
THE ADAPTATION OF GLOBAL NORMS THE 1951 REFUGEE CONVENTION IN INDONESIA

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ABSTRACT

This article aims to explain and answer the research question: Why did the localization of the global norms of the 1951 Refugee Convention in Indonesia lead to the issuance of Presidential Regulation No. 125 of 2016? Indonesia has been a transit area for refugees since 1979 and is the third country in ASEAN with the highest number of refugees. However, Indonesia has never formally and officially adopted the 1951 Refugee Convention. To answer the research question, this study applies the concept of norm localization proposed by Acharya (2004) as the framework for the analysis. This concept explains how the localization process of global norms might lead to three possible outcomes: acceptance of the norms, adaptation and modification of the norms, or complete rejection of the norms. The adaptation of the global norms is the result of adjusting some elements of the norm that are considered more appropriate to local situations. In this article, we argue that the consideration of humanitarian values, national interests, and domestic challenges are the three most significant domestic factors that influence the process of norm localization in Indonesia. This article discusses how the three factors influenced the process of policy/decision-making on how Indonesia should deal with its refugee issues. In conclusion, we mainly argue that Presidential Regulation No. 125 of 2016 is the result of a complex adaptation process of the UN 1951 Refugee Convention, which involved multidimensional issues, as well as a multi-actor that represents various interests.

KEYWORDS

Adaptation of Global Norms, The 1951 Refugee Convention, Indonesia, Presidential Regulation No.125 of 2016



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INTRODUCTION

After the Cold War, the idea of “Global norms” has become an extensive topic of discussion in the study of International Relations. This is particularly in

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conjunction with the strengthening of Constructivist thoughts in the study that critically challenge the IR traditional approaches which focus more on state as the central actor. Global norms are defined as “the shared expectations or standards of appropriate behavior accepted by states and intergovernmental organizations that can be applied to states, intergovernmental organizations, and/or non-state actors of various kinds” (Khagram et al., 2002, p. 14). Norms are considered important because they can act as powerful guidelines, influencing actions and encouraging progress toward solutions for complex global challenges. Global norms typically originate from collaborations between international organizations, professional associations, and transnational advocacy groups, who work together to define, formalize, and promote them (Khagram, 2004; Martinsson, 2011, p. 2)

Despite its importance, global norms often face difficulty in being diffused and adopted by local actors. The inseparability of intersubjective agreement and evaluative judgment, as embodied in the concepts of "appropriateness" and "properness," constitutes a foundational principle in the study of norms (Finnemore & Sikkink, 1998, p. 891). Therefore, the notion of whether norms could be inevitably accepted or whether they might need to pass certain processes to be widely accepted will depend on the society or the actors that will accept them. Sundrijo (2021) elaborates that global norms are not something that could be adopted generally in local settings for three reasons: 1) norms are built upon specific contexts, and they will not be universally applicable, 2) there are local norms that already exist within the local setting, and 3) the failure of universalism to respond to the relativists in regards to their belief that moral values is relative and that it depends on the cultural context within which they were constructed (pp. 24–25). Under these conditions, in the case of diffusion of global norms to domestic or local settings, the process of norm localization emerges to be a crucial stage.

Norm localization is the process of translating global norms into a particular local cultural or environmental context. Acharya (2004) defines norm localization as an active construction of foreign ideas through; discourse, framing, grafting, and cultural selection by local actors (p.245). Global norms must undergo a localization process to accommodate local settings such as the existing cultural, social, economic, and political characters in various contexts. Acharya argues that there are several generic forces behind the demand for new norms in local settings, such as: 1) a major security or economic crisis, 2) a shift in the distribution of power or the great power, 3) domestic political changes, and 4) international or regional demonstration. Moreover, the legitimacy and authority of the local actors and the strength of the local norms, culture, and tradition might influence the result of localization processes (p.247). Through this filtering and compatibility process, the localization of global norms could result in three different forms: acceptance, adaptation and modification, or rejection.

In the global context, global norms of the protection of refugees have continued to develop since the end of the First World War. The ongoing war situation has forced millions of people to leave their countries and seek refuge in other countries. The United Nations High Commissioner for Refugees (UNHCR) estimates that by the end of September 2023, the number of refugees has increased to reach 110 million people globally (UNHCR, 2023). Thus, waves of refugees

appear in various places and create a crisis and dilemma for many countries to manage the existing situation.

