable. Thus, one option is to make the case for adopting non-binding rules to protect vulnerable migrants, but first highlight the flaws in the present quo that a soft law framework would seek to address. GCR stands for Global Compact on Refugees, which is a United Nations framework designed to provide a comprehensive approach to refugee situations. While the GCR can be a useful tool for guiding refugee exit strategies, it is important to note that it is not a one-size-fits-all solution, and countries must adapt it to their unique circumstances. That being said, Indonesia could use the GCR as an exit strategy for managing refugees by taking the following steps:

- a) Comprehensive Refugee Response Framework (CRRF): The CRRF is a key element of the Global Compact on Refugees, which aims to provide a comprehensive and coordinated response to refugee situations. Indonesia has developed its own version of the CRRF, known as the Comprehensive Plan of Action for Refugees and Asylum Seekers (COPAS), which was launched in 2020. COPAS aims to promote the self-reliance and integration of refugees and asylum seekers into Indonesian society. It includes measures such as providing access to education and employment opportunities for refugees, as well as support for their health and social welfare needs.

- b) **Responsibility Sharing:** The Global Compact on Refugees emphasizes the need for greater responsibility sharing among countries hosting refugees. Indonesia, as a country that has been hosting refugees for many years, has called for greater support from the international community in addressing the needs of refugees. In 2018, Indonesia hosted the International Conference on Rohingya Refugee Crisis, which aimed to raise awareness about the plight of the Rohingya refugees and mobilize support from the international community.
- c) **Protection of refugees:** The Global Compact on Refugees calls for the protection of the rights of refugees, including their right to seek asylum and to be free from arbitrary detention. While Indonesia has signed the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, it has also been criticized for its policy of indefinite detention of asylum seekers and refugees. In 2020, Indonesia passed a new law on refugees and asylum seekers, which includes provisions for the protection of their rights and the prevention of arbitrary detention. However, it remains to be seen how effectively these provisions will be implemented in practice.
- d) **Sustainable solutions:** The Global Compact on Refugees promotes the use of sustainable solutions to refugee situations, including voluntary repatriation, local integration, and resettlement in third countries. Indonesia has taken steps to promote the local integration of refugees and asylum seekers, including through the provision of education and employment opportunities. However, it has also faced challenges in implementing these solutions, particularly in the case of the Rohingya refugees, many of whom are unable or unwilling to return to their home country of Myanmar.

In conclusion, Indonesia has taken some positive steps to implement the Global Compact on Refugees, including the development of its own Comprehensive Plan of Action for Refugees and Asylum Seekers. However, it also faces challenges in protecting the rights of refugees and promoting sustainable solutions to refugee situations, particularly in the case of the Rohingya refugees. It will be important for Indonesia to continue to work with the international community to address these challenges and promote the self-reliance and integration of refugees and asylum seekers in Indonesian society.

In addition to the 1951 Convention and its Protocol, there are other international and regional instruments that provide legal protection for refugees, including the 1984 Cartagena Declaration on Refugees and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. The legal protection provided by these instruments includes the principle of non-refoulement, which prohibits states from returning refugees to a country where they may face persecution or other serious harm. It also includes the right to seek asylum, the right to access basic services and to work, and the right to be free from arbitrary detention.

However, the implementation of these legal protections remains a challenge in many countries, including Indonesia. In Indonesia, asylum seekers and refugees have faced challenges such as arbitrary detention, limited access to education and healthcare, and discrimination. In conclusion, the Global Compact on Refugees builds upon existing refugee law and international humanitarian law, including the 1951 Convention relating

to the Status of Refugees and its 1967 Protocol. While these legal protections provide an important framework for the protection of refugees, the implementation of these protections remains a challenge in many countries, including Indonesia. Further efforts are needed to ensure that the rights of refugees and asylum seekers are fully protected and that they are able to live in dignity and security.

V. Conclusion

Several observations may be drawn from a comparison of Indonesia's humanitarian approach since its independence in 1945 and Hungary's legal approach since its first significant migration of refugees in 1215. In the humanitarian approach, the refugee determination schemes are not clear, and are still dependent on the UNHCR RSD programs, potentially trapping asylum seekers in Indonesia as a transit country without further action. Hungary, on the other hand, is a country that takes a legal approach, such as rejecting and driving asylum seekers who are not eligible for refugee status out of the country. The Hungary has the ability to build a "legal fortress", which will reduce the number of refugees. On the other hand, with its "humanitarian" political response, Indonesia has a rapid number of asylum seekers who entering their territory, and cannot make any legal actions, because no proper legal basis can be used for the asylum seeker handling.

As non-signatory countries, the GCR is the best departure plan since it combines the international refugee convention with the needs of non-signatory countries. The GCR initiatives are already in place to assist Rohingya refugees, and while they can provide basic human rights such as shelter and food, they do not provide access to the labour market. Furthermore, Indonesia need an asylum seeker law, particularly for the procedures described in this research, such as the refugee detention process and the subsequent process when the immigration detention facility can no longer handle them after ten years of incarceration.

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