

# Artikel 6

## Environmental Refugees: Study of the Legal Policies of ASEAN Countries on the Phenomenon of Refugees due to Climate Ch...

 Fitria Esfandiari

 Publication Articles Mei - Jun 2025 Dosen UMM

 University of Muhammadiyah Malang

---

### Document Details

**Submission ID**

trn:oid::1:3240848026

**Submission Date**

May 6, 2025, 10:04 AM GMT+7

**Download Date**

May 6, 2025, 3:51 PM GMT+7

**File Name**

ountries\_on\_the\_Phenomenon\_of\_Refugees\_due\_to\_Climate\_Change.pdf

**File Size**

950.0 KB

14 Pages

6,160 Words

34,514 Characters

# 22% Overall Similarity

The combined total of all matches, including overlapping sources, for each database.

## Filtered from the Report

- ▶ Bibliography
- ▶ Quoted Text
- ▶ Cited Text
- ▶ Small Matches (less than 12 words)

## Exclusions

- ▶ 4 Excluded Sources

## Match Groups

- 49 Not Cited or Quoted 22%**  
 Matches with neither in-text citation nor quotation marks
- 0 Missing Quotations 0%**  
 Matches that are still very similar to source material
- 0 Missing Citation 0%**  
 Matches that have quotation marks, but no in-text citation
- 0 Cited and Quoted 0%**  
 Matches with in-text citation present, but no quotation marks

## Top Sources

- 17% Internet sources
- 7% Publications
- 16% Submitted works (Student Papers)

## Integrity Flags

### 0 Integrity Flags for Review

No suspicious text manipulations found.

Our system's algorithms look deeply at a document for any inconsistencies that would set it apart from a normal submission. If we notice something strange, we flag it for you to review.

A Flag is not necessarily an indicator of a problem. However, we'd recommend you focus your attention there for further review.

### Match Groups

- **49** Not Cited or Quoted 22%  
Matches with neither in-text citation nor quotation marks
- **0** Missing Quotations 0%  
Matches that are still very similar to source material
- **0** Missing Citation 0%  
Matches that have quotation marks, but no in-text citation
- **0** Cited and Quoted 0%  
Matches with in-text citation present, but no quotation marks

### Top Sources

- 17% Internet sources
- 7% Publications
- 16% Submitted works (Student Papers)

### Top Sources

The sources with the highest number of matches within the submission. Overlapping sources will not be displayed.

1	Internet	www.rsis.edu.sg	2%
2	Student papers	Padjajaran University	2%
3	Student papers	President University	2%
4	Student papers	University of the Philippines Open University	2%
5	Internet	eudl.eu	2%
6	Internet	www.coursehero.com	1%
7	Internet	mafiadoc.com	<1%
8	Internet	www.grafiati.com	<1%
9	Student papers	UIN Syarif Hidayatullah Jakarta	<1%
10	Internet	academic.oup.com	<1%

11	Internet	www.diplomarbeiten24.de	<1%
12	Internet	core.ac.uk	<1%
13	Student papers	University of Johannesburg	<1%
14	Internet	repository.president.ac.id	<1%
15	Student papers	University Of Tasmania	<1%
16	Student papers	University of Central England in Birmingham	<1%
17	Internet	cpps.ugm.ac.id	<1%
18	Internet	ejournal.undip.ac.id	<1%
19	Internet	www.europenowjournal.org	<1%
20	Internet	studentorgs.kentlaw.iit.edu	<1%
21	Student papers	University of New South Wales	<1%
22	Internet	link.library.eui.eu	<1%
23	Internet	www.jstage.jst.go.jp	<1%
24	Internet	ir.kneu.edu.ua	<1%

25	Publication	Farhan Dwi Rachmawan, Muhammad Nurshah. "Perlindungan Hukum bagi Warg...	<1%
26	Internet	www.e3s-conferences.org	<1%
27	Student papers	The Scientific & Technological Research Council of Turkey (TUBITAK)	<1%
28	Internet	irdo.ro	<1%
29	Internet	www.tifafoundation.org	<1%
30	Student papers	Asia Pacific University College of Technology and Innovation (UCTI)	<1%
31	Student papers	De Montfort University	<1%
32	Internet	portal.amelica.org	<1%
33	Internet	www.burnet.edu.au	<1%
34	Internet	www.uscisguide.com	<1%

**SALAM****Jurnal Sosial dan Budaya Syar-i**

P-ISSN: 2356-1459. E-ISSN: 2654-9050

Vol. 9 No. 3 (2022), pp. 769-782

DOI: [10.15408/sjsbs.v9i3.25843](https://doi.org/10.15408/sjsbs.v9i3.25843)<http://journal.uinjkt.ac.id/index.php/salam/index>

## Environmental Refugees: Study of the Legal Policies of ASEAN Countries on the Phenomenon of Refugees due to Climate Change\*

**Cholidah,<sup>1</sup> Fitria Esfandiari<sup>2</sup>**

Fakultas Hukum Universitas Muhammadiyah Malang

[10.15408/sjsbs.v9i3.25843](https://doi.org/10.15408/sjsbs.v9i3.25843)**Abstract**

This research is conducted by using normative juridical method that will analyse the concept of refugees in the Convention of Geneva 1959 which is examined by the framework of protection against movement of people including due to climate change factor in A/RES 73/195 which is the adoption of the Global Compact for safe, orderly and regular migration as well as protection against refugees due to climate change 1951 in the Ratify it. The author argues that, the refugee problem caused by global climate change is not a future discourse that is far from reality, this problem becomes a necessity along with the development effort, especially the development of Not consider the concept of sustainability of the world ecosystem. So the minimum protection must be done either by the state Convention ratification 1951 nor the state Non ratification of this Convention on the Protection of refugees In General that is listed In standard This convention should be provided also against Environmental Refugees on the basis that the term refugee contained in this term should include against refugees due to the unlikely climate change returning to its home country due to an environment that has not supported life Refugees.