The 1951 Refugee Convention (hereinafter referred to as the “Convention”) stands as the primary guideline and legal document which defines who a refugee is and what rights they are entitled to (UNHCR, 2023). This global norm serves as a blueprint for governments and international organizations, such as the UNHCR, in managing the global refugee crisis. Rooted in the principles of Article 14 of the 1948 Universal Declaration of Human Rights and the non-refoulement principle, the Convention establishes the right of refugees to receive protection and assistance (UNHCR, 2023). This includes crucial rights such as housing, work, and education during displacement, enabling them to live with dignity and independence. Furthermore, the non-refoulement principle ensures that refugees cannot be forced back to the country they fled from. The Convention also outlines the responsibilities refugees have towards their host countries and specifies categories of individuals, such as war criminals, who are not eligible for refugee status.

As the global refugee crisis worsens, understanding how local actors adapt and "localize" the Convention has become increasingly important. This is particularly relevant in the case of Indonesia, a country that has served as a transit point for refugees since 1979. Over the past two decades, Indonesia has witnessed numerous influxes of refugees and asylum seekers from diverse regions like South Asia, Central Asia, and Africa, including Afghanistan, Iran, Iraq, Sudan, Somalia, Sri Lanka, Bangladesh, and the Rohingya from Myanmar (Missbach, 2019). As of 2023, Indonesia ranks third within ASEAN in terms of refugee population, with over 12,616 officially recognized refugees residing within its borders (UNHCR Refugee Agency, 2023).

While Indonesia has a 37-year history of managing the global refugee crisis, adopting the Convention remains challenging. This is evident in the establishment of Presidential Regulation No. 125 of 2016, which outlines legal norms for refugee recognition and protection in Indonesia. Notably, this regulation was created despite Indonesia not being a signatory to the 1951 Convention.

Table. 1 The General Comparison between the Global Norm of the 1951 Refugee Convention and Indonesia’s Presidential Regulation No. 125 of 2016

Scope	The 1951 Refugee Convention	Indonesia’s Presidential Regulation No. 125 of 2016
Definition of Refugee	<p>Article 1 The term “refugee” shall apply to any person who:</p> <ul style="list-style-type: none"> - Everyone who has reason to fear being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, because 	<p>Article 1 (1) Refugees from Abroad, referred to as Refugees, are foreigners who are in the territory of the Republic of Indonesia due to a well-founded fear of persecution on the grounds of race, ethnicity, nationality, membership of certain social groups, and different political opinions, and do not want protection from their country of</p>

	<p>of that fear, they choose to be outside their country of citizenship because the country cannot guarantee protection for them, so they do not have citizenship and being outside his country of origin as a result of these events, fear arises and he does not want to return to his country of origin.</p>	<p>origin and/or have received asylum seeker status or refugee status from the United Nations through the High Commissioner for Refugees in Indonesia.</p>
<p>Prohibition of expulsion or return (Refoulement)</p>	<p>Article 33 (1) No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.”</p>	<p>Article 1 (2) Voluntary Repatriation is the activity of returning refugees to their country of origin voluntarily.</p>
<p>Cooperation between National and United Nations Institutions</p>	<p>Article 35 (1) The Contracting States undertake to cooperate with the Office of the United Nations High Commissioner for Refugees or any other agency of the United Nations which may succeed it, in the exercise of its functions, and shall, in particular, facilitate its duty of supervising the application of the provisions of this Convention.</p>	<p>Article 2 (1-2)</p> <ul style="list-style-type: none"> - Handling of refugees is carried out based on cooperation between the Central Government and the United Nations through the High Commissioner for Refugees in Indonesia and/or international organizations. - International organizations as referred to in paragraph (1) are international organizations in the field of migration affairs or in the humanitarian field that have an agreement with the Central Government.
<p>Personal Status</p>	<p>Article 12 (1) The personal status of a refugee shall be governed by the law of the country of his domicile or, if he has no domicile, by the law of the country of his residence.</p>	<p>Article 1 (1) Refugees from Abroad, referred to as Refugees, are foreigners who are in the territory of the Republic of Indonesia due to a well-founded fear of persecution on the grounds of race, ethnicity, nationality, membership of certain social groups, and different political opinions. and do not want protection from their country of origin and/or have received asylum seeker status or refugee status from the United</p>

