



Application of the Principle of Non-Refoulement of Article 33 of the 1951 Refugee Convention Regarding the Prohibition of Deportation or Return of Refugees

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Abstract

Non-refoulement is a principle of international law that contains a prohibition for countries to expel or repatriate refugees in any way to a country where their lives are threatened because of race, religion, nationality, membership of certain social groups, or because of their political opinions. This principle has become customary international law, therefore this principle is binding on States parties and countries that are not parties to the 1951 Convention. Indonesia is a country that is not a participant in the 1951 Refugee Convention, so basically Indonesia has no obligation and no authority in the problem of refugees coming to Indonesia. However, Indonesia still complies with jus cogens or customary international law, which is evidenced by Indonesia's willingness to provide temporary protection for refugees who come to Indonesia by not forcibly repatriating refugees to return to their home countries. The method of this research is normative juridical, this research is descriptive-analytical. Not to those who come because they are fleeing from refugee shelters where their lives are not threatened, are subjected to violence and belong to people smuggling groups. Determining refugee status is the main factor whether a person who comes to Indonesia is a refugee or not. As long as the Rohingya undergo the process of determining refugee status at the RSD, Indonesia still adheres to the principle of non-refoulement by not deporting Rohingya who come by force. Both the Aceh local government and the surrounding community distribute assistance for those who come to Indonesian territory by providing humanitarian assistance in the form of temporary shelters, foodstuffs, medical medicines, and other needs. Indonesia as a country that is not a party to the 1951 Refugee Convention does not allow asylum seekers and refugees who enter Indonesian territory to settle permanently.

Keywords: Non-refoulement, Rohingya Refugees, Aceh

1. Introduction

Non-Refoulement is one of the three main principles of refugee protection guaranteed by international law. This principle consists of Non-Refoulement, Non-Penalization, and Non-Discrimination ^[1]. Non-Refoulement is a principle of international law that contains a number of prohibitions for countries to expel or repatriate refugees in any way to a country where their lives are threatened because of their race, religion, nationality, membership of certain social groups, or because of their political opinions. This principle has become customary international law, therefore this principle is binding on States parties and countries that are not parties to the 1951 Convention ^[2].

Indonesia is a country that is not a participant in the 1951 Refugee Convention, so basically Indonesia has no obligation and no authority in the problem of refugees coming to Indonesia.

¹ UNHCR, Convention And Human Rights can be accessed at: [unhcr.org/id/konvensi-dan-ham](https://www.unhcr.org/id/konvensi-dan-ham), accessed on 6 March 2024.

² UNHCR, Master Glossary of terms (Jenewa:UNHCR, 2006), hlm. 15.

However, Indonesia still adheres to *jus cogens/ius cogen* (*peremptory Norms*) or customary international law, which is evidenced by Indonesia's willingness to provide temporary protection for refugees who come to Indonesia by applying *the principle of non-refoulement* by not forcibly repatriating refugees to return to their home countries ^[3].

A refugee is a person who is forced to go to avoid or remove himself from danger, or to a place where he feels safe, ^[4] thus cutting ties with his or her home country because of a well-founded fear and experiencing *persecution*. In other words, refugees are individuals or groups of individuals who seek assistance in the form of protection and asylum from the state. The definition of refugee is also explained in the 1951 Refugee Convention as follows:

"A refugee is an individual or group of individuals from an event caused by genuine anxiety based on persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion, being outside his or her country of citizenship and being unable, or because of such anxiety, unwilling to take advantage of the protection of that country, or a person who is stateless and is outside the country in which he or she was previously ordinarily located stay, as a result of the events included, unable or because of such anxiety, unwilling to return to the country" ^[5].

Refugees are one of the global issues that are widely discussed by the community, both the international community and the Indonesian people. Basically, every refugee seeking asylum in another country (*asylum seeker*) has the right to legal protection as well as safety and security from threatening dangers guaranteed by the destination country. One of the refugees seeking refuge in Indonesia is Rohingya Refugees.