**Keywords:** ASEAN; Policies; Climate Change; Environmental refugees**Abstrak**

Penelitian ini dilakukan dengan menggunakan metode yuridis normatif yang akan menganalisis konsep pengungsi dalam Konvensi Jenewa 1959 yang dikaji dalam kerangka perlindungan terhadap pergerakan orang termasuk akibat faktor perubahan iklim dalam A/RES 73/195 yang merupakan adopsi Global Compact untuk migrasi yang aman, tertib dan teratur serta perlindungan terhadap pengungsi akibat perubahan iklim 1951 di Ratifikasi itu. Penulis berpendapat bahwa, masalah pengungsi akibat perubahan iklim global bukanlah wacana masa depan yang jauh dari kenyataan, masalah ini menjadi keniscayaan seiring dengan upaya pembangunan, terutama pengembangan konsep keberlanjutan ekosistem dunia. Jadi perlindungan minimal harus dilakukan baik oleh negara ratifikasi Konvensi 1951 maupun negara Non ratifikasi Konvensi ini tentang Perlindungan Pengungsi Secara Umum yang tercantum Dalam standar Konvensi ini harus diberikan juga terhadap Pengungsi Lingkungan atas dasar bahwa istilah pengungsi yang termuat dalam istilah ini harus mencakup terhadap pengungsi akibat perubahan iklim yang tidak mungkin kembali ke negara asalnya karena lingkungan yang belum mendukung kehidupan Pengungsi.

**Kata Kunci:** ASEAN; Kebijakan; Perubahan iklim; Pengungsi lingkungan

\*Received: February 14, 2022, Revision: February 23, 2022, Published: May 22, 2022.

<sup>1</sup> **Cholidah** is a researcher in Fakultas Hukum Universitas Muhammadiyah Malang.

<sup>2</sup> **Fitria Esfandiari** is a lecturer in Fakultas Hukum Universitas Muhammadiyah Malang. Email:

[fit.esfan@gmail.com](mailto:fit.esfan@gmail.com)

## A. INTRODUCTION

The number of international migrants worldwide has continued to grow rapidly in recent years, reaching 258 million in 2017, up from 220 million in 2010 and 173 million in 2000. Since the international conference on population and development in 1994, the issue of international migration and its relation to development has risen steadily on the agenda of the international community.<sup>3</sup> Cross-border movements become an option that must be chosen by people affected by conflict, violence, natural disasters and the adverse effects of climate change, especially from high-risk countries such as countries in East Asia where countries in the region are regularly affected by typhoons floods and earthquakes. Scientists agree displacement will increase in the coming decades as rising sea levels and global warming increase the frequency and intensity of extreme weather events.<sup>4</sup>

Global climate change that occurred in several decades has had a real impact that must be faced by countries in the world, flooding due to rising sea levels hit almost all major cities in the world including the Indonesian capital Jakarta, which almost every year experiences flooding due to rising surface sea water anomaly weather accompanied by extreme temperatures, the phenomenon of flooding and land subsidence is a natural phenomenon that occurs continuously in Jakarta, this raises various damage and losses and require serious handling. Land subsidence that continues to occur will be able to damage the infrastructure and buildings in the area.<sup>5</sup>

That occurs almost all over the world is also part of the impact of global climate change that triggers natural disasters that cause casualties, loss of life, property or the malfunctioning of public facilities support community life, and eventually leads to conflicts of interest resulting from lack of resources needed in efforts to rehabilitate the impact of disasters that arise. This lack of resource conflict eventually led to the phenomenon of climate mobility or movement of people across countries.

Over the years, researchers have linked extreme weather due to climate change in North Africa and the Middle East with the refugee crisis in Europe and they found a close relationship between temperature fluctuations with migration or movement across borders, this conclusion obtained based on asylum requests to the European Union between 2000 and 2014. Based on these data, the researchers then predicted that the annual number of refugees would increase by 188 percent by the end of this century due to extreme weather that damaged livelihoods and exacerbated geopolitical conflicts, and

---

<sup>3</sup> Joanna Apap, *The concept of "climate refugee" Towards a possible definition*, EUR. PARLIAM. RES. SERV. 1–11 (2018), [http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621893/EPRS\\_BRI\(2018\)621893\\_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/BRIE/2018/621893/EPRS_BRI(2018)621893_EN.pdf).

<sup>4</sup> VOA, *Perubahan iklim tidak hanya berdampak bagi beruang kutub tapi juga bagi hidup umat manusia karena bisa menyebabkan jutaan orang terpaksa mengungsi dari tempat tinggalnya* (2019).