		Nations through the High Commissioner for Refugees in Indonesia.
Freedom of Movement	Article 26 Each Contracting State shall accord to refugees lawfully in its territory the right to choose their place of residence to move freely within its territory, subject to any regulations applicable to aliens generally in the same circumstances.	Article 28 (1-3) <ul style="list-style-type: none"> - Refugees may be transferred from one shelter to another shelter in order for family reunification, going to hospital, and placement to a third country. - Refugee transfer as referred to in paragraph (1) is coordinated by the Immigration Detention Center. - Refugee Transfer as referred to in paragraph (1) may be facilitated by international organizations in the field of migration affairs after obtaining permission from the minister which carries out government affairs in the field of law and human rights through the Immigration Office.
Public Education	Article 22 (1) The Contracting States shall accord to refugees the same treatment as is accorded to nationals with respect to elementary education.	None (-)
Wage-Earning Employment	Article 17 (1) The Contracting State shall accord to refugees lawfully staying in their territory the most favorable treatment accorded to nationals of a foreign country in the same circumstances, as regards the right to engage in wage-earning employment.	None (-)

A close examination of the Convention alongside Indonesia's regulation on refugee reveals several aspects where Indonesia's policies on refugee protection differ from the global norms. These discrepancies appear in various areas, including the broader definition of refugees, the interpretation of the non-refoulement principle, the obligation of state-international organization cooperation, and even the definition of "personal status." It is seen that Indonesia's regulation adjusts the narrative of established norms in these areas. Furthermore, specific refugee rights such as education or employment are excluded as obligations within domestic law, representing another point of divergence from the Convention.

Indonesia's adaptation or modification of its legal framework for the recognition and protection of refugee can be understood as a process of localizing global norms to address the specific needs of its context. As Acharya (2004) suggests, external norms are often reconstructed during this adaptation stage to better align with local practices and beliefs. This process, led by local actors, takes into account various pre-existing conditions and factors, including cultural, social, economic, and political considerations. Therefore, this situation implies that while Indonesia acknowledges the global norms of the Convention, localization is still occurring to adjust the global norms to suit local settings.

Against this background, this study analyses the process of adaptation of global norms of the Convention in Indonesia through the following research question: Why did the localization of the global norms of the 1951 Refugee Convention in Indonesia lead to the issuance of Presidential Regulation No. 125 of 2016? This article analyses the dynamics and identify the influencing factors of the adaptation of the Convention until finally it become the Presidential Regulation. We argue that the incompatibility between Indonesian domestic norms and the Convention as global norms is mainly triggered by points of obligation of host countries heavily embedded in the Convention. To navigate this incompatibility, adaptation process happened in such a way which allows the establishment of the Presidential Regulation as a domestic law that is more aligned with the local setting, needs, interests, and standards. This article shows how it happened.

RESEARCH METHOD

The research process of this study is based on qualitative research methods. This method provides space for researchers to use concepts and theories to base a basic understanding of the research object (Bryman, 2016). The data sources used in this research have been obtained from desk research. Primary sources refer to official government documents containing policy documents, official publications, and other government reports related to refugee policies in Indonesia. The secondary sources refer to academic and non-academic articles, and news from the media on the discussed issues. The data analysis process is conducted through a causal process-tracing approach that helps to illustrate the localization of global norms of the 1951 Refugee Convention while identifying the factors that influenced the emergence of Presidential Regulation No. 125 of 2016 as the output of the adaptation processes.

This study employed Amitav Acharya's concept of norm localization to examine the steps involved in the process. In elaborating on the complexity and diverse outcomes of norm diffusion from global to local contexts, Acharya (2004) takes into account the impact of several factors, such as cognitive priors, cultural differences, government policies, and the role of local actors.

Acharya (2004) defines norm localization as the process where local actors are described as 'norm-takers' actively reshape foreign ideas through discourse, framing, and cultural selection, ultimately aligning themselves with local beliefs and practices (p. 245). The role of local actors is critical in adapting the presence of new norms to cognitive priors that have existed local settings. The success of this

"filtering and compatibility process" hinges on key norm-takers, as it can both maintain existing norms and generate robust changes. The influence of local leaders, the strength of existing norms, the credibility of promoters, compatibility with culture, and the adaptability of the foreign norm itself all play a crucial role in determining the success of its localization (p. 248). At the end, the local actor's responses toward localization might be divided into three forms: accepting the norms (norm displacement), adapting or modifying the norms (localization), or rejecting the norms (resistance rejection).