The arrival of Rohingya refugees is the most pressing humanitarian challenge of the moment, marked by a massive exodus of Rohingya fleeing genocide in Myanmar. The ongoing crisis, recorded as of December 23, 2023, has led to the displacement of more than one million people since the 1990s, with nearly 750,000 refugees displaced to countries in South and Southeast Asia. The Rohingya, as a stateless and persecuted minority, face political exclusion and persecution based on ethnic and religious lines.⁶ Indonesia is one of the countries that is not part of the 1951 refugee convention that inevitably provides temporary protection for Rohingya refugees, even though Indonesia itself does not have a law or a special body related to the handling of refugees.⁷

2. Discussion

1. The application of the Non-Refoulement Principle of the 1951 Refugee Convention is linked to the Peremptory Norms implemented by Indonesia in dealing with Rohingya refugees.

The principle of *Non-refoulement* is one of the 3 (three) basic principles of handling international refugees along with the principle of *Non-discrimination* and the principle of *Non-penalization*. The principle of *non-refoulement* is clearly

stated in Article 33 of the 1951 Refugee Convention. Article 33 states that, "No State Party shall expel or return in any way a refugee to the borders of territories where his life or liberty would be threatened because of his race, religion, nationality, membership in a particular social group or political opinion" ^[8].

In the case of Rohingya refugees who came to Indonesia on December 10, 2023, basically Indonesia does not have any formal obligation or authority to handle refugees who come to Indonesian territory, precisely on the coast of Lamreh Village, Mesjid Raya District, Aceh Besar. Until now, both the surrounding community and the local government are willing to help, accept and provide temporary protection to refugees who come based on humanitarian reasons.

Until now, Indonesia is not a signatory to the 1951 refugee convention and Indonesia does not have a special law related to the handling of refugees from abroad apart from Law Number 37 of 1999 concerning Foreign Relations in article 27 paragraphs (1) and (2) which read:

Article 27

- a. The President established a policy on the issue of refugees from abroad by taking into account the Minister's considerations.
- b. The main points of policy as referred to in paragraph (1) are regulated by the Presidential Decree ^[9].

It is explained again in the Presidential Regulation of the Republic of Indonesia Number 125 of 2016 concerning the Handling of Refugees from Abroad, in Article 2 which reads: "The handling of refugees is carried out based on cooperation between the central government and the United Nations through the High Commissioner for Refugee Affairs in Indonesia and/or international organizations."¹⁰

Even though it is not a signatory to the 1951 Refugee Convention, Indonesia must still comply with the 1951 Refugee Convention because this convention is binding on both parties and non-signatories to the 1951 Refugee Convention. This is because the 1951 Refugee Convention contains all matters related to regulations and prohibitions in efforts to handle international refugees, one of which is the regulation on the prohibition of deportation or return of refugees (*Non-refoulement*) which is recognized by the international community as a norm that must be obeyed and must not be violated under any circumstances (*peremptory norms*). Currently, Indonesia complies with *peremptory norms* by not deporting or forcibly returning Rohingya refugees who come to Indonesian territory. In this case, it is clear that there is a relationship between *the principle of non-refoulement* and *peremptory norms*. The principle of *non-refoulement* has become part of *peremptory norms* or rules recognized by the international community as norms that should not be violated under any circumstances.

³ Heru Susetyo, "Solutions for Handling Rohingya Ethnic Refugees" available at: <https://www.hukumonline.com/berita/a/solusi-penanganan-pengungsi-etnis-rohingya-lt6573e77374480/?page=2> Accessed on December 6, 2024

⁴ Ministry of Education and Culture (Dictionary Preparation Team of the Center for Language Development and Development), Great Dictionary of Indonesian, Jakarta: Balai Pustaka, 1990

⁵ The 1951 Refugee Convention and its Protocol.