<sup>5</sup> Nurul. Andreas Heri Yuhanafia, *Pertambahan Estimasi Kerugian Ekonomi Akibat Banjir Dengan Pengaruh Penurunan Tanah Di Jakarta*, 17 (2) *Gea. J. Pendidik. Geogr.* 182–191 (2017), <http://eprints.itenas.ac.id/559/1/3>. Lampiran B1-Jurnal 1-GEA.pdf.

despite existing efforts to slow down global warming as recommended in the Paris Agreement, the number of refugees will continue to increase by as much as 30 percent.<sup>6</sup>

In general terms, the movement of people across borders may be related to situations of conflict or violence such as those in South Sudan, Syria, the Lake Chad valley, Africa, to Central America and Haiti.<sup>7</sup> However, *the Internal Displacement Monitoring Center* notes that there were around 18.8 million internal disasters related displacement in 2017 and most of these displacements were related to natural disasters and the impacts of climate change occurring within a country's territory.<sup>8</sup>

**Table 1. Matrix on tenure and reasons for migration<sup>9</sup>.**

Tenure for Migration	Reasons for Migration			
	Economic	Social	Political	Enviromental
Temporary	Transient Contract workers; Expatriates; Rural-urban migration; nomadic travelers; Swidden agriculture tribes	Moving overseas for education	Refugees staying in temporary refugee camps e.g. Vietnamese and Cambodian refugees in Galang Island in Indonesia immediately after the fall Vietnam in 1975	People staying in temporary refugee camps due to flooding or volcanic eruptions
Transitional	Early Chinese immigrants migrating to San Francisco during the Gold Rush in the 19th Centur	Permanent Residents (P.R.s) awaiting citizenship.	Asylum seekers	Climate/disaster refugees
Permanent	Colonial settlers	Migrating to join families	Political exiles	Refugees that have been granted citizenship

The effects of climate change are causing large-scale movement across national borders. However, neither the December 2009 UNFCCC process nor the Copenhagen Accord have yet to discuss this move, despite their focus on adaptation; The UNFCCC is not designed to and cannot properly handle the problem of climate change displacement, and cannot be easily changed to accommodate people displaced from climate change.<sup>10</sup>

<sup>6</sup> S.W Wibawa, *Bagaimana Perubahan Iklim Menciptakan Ledakan Pengungsi di Eropa?*, *Electronic news pape, Kompas* (2018), <https://sains.kompas.com/read/2018/01/06/120500723/bagaimana-perubahan-iklim-menciptakan-ledakan-pengungsi-di-eropa->.

<sup>7</sup> Sanjula Weerasinghe, *Overview of UNHCR Study, 'In Harm's Way: International Protection in the Context of Nexus Dynamics between Conflict or Violence and Disaster or Climate Change'*, 31 *INT. J. REFUG. LAW* 149–160 (2019).

<sup>8</sup> UNHCR, *Climate change and disaster displacement*, 25 FEBRUARY (2019).

<sup>9</sup> Vincent Mack & Christopher Lim, *How emerging global trends may affect labour migration in ASEAN*, *NTS INSIGHT* 1–12 (2017).

<sup>10</sup> David Hodgkinson et al., *Copenhagen, Climate Change "Refugees" and the Need for a Global Agreement*, 4 *PUBLIC POLICY* 155–174 (2009).

28 In the meantime the fact that the occurrence of cross-border movements which are then often characterized as "refugees" does not accommodate human movements due to climate change as a basis for granting refugee status, in the 1951 Geneva Convention on Refugees, it is stated that displacement of people from their countries of origin is proven to be threatened by life and safety in their country of origin for reasons of race, religion, nationality, membership of certain social groups or differences in political views.<sup>11</sup> so human migration due to climate or better known as Environmental Refugees or Climate Migration cannot be declared as refugees even though the existence of these refugees is as real as the Tuvalu Case in the Pacific, where some Tuvalu residents are forced to immediately migrate or move its area, because the area is threatened with sinking due to rising sea levels.<sup>12</sup>

The description of Refugees as contained in the 1951 Geneva Convention is actually not in accordance with the development of the dynamics of problems that arise in society, in fact the number of refugees caused by armed conflict and global climate change is much greater and increasing from year to year. The results of research from the American Internal Displacement Monitoring Center noted that the number of people displaced by natural disasters had increased significantly, recorded in 2013 nearly 22 million people were displaced to at least 119 countries, the number of refugees caused by the impact of this disaster internally tripled compared to the number of people displaced by conflict and violence in the same year. Since 2008, when the surveillance center began monitoring refugees, 160 million people have been displaced in 161 countries.<sup>13</sup> So that more precise formulations are needed to place human movement as a result of climate change as a move known in international law so that the legal consequences inherent in the status of this movement can be fought internationally.

So that the countries that are the destination of this move are better prepared with the consequences that must be borne out as part of the world community. ASEAN countries which are mostly developing countries and did not ratify the Geneva Convention 1951 in turn must also be prepared with this responsibility, if cross-border movements due to climate change are declared as "Refugees" who fulfil the formulation of the definition of refugees as contained in the 1951 Convention it would certainly bring a obligations that must be fulfilled refer to the contents of the 1951 Geneva Convention concerning the obligations of States parties and non-States Parties to refugees.

29 Why do ASEAN countries need to be prepared? This is because ASEAN is a country that is the destination of human movement, especially those originating from countries in East ASIA, in a 2014 paper compiled by *the Nansen Initiative Secretariat for the Southeast Asia Regional Consultation* at the Ateneo de Manila University estimates that in the last five years, 24.55 million people were displaced in Southeast Asian countries, especially Indonesia and the Philippines. They were uprooted from their land and homes and had to temporarily evacuate or migrate to find new places to live and work.

---

<sup>11</sup> PROTOKOL OPTIONAL UNTUK KONVENSI PBB., (Camelia Cahyadi, Erasmus:Damayanti ed., 2007).

<sup>12</sup> Carol Farbotko & Heather Lazrus, *The first climate refugees? Contesting global narratives of climate change in Tuvalu*, 22 GLOB. ENVIRON. CHANG. 382–390 (2012).

<sup>13</sup> VOA, *supra* note 2.

Figure 1.