Acharya (2004) elaborates on four crucial phases of the localization process. The initial stage involves pre-localization (resistance and contestation), where local actors may resist embracing new external norms due to uncertainties of their utility and applicability, along with concerns that these norms might challenge existing beliefs and practices. If some local actors eventually perceive external norms as contributing to legitimacy and efficacy of local settings without substantially undermining it, this resistance may evolve into localization. The second stage, local initiative (entrepreneurship and framing), will take place when local actors start to promote the external norms to the local audience to establish its values. The third stage, adaptation (grafting and pruning), is a process when external norms are being reconstructed to fit with local beliefs and practices. Simultaneously, the local beliefs and practices may also undergo adjustments to accommodate external norms. Local actors may redefine external norms, establish connections with specific existing local norms and practices, and selectively prune elements that align with the preexisting normative structure while rejecting those that do not. On the concluding stage, Amplification and Universalization, the new instrument and practice that combine values of both external and local value is finally established and implemented in domestic setting (p.251).

RESULT AND DISCUSSION

1.1 THE EMERGENCE OF THE GLOBAL REFUGEE CRISIS IN INDONESIA

Indonesia's involvement in refugee recognition and protection began in 1979 with the arrival of Indochinese refugees fleeing the Vietnam War. This first wave saw approximately 170,000 individuals seeking refuge within its borders. Faced with this unpredicted influx, the Indonesian government's initial response was to prohibit refugee presence. Under President Soeharto's regime, this policy materialized as "Operation Halilintar," driven by a security-focused mindset and the prioritization of national security and regional stability within ASEAN (Suryadinata, 1998, p. 4). The presence of a large number of refugees of Chinese descent, coupled with fears of Vietnamese spies, further bolstered the implementation of this restrictive policy (Budiman, 2012, p. 37).

Despite prioritizing national and regional security, Indonesia's government under the New Order regime also sought to enhance its international presence through cooperation. This seemingly conflicting situation led to a shift in Indonesia's response to refugees. It began actively addressing the crisis within its territory and region through various initiatives, including political lobbying with

not only neighbouring but also other countries who have strategic interest in the issue. Notably, at an ASEAN foreign ministers meeting in Bangkok, Indonesia proposed to allocate an island as a temporary stopover or transit point for refugees. This proposal, later submitted to the UNHCR, resulted in the establishment of a refugee processing centre on Galang Island (1979) and the opening of a UNHCR office in Indonesia (1981) to oversee refugee influx and management.

Indonesia's proposal to offer an island as a refugee processing centre can be interpreted as a strategic move to advance its foreign policy objectives. This involvement in refugee management based on several factors. Firstly, the Indonesian government viewed accepting refugees as a temporary measure, aligning with its humanitarian values. Secondly, it envisioned the financial burden of this initiative being borne by the UNHCR, minimizing its economic impact. This combination of strategic benefit and minimal domestic cost likely contributed to the emergence of the proposal.

*“Sejak semula Indonesia menyatakan bahwa kita tidak dapat menerima pengungsi untuk menetap terus di Indonesia. **Kita tidak mampu berbuat demikian, karena masih terlalu banyak masalah yang kita tangani untuk meningkatkan taraf kesejahteraan rakyat sendiri.** Kita memang telah mengulurkan tangan kemanusiaan yang tulus terhadap puluhan ribu pengungsi yang terdiri dari orang – orang lanjut usia, laki -laki dan Wanita, remaja dan anak-anak, malahan bayi-bayi. **Demi sesama manusia dan atas nama kemanusiaan kita dengan tulus telah berbuat sesuatu sesuai dengan kemampuan kita.**”* (Pidato Kenegaraan Presiden Soeharto dalam kunjungan ke Pulau Galang 16 Agustus 1979).

‘From the outset, Indonesia declared that we cannot accept refugees to permanently settle in Indonesia. **We are incapable of doing so because of the myriad issues that we are addressing to improve the welfare of our people.** Indeed, we have extended a sincere humanitarian hand to tens of thousands of refugees, including the elderly, men, women, adolescents, and infants. **For the sake of fellow human beings and in the name of humanity, we have genuinely done something within our capabilities.**’ (Presidential State Speech by President Soeharto during his visit to Galang Island on August 16, 1979).