⁶ Fenny Bintarawati *et al.*, "Challenges and Prospects for Legal Protection and Human Rights for Rohingya Refugees in Indonesia from a Community

Perspective", Journal of Law and Human Rights Wara Sains, (Vol. 02, No. 12, December 2023), p. 2

⁷ Heru Susetyo, "refugee handling solutions", available at: <https://law.ui.ac.id/solusi-penanganan-pengungsi-etnis-rohingya-oleh-heru-susetyo-s-h-ll-m-m-si-m-ag-ph-d/> Accessed March 6, 2024.

⁸ Article 3 of the 1951 Refugee Convention.

⁹ Article 27 of Law Number 37 of 1999 concerning Foreign Relations

¹⁰ Article 2 of Presidential Regulation Number 125 of 2016 concerning the Handling of Refugees from Abroad.

2. Implementation of the Non-Refoulement Principle as Temporary Protection for Rohingya Refugees in Indonesia

Until now, the definition of *temporary protection* has not received a definite meaning. There is no universally applicable legal instrument that regulates the definition or mechanism of temporary protection, there is no standard definition of temporary protection. The concept of temporary protection is widely known by other names; temporary refugee, temporary asylum, temporary stay, temporary settlement. Etymologically, temporary protection consists of two words, namely temporary and protection. In another definition, UNHCR defines the word protection as:

The actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries [11].

Protection is an action taken by the international community under international law, aimed at protecting the basic rights in certain categories of people outside their home countries, who do not have the national protection of their own countries. The word *temporary* means to have a period of time; not indefinitely [12]. The period can be a definite period of time (1 year, 3 years, etc.), or it can be an event that ends the protection (refugees can return safely to their country without threat or have received protection from another country, and so on). The word *temporary* refers to the existence of refugees and asylum seekers who are limited to a temporary time in an asylum country. A person can be called a refugee if he does not get protection from his or her home country and therefore has to seek refuge in another country. This is a criterion that a person must meet to be called a refugee. Thus, the refugee status is no longer valid if the person concerned has returned to receive protection from his or her home country.

Temporary protection does not lead to the permanent settlement or naturalization of a person as a citizen, but leads to the return of refugees to their home countries or to other countries for protection. Therefore, a form of protection is no longer referred to as *temporary protection* if it has been replaced with a more permanent form of protection, among others, by naturalizing the grantees who are in the asylum country that is providing temporary protection. *Temporary protection* is used to overcome emergency situations caused by excessive inflow of refugees into a country (hereinafter referred to as "Mass-influx"), in this case Rohingya refugees entering Indonesia and determining refugee status individually is not possible¹³, therefore *temporary protection* is not possible to provide first aid, assistance, and protection for Rohingya refugees entering Indonesia. In this case, the *Refugee Status Determination (Refugee Status Determination; RSD)* plays a very important role in determining whether a person coming to Indonesian territory can be categorized as a refugee, asylum seeker, or illegal immigrant smuggled into Indonesia.

RSD is carried out on a *Group-based basis*, namely by categorizing those who come from the country and because

of the same situation. This is to prevent the obstruction of the entry of asylum seekers into a country and to provide them with protection as soon as possible while waiting for the refugee status determination process to be completed. In accordance with the form of the principle of non-refoulement by not deporting or returning refugees who arrive by force and in accordance with the classic form of temporary protection used in mass influx situations, UNHCR provides a definition for the concept of *temporary protection* which reads as follows:

"A means, in situations of mass outflow, for providing refugee to groups or categories of people recognized to be in need of international protection, without recourse, at least initially, to individual refugee status determination. It includes respect for basic human rights but, since it is conceived as an emergency protection measure of hopefully short duration, a more limited range of rights and benefits offered in the initial stage than would customarily be accorded to refugees granted asylum under the 1951 convention and the 1967 protocol" [14].

A way, in a situation of mass outflow, to assign refugees into a recognized group or category of people in need of international protection, without assistance, at least initially, in the determination of refugee status on an individual basis. This includes respect for human rights, but because it is understood as a short-term emergency protection measure, the scope of rights and benefits offered at an early stage is more limited than that usually granted to refugees granted asylum under the 1951 Convention and the 1967 Protocol.