Map of the Distribution of Central Asian Refugees to Southeast Asia.<sup>14</sup>

Based at the map of distribution above, it can be concluded that countries in Southeast Asia must be prepared to face the wave of refugees who will come to their country both the ratification and non-ratification of the Geneva Convention 1951. Although the term Refugee has not yet been clearly stated as a way to refer to the movement of people crossing borders countries caused by global climate change, Therefore, it is necessary to study about the position of human movement across national borders in international law and what forms of responsibility for States Parties and Non-Ratifications of the 1951 Geneva Convention for people carrying out cross-border Movements within their territory.

### Literature Review

The existence of refugees who have existed in Indonesia over a long period of time shows the position of this country as one of the objectives of obtaining asylum. This paper explains about refugee protection in ASEAN countries, especially due to climate change. The author has found several previous writings related to refugees. First, the writings of J. Edward Taylor et al. that analyze the impact of refugees from the economic side of the host country. Analysis conducted concluded that cash assistance to refugees created a significant increase for the host country. On one hand aid in the form of goods has a lower impact on the local economy.<sup>15</sup> The second paper focuses more on the role of the media in carrying out education processes related to refugees. There is a significant link between the quality and media used and the issues raised from time to time

<sup>14</sup> UNHCR, *Refugee Movements in South - East Asia 2018 – June 2019* (2019).

<sup>15</sup> J. Edward Taylor et al., *Economic impact of refugees*, PROC. NATL. ACAD. SCI. U. S. A. (2016).

regarding refugees. One of them is the consideration of security threats and the saving side of recipient countries.<sup>16</sup>

8 Third, Kadarudin Portraits in Indonesia : International Refugees Face Uncertain Future (A Study of International Refugee Law) <sup>17</sup> this paper analyzes the refugee problem from an international perspective. Indonesia as a transit country accommodates refugees from countries that are in conflict. The results of his analysis state that Indonesia's treatment of protection is based on a general obligation to protect and respect human rights based on international minimum standards. As far as the writer has found, there is no writing that analyzes refugees as a result of climate change in the world. Some of the findings are more writing about refugees caused by conflicts in the country of origin, whether religious conflicts, social politics and so on.

## 5 B. METHODS

5 This study is conducted based on law products by using the normative law approach. The analysis of this study uses the normative analysis by reviewing the Geneva Convention 1951 and the *Global Compact on Refugees (GCR)*. This study aims at finding out how the position of the human movement across trans boundary States is regulated and the responsibilities that arise to recipient countries both ratifying the 1951 Geneva convention, which has not ratified this Convention. This is a descriptive study. This requires a statute approach in answering the statement of the problems.<sup>18</sup> According to the source, the data is in the form of secondary which includes legislation, books, articles, scientific journals, and dictionary. Nevertheless, to achieve a more comprehensive result, this study also uses primary, secondary, and tertiary law products. The primary law products in this study are Geneva Convention 1951 about Refugees and *Global Compact on Refugees (GCR)*.

## 5 C. RESULTS AND DISCUSSION

### 1. The concept of Refugee Protection for refugees due to Climate change (Environmental Refugees) in international law

The term of *Refugee* in the 1951 Convention on the Status of Refugees is explained as a truly fundamental fear of persecution for reasons of race, religion, nationality or political opinion, outside the nationality state and cannot or, because of that fear or because reasons that are not reasons for personal pleasure, do not want to take advantage of the protection of the country; or someone who is not a nationality and is outside the country where he used to live, cannot or, because of that fear or for reasons not for personal pleasure, does not want to return to that country. (Global Compact on Refugees, n.d.), or in other words Refugees are people who are forced to leave their

19 <sup>16</sup> Esther Greussing & Hajo G. Boomgaarden, *Shifting the refugee narrative? An automated frame analysis of Europe's 2015 refugee crisis*, J. ETHN. MIGR. STUD. (2017).

8 <sup>17</sup> Kadarudin Kadarudin, *PORTRAITS IN INDONESIA: INTERNATIONAL REFUGEES FACE UNCERTAIN FUTURE (A STUDY OF INTERNATIONAL REFUGEE LAW)*, VERIT. JUSTITIA (2018).

<sup>18</sup> P M MARZUKI, *PENELITIAN HUKUM REVISED EDITION* (2010).

country due to external aggression, occupation, foreign domination or events that seriously disrupt public order in one part or in all nationalities.

Although the definition of refugee does not specifically mention the existence of climate change as one of the justification indicators of the process of displacement of people, in reality the process actually occurs, and as a reference United Nations adopt the *Global Compact on Refugees (GCR)* framework in A / RES / 73/195 On 19 December 2018 which in principle effectively recognized and would take steps towards increasing displacement in the context of disasters including environmental degradation and climate change, and provide a basis for measuring and also overcoming obstacles that arise in this regard. In this provision the UN also calls for the establishment of a global academic network of refugees, forced displacement and citizenship issues. This involves universities, academic alliances, and research institutions, together with UNHCR and other relevant stakeholders, to facilitate research, training and scholarship opportunities that produce alternative solutions in support of the objectives of the global agreement. In the sense that although the term refugees due to climate change have not been clearly regulated in international conventions, however, when referring to the contents of the *Global Compact on Refugees (GCR)* refugees due to climate change or who are known as *Climate Migrants* are also part of the term Refugees according to the 1951 Geneva Convention formulation.