In this way, Indonesia’s assistance in managing refugees impacted in eroding the negative image that emerged because of domestic human rights issues during the New Order regime but remains in line with national interests in the security sector (Budiman, 2012, p. 46).

Following the initial influx of Indochinese refugees after the Vietnam War, Indonesia experienced further waves of refugee crises, each with distinct characteristics. The second wave, occurring during the 1999–2000 transition period from the New Order to the Reformation era, witnessed the arrival of an estimated 162,056 refugees (Aditya & Pitoyo, 2023, p. 199). This period was marked by a

predominance of refugees from Timor Leste, followed by a rising influx from countries in the Middle East. The third wave, during the Reformation era (2000–2022), witnessed a significant diversification in refugee origins. Compared to the previous period, the number of countries of origin jumped to at least 33, with refugees primarily coming from South Asia, West Asia, Southeast Asia, and East Africa (p. 200).

Despite a significantly lower overall number compared to the first and second waves, the refugee influx into Indonesia has continued in recent years. This can be attributed to a combination of two main factors, internal and external. On the one hand, regional conflicts, and a rise in anti-refugee policies in other receiving countries have widened the pool of refugees seeking refuge in Indonesia (p. 201). On the other hand, Indonesia's geographical proximity to the conflict zone and neighbours to third countries (in this case, particularly, Australia) put Indonesia to become a strategic transit area for refugees.

1.2 THE ROLE OF UNHCR IN PROMOTING THE 1951 REFUGEE CONVENTION IN INDONESIA

As an international institution that specifically manages refugees, UNHCR holds the mandate to promote accession to the 1951 Refugee Convention globally. This effort was carried out based on the argument that accession to the convention could provide better protection for refugee (Janmyr, 2019, p. 196). For this reason, on a global scale, campaigns or targeted lobbying efforts made towards individual non-signatory States have been carried out by UNHCR. One of the global campaigns aimed at encouraging ratification of the Convention took place in 1998. The narrative issued by UNHCR in this campaign emphasized that; "global promotional efforts will be a litmus test of solidarity and international cooperation" (UNHCR, 1998).

The cooperation between Indonesia and UNHCR in protecting Indochinese refugees in 1979 opened a path for the institution to promote the global norms of the Convention. From 1981 to 1998, the UNHCR theoretically and practically promoted the global norms of refugees through activities including public lectures, seminars, publications, workshops, expert group meetings, and training (Soeprapto, 2004, p. 63). The target participants for this promotional activity were various actors, from academics and the government to segments of civil society. These efforts aimed to achieve two key goals: first, to raise awareness that the Convention has become an established part of international and humanitarian law, and second, to convince the government to officially ratify both the Convention and its protocol.

The 1951 Refugee Convention was promoted in Indonesia and received positive support from the Indonesian government. The Indonesian Department of Justice and Human Rights formed an interdepartmental working group to analyse the implications of Indonesia joining the Convention. The working group's evaluation concluded that Indonesia should agree to the Convention, but with some conditions. However, the promotion efforts and assessment from the working group have not succeeded in encouraging Indonesia's accession or ratification so far. Still, this effort did lead Indonesia to incorporate three articles from the Convention (Articles 25, 26 and 27) into Law No. 37 of 1999 on Indonesian Foreign Relations.

In 2016, this law then provided the basis for the formulation of the Presidential Regulation No. 125 of 2016, which specifically established to provide regulation on how the Indonesian government should recognize and protect refugees.

1.3 LOCALIZATION OF THE 1951 REFUGEE CONVENTION IN INDONESIA

As provided in the comparison table earlier, the differences seen between the Convention and Presidential Regulation No. 125 of 2016, proved that the localization process has taken place, and reflected the importance of the translating and adjustment of the global norms, in such a way, for it to be accepted at the local level. In a line with Acharya, we argue that the process accommodates the incompatibility between global norms and the existing local settings. During this process, Indonesia as a norm-taker carries out some active role in (de)constructing global norms to identify elements of it that are considered as compatible with (or not), hence might be acceptable (or not) in the local settings. The output of this process is a form of a new established local norm that is suitable for the country of Indonesia and can be implemented as a legal conduct.