The definition given by the UNCR does not limit the scope of practice and other mechanisms that can be applied in carrying out temporary protection. UNHCR explains in its TPAs Guidelines that the purpose of establishing the guidelines and definitions of temporary protection is as follows:

"The purpose of these guidelines is to guide and assist governments in the development of Temporary Protection Or Stau Arrangements (TPAs) as responses to humanitarian crises and complex or mixed population movements, particularly in situations where existing responses are not suited or adequate. The TPAs described in this document would ideally be developed on a multilateral/regional basis, while requiring implementation at the individual state level" [15].

The purpose of these guidelines is to guide and assist governments in the development of temporary protection or stau arrangements (PPSp) in response to humanitarian crises and complex or mixed population movements, especially in locations where existing responses are inappropriate or adequate. The landfills described in this document should ideally be developed multilaterally/regionally, while requiring implementation at the individual state level

Furthermore, in the 2012 Roundtable on Temporary Protection, UNHCR also explained that:

"Outside the context of mass-influx, temporary protection has also been flagged as a possible response to other situations" [16].

Beyond the context of the mass influx of refugees, temporary

¹¹ UNHCR, Master Glossary of Terms, Op.Cit., hlm. 13.

¹² Oxford Dictionaries, "Definition of Temporary", dapat diakses di: <https://www.oxfordlearnersdictionaries.com/definition/english/temporary?q=temporary>, diakses pada 21 Juni 2024.

¹³ UNHCR "Roundtable On Temporary Protection" Op.Cit., hlm. 2.

¹⁴ UNHCR Roundtable on temporary protection, Op.Cit., hlm. 1.

¹⁵ UNHCR, "Guidelines on Temporary Protection and/or Stay Arrangements", hlm. 1. Dapat diakses di:

<https://www.unhcr.org/sites/default/files/legacy-pdf/542e99fd9.pdf>, diakses pada, 23 Juni 2024.

¹⁶ UNHCR, "Roundtable On Temporary protection, Op.Cit., hlm. 2.

protection has also been marked as a possible response to other situations. If some of the above explanations are interpreted textually, it can be concluded that the definition and mechanism of *temporary protection* are not limited to its application only to situations of *mass influx* or the arrival of refugees from outside en masse. *Temporary Protection* can be used in other situations according to the situation and needs and capabilities of the country concerned.

Indonesia implements *temporary protection* for refugees who come to Indonesia in large numbers by providing first aid and providing the living needs of refugees. Quoted from the State Secretariat website, President Joko Widodo responded to the increase in the flow of Rohingya refugees entering Indonesia. The President said the government would continue to prioritize the interests of the local community in dealing with refugees. According to the President, "Temporary humanitarian assistance to refugees will be provided, while still prioritizing the interests of the local community". This was conveyed by the President in his statement at the Merdeka Palace, Jakarta, on Friday, December 8, 2023 ^[17].

The President also assessed that the phenomenon of increasing the flow of Rohingya refugees to Indonesia is also suspected to be strong due to the involvement of the human trafficking network (TPPO). The President stated, "I have received reports about the increasing number of Rohingya refugees entering Indonesian territory, especially Aceh Province, there is a strong suspicion, there is an involvement of the Trafficking in Persons (TPPO) network in this refugee flow" ^[18].

Humanitarian assistance provided by the Indonesian government to Rohingya refugees is provided in the form of: a number of additional food for toddlers and pregnant women, ready-to-eat food packages, tents, blankets, water tanks, and sarongs. "In addition, the Ministry of Health also provides assistance in the form of 1 ton of medicine packages for refugees ^[19].

If we look back at the President's opinion regarding the phenomenon of increasing the flow of Rohingya refugees entering Indonesian territory, there is a strong suspicion of involvement in the Human Trafficking network. This indirectly creates new problems not only for the Indonesian government and local residents who are affected by the mass arrival of refugees but will also have an impact on the refugees themselves.