Walter Kälin identified five climate change displacement scenarios as a way of overcoming the risks arising from climate change and their impacts. This is expected to help evaluate the protection needs of those who leave their place of origin.<sup>19</sup> :

1. Disasters that arise suddenly, such as floods, hurricanes, or landslides caused by heavy rainfall that can trigger large-scale displacement and trigger enormous economic costs.
2. Environmental degradation that has the potential to cause community movements such as rising sea levels, increased salinization of ground and ground water, long-term effects of repeated flooding, permafrost thawing, as well as drought and desertification or other things that affect water availability
3. The states are sinking in the lowlands, which cannot be inhabited due to rising sea level. In extreme cases, the remaining area of the affected countries may no longer be able to accommodate their population, and these countries can disappear completely from the surface on earth. When this happens, the population will become permanent refugees from other countries.
4. High risk zones are too dangerous for human habitation that might be designated by the government.
5. Anxiety, violence or even armed conflict are caused by natural deficiencies that will occur due to climate change resources

---

<sup>19</sup> ISABEL M. BORGES, ENVIRONMENTAL CHANGE, FORCED DISPLACEMENT AND INTERNATIONAL LAW: FROM LEGAL PROTECTION GAPS TO PROTECTION SOLUTIONS (2018).

## 2. Implementation of Protection of Environmental Refugees in ASEAN Countries That Ratification and Non-Ratification State of the Geneva Convention 1951

The Southeast Asian region in recent decades has been a destination for migration from some refugees from the Central Asian region who experienced the effects and changes of the Extreme Climate which caused famine or drought, it was noted that Malaysia and Myanmar became the main countries of destination for Central Asian refugees, this was due to Malaysia and Myanmar is a State of ratification of the 1951 Refugee Convention which of course binds Malaysia and Myanmar to open up and make sufficient efforts in accordance with the commitments of the convention, in contrast to Indonesia which has not yet ratified this Convention. The number of refugees coming to Indonesia is much smaller than the two countries of ratification.

As countries in Southeast Asia, Indonesia and Malaysia have different policies related to Refugees if Indonesia chooses not to ratify the 1951 Convention and the 1967 Protocol on Refugees is different from Malaysia, which is a party and has signed both the Convention and Protocol, different attitudes in ratifying the International Law Instrument related to Refugees certainly brings differences in State policy on how to treat waves of refugees arising from climate change or other causes that occur.

## 3. The concept of Refugee Protection for refugees due to Climate change (Environmental Refugees) in international law

As countries in Southeast Asia, Indonesia the other ASEAN member decided Malaysia have different policies related to Refugees if Indonesia chooses not to ratify the 1951 Convention and the 1967 Protocol on Refugees is different from Malaysia, which is a party and has signed both the Convention and Protocol, different attitudes in ratifying the International Law Instrument refugees necessarily related to a difference of the State policy on how to treat refugees arising climate change or other causes that occur either in Indonesia as a State Non Ratifying and Malaysia as the 1951 refugee Convention State Parties. The main principle of refugee protection is "non-refoulement", which is a prohibition on coercion of refugees to be returned to their home countries without any guarantee of safety and consent from the refugees concerned. As long as they cannot return to their countries for this reason, they have refugee status and their rights to international protection.<sup>20</sup> According to the principle of non-refoulement, a customary international law, states are obliged not to return any person to a country where the life or safety of that person would be seriously endangered.<sup>21</sup>

Referring to the provisions of the Geneva Convention 1951 and the 1967 Protocol The rights of refugees, especially refugees due to armed conflict (the authors make this standard as a reference Refugee Rights due to climate change contained in the 1951

<sup>20</sup> BOER MAUNA, HUKUM INTERNASIONAL (2 nd ed. 2005).

<sup>21</sup> Siti Munirah Binti Yusoff @ Md Nasir, Mohd Afandi Salleh & Mohd Mahbubul Haque, *Malaysian Policy towards Refugees and Asylum Seekers: A Case Study of Rohingya Refugees*, 9 INT. J. ACAD. RES. BUS. SOC. SCI. 110–117 (2019).

Convention and the 1967 Protocol on refugee status consisting of 46 articles and 11 articles. Actually there is no article mentions the camp, about aid, but an elaboration of the 1951 Convention and 1967 Protocol Based on Article 2 and Article 3 of the 1951 Convention can be translated for minimum standards on the treatment of refugees, including the basic rights must be owned by refugees as well as the obligations that must be obeyed by refugees Article 2 of the 1951 Convention on refugee status reads : " every refugee has obligations to the country where he is located, which requires him primarily to obey the laws and regulations of that country and also the actions taken u to maintain public order.<sup>22</sup> Article 3 of the 1951 Convention on the status of refugees reads: "States parties will apply the provisions of this Convention to refugees without discrimination regarding race, religion, or country of origin". Furthermore, refugee rights in the formulation of the 1951 Geneva Convention, namely: a). Right to life, independence and personal security; b). The right to seek and enjoy asylum; c). The right to an honest trial; d). Rights regarding personal and family life; e). The right to legal remedies at the national level; f). The right to education; g). Right of recognition as a person before the law

#### 4. The right not to be repatriated by force (refoulement)

The protection provided to refugees is divided into 2 types of protection, namely general protection and special protection.<sup>23</sup> Protection of Refugees in General Legal protection for refugees in general is provided by institutions that deal with refugee issues and the countries they occupy. In the sense of the obligation to provide protection for refugees is the United Nations organized by the UNHCR United Nations High Commissioner for Refugees which is obliged to provide legal protection based on the 1951 Convention and the 1967 Protocol on refugee status.<sup>24</sup> The form of providing legal protection for refugees due to armed conflict is to provide standard treatment, provide rights and obligations, freedom and convenience (facilities) for refugees and there is an obligation for the state to respect refugees.<sup>25</sup>

The 1951 Convention and the 1967 Protocol on refugee status set minimum standards for the treatment of refugees, including their basic rights. It also establishes the legal status of refugees and contains provisions on their rights to gainful employment and welfare, on the letter of explanation of identity and Travel Document, regarding the implementation of fiscal costs, and on their right to transfer their assets to another country where they have been received with the aim of resettlement.<sup>26</sup> The 1951 Convention and the 1967 Protocol also prohibit the expulsion and repatriation of persons of refugee status Article 33 The Convention stipulates that "no State party can expel or return (repatriate) refugees for any reason to the border areas where their lives or

<sup>22</sup> PROTOKOL OPTIONAL UNTUK KONVENSI PBB., *supra* note 9.