INDONESIA'S NATIONAL INTERESTS AND DOMESTIC CHALLENGES

Indonesia's national interests play a crucial role in shaping its approach to localizing the 1951 Refugee Convention as evidenced by the handling of the first Indochinese refugee wave in 1979. Indonesia's orientation toward achieving domestic and regional security stability has led the government of the New Order regime to be reluctant to accept refugees within Indonesian territory. This caution, driven by security considerations, was manifested through the implementation of the Operation Halilintar policy specifically designed to curb the influx of refugees (Budiman, 2012). Fears of infiltrators and spies intruded among refugees fuelled the perception of refugees as threats. Consequently, instead of establishing a legal framework recognizing refugee rights, President Soeharto's policies were focused more on the administrative regulations for temporary refugee's protection (Prabaningtyas, 2019, p. 135).

Fast forward to the current era of President Joko Widodo's government, the emphasis on security aspect as a key national interest in dealing with refugee issues remains, which impacted on the formulation of specific regulations for managing the refugee crisis. During President Joko Widodo's first presidential 2015-2019 term, Indonesia's national interests aimed at "Making Indonesia a Sovereign, Independent, and Distinctive Country Based on Mutual Cooperation." Consistent with these national interests, Indonesia's national development mission also focused on achieving national security, with the first out of seven priorities was "being able to protect territorial sovereignty" (BAPPENAS, 2015, p.2-3).

Under these circumstances, during this administration, specific laws related to refugees emerged as a catalyst for transition in Indonesia's refugee management policies, most notably the Presidential Regulation No. 125 of 2016. This regulation

acted as a dedicated legal framework for recognizing and protecting refugees, addressing Indonesia's past struggles to adopt established international norms. Despite, analysis reveals that the regulation primarily views refugees as objects requiring protection, justifying security measures within its provisions (Sadjad, 2021, p. 12). The regulation is also interpreted as prioritizing security control for refugees through the application of an "immigration control" approach (Dewansyah & Nafisah, 2021, p. 551). This approach underscores the fact that refugee management in Indonesia is conducted by security-focused institutions, such as the immigration office and the national police. Employing an immigration control approach allows close monitoring of refugees within designated areas and restricts their movement based solely on state discretion under the security framework (p. 533). While aligning with Indonesia's national interests, this approach raises concerns about framing refugees primarily as security threats.

Besides the security concerns, other factor of considerations, such as economic, welfare, and domestic development also significantly influence how Indonesia adapts the 1951 Refugee Convention to its local context. As stated in the National Medium-Term Development Plan (RPJMN), with an income per capita of USD 3,500, Indonesia is in the lower tier of middle-income nations (BAPPENAS, 2015, p. 2). Therefore, to achieve prosperity and well-being comparable to developed countries, and in order to remain competitive, Indonesia needs to speed up its economic growth, faster than the global average. Therefore, during the 2015–2019 period, the government prioritized significant economic challenges, including improving infrastructure to boost economic activity, and optimizing revenue sources for its limited development programs.

This economic needs influence the way Indonesia adjusted several points in the 1951 Refugee Convention. For example, in Article 21, Indonesia chooses to adjust the rights of accommodation which then limits refugees' rights to own their housing; Indonesia will only provide temporary housing. Additionally, Indonesia decided not to accommodate the refugees' rights to work (Article 17) and public education (Article 22). From the perspective of economic needs and capability, it is not rational for Indonesia to fully adopt the 1951 Refugee Convention.

HUMANITARIAN VALUES

In the context of refugee crises, humanitarian values often act as a crucial justification for the actions of both state and non-state actors. Jasson (2002) explains that these values represent society's minimum standards of behaviour and obligations of solidarity, motivating actors to act toward alleviating or rectifying the consequences of violence, injustice, and persecution. While aimed at protecting victims, actions driven by humanitarian values can also be influenced by the interests of the actors involved (p. 182).

Despite the Indonesia's national security interests and its domestic situations, we argue that the humanitarian values that are rooted in Indonesia's constitution and ideology to be the reinforcement points toward the adaptation of the 1951 Convention in the country. The basis of humanitarian values used by Indonesia in dealing with humanitarian issues is part of the perspective established through the

1945 Constitution and the state ideology of Pancasila (or the Five Principles) (Gordyn, 2018). The values contained in these two fundamental principles are rooted in the Indonesian tradition, which prioritizes the spirit of living in harmony, commonly translated into the ethos of mutual coexistence and the communal spirit to support one another (Daly, 2018; Marzuki & Tiola, 2021, p. 332).