After conducting more in-depth research, many Rohingya refugees who came to Indonesian territory did not directly come from areas where their lives were threatened due to violence in their country (Myanmar), but they were refugees who fled refugee camps from Bangladesh, more precisely from the Cox's Bazar Refugee Camp area.

This can result in the *non-refoulement principle not being applied* to them, if we refer again to the basis of international law related to the handling of refugees, namely article 33 of the 1951 Refugee Convention. It is clearly stated that:

"No State Party shall expel or return ("*refouler*") a refugee in

any way to the borders of territories where his life or liberty would be threatened because of his race, religion, nationality, membership in a particular social group or political opinion" ^[20].

3. Cooperation between the Government of Indonesia and UNHCR in efforts to resolve the Rohingya refugee crisis in Indonesia

Indonesia is a non-party to the 1951 Refugee Convention which is inevitably affected by the conflict that occurred in Myanmar, the number of refugees who came en masse to Indonesia is none other than the result of the prolonged conflict in Myanmar where the Rohingya are considered not part of Myanmar citizens. In fact, the Myanmar Citizenship Law of 1982 issued the Rohingya as part of Myanmar citizens, the Rohingya ethnic group became stateless ^[21].

UNHCR as an international organization focusing on handling refugees was established on January 1, 1951 by the United Nations General Assembly (UNHCR 2010). The purpose of the organization is to provide protection to refugees and work with governments around the world to find long-term solutions to the problems faced by refugees. UNHCR also said that in carrying out her duties, she relies on other organizations, both NGOs and NGOs, to carry out various activities because it is difficult for her to work alone ^[22].

In addition to UNHCR, an international organization in Indonesia that is actively engaged in handling refugees is the *International Organization for Migration* (IOM). IOM is an international organization that focuses on handling all areas related to migration issues. IOM was first established in 1951 and collaborates with various government partners, intergovernmental and non-governmental organizations. With the entry of the Rohingya into Indonesia, UNHCR and IOM are working together to address the issue. The two international organizations carry out cooperation based on the MoU that they have had since 1997.

Based on the MoU, UNHCR and IOM work together with different efforts but go hand in hand. Based on the MoU, the roles and responsibilities of the two international organizations are divided into several parties, namely refugees, migrants, asylum seekers and those whose asylum seeker status is denied, those who return to their countries of origin, internally displaced persons, and local residents who are in a conflict atmosphere. Regarding cooperation in handling refugees, UNHCR is tasked with providing international protection, humanitarian assistance, and long-term solutions to them, while IOM is tasked with providing a regular process of migration activities such as the process of sending refugees and also providing basic needs for refugees. For the treatment of asylum seekers, UNHCR carries out its duties to ensure that asylum seekers get their basic rights, but if they ultimately do not meet the requirements for protection outside their home country, IOM will process them back to their home country ^[23].

¹⁷ Ministry of State Secretariat of the Republic of Indonesia, "Rohingya refugees...", accessed at: https://setneg.go.id/baca/index/soal_pengungsi_rohingya_pemerintah_berikan_bantuan_dengan_utamakan_kepentingan_masyarakat_setempat, accessed on June 23, 2024

¹⁸ Ibid.

¹⁹ Ministry of Communication and Information Technology, "Assistance for Rohingya refugees", accessed at: <https://www.kominfo.go.id/content/detail/10726/pemerintah-terus-kirim-bantuan-untuk-pengungsi-rohingya/0/berita>, accessed on, June 23, 2024.

²⁰ Refugee Convention 1951, Article 33.

²¹ Heru Susetyo, "Solutions for Handling Rohingya Ethnic Refugees", accessed at: <https://www.hukumonline.com/berita/a/solusi-penanganan-pengungsi-etnis-rohingya-lt6573e77374480/?page=2>, accessed on, June 24, 2024

²² Arfa Wulandari Tambunan, "Cooperation between UNHCR and IOM in Dealing with Rohingya Asylum Seekers and Ethnic Refugees in Indonesia", *Journal of International Relations*, (Volume 5, Number 2, 2019), pp. 341-350.

²³ Ibid., p. 343.