<sup>23</sup> AGUS FADILAH, PENGANTAR HUKUM INTERNASIONAL DAN HUKUM HUMANITER INTERNASIONAL (2007).

<sup>24</sup> SUWARDI SRI, PENGANTAR HUKUM ORGANISASI INTERNASIONAL (2004).

<sup>25</sup> MAY RUDY,T, HUKUM INTERNASIONAL 2 (Aep Gunarsa ed., 3 ed. 2009).

<sup>26</sup> PENELITIAN PERATURAN DAN KEBIJAKAN PEMERINTAH DALAM MENYELESAIKAN PERMASALAHAN HAK PENDIDIKAN, KEPERDATAAN DAN KESEMPATAN KERJA BAGI PENGUNGSI INTERNAL, (Komnas HAM Mayatinasari, Vita ed., 1 ed. 2007).

independence will be threatened because consideration of race, religion, citizenship, members of certain social groups or political opinions." Article 34 addresses the issue of naturalization and assimilation for refugees. The provisions of the other with respect to the problem right of access to justice, education, social security, housing and freedom of movement.

In practice, the tasks of international protection include prevention of repatriation, assistance in processing asylum search, legal assistance and advice, promotion of carrying out physical security for refugees, promotion and assistance of voluntary return, and assisting refugees to resettle. Thus, the international protection function for refugees due to armed conflict has a legal basis, and its implementation is authorized by the High Commission.<sup>27</sup> The right to protection, although not explained as a separate right, is implicitly contained in the 1951 Convention and its basic provisions, in particular the principle of non-refoulement.

The manifestations of the 1951 Convention and the 1967 Protocol on refugee status regarding the standard treatment given to refugees are:

1. Refugees should not receive punishment or adverse treatment just because their presence in an asylum country is not legal. They should not be restricted to movement other than restrictions that are deemed necessary for the interests of public health and public order.
2. Refugees need to enjoy basic civil rights that are internationally recognized.
3. Refugees must get all the assistance that needs to be given basic necessities of life, including food, shelter, sanitary facilities and basic needs.
4. Refugees must be treated by people whose fate is tragic so that it requires special understanding and sympathy. They should not be subjected to cruel, inhuman or degrading treatment
5. Obtain asylum placement locations based on their safety and well-being in addition to the security interests of the asylum country. Refugees may not be involved in subversive activities against their home country or other countries
6. Respect for family integrity
7. Provide possible assistance for tracing separated relatives
8. Make adequate policies for the protection of minors and unaccompanied children
9. Send and receive letters.
10. Open space for material assistance from friends or relatives, including providing necessary facilities so that it is possible for them to receive sustainable solutions that are satisfying
11. Facilitating voluntary repatriation

---

<sup>27</sup> MANFRED NOWAK, PENGANTAR REZIM HAK ASASI MANUSIA INTERNASIONAL (Djumantoro Purbo ed., 2003).

While the freedoms obtained by refugees due to armed conflict are:<sup>28</sup> a). Freedom from torture, or cruel, inhuman or degrading treatment or punishment; b). Freedom from slavery or servitude; c). Freedom of thought, faith and religion; d). Freedom from arbitrary arrest and detention; e). Freedom from arbitrary interference in the privacy of the home and family; f). Freedom of opinion and expression. And the facilities provided by the countries concerned with refugees are: a). Given an identity document; b). Given travel documents; c). Basic needs and social benefits; d). Social counselling; e). Legal assistance needed

## 5. Protection of Environmental Refugees in the Non-Ratification of the Geneva Convention 1951

As a country that is not yet a party to the 1951 Convention and Protocol 196, Indonesia does not have the authority to provide *Refugees Status Determination (RSD)*, so that refugee management regulations in Indonesia rely solely on the statutes of the United Nations High Commissioner for Refugees (UNHCR) This lack of legitimacy makes Indonesia unable to respond to and deal with refugees. However, this lack of authority and legitimacy is only half the problem. We argue, if human rights and refugees are an important issue that must be taken seriously, the Indonesian government should have acted more decisively. The lack of authority of the RSD should encourage the government to put more effort into implementing it, so that Indonesia gets the authority to better handle refugees as the provisions of the provisions of article 40 of the 1951 Geneva Convention 1951, which require countries outside the ratifying countries to continue to consider policies and measures. Certain steps in an effort to enforce the contents of the 1951 Convention on Refugees treatment standards if deemed necessary based on agreement with the local regional governments.<sup>29</sup>

In Resolution A / RES / 73/195 the standard of treatment for Refugees or in this case Environmental Refugees stipulates that Refugees and migrants are entitled to the same universal and human rights, fundamental freedoms that must be respected, protected and fulfilled at all times. However, migrants and refugees are different groups governed by separate laws, ways of handling and rights that are regulated internationally, especially concerning the determination of refugee status entitled to specific international protections determined by international refugee law. And the Global Compact comes within the framework of a cooperative framework that handles migration in all its dimensions. (Global Compact on Refugees, n.d.)

## D. CONCLUSION

The formulation of refugees as stated in the Geneva Convention 1951 does not include human movements that are claimed to be climate change as a sign of refugee

<sup>28</sup> SUATU MANUAL, PRINSIP-PRINSIP PANDUAN PENGUNSI INTERNAL DAN HAK ASASI MANUSIA, (Gusrini Tambunan ed., 1 ed. 2007).