As discussed earlier, the significant influence of humanitarian values in Indonesia's approach to the recognition and protection of refugees was evident as early as 1979, with the designation of Galang Island as a transit area for a refugee processing centre. During the New Order era, actions rooted in humanitarian principles, particularly those aimed at genuinely protecting refugees as victims, served a dual purpose. They not only protected refugees but also allowed Indonesia to pursue its national interests by fostering goodwill and collaboration in the international community (Budiman, 2012, p. 40). Thus, Indonesia's initial position on the refugee crisis manifested as the provision of humanitarian assistance rather than assuming full responsibility for refugees' rights and protection.

Throughout the management of the refugee crisis in Indonesia till the establishment of Presidential Regulation No. 125 of 2016, the application of humanitarian values has persisted. This commitment to humanitarian values is further underscored by the ongoing narrative, as articulated by the Indonesian Ministry of Foreign Affairs (MOFA) in 2019, which continues to emphasize and implement the use of humanitarian values in addressing the refugee crisis. The refugee crisis is also categorized as part of humanitarian issues by the Indonesian MOFA on their official pages.

“Dalam penanganan pengungsi dan pencari suaka dari luar negeri di Indonesia, khususnya dalam situasi darurat, Pemerintah Indonesia secara konsisten memberikan pertimbangan khusus berlandaskan prinsip kemanusiaan dan aspirasi HAM global, serta menghormati prinsip-prinsip kebiasaan internasional dalam penanganan pengungsi seperti non-refoulement.” (KEMLU, 2019).

*‘In the management of refugees and asylum seekers from foreign nations in Indonesia, particularly in the situation of emergencies, the Government of **Indonesia consistently extends special considerations grounded in humanitarian principles and global human rights aspirations. Concurrently, due regard is afforded to the principles of international norms in refugee handling, notably the doctrine of non-refoulement.***’ (Ministry of Foreign Affairs, 2019).

Hence, beyond the non-refoulement principle, humanitarian values serve as a mechanism demonstrating Indonesia's active engagement in the global arena, particularly, in this case, concerning humanitarian issues. These values align with the nexus between the refugee crisis, humanitarian principles, and the discourse related to international cooperation outlined in the 1951 Refugee Convention. The Convention urges nations to persist in welcoming refugees into their territories and to collaborate genuinely in a spirit of international cooperation, ensuring that these refugees secure asylum and potential resettlement (UNHCR, 2023). Consequently,

we argue that humanitarian values play a positive yet pivotal role, in the process of norm localization in Indonesia.

1.4 TOWARDS ACHARYA'S CONCEPT: NORMS LOCALIZATION PROCESS & RESULT

The Indonesian government's strategic approach to the refugee crisis highlights its active role in shaping the localization of global norms. Faced with the refugee crisis, Indonesia's initial response was hesitant, marked by a cost-benefit analysis and security-strategic consideration of accepting and managing refugees. However, considerations for enhancing its global image, securing temporary protection agreements, and accessing UNHCR funds gradually shifted its stance from resistance to localization. This aligns with Acharya (2004) notion of pre-localization, where local actors might face uncertainties about new norms that first trigger contestation but can later give way to acceptance as actors recognize potential benefits for legitimacy and effectiveness. This shift in perspective ultimately paved the way for Indonesia's adaptation to global refugee norms which resulted in the formulation of the Presidential Regulation No. 125 of 2016.

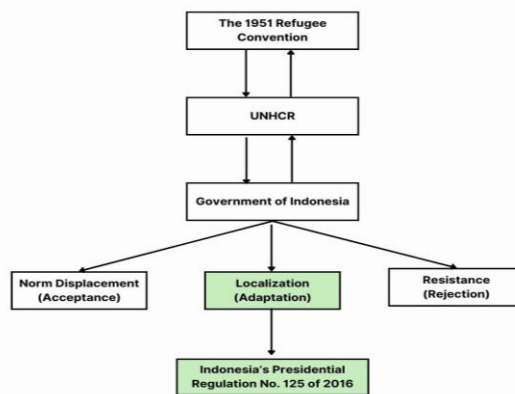


Figure 1. Process and Result of Localization of Global Norm The 1951 Refugee Convention in Indonesia

Source: Processed by the author based on Acharya's concept (2004)

Analyzing the localization of the 1951 Refugee Convention global norm in Indonesia also reveals two key domestic factors considered as strategically influencing the process, which are: national interests and humanitarian values. National interests act as a constraint, which restricts the extent of global norm adoption. Meanwhile, humanitarian values offer a positive counterpoint, opening space for adaptation. The interplay between these opposing forces ultimately produced the adaptation seen in Presidential Regulation No. 125 of 2016.