The first cooperation effort carried out by the two international organizations is related to the determination of refugee status. UNHCR provides protection and collects data on the Rohingya for interviews to determine refugee status (*Refugee Status Determination*; RSD). RSD is an important process in determining whether they are entitled to the status of refugees, asylum seekers or not. In dealing with the Rohingya entering Indonesia, UNHCR, IOM and the Government of Indonesia are working together to form a Joint Verification Team²⁴. The team was formed with the aim of facilitating the RSD process for Rohingya who enter Indonesian territory. In this stage, UNHCR has a fairly important role because Indonesia is a non-party to the 1951 Refugee Convention which was visited by the Rohingya Ethnic Group.

UNHCR carries out its duties in conducting RSD interviews with Rohingya who enter Indonesian territory, IOM as a UNHCR cooperation partner is tasked with facilitating these activities. In this case, IOM is in charge of conducting pre-screening, medical needs, and training in accordance with the mandate it received, which is to meet basic needs. IOM also provides interpreters to assist UNHCR in conducting interviews with the Rohingya Ethnic Group, facilitating access to medical assistance and providing food, water and hygiene training^[25].

After UNHCR conducts RSD interviews with asylum seekers, then in the next few days, UNHCR will issue a decision on whether the asylum seeker will get refugee status as a refugee who will later receive a *refugee certificate/Refugee Card* or the decision is rejected. Related to the concept of cooperation with different roles, after the process, IOM resumed its role in accordance with its mandate, namely to conduct documentation. When an asylum seeker is rejected after the first interview with UNHCR to become a refugee, UNHCR will report the result to IOM for recording or documentation. After that, an asylum seeker whose status was denied by UNHCR during the first interview, can apply for a re-interview with UNHCR.

However, if the final result of the interview is still rejected or referred to as *final rejection*, UNHCR will report back to IOM. When this is done, IOM will facilitate the cost of the UNHCR decision, to deport or repatriate the asylum seeker to his or her country of origin. This effort is carried out by IOM because IOM as an international organization is active in handling the orderly migration process, including in this case the organized refugee transfer process. As an area that accommodates quite a large number of Rohingya refugees, UNHCR sent its staff to Aceh and North Sumatra to be able to ensure the situation desired by UNHCR. UNHCR has also increased the number of staff to be deployed in several areas in the Aceh region to be able to maximize the provision of international protection and humanitarian assistance. UNHCR also conducts regular visits to areas hosting Rohingya refugees to ensure the provision of protection to the Rohingya Ethnic Group^[26].

At a time when the wave of refugees was quite high, the Rohingya first reached the westernmost region of Indonesia, namely Aceh. Thus, the shelter that was first established by

IOM with the help of the local government is in the Aceh region. Rohingya refugees are placed in a number of refugee camps located in regions in Indonesia. The Rohingya refugees are most often placed in the Aceh, Makassar, Medan, and Jakarta regions. There are several shelters for the Rohingya Ethnic in Aceh, namely in an area of the fisheries and marine service complex. Furthermore, there are in the Kuala Langsa area, in the SKB Cot Gapu Bireuen Complex, and in Blang Ado Lhokseumawe. For other areas, there are Beraspati Hotel Medan, shelters in Makassar City, in several Immigration Detention Houses (Rudenim) in Indonesia, in Cisarua Bogor, at Wisma Keluarga Medan, shelters in the South Jakarta area, and some in West Java and East Java.²⁷ IOM's efforts to provide humanitarian assistance include providing food, non-food items, medical care and clothing to the Rohingya from Myanmar who first landed on the coasts of Aceh and North Sumatra. IOM is also making efforts to improve shelter and sanitation facilities for refugees entering the Indonesian territory. IOM provides psychosocial support with local NGOs and universities^[28].

The wave of Rohingya refugees entering Indonesian territory is not only filled by adults. The facts show that the majority of them consist of children and women. Therefore, regarding the need for counseling, UNHCR and IOM are working to provide the right to education to Rohingya refugee children. For example, UNHCR together with one of the schools in Makassar helps educate child refugees in Makassar, including Rohingya child refugees. The school provides language education to the refugee children. To support the psychosocial situation of Rohingya refugees, IOM also provides skills training to refugees such as training on how to write and read Latin or Arabic, as well as training on how to behave and also speak Indonesian^[29].