<sup>29</sup> Weerasinghe, *supra* note 5.

24 status can be given to people who do this but the reality of increasing numbers of refugees as a result of climate change or environmental refugees is inevitable and new formulations are needed to accommodate this. which is marked by the concept of Global Compact for safe, orderly and regular migration adopted by the United Nations in resolution A / Res / 73/195 which gives room for recognition of Environmental Refugees or Environmental Migration as Refugees.

The treatment of Environmental Refugees in principle is in accordance with the standards applied in handling refugees due to conflict as contained in the 1951 Geneva Convention, especially for countries that ratified this convention and the application of the Human Rights standard must at least be the basis of the treatment of refugees for countries that do not ratify the Geneva Convention 1951.

## REFERENCES

### Books

- Agus, F. (2007). *Pengantar Hukum Internasional dan Hukum Humaniter Internasional*. Jakarta: ELSAM.
- Erasmus Cahyadi, C. D. (Ed.). (2007). *Protokol Optional untuk Konvensi PBB*. Jakarta, Komnas HAM (2007). *Panduan Manual Komnas HAM, Perlindungan Hak Asasi Pengungsi Internal, Komnas HAM*. (Komnas HAM, Ed.) Jakarta, Jawa Barat, Indonesia: Komnas HAM.
- Marzuki, P. M. (2010). *Penelitian Hukum Revised Edition (Revisi ed.)*. Jakarta, Jawa Barat, Indonesia: Kencana Prenada Media Group.
- Mauna, B. (2005). *Hukum Internasional (2 ed.)*. Bandung, Jawa Barat, Indonesia: Alumni.
- Mayastinasari, V. (Ed.). (2007). *Penelitian Peraturan dan kebijakan Pemerintah dalam menyelesaikan Permasalahan Hak Pendidikan, Keperdataan, dan Kesempatan Kerja bagi Pengungsi Internasional*. Jakarta, Jawa Barat, Indonesia: Komnas HAM.
- Merillis, J. (1986). *Penyelesaian Sengketa Internasional*. (A. Fauzan, Trans.) Bandung, Jawa Barat, Indonesia: Tarsito.
- Nowak, M. (2003). *Pengantar pada Rezim HAM Internasional*. (S. Sulastini, Trans.) Jakarta, Jawa Barat, Indonesia: Martinus Nijhoff Publisher.
- Rudy, T. M. (2009). *Hukum Internasional 2 (3 ed.)*. Bandung: Refika Aditama.
- Suwardi, S. S. (2004). *Pengantar Hukum Organisasi internasional*. Jakarta, Jawa Barat, Indonesia: UI Press.
- Tambuan, G. (Ed.). (2007). *Prinsip-Prinsip Panduan bagi Pengungsi Internal*. Jakarta, Jawa Barat, Indonesia: Komnas HAM.

### Journal article

- Carol Farbotko, H. L. (2012). The first climate refugees? Contesting global narratives of climate change in Tuvalu. *Global Environmental Change*, 22 (2), 382-390.

- Esther Greussing & Hajo G. Boomgaarden, *Shifting the refugee narrative? An automated frame analysis of Europe's 2015 refugee crisis*, J. Ethn. Migr. Stud. (2017).
- Hodgkinson, D., Burton, T. Y., & Anderson, H. (2009). Copenhagen, Climate Change 'Refugees' and the Need for a Global Agreement. *Public Policy*, 155-174.
- Borges, M., Isabel. Environmental change, forced displacement and international law: From legal protection gaps to protection solutions, (2018).
- Joanna Apap, The concept of climate refugees Towards a possible definition, Eur. Parliam. Res. Serv (2018).
- J. Edward Taylor et al., *Economic impact of refugees*, Proc. Natl. Acad. Sci. U. S. A. (2016).
- Karlen, K. (2016). *Legal Gaps and Potential Solutions for the Protection of Climate Change Displaced Persons*. Geneva: Global Studies Institute University of Geneva.
- Kadarudin Kadarudin, *PORTRAITS IN INDONESIA: INTERNATIONAL REFUGEES FACE UNCERTAIN FUTURE (A STUDY OF INTERNATIONAL REFUGEE LAW)*, Verit. Justitia (2018).
- Nurul. Andreas Heri Yuhanafia, *Pertambahan Estimasi Kerugian Ekonomi Akibat Banjir Dengan Pengaruh Penurunan Tanah Di Jakarta*, 17 (2), Gea. J. Pendidik Geografi, 191 (2017).
- Siti Munirah Binti Yusoff @ Md Nasir, Mohd Afandi Salleh & Mohd Mahbubul Haque, *Malaysian Policy towards Refugees and Asylum Seekers: A Case Study of Rohingya Refugees*, 9 Int. J. Acad. Res. Bus. Soc. Sci 110-117 (2019).
- Vincent Mack; Christopher Lim, *How emerging global trends may affect labour migration in ASEAN*, 12 (2017).
- Weerasinghe, S. (2019, March 14 Agust). Overview of UNHCR Study, 'In Harm's Way: International Protection in the Context of Nexus Dynamics between Conflict or Violence and Disaster or Climate Change'. *International Journal of Refugee Law*, 149-160.