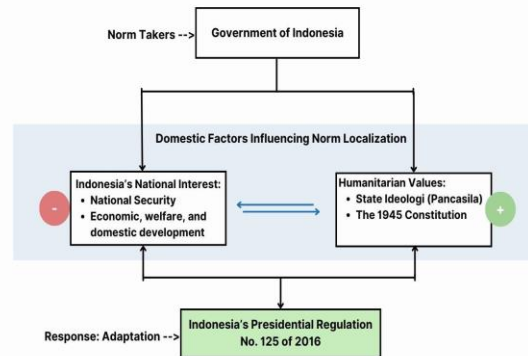


Figure 2. Indonesia's Domestic Factors that Influence the Localization of Global Norm The 1951 Refugee Convention

Source: Processed by the author based on Acharya's concept (2004)

Indonesia's national interests are divided into two areas: security and economics. In the security aspect, Indonesia's perspective on the refugee crisis is that the influx of refugees can pose a new threat to domestic security. Therefore, the handling process of refugees is delegated to agencies related to protection or security, such as immigration or the police. In the economic aspect, Indonesia's participation in handling the refugee crisis is closely related to the state's obligation to guarantee the refugees' rights to a decent standard of living. However, considering the domestic situation, Indonesia was even facing challenges in improving the welfare of its own people, economy, and national development. Due to competing domestic priorities, Indonesia's national interests leaned towards minimizing fulfilling its obligations towards refugees – as required by the Convention. This is reflected in Presidential Regulation, which adapts the Convention while restricting the scope of refugee rights fulfilment as compared to the full extent outlined in the global norms.

In analyzing the second factor, Indonesia's humanitarian values, which are rooted in its ideology and constitution, have played a positive role in shaping the localization of global norms. These values endorse the creation of bigger spaces for the government to consider the recognition and protection of refugees, even in the face of competing national interests. The Presidential Regulation No. 125 of 2016 reflects this balance. The regulation recognizes the existence of refugees and their need for protection, but it also limits the scope of that protection to certain categories and conditions. This approach seeks to uphold Indonesia's humanitarian values while also putting its national interests into strategic consideration.

CONCLUSION

Presidential Regulation No. 125 of 2016 represents Indonesia's adaptation to global norms of refugee protection the 1951 Refugee Convention. The direct adoption of the global norms brings challenge to Indonesia due to the incompatibilities of its inherent values with Indonesia's national priorities and

domestic challenges. Therefore, adjusting some elements from the Convention is considered to help minimize burdens and costs associated with refugee protection while upholding the non-refoulement principle and humanitarian support. This article shows how Indonesia's core humanitarian values remain firmly embedded in its approach. These values, emphasizing harmonious community living in peaceful existence, are in perfect line with global norms. Presidential Regulation No. 125 of 2016 exemplifies this commitment by outlining a collaborative approach to refugee management. This involves cooperation between the Central Government of Indonesia, UNHCR, and international organizations. This strategy allows Indonesia to remain actively engaged in global refugee protection while fulfilling its obligations to refugees through designated institutions.

While adapting global refugee norms to the Indonesian context through localization can offer benefits in terms of implementation and alignment with local realities, it also creates gaps in fully upholding refugee rights as outlined in international frameworks. These gaps, coupled with prolonged uncertainties regarding access to essential services and permanent solutions, can have negative long-term impacts on refugee well-being and integration. Therefore, recognizing the limitations of achieving truly durable solutions solely within national boundaries, it is recommended for Indonesia to improve its collaboration with the International Organization and community to boost a betterment in terms of refugee protection and empowerment. By leveraging expertise and resources from International Organizations and community, Indonesia can work towards more comprehensive and sustainable solutions that ensure the fulfilment of refugee rights and promote long-term stability for both refugees and the host community.

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