While IOM is carrying out its mandate, UNHCR is also carrying out its mandate to provide international protection and humanitarian assistance. UNHCR seeks to help refugees find long-term solutions for them. The long-term solution in question is, voluntary repatriation (*repatriation*), local integration or placement to a third country (*Resettlement*). The efforts made by UNHCR for Rohingya refugees are called the fulfillment of humanitarian assistance which is indeed the domain or authority of UNHCR.

3. Conclusion

Based on the description of the above research, several conclusions can be given as follows:

1. The application of the non-Refoulement *Principle* applied by Indonesia to Rohingya refugees who came to Indonesian territory in 2023 in Aceh has been carried out in accordance with the provisions described in Article 33 of the 1951 Refugee Convention, it is explained that "No State Party shall expel or return ("*refouler*") refugees in any way to the borders of territories where their life or liberty would be threatened because of their race, religion, nationality, membership in a particular social group or political opinion". In the explanation in the above article, the *principle of non-refoulement* will apply to those who come directly due to conflicts in their

²⁴ Hardi Alunanza, "Indonesian Government Policy through Securitization of Rohingya Refugee Migration in Aceh in 2012-2015", Indonesian Perspective, (Vol. 2, No. 1 (January-June 2017): 1-17), p. 14.

²⁵ Arfa Wulandari Tambunan, Op.Cit., p. 344

²⁶ UNHCR, "Response To The Rohingya Situation In Aceh And North Sumatera", diakses di

<https://web.archive.archive.unhcr.org/20230519234625/https://www.refworld.org/docid/58208e224.html>, diakses pada 24 Juni 2024.

²⁷ Arfa Wulandari Tambunan, Op.Cit., p. 345.

²⁸ Ibid.

²⁹ Ibid., p. 346.

country that threaten their life safety and freedom. Not to those who come because they are fleeing refugee shelters where their lives are not threatened and subjected to violence and belong to the smuggling group. The determination of RSD refugee status is the main factor in determining whether a person who comes to Indonesian territory can be categorized as a refugee or not. If a person is declared eligible, he will get a refugee card from UNHCR and have 3 (three) long-term solutions for his or her survival. Namely: *Repatriation* (voluntary return to the country of origin), *local integration* (efforts to integrate refugees into citizens of the refugee destination country), and *resettlement* (placement of refugees by involving third countries). Those who are not declared eligible for refugee status will be returned to the refugee camp in Cox's Bazar, Bangladesh, with assistance from IOM.

2. As long as the Rohingya undergo the process of determining the status of RSD refugees, Indonesia still adheres to the *principle of non-refoulement* by not deporting Rohingya who come by force. Both the Aceh local government and the surrounding community distribute assistance for those who come to Indonesian territory by providing humanitarian assistance in the form of temporary shelters, foodstuffs, medical medicines, and other needs. Indonesia as a country that is not a party to the 1951 Refugee Convention does not allow asylum seekers and refugees who enter Indonesian territory to settle permanently. This is based on various factors, both because Indonesia itself is a country and not a party, for economic, social, political, and other reasons. Those stranded in non-state countries must undergo a refugee status determination process and wait for a decision that they are eligible to be categorized as refugees and seek a long-term solution to be detained in a third country (*resettlemen*) or to return to their home country or be returned to a refugee shelter in Cox's Bazar Bangladesh. Seeing the existence of refugees in Indonesia, which is a non-party country whose status is only temporary until the opportunity for those who return to their home country or move to a third country appears, then as long as they are in Indonesian territory and are not expelled or forcibly returned, it can be said to be a form of application of the *principle of non-refoulement*. Although Indonesia did not ratify the 1951 Refugee Convention, Indonesia still adheres to and respects the principle of *non-refoulement*.

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