## Website

- refugees, u. n. (2019, 2 25). *Climate change and disaster displacement*. Retrieved 08 15, 2019, from united nation high commissioner for refugees: <https://www.unhcr.org/climate-change-and-disasters.html?query=climate%20refugees>
- Global Compact on Refugees*. (n.d.). Retrieved November 20, 2019, from <https://www.unhcr.org/protection/environment/5c9e13297/climate-change-disaster-displacement-global-compact-refugees.html>.
- UNHCR.org. (2019, June). Retrieved November 15, 2019, from <https://www.unhcr.org/protection/migration/5d91e2564/refugee-movements-south-east-asia-2018-june-2019.html>

Cholidah, Fitria Esfandiari

VOA. (2019, januari 14). *Perubahan iklim tidak hanya berdampak bagi beruang kutub tapi juga bagi hidup umat manusia karena bisa menyebabkan jutaan orang terpaksa mengungsi dari tempat tinggalnya*. Retrieved Januari 16, 2019, from

<https://www.voaindonesia.com/a/perubahan-iklim-kemungkinan-menyebabkan-jutaan-orang-mengungsi/2640476.html>

Wibawa, S. W. (2018, January 06). *Bagaimana Perubahan Iklim Menciptakan Ledakan Pengungsi di Eropa?*, *Electronis news paper*. (S. W. Wibawa, Editor, & Kompas) Retrieved Agust 13, 2019, from Sains Kompas: <https://sains.kompas.com/read/2018/01/06/120500723/bagaimana-perubahan-iklim-menciptakan-ledakan-pengungsi-di-eropa->.

Yayasan Tifa. (2018, May 30). *Mengungsi karena Perubahan Iklim di Asia Tenggara*. (TIFA Foundation) Retrieved Juli 26, 2019, from Tifa Foundation.org: <https://www.tifafoundation.org/mengungsi-karena-perubahan-iklim-di-asia-tenggara/>






## Digital Receipt

This receipt acknowledges that Turnitin received your paper. Below you will find the receipt information regarding your submission.


The first page of your submissions is displayed below.

Submission author: Artikel 6  
Assignment title: Fitria Esfandiari  
Submission title: Environmental Refugees: Study of the Legal Policies of ASEAN ...  
File name: ountries\_on\_the\_Phenomenon\_of\_Refugees\_due\_to\_Climate\_C...  
File size: 949.97K  
Page count: 14  
Word count: 6,160  
Character count: 34,514  
Submission date: 06-May-2025 10:07AM (UTC+0700)  
Submission ID: 2667725126



**SALAM**  
Jurnal Sosial dan Budaya Syar-i  
P-ISSN: 2356-1459 E-ISSN: 2654-9050  
Vol. 9 No. 3 (2022), pp. 769-782  
DOI: 10.15406/sjbs.v9i3.25843  
<http://journal.uinkt.ac.id/index.php/salam/index>

**Environmental Refugees: Study of the Legal Policies of ASEAN Countries on the Phenomenon of Refugees due to Climate Change\***

Cholidah<sup>1</sup>, Fitria Esfandiari<sup>2</sup>  
Fakultas Hukum Universitas Muhammadiyah Malang  
 [10.15406/sjbs.v9i3.25843](https://orcid.org/10.15406/sjbs.v9i3.25843)

**Abstract**  
This research is conducted by using normative juridical method that will analyse the concept of refugees in the Convention of Geneva 1959 which is examined by the framework of protection against movement of people including due to climate change factor in ARES 73/195 which is the adoption of the Global Compact for safe, orderly and regular migration as well as protection against refugees due to climate change 1951 in the Ratify it. The author argues that, the refugee problem caused by global climate change is not a future disease that is far from reality, this problem becomes a necessity along with the development effort, especially the development of Not consider the concept of sustainability of the world ecosystem. So the minimum protection must be done either by the state Convention ratification 1951 nor the state Non ratification of this Convention on the Protection of refugees In General that is listed In standard This convention should be provided also against Environmental Refugees on the basis that the term refugee contained in this term should include against refugees due to the unlikely climate change returning to its home country due to an environment that has not supported life Refugees.  
**Keywords:** ASEAN; Policies; Climate Change; Environmental refugees

**Abstrak**  
Penelitian ini dilakukan dengan menggunakan metode yuridis normatif yang akan menganalisis konsep pengungsi dalam Konvensi Jenewa 1959 yang dikaji dalam kerangka perlindungan terhadap pergerakan orang termasuk akibat faktor perubahan iklim dalam ARES 73/195 yang merupakan adopsi Global Compact untuk migrasi yang aman, tertib dan teratur serta perlindungan terhadap pengungsi akibat perubahan iklim 1951 di Ratifikasi itu. Penulis berpendapat bahwa, masalah pengungsi akibat perubahan iklim global bukanlah wacana masa depan yang jauh dari kenyataan, masalah ini menjadi kenecewaan seiring dengan upaya pembangunan, terutama pengembangan konsep keberlanjutan ekosistem dunia. Jadi perlindungan minimal harus dilakukan baik oleh negara ratifikasi Konvensi 1951 maupun negara Non ratifikasi Konvensi ini tentang Perlindungan Pengungsi Secara Umum yang tercantum Dalam standar Konvensi ini harus diberikan juga terhadap Pengungsi Lingkungan atas dasar bahwa istilah pengungsi yang termuat dalam istilah ini harus mencakup terhadap pengungsi akibat perubahan iklim yang tidak mungkin kembali ke negara asalnya karena lingkungan yang belum mendukung kehidupan Pengungsi.  
**Kata Kunci:** ASEAN; Kebijakan; Perubahan iklim; Pengungsi lingkungan

\* Received: February 14, 2022, Revision: February 23, 2022, Published: May 22, 2022.  
<sup>1</sup> Cholidah is a researcher in Fakultas Hukum Universitas Muhammadiyah Malang.  
<sup>2</sup> Fitria Esfandiari is a lecturer in Fakultas Hukum Universitas Muhammadiyah Malang, Email: [fitriaesfandiari@gmail.com](mailto:fitriaesfandiari@gmail.com)